

TRIALS
OF
WAR CRIMINALS
BEFORE THE
NUERNBERG MILITARY
TRIBUNALS



VOLUME VIII

"THE I. G. FARBEN CASE"

*Germany (Territory under allied
occupation, 1945) U.S. Zone
Military Tribunal*

TRIALS
OF
WAR CRIMINALS
BEFORE THE
NUERNBERG MILITARY TRIBUNALS
UNDER
CONTROL COUNCIL LAW No. 10
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VIII. PLUNDER AND SPOILIATION—COUNT TWO

A. Introduction

All of the defendants were charged with criminal participation “in the plunder of public and private property, exploitation, spoliation, and other offenses against property in countries and territories which came under the belligerent occupation of Germany in the course of its invasions and aggressive wars” (par. 86 of the indictment). There were thirty paragraphs setting forth specifications concerning alleged spoliation by Farben in six countries in the chronological sequence in which they were occupied or invaded—Austria, Czechoslovakia, Poland, Norway, France, and Russia (pars. 87–118).

Count one of the indictment (crimes against peace) incorporated by reference the specifications of count two, alleging that the spoliative acts “were committed as an integral part of the planning, preparation, initiation, and waging of wars of aggression and invasions of other countries” (par. 84*a*). Count five of the indictment (common plan or conspiracy to commit crimes against peace) likewise incorporated by reference the specifications of count two on the theory that the alleged spoliative acts “formed a part of said common plan or conspiracy” (par. 147).

The charges of spoliation in Austria and Czechoslovakia under count two were dismissed by an interlocutory ruling of the Tribunal on 22 April 1948 (subsec. B, below). Some of the evidence submitted in connection with these charges as well as in connection with crimes against peace has been reproduced in volume VII (sec. VII), “The ‘New Order’ and Expansion into German Occupied Europe.” No further evidence on these charges is reproduced in the present section.

Nine of the defendants were convicted for spoliative acts in one or more of three countries—Poland, France, and Norway. None was found guilty upon the charges of spoliation in Russia on the ground that “the plans laid by Farben did not reach the stage of completion, and we are unable to say from the record before us that any individual defendant has been sufficiently connected with completed acts of plunder in Russia within the meaning of the Control Council Law.”

The materials reproduced below contain the interlocutory ruling dismissing the charges of spoliation as to Austria and Czechoslovakia (subsec. B); selections from the evidence concerning spoliation in Poland (subsec. C); selection from the evidence concerning the Francolor case in France (subsec. D); and selections from the evidence, as well as argument and an interlocutory ruling, concerning all the alleged spoliation in Russia (subsec. E). These cases illustrate quite fully the various types of alleged spoliation, and space limitations have made it unfeasible to include subsections concerning the other cases.

B. Dismissal of the Charges of Spoliation as to Austria and Czechoslovakia

1. INTRODUCTION

On 22 April 1938 the Tribunal ruled that acts alleged as spoliation with respect to the Skoda-Wetzler plants in Austria and the Aussig-Falkenau plants in the so-called Sudetenland of Czechoslovakia, even if established, constituted neither a crime against humanity nor a war crime. This ruling is reproduced in 2 below. The ruling was made pursuant to a defense motion of 15 April 1948, which is not reproduced herein. However, the same general questions were raised near the end of an earlier defense motion of 17 December 1947, a motion principally directed to the charges of aggressive war. This motion is reproduced in volume VII, section VII B 2.

2. TRIBUNAL RULING OF 22 APRIL 1948

EXTRACT FROM THE TESTIMONY

PRESIDING JUDGE SHAKE: We are also ready to dispose of the motion filed on 15 April 1948 by Dr. [Rudolf] Dix on behalf of all counsel, in which it is requested that the Tribunal shall reopen the subject of the legal sufficiency of the indictment with respect to conspiracy to commit war crimes and crimes against humanity and other incidental questions therein contained.¹

The ruling of the Tribunal with respect to this motion, insofar as it pertains to certain portions of the indictment pertaining to the alleged plunder of the Skoda-Wetzler and Aussig-Falkenau, is as follows:

The particulars set forth in sections "A" and "B" of count two of the indictment,² if fully established by the evidence, would not constitute a crime against humanity, since these particulars relate wholly to offenses against property. Neither are they sufficient to constitute a war crime, since they describe incidents in territory not under the belligerent occupation of Germany.³

On the other feature of the same motion the Tribunal feels as follows:

A common plan or conspiracy does not exist as a matter of law with respect to war crimes and crimes against humanity. However, we

¹ The principal incidental questions contained in the defense motion had been raised earlier in section IV of the defense motion of 17 December 1947 which is reproduced in full under section VII B, "Defense Motion for a Finding of Not Guilty on the Charges of Aggressive War and Answer of the Prosecution thereto."

² Paragraphs 90 through 96 of the indictment.

³ The territory in question was Austria, occupied by Germany on 12 March 1938, and the so-called Sudetenland of Czechoslovakia, occupied by Germany pursuant to the Munich Agreement of 29 September 1938.

point out that under the second paragraph of count five it is alleged that the acts and conduct of the defendants set forth in counts one, two, and three, are, by reference, incorporated in count five. Therefore, evidence of such acts or conduct may, if it has probative value, be considered with respect to the alleged conspiracy or common plan to commit crimes against peace.

I may say that the Tribunal may or may not, in its discretion, be disposed to discuss some of these questions further in its final judgment. But that will at least give counsel for the defense who have joined in these motions the advantage of the conclusion that the Tribunal has reached with respect to these matters.

C. Poland

1. INTRODUCTION

The specifications of the indictment concerning "Farben in Poland" appear in paragraphs 97 through 100 of the indictment. Only the defendants von Schnitzler and ter Meer were convicted under these charges. This section contains all or parts of seventeen contemporaneous documents written between July 1939 and August 1941 (2 below). All these documents were introduced as exhibits by the prosecution either in its case in chief or during cross-examination of the defendants or defense witnesses. These documents are followed by the testimony of Defendant Ilgner concerning Farben reports of July 1939 on the most important chemical plants in Poland (3 below). The defendant Wurster made an inspection trip to certain chemical plants in Poland in late October 1939. Wurster's entire testimony concerning the subject of spoliation in Poland has been included herein (4 below). Hermann Schwab, a titular director of Farben, was one of two trustees appointed by the Reich Ministry of Economics in late September 1939 to administer the dyestuffs plants in Poland which came into question under the charges. Schwab was the principal defense witness on these charges and his testimony has been reproduced in full (5 below). The entire testimony of defendant ter Meer on this subject has also been included (6 below). Ter Meer was convicted under these charges. The other defendant convicted under these charges, von Schnitzler, did not elect to testify on his own behalf.

2. CONTEMPORANEOUS DOCUMENTS

TRANSLATION OF DOCUMENT NI-9151 PROSECUTION EXHIBIT NO. 1135

EXTRACT FROM VOWI* REPORT NO. 3609, "THE MOST IMPORTANT CHEMICAL FIRMS IN POLAND," 28 JULY 1939

* * * * *

Chemische Industrie "Boruta" A. G. [Chemical Industry "Boruta"
A. G.], (Przemysl Chemiczny "Boruta" S-ka Akc.)

Location----- Zgierz, Lesna 30

Founded----- 1894

Business year----- 1 January until 31 December

Purpose----- Production and sale of synthetic dyestuffs,
chemical intermediate products and ex-
plosives

Supervisory Board Dr. Feliks *Maciszewski*, president; Dr.
[Aufsichtsrat]. Karol *Peschel*; Dr. M. *Chechliński*; Dr.
Wojciech *Rogalski*; Dr. K. *Platowski*;
Mr. We. *Wojciechowski* (engineer); Gen-
eral Stanislaw *Malachowski*; Mr. Eu-
genjusz *Berger* (engineer); Mr. Wladys-
law *Danielewicz* (engineer); Dr. Jerzy
Nowak

Management----- Mr. Marjan *Piasecki* (engineer), one of the
founders of the Polana A. G.; Lucjan
Zadrowski

Stock capital----- Zloty 3,750,000

Balance----- 1936: 10,366,000

Plant----- Zgierz, chemical plant Sarzyn, in the cen-
tral industrial region, explosives plant

Products----- Synthetic and organic dyestuffs, chemical
intermediate products, disinfectants, in-
secticides, urea derivatives, nitrotoluene,
nitrobenzene, vulcanization accelerators,
sulfuric acid, nitric acid, sodium bisulfate,
zinc chloride, zinc chlorate, zinc sulfate

* * * * *

*"VOWI" was the Economic Research Department of Farben's Berlin Northwest 7 organization.

**TRANSLATION OF DOCUMENT NI-9154
PROSECUTION EXHIBIT 1136**

**EXTRACT FROM VOWI REPORT NO. 3609, "THE MOST IMPORTANT
CHEMICAL FIRMS IN POLAND," 28 JULY 1939**

Winnicaer Chemische Werke A. G. [Winnica Chemical Plants A. G.]
(Zakłady Chemiczne w Winnicy S-ka Akc.)

Location----- Winnica, near Henrykow

Founded----- 1929

Purpose----- Production and sale of synthetic dyestuffs
and chemical intermediate products

Supervisory board----- Joseph *Frossard*, president, Établissements
Kuhlmann, Paris; Jerzy *Thesmar*; Dr.
Georg *von Schnitzler*, Frankfurt/Main,
I. G. Farbenindustrie A. G., Frankfurt/
Main; Jacob *de Kap Herr*; August
Rhein; Dr. Elie *Laurent*; Dr. Fritz *ter*
Meer, Kronberg, I. G. Farbenindustrie
A. G., Frankfurt/Main; Dr. Josef *Lau-*
dau; Ludwik *Spiess*, director of Chem-
ische Werke Ludwig Spies & Sohn A. G.,
Warsaw

Management----- Dr. Alfred *Hirszowski*, director; Henryk
Strypewski, authorized agent

Stock capital----- Zloty 2,000,000

Balance----- 1936: zloty 6,315,000

Plant----- Winnica

Products----- Synthetic organic dyestuffs, chemical inter-
mediate products, anthraquinone

Turnover----- 1937: zloty 4,100,000

Personnel----- 66 workers

HP installed----- 160

* * * * *

**TRANSLATION OF DOCUMENT NI-9155
PROSECUTION EXHIBIT NO. 1137**

**EXTRACT FROM VOWI REPORT NO. 3609, "THE MOST IMPORTANT
CHEMICAL FIRMS IN POLAND," 28 JULY 1939**

Chemische Fabrik "Wola Krzysztoporska" [Chemical Plant "Wola
Krzysztoporska"] (Fabryka Chemiczna "Wola Krzysztoporska")

Location----- Wola Krzysztoporska near Piotrkow Try-
bunalski

Founded----- 1902

Purpose.....	Production of dyestuffs and intermediate products
Manager.....	Dr. Maurycy <i>Szpilfogel</i> *
Stock capital.....	Zloty 1,078,425
Owner	
Plant.....	Wola Krzysztoporska
Products.....	Dyestuffs, intermediate products
Turnover.....	1936: zloty 2,700,000
Personnel.....	141 workers, 17 office employees
HP installed.....	200

* * * * *

**TRANSLATION OF DOCUMENT NI-8457
PROSECUTION EXHIBIT 1138**

**TELETYPE FROM DEFENDANT VON SCHNITZLER TO DIRECTOR KRUEGER,
7 SEPTEMBER 1939, CONCERNING POLISH DYESTUFFS FACTORIES**

Teletyped to: Berlin To Director Dr. Krueger
 From: Management Department Dyestuffs, 7 September 1939

Request you to inform Reich Ministry of Economics now of the following facts:

It is to be assumed that four Polish dyestuffs factories will fall into German hands within the next few days, in particular the purely Polish factories of Przemysl Chemiczny Boruta in Zgierz and the Chemiczna Fabryka Wola Krzysztoporska in Wola Krzysztoporska; in addition, the Pabjanicka Towarzystwo Akcyjne Przemyslu Chemicznego belonging to the [Swiss] I. G. Chemie in Pabjanica (the director of which is the Swiss Vice Consul Thommen). All three are situated in close proximity to Lodz, as well as the Zaklady Chemiczne w Winnicy Sp. Akc. situated about 12 kilometers northeast of Warsaw, in Winnica. The last-mentioned firm belongs half to the "Centrale des Matières Colorantes," Paris, and half to the "I. G. Chemie," Basel, but it is in close business contact with us as, together with the CMC, we have constantly harmonized its production program and, side by side with the French sales organizations, have sold half of the Winnica products through the medium of our representatives in Poland. All four factories together have covered more than half of the Polish dyestuffs needs; the entirely Polish factories have supplied about 30 percent. Pabjanice and Winnica are members of the dyestuffs cartel; both the Polish factories in Zgierz and Wola had a long-term cartel agreement with the tripartite dyestuffs cartel [Dreierfarbenkartell] for the regulation of their sales, whereby they were

*Dr. Szpilfogel appeared as a prosecution witness on 23 October 1947. His complete testimony is recorded in the mimeographed transcript, pp. 2629-2661.

allowed a constantly increasing quota which amounted for 1939 to 31.5 percent of the Polish sales. Furthermore, according to this agreement, Zgierz and Wola were entitled to export to a very limited degree. The factories contain considerable and valuable stocks of preliminary, intermediate, and final products; practically all are tar dyestuffs or other analogous auxiliary products. Although we do not wish to take any definite attitude, at the moment, on the question of the further operation of the plants, we consider it of primary importance that the above-mentioned stocks be used by experts in the interests of the German national economy. Only the IG is in a position to make experts available. Have taken steps for Director Schwab, the manager of our local East European dyestuffs business, to be made available for this task. Further assistants, technical experts as well, are naturally at your disposal. They will be in Berlin in the middle of next week for further discussion with the competent authorities and we beg you to fix a time for these discussions. Naturally, our agents in Lodz, principally Messrs. August Oppertshaeuser, Lodz, Sienkiewicza 55, and Arnold Seidel, Lodz, Kilinskiego 150, as well as Bruno Fulde, Warsaw, Czackiego 15a, will in the meantime be at the disposal of the military and occupational authorities for the purpose of information and advice.

Signed: VON SCHNITZLER

**TRANSLATION OF DOCUMENT NI-2749
PROSECUTION EXHIBIT NO. 1139**

**LETTER FROM FARBEN TO THE REICH MINISTRY OF ECONOMICS, 14
SEPTEMBER 1939, CONCERNING POLISH DYESTUFFS PLANTS**

I. G. Farbenindustrie Aktiengesellschaft
Management

Berlin NW 7, 14 September 1939

Ke/P

Copy to the Central Office for F [dyestuffs] Agreements, Frankfurt/
Main

To Reich Ministry of Economics

Attn: Ministerialdirigent Dr. Mulert, Berlin W. 8

Subject: Polish Dyestuffs Plants

We beg to refer to the interview you and Herr Regierungsrat Hoffman granted us this morning and take the liberty to make herewith the following proposal:

It is suggested that the Reich Minister of Economics—

1. Order the I. G. Farbenindustrie Aktiengesellschaft, Frankfurt/Main, to take under its administration, as trustee of the Reich, the following plants located on the territory of the Republic of Poland:

	Dyestuffs output 1938
Przemysl Chemiczny "Boruta," S. A. Zgierz near Lodz.....	580,000 kg.
Chemical Plant Wola-Krzysztoporska, Wola- Krzysztoporska near Tomaszow.....	290,000 kg.
Zaklady Chemiczne Winnicy, Winnica near Warsaw	392,000 kg.

to continue operating them or to close them in cooperation with the competent authorities; to utilize their supplies of preliminary, intermediary, and final products.

2. Appoint as executives for this undertaking, Director Hermann Schwab, Frankfurt/Main, Director Dr. Bernhard Schoener, Wolfen. Reason:

There are, on Polish territory, four rather large dyestuffs plants besides several smaller ones, which have only local importance. The four larger ones are represented by the three above-listed firms, plus the Pabjanicer A. G. for Chemical Industry [Pabjanicer A. F. fuer Chemische Industrie], belonging to the Syndicate of the Basel Dyestuffs Plants [Interessengemeinschaft der Baseler Farbenfabriken], with an output of 612,000 kg of dyestuffs in 1938. We estimate the amount and the value of the production of all the dyestuffs plants located on Polish soil on the basis of exact figures, established after many years of careful work and ascertained for the major part by mutual cartel information, as follows:

	Kg.	Zloty	Reichsmarks
1937.....	1,754,000	19,400,000	9,127,694
1938.....	1,950,000	21,800,000	10,256,893

of which about 95 percent fall to the above-mentioned four plants and 5 percent to the following smaller plants: "Barwaset," Lodz; Bruno Schuelde, Lodz; "Sigma," Katowice; Czestochowa Dyestuffs Plant [Czestochowa Farbenfabrik], "Zawodzie," Czestochowa.

The two plants, Boruta in Zgierz near Lodz and the Chemical Plant Wola Krzysztoporska, located near Tomaszow, are of Polish ownership; Boruta belongs 50 percent to the Polish State, and the Chemical Plant Wola Krzysztoporska is a non-Aryan family enterprise.

The Chemical Plant Winnica was founded with our concurrence in 1929 by the French dyestuffs industry to create on the one hand a rival firm against the Polish-owned plants in Poland; and, on the other hand, to keep up or regain the business lost through import duties and prevention of import by production in Poland. This plant is ostensibly French. In its inner structure, the I. G. Chemie, Basel, with

which we are on friendly terms, owns 50 percent of the shares, approximately 1 million zloty. Approximately 24,000 zloty, out of the entire stock of 2 millions zloty, are in unknown hands. On the basis of the option agreement existing between the I. G. Farben and the I. G. Chemie in Basel, the IG would, at any time, be in the position to acquire from I. G. Chemie, with the consent of the Government of the Reich, the shares of I. G. Chemie in the Winnica [company] at the book value. We, therefore, believe ourselves entitled to make, in the interest of I. G. Chemie, those decisions which are expedient for the preservation of the value of the enterprise.

We would like to proceed as follows in the trustee administration of the three above-named firms:

The Chemical Plant Wola Krzysztoporska, which is based almost exclusively on intermediate products of the Boruta and which has no great importance as an independent place of production, would have to be closed down. The Boruta, on the other hand, should continue to operate on as far-reaching a scale as possible. The importance of the Boruta is considerably greater than seems apparent from the above summary of production of dyestuffs, because it is, to a major degree, the purveyor of intermediate products for the remaining plants mentioned in the list. It obtains its major initial products (such as oleum, nitric acid, soda, benzene) from the Upper Silesian coal mine district and from the plants belonging to the firm Solvay in Hohensalza and other places. As for the rest, it is to a large degree self-providing. Its importance for the German war economy is at present to be rated all the higher as 85 percent of the production of tar dyes and their intermediate products are located at the plants of the IG in western Germany, and of these a very considerable part in Ludwigshafen, where the production of dyestuffs is to be cut down to a minimum. Every plant for the production of organic intermediate products and dyestuffs which is not located in the West has, therefore, in the present situation, a double value. According to the reports available up to now, one may hope that the plant of the Boruta [company] has suffered no essential damage from the military operations, and that, by a quick reopening, stoppages in its production may be avoided almost entirely.

The Winnica [plant] is situated 18 kilometers northeast of Warsaw and may have suffered heavily during the latest operations. The continuation of its operation would be of great importance, because there exists at that plant, besides the fabrication of a number of azo dyes, a modern anthraquinone plant and a plant for the production of vat dyes, which certainly are very interesting for immediate army purposes, because the Winnica has had, up to now, the monopoly for Polish khaki uniforms. There is also a plant, though a minor one, for intermediates of azo products, which can be put in operation any

time. While at the Boruta the Polish personnel who had been working there up to now can obviously not be used for the continuation of the operation of the plant in wartime, further use of one or another of the commercial personnel of the Winnica will be possible.

As far as the last of the four larger plants, the Pabjanicer A. G. for Chemical Industry, is concerned, an exchange of telegrams has taken place between the left-hand signatory and the Swiss president of this company, Mr. Schmidt-Respinger, Basel, whose answering telegram we quote:

“Thanks for information on matters of Polish dyestuffs plants. Concerning Pabjanicer, I beg you, calling this also to the attention of your government, to note that Pabjanicer, already on the basis of its shareholdings, must be considered a Swiss enterprise. Expect, therefore, that enforced measures of any kind against our enterprise will not be taken. Have contacted our Federal Government.”

Accordingly, we would like to express our opinion, that, as far as the Pabjanicer A. G. is concerned for the time being, no measures should be taken. For the present, we see no objection to letting the Boruta, administrated in trusteeship, continue to deliver intermediate and final products to the Pabjanicer A. G. (within the limits of its capacity for delivery), for the eventual requirements of the local Polish market but, of course, not for export purposes.

The remaining smaller dyestuffs plants, according to the list given at the beginning, would have to be closed down, of course.

The utilization of the supply of finished products in the plants, as well as the distribution of the new products, should be handled in such a manner that they benefit, first and foremost, German economy as a whole. The authorities would have to decide whether, and to what extent, certain parts of them should continue to supply the Polish market. They should mainly serve to relieve the German dyestuffs market and to raise German dyestuff export.

We respectfully request a decision at the earliest possible moment and delivery of the authorization necessary for Messrs. Schwab and Schoener, as every day lost may bring losses in its wake, since, through acts of sabotage, or injudicious and fraudulent sales, German economy might lose irretrievable values.

Besides, for Messrs. Schwab and Schoener, we request at the same time passports for their assistants, Paul Kaempfe, Frankfurt/Main, and Dr. Walter Hegge, Wolfen.

Further personnel, which the gentlemen will need in Poland, is at their disposal at our plants and our sale centers.

Heil Hitler!

I. G. Farbenindustrie Aktiengesellschaft

Signed: VON SCHNITZLER

Signed: KRUEGER

TRANSLATION OF DOCUMENT NI-1093
PROSECUTION EXHIBIT NO. 1140

LETTER FROM THE REICH MINISTRY OF ECONOMICS TO DEFENDANT
VON SCHNITZLER, 21 SEPTEMBER 1939, CONCERNING POLISH DYE-
STUFFS PLANTS

Copy

The Reich Minister of	Berlin W 8, 21 September 1939
Economics	Behrenstrasse 43
II Chem. 13 364/39	Telephones: Switchboard No. 164351

To Director Dr. von Schnitzler, Member of the Vorstand,
I. G. Farbenindustrie A. G.
Berlin NW 7, Unter den Linden 82

Subject: Polish Dyestuffs Plants

In reference to your oral statements of 14 September 1939 and the written supplement to your statements of the same day, I have decided to comply with your suggestion and place under provisional management the following 3 factories—

a. Przemysl Chemiczny "Boruta" SA, in Zgierz near Lodz.

b. Chemical factory Wola-Krzysztoporska, in Wola-Krzysztoporska near Tomaszow.

c. Zaklady Chemiczne w Winnicy, Winnica near Warsaw—
which were located in former Polish territories now occupied by the German forces.

According to your suggestion, I will commission the following with the provisional management of the named plants:

Director Hermann Schwab, Frankfurt a.M., and Director Dr. Bernhard Schoener, Wolfen.

It will be the task of these gentlemen, in constant consultation with me and possibly my deputy (who would have to be specially appointed), to start the operations of the factories again, or to continue their operation or, as far as the factory named under *b* is concerned, to put it out of operation.

The operation of the plants will have to be adapted to the requirements of the German war economy and German exports to neutral countries.

I reserve the right to alter or to cancel this commission at any time, and to settle the problem of management otherwise.

I expressly emphasize that, through this commission, there will be no changes in the conditions of ownership of the concerned plants; and that also no preparations for a change in the ownership conditions are to be seen in this appointment. In particular, no claim for a later change in the ownership conditions can be derived for the

benefit of I. G. Farben through the appointment of members of I. G. Farben to the provisional management.

The gentlemen who are commissioned with the provisional management have to manage the factories exclusively as trustees for the present owners.

I request both named gentlemen to report to the Chief of the Civil Administration before starting their activities, and to give me a fortnightly report on their work until further notice.

As far as it is possible, the plants are to be operated with the present personnel and additional ethnic German personnel. The appointment of further employees of I. G. Farben—for the enterprise or for the administration of the plants—requires my special agreement in every case.

Two copies of this letter, to be forwarded to Director Schwab and Director Dr. Schoener, are enclosed.

BY ORDER

Signed: VON HANNEKEN

**TRANSLATION OF EXTRACTS FROM DOCUMENT NI-5947
'PROSECUTION EXHIBIT NO. 1133**

**MINUTES OF THE 26TH MEETING OF THE COMMERCIAL COMMITTEE,
20 OCTOBER 1939, IN BERLIN NW 7**

Present, the following gentlemen:

Geheimrat Schmitz; von Schnitzler, Chairman; Fischer; Haefliger;
Ilgner; Mann; Mueller; Oster; Otto; Waibel; Weber-Andraea.

In addition: Buhl; Buetefisch.

And intermittently: Deissmann; Terhaar, recorder of the minutes

1. Industrial Problems in the Occupied Eastern Territory

* * * * *

b. Dr. Deissmann presents detailed report on the events in Warsaw and on his own activity as commissioner of all Farben agencies working in Warsaw. The report discloses that there has been no loss of human life among the Farben agencies and that all the offices are also intact. On the other hand, a large part of the stocks are lost, particularly the chemicals and dye depot on the so-called Danzig Station. Samples are being taken from parts that were not burned and are being tested in the plants as to their further usefulness. Nothing can be said at the moment on the prospects of collecting sums due from customers, or on the solvency of the Warsaw banks. In regard to the dyestuff plants, it has been ascertained that Winnica is intact and can continue to operate with its own means, provided the Warsaw banks remain solvent. On the other hand, the Boruta plant in Zgierz will probably be insolvent. Dr. Deissmann is commissioned to notify Messrs. Schwab and Schoener of the attitude of the Commercial Committee, to the effect that Farben is, in principle, willing to establish

a holding company for the purpose of continuing to operate Boruta under trusteeship, provided it is guaranteed that Farben's advance payments are repaid with appropriate interest. If necessary, an acceptable solution would be to mortgage the plants in favor of Farben as a lien for its claims. As soon as Messrs. Schwab and Schoener have contacted the local military authorities to this effect, they will be requested to come to Berlin, so that the matter may be followed up here with the competent authorities. Prior to that, it would be desirable that Dr. Schoener make an inspection of the Sandomir plant in order to ascertain whether apparatus is already installed there, the transport of which—be it to Germany or to Zgierz—would be of interest.

c. Furthermore, on his way back to Warsaw, Dr. Deissmann will call on the local chief of the civil administration in Poznan, in order to clarify the appointment of a trustee for the "largest chemical industrial plant" located there—it is not yet known which plant is involved.

* * * * *

11. Reichswerke Hermann Goering

The entire activity of the Hermann Goering Works in the eastern territory is receiving careful attention. Farben takes a positive attitude as to collaboration with the Hermann Goering Works. Dr. Buete fish will see Mr. Pleiger within the next few days about hydrogenation and nitrogen problems and will avail himself of the opportunity to express Farben's willingness, in principle, to cooperate. All other questions connected with the problem of the Hermann Goering Works will be left in abeyance for the time being, until a report is on hand from Dr. Buete fish on the subject of his discussion with Mr. Pleiger.

* * * * *

Signed: VON SCHNITZLER

Berlin, 26 October 1939

PARTIAL TRANSLATION OF DOCUMENT NI-1149
PROSECUTION EXHIBIT NO. 1134

LETTER FROM DEFENDANT WURSTER TO DEFENDANT BUERGIN, 23
NOVEMBER 1939, ENCLOSING A DRAFT REPORT OF AN INSPECTION
TRIP TO POLISH CHEMICAL PLANTS BETWEEN 26 OCTOBER AND
1 NOVEMBER 1939

Dr. Carl Wurster

I. G. Farbenindustrie Aktiengesellschaft
Ludwigshafen (Rhine), 23 November 1939
Telephone 6496

To: Director Dr. Buergin

I. G. Farbenindustrie A. G.
Bitterfeld

Registered
[Stamp]

Subject: Journey to Poland

Bitterfeld, Secretariat
Received: 24 November 1939

Dear Dr. Buergin,

As agreed upon, I beg to attach herewith notes on my trip to Poland
which, however, were dictated rather hurriedly. I should be in-
terested to read your report also.

With kind regards, and Heil Hitler,

Yours

[Signed] C. WURSTER

Enclosure

[Handwritten note] Copy has been retained for Dr. Vorlaender

[Handwritten note] Draft—Report on the inspection of some chemical indus-
trial plants in Poland between 26 October and 1 November 1939

The schedule of the trip covered—Berlin—Beuthen—Bedzin—Czesto-
chowa—Petrikow [Piotrkow]—Tomaschow [Tomaszow]—Lodz—(detour
to Ujazd and Niewiadow)—Pabjanice—Zgierz—Lowicz—Sochaczew—
(detour to Boryszew and Chodakow)—Warsaw—Warsaw—Praga—Jab-
lonna—Warsaw—Grojec—Radom—(detour to Pionki near Kozienice)—
Kielce—Jedrzejow—Cracow—Katowice—Beuthen—Berlin.

The journey was made by the following gentlemen:

Dr. Pohland, Reich Office for Economic Development, Berlin; Dr.
Wurster, I. G. Ludwigshafen; and Dr. Heinkes, I. G. Hoechst, as in-
terpreter for the Polish language.

Car No. II D 13 591, Mercedes of 2.9 liters capacity, with driver
Poser from I. G. Ludwigshafen, was used for the journey.

The whole trip was completed within five days, starting from, and
returning to, Beuthen.

Only by using a good car capable of covering approximately 1500
kilometers, sometimes on extremely bad roads, was it possible to com-
plete the trip within this very short period. The interpreter who ac-

accompanied us (and who had a fluent knowledge of the Polish language) proved to be specially useful in the selection of the routes to be taken, as well as, primarily, in the negotiations at factories where sometimes only Polish workers or master workmen were present.

In accordance with the directives received, the following firms were visited in the order stated below:

1. Tomaszow Artificial Silk Factory A. G. (Tomaszowska Fabryka Sztucznego Jebwabi S-ka Akc.). Tomaszow Mazowiecki Works (Piotrków near Lodz).
2. Chemical Industry "Boruta" A. G. (Przemysl Chemiczny "Boruta" S-ka Akc.). Zgierz Works near Lodz.
3. Pabjanicer A. G. for Chemical Industry (Pabjanicka S-ka Akc. Przemyslu Chemicznego). Pabjanicka Works at Pabjanice, 5, Pilsudskistrasse.
4. "Nitrat" A. G. Polish Chemical Factories (Polski Zyklady Chemiczne "Nitrat", S-ka Akc.). Niewiadow Works near Ujazd.
5. Artificial Silk Factory "Chodakow" A. G. (Sztuczny Jedwab S-ka Akc.). Chodakow Works near Sochaczew.
6. "Nitrat" A. G. Polish Chemical Factories (Polskie Zaklady Chemiczne "Nitrat", S-ka Akc.). Boryszew Works near Sochaczew.
7. Chemical Works Ludwig Spiess & Son A. G. (Przemyslowe-Handlowe Zaklady Chemiczne Ludwik Spiess i Syn, S-ka Akc.). Tarchomin Works near Jablonna, north of Warsaw.
8. J. Franaszek A. G. (S. Franaszek S-ka Akc.). Warsaw Works.
9. State Powder Factories (Panstwowa Wytownia Prochu). Pionki Works between Radom and Kozienice.
10. State Powder Factories (Panstwowa Wytownia Prochu). Kielce Works (as to the iron pyrites pit at Kielce, only verbal negotiations took place during this visit).

Apart from inspecting the factories, the following authorities were visited:

1. Director Toehl, Breslau (Vereinigte Glanzstoffwerke).
2. Chief of Civil Administration at Lodz (spoke to Regierungsassessor Kaltenhaeuser).
3. Director Dr. Schoener, I. G. Farben, in his capacity as Commissioner for the Zgierz Works of the Boruta A. G., the Chemical Works Wola near Tomaszow, and the Winnicaer Chemische Werke A. G. in Winnica (Zaklady Chemiczne w Winnicy, S-ka Akc.), 18 kilometers northeast of Warsaw.
4. Booty Collection Center Sochaczew (spoke to Captain Meyer of the 110th Engineer Construction Battalion in his capacity as administrator of the gunpowder factory at Periczow).
5. Chief of Civil Administration in Warsaw (spoke to Regierungsassessor Dr. von Coelln).

6. First Lieutenant Wahl of the 71st Police Battalion as administrator of the state gunpowder factory Pionki, Pionki Works.

In the following report, details will be given (in the order indicated above) about the inspections of the different works and the discussions which took place; a knowledge of the information on "the most important chemical firms in Poland," given in Report No. 3609,* issued by the Economic Research Department (VOWI), I. G. Farben, Berlin NW 7, dated 28 July 1939, is assumed. It should be stated that those particulars proved extraordinarily useful in the course of our tour. Any inaccuracies in them have been rectified in the following report.

1. Tomaszow Artificial Silk Factory A. G. (Tomaszowska Fabryka Sztucznego Jedwabiu S-ka Akc.).

* * * * *

Final opinion. The plant is to be considered as a valuable asset; its situation in the economic field of Greater Germany, with regard to the Lodz processing textile industry, would be a favorable one; there are no particular difficulties in transporting the chemicals. The drainage system is satisfactory; coal supplies also are not too far distant; satisfactory labor is available.

In case of removal, the greater part of the apparatus installed could immediately be put into full operation elsewhere.

2. Chemical Industry "Boruta" A. G. (Przemysl Chemiczny "Boruta" S-ka Akc.).

* * * * *

Final opinion. The general impression made by the factory is that of an older dyestuffs factory without any interesting new technical developments. Production figures are satisfactory and it is quite conceivable that the factory works on a sound basis as far as the requirements of the textile industry of Lodz are concerned. The grounds of the plant are large enough for a certain expansion. Drainage conditions are satisfactory because of the proximity of the Bzura river.

It would be expedient to dismantle the installations for picric acid, dinitronaphthalene, and chloropicrin. In our opinion the other production units would continue their work best by remaining where they are.

Dr. Schoener also had the opportunity to inspect the dyestuffs factory *Wola*—12 kilometers southwest of Petrikau [Petrokov]. This is a very small and primitive plant owned by some Jews, and producing a small amount of azo dyes. The only thing that might be worth confiscating is a Frederking evaporator for the production of betaoxynaphthoic acid.

*Documents NI-9151, NI-9154 and NI-9155 (Prosecution Exhibits 1135, 1136, 1137), reproduced above in this section, all contain excerpts from VOWI Report No. 3609.

(The names of the three "gentlemen" who are the main partners are Szpilfogel, Goldfisch, and Augenblick!)

A yeast and spirit factory is also linked to the small plant. To save time and in view of Dr. Schoener's opinion, we abstained from inspecting it.

Dr. Schoener reported to us that Boruta has a new plant under construction in *Sarczyn* in the so-called central industrial reservation. Among other things a new, modern chlorine-electrolysis plant of the firm of Krebs is said to be there (Director Buergin will report about this plant; he has inspected it as part of his travel program).

We likewise abstained from visiting the Winnica plant, *Winnicaer Chemische Werke A. G.*, near Henricow, since Dr. Schoener has already made a close inspection of this plant, which is in perfect order. It employed only about 60 workers and produced exclusively some synthetic dyes and the corresponding intermediate products. Furthermore, a small plant for the production of synthetic anthraquinone from anthracene by the IG process, which Winnica received through *Établissements Kuhlmann S. A. Paris*, is also situated there. It will be expedient to enlarge this installation at some time so as not to make it accessible to third parties from a technical point of view.

3. Pabjanicer A. G. for Chemical Industry (Pabjanicka S-ka Akc. Przemyslu Chemicznego).

* * * * *

Final opinion. The general impression given by the plant is that of a clean and well-run dyestuffs and pharmaceutical factory. A market for all products should be available within the vicinity.

In view of the Swiss ownership, interference of any kind is not advisable, or at least should be coordinated carefully beforehand with all the government offices concerned.

4. "Nitrat" A. G. Polish Chemical Factories (Polskie Zaklady Chemiczne "Nitrat," S-ka Akc.)

* * * * *

Final opinion. The plant is not well situated with regard to transport facilities. It is recommended that dismantling should be speeded up and that the apparatus should be utilized in Germany as far as possible; the stocks are of course likewise to be taken away immediately.

5. Artificial Silk Factory "Chodakow" A. G. (Sztuczny Jedwab S-ka Akc.).

* * * * *

Final opinion. The plant, which was constructed with French and Swiss aid, makes, in part, an even more modern impression than the plant at Tomaschow. As well as being equipped with good technical apparatus, the plant has planted grounds on a generous scale; there are recreation facilities, et cetera, as well.

For the duration of the war at least, the most economical use of the plant will be achieved if it can be operated to capacity again as soon as possible. This would be technically possible at once if the apparatus could be installed without difficulty in plants in the territory of Greater Germany.

6. "Nitrat" A. G. Polish Chemical Factories (Polskie Zakłady Chemiczne "Nitrat," S-ka Akc.).

* * * * *

Final opinion. This plant was well planned and constructed as a small explosives factory; as far as machinery is concerned, it is exceedingly well equipped. As the constructional part constitutes a comparatively insignificant component of the whole plant, we recommend the immediate dismantling of the entire apparatus including the distillery.

7. Chemical Works Ludwig Spiess & Son (Przemyslowe-Handlowe Zakłady Chemiczne Ludwik Spiess i Syn, S-ka Akc.).

* * * * *

Final opinion. From the practical point of view, the small equipment of the firm is of no particular interest to us. Maintenance of work might be in the interest of the population.

8. J. Franaszek A. G. (S. Franaszek S-ka Akc.).

* * * * *

Final opinion. We took with us samples of the manufactured film paper and films which will be examined in Germany so that an expert opinion can be obtained. The result will decide whether we are definitely interested in manufacture in Warsaw during the war, if by this means German capacity can be augmented.

9. State Powder Factories (Panstwowa Wytwornia Prochu) Pionki Works between Radom and Kozienice.

* * * * *

Final opinion. Reference is made to the report which will be forthcoming from the Army Ordnance Office. The question now arises whether the factory is to be put into full production again immediately to fulfill German needs during the war (misgivings regarding acts of sabotage may be dispelled by employing Polish personnel to a large extent). If doubts on the subject are too great, it is recommended that the entire plant should be dismantled. The most valuable appliances, some of which have not yet been used at all, could be utilized again immediately after having been removed elsewhere.

10. State Powder Factories (Panstwowa Wytwornia Prochu) Kielce Works.

* * * * *

Final opinion. It is evident from the list of customers that the plant can maintain a production of 50 percent, if the firm Boruta in Zgierz and certain elements of the textile industry continue to work. If it is decided to maintain spinning thread manufacture in the factories mentioned, they could be put into full production again within a short time.

If there is no such possibility for employment, it would be quite feasible for the plant to be dismantled and the apparatus set up immediately in German plants.

From a technical point of view, the entire plant is constructed correctly and with relatively simple means, and in such a manner that it can be easily understood and supervised. There was a complete lack of mechanical instruments for measuring, but their construction was intended and had been partly prepared.

Signed: WURSTER

**TRANSLATION OF EXTRACTS FROM DOCUMENT NI-15107
PROSECUTION EXHIBIT NO. 2120**

**MINUTES OF THE 14TH VORSTAND MEETING OF 8 NOVEMBER 1939,
10 O'CLOCK AM, IN BERLIN NW 7, UNTER DEN LINDEN 82**

Present: All Vorstand members, with the exception of Dr. Krauch, and the chairman of the supervisory board, Geheimrat Dr. Bosch.

The agenda was dealt with in the following order:

* * * * *

2. Report on industrial plants in Poland.

At the request of the Reich Office for Economic Development, Dr. Buergin and Dr. Wurster each made a trip for the inspection of industrial plants in Poland, the former in South Poland, the latter in Central Poland. Both gentlemen report on their general impressions, particularly on the technical condition and the economic situation of the plants inspected. Dr. Buetefisch gives a supplementary report of Polish nitrogen plants and the oil fields there; Mr. Oster on the nitrogen consumption in the Polish sphere of interest and on the endeavors to intensify agriculture in the new Reich districts of West Prussia and Poznan. Mr. Jaehne reports on an oxygen plant in Poznan.

3. Report on Commercial Committee.

* * * * *

It is intended to organize a holding company for the operation of the dyestuffs factory Boruta at Zgierz, for which, as the question of

ultimate ownership is completely undecided yet, it is recommended that funds should be secured for the use of the plant.

* * * * *

Signed: SCHMITZ

Signed: BUHL

**TRANSLATION OF DOCUMENT NI-8380
PROSECUTION EXHIBIT NO. 1141**

**LETTER FROM FARBEN TO THE REICH MINISTRY OF ECONOMICS, 10
NOVEMBER 1939, CONCERNING POLISH DYESTUFFS PLANTS**

I. G. Farbenindustrie Aktiengesellschaft—Management

Berlin NW 7, Unter den Linden 82

10 November 1939

v. Sch/G/Ksch

To the Reich Ministry of Economics

Attention: Ministerialdirigent Dr. Mulert

Berlin W. 8, Behrenstr. 43

Subject: Polish Dyestuffs Plants

We beg to refer to our conversation of this morning, and take the liberty of confirming in writing what we suggested then as being, in our opinion, the most expedient way of shaping the further development of the dyestuffs plants which are situated in the former Polish territory.

1. Since the new frontiers have been set up, the principal plants belonging to the most important of the factories concerned in the chemical industry, "Boruta" A. G., that is to say, Zgierz, as well as the "Wola" plant, all come within the new Warthegau.¹ In the Government General,² the Sarzyna plants near Sandomir belonging to the chemical factory "Boruta," as well as the chemical factory Winnica, all lie in the immediate surroundings of Warsaw. For the plants which are now situated in the Warthegau, the position today is as follows:

"Boruta" has practically no plant equipment. The installations are mortgaged against loans from the Polish State Agriculture Bank up to a total of 6,100,000 zloty. From the point of view of private economy, the firm would be considered on the verge of bankruptcy.

The considerably smaller factory, "Wola" (which was formerly under Jewish ownership) has also been partially damaged during the war and, apart from this, would have no justification for its existence as it is not built on practical lines.

¹ The "Warthega" was a popular name for the "Wartheland," that part of Poland which had formerly belonged to the Republic of Poland and which, after the dismemberment of Poland following the German invasion of 1939, was incorporated into the German Reich.

² Government General (Generalgouvernement) refers to the administrative region established by the Germans in Central Poland after the 1939 invasion.

In view of the consideration that the Reich will scarcely be willing to provide means for the restarting of the "Boruta" factory (which is important for German economy) but that, on the other hand, without new equipment, the plant cannot be set up again for a considerable length of time, the I. G. Farbenindustrie Aktiengesellschaft takes the liberty of suggesting that, in addition to the technical and business care it has already provided, it should also advance the means for putting the "Boruta" into operation again and for keeping it running. For this purpose the I. G. Farbenindustrie A. G. would set up a limited liability company in Berlin with a nominal capital of 100,000 reichsmarks as a holding company, in which Director Schwab and Director Dr. Schoener, who have both been appointed as trustees, would take over the business management. This holding company would take over the plant installations on lease in their present condition. At the same time the holding company, acting as trustee, would carry out the liquidation of the old firm by selling the available stocks and by collecting outstanding debts, with the proceeds of which it would undertake to pay off successively the creditors of the old company, first paying off private creditors, and then transferring the surplus, if any, to the agency which took over the legal succession with respect to governmental and semigovernmental creditors, inclusive of the former Agriculture Bank. In the execution of these measures of liquidation, the new company would act purely as a trustee without any personal economic interest and risk.

In carrying out this proposal there must naturally be a guarantee that the legal successor with respect to former governmental or semigovernmental creditors, that is, including the Polish Agriculture Bank, would observe a moratorium as regards their claims, without prejudice to the date of maturity provided by contract, and would institute no measures against the old company in the way of a sale or execution which might hinder to any extent the carrying out of the lease agreement as proposed.

The holding company would furthermore be entitled to remove from the "Wola" plant, which has also to be closed down, all installations still fit for use, in particular the new betaoxynaphthoic acid plant, and to bring them to the "Boruta" without such transfer causing any change with respect to the ownership conditions of the plants. If the occasion arose, a lease agreement might also have to be concluded with respect to these plants and, on the other side, a guarantee given that no creditors of the "Wola" be allowed to prejudice the realization of the agreement by measures pertaining to an execution.

As things stand, it would appear that the lease agreement should be a long-term one, as the object in view is the creation of a certain permanency of conditions, which would permit the manufactures carried on by "Boruta" to supply not only the market of Lodz but also the

Polish market. During the course of this long-term agreement—we have in mind a period of 20 years—it may be in the interest of the Reich to place the plants again in private ownership. Such a possibility will occur in particular in the event that new investments of any size are to be made. It should therefore not seem unreasonable that in such an eventuality I. G. Farben should be given priority rights with respect to the purchase of the plants.

2. For the plant situated in the territory of the Government General, we should like to make the following suggestion:

a. The plant which is only in a state of construction in Sandomir-Sarzyna, and which will be operated under the name of "Chemical Industry 'Boruta' Ltd., Construction Project, Sarzyna Plant for Nitrogen Products," was set up predominantly for military reasons. Today it no longer has any economic justification. The apparatus installed there should be dismantled in the most practical way and removed to Germany proper. As a measure of expediency it would also be advisable for the trustees, in concurrence with the Army Ordnance Office, to undertake the sale of the apparatus and of the installations which are to be disposed of as scrap. This should be carried out as rapidly as possible, since at the moment through the further temporary occupation of some 250 persons a day, the Reich is incurring considerable expense. The building work was financed by the "Boruta" by means of credits granted by the Polish State Agriculture Bank. The amounts in question are shown in the balance sheet of the "Boruta" of 31 July 1939, by a sum of 9,099,739.49 zloty.†

† The balance sheet of the "Boruta" is attached.

Furthermore, my statements in paragraph 1 must also be applied with respect to the liabilities pertaining to the building project.

b. As far as the chemical factory Winnica is concerned, the Reich Ministry of Economics is aware that it is owned by the French Kuhlmann group which, at our instigation, gave up half of the shares on an unofficial basis to I. G. Chemie in Basel, with whom we are on friendly terms. It is now not only in the interest of private economy but also, in view of the future, of public interest that the factory in question should not be the subject of an open liquidation. On the other hand, the pretext of economic necessity is all the less valid, as approximately half of the production of the factory was exclusively concerned with dyestuffs which were used for the manufacture of Polish military cloth. We would therefore suggest a settlement which would entitle the holding company described under 1 to transfer to "Boruta" all plant installations in Winnica which are of importance for the German economy—this applies in particular to the anthraquinone plant there—and to operate them in return for rent or by virtue of a lease in a similar way to the plants of "Boruta" and "Wola."

Without binding ourselves in any way, we reckon that for the putting into operation and maintenance of the converted plant "Boruta" we shall have to begin by opening a credit of as much as 3,000,000 reichsmarks in favor of the holding company which we have described in detail under 1. In view of the uncertainty which still exists at the moment as regards the economic prospects of former Poland, it is just as impossible to speak now of the amount of interest which will have to be paid on the sums we are to advance. We should like to suggest that both these questions be settled at a later date when we have acquired a clearer picture of the development of the situation.

Heil Hitler!

I. G. Farbenindustrie Aktiengesellschaft

Signed: v. SCHNITZLER

Signed: KRUEGER

Enclosure*

**TRANSLATION OF DOCUMENT NI-8396
PROSECUTION EXHIBIT 1160**

**LETTER FROM FARBEN TO THE ECONOMICS DEPARTMENT, OFFICE
OF THE GOVERNOR GENERAL FOR THE OCCUPIED POLISH TERRI-
TORIES, 11 JUNE 1940, CONCERNING THE ANTHRAQUINONE IN-
STALLATION AT "WINNICA"**

I. G. Farbenindustrie Aktiengesellschaft

Management Department Dyestuffs

* * *

To: Office of the Governor General for the Occupied Polish
Territories
Economics Department, Cracow

Frankfurt (Main) 20

11 June 1940

Subject: Anthraquinone installation of the chemical factory "Win-
nica" at Winnica (hereafter referred to as "Winnica")

We beg to confirm herewith as follows the agreement reached with
you on the above-mentioned:

1. You will lease us the anthraquinone installation of the "Win-
nica" for the purpose of transfer to the German Reich. We state
that the condition of the leased installation is known to us in detail,
and that we take possession of the leased objects in the condition in
which they have been up to now. You assume no responsibility for
the condition of the objects leased.

2. You grant us the right to transfer the leased installation at our
own expense to the factory of the Chemical Industry Boruta at Zgierz,

*The enclosure was no part of this exhibit.

leased by us, or to any of our other factories, or to some other place in the German Reich, and there to make unrestricted use of the installation for our purposes.

We undertake to keep the leased installation in proper condition and to insure it at our expense. "Winnica" continues to own the leased installation as described under 1 above.

3. The rent for the leased installation as described in 1 above amounts to 1,000 reichsmarks per year.

The rent is to be paid at the end of each calendar year.

We continue to bear all public and private charges and taxes that the rented installation may carry. The same applies to such public charges which are newly imposed.

4. You undertake to see that the private and public creditors of the "Winnica" will not enforce an execution against the leased installation as described in 1 above.

5. This lease will be in force from 1 August 1940 until the conclusion of a peace treaty.

6. You grant us purchase priority privileges with respect to the rented installation described in 1 above.

7. We are bound to transfer the rented installation back to Winnica in a working condition and at our expense, upon your request, after the expiration of this agreement.

8. Any fees and taxes connected with this agreement will be borne by us.

Please confirm your approval of the foregoing agreement.

I. G. Farbenindustrie Aktiengesellschaft

Signed: v. SCHNITZLER

Signed: ECKERT

**TRANSLATION OF DOCUMENT NI-2998
PROSECUTION EXHIBIT 1144**

LETTER FROM FARBEN TO DR. MAHNKE, REICH MINISTRY OF ECONOMICS, 10 JULY 1940 CONCERNING THE POSSIBLE PURCHASE OF THE "BORUTA" PLANT

I. G. Farbenindustrie Aktiengesellschaft
Management Division Dyestuffs

Geheimrat Dr. Hans Mahnke
Berlin W 9, Hermann-Goeringstr. 7

Frankfurt (Main) 20
10 July 1940

Subject: Chemical Factory "Boruta", your letter of 21 June 1940

With best thanks we acknowledge the receipt of your above-mentioned letter as well as the enclosed decision of the Main Trustee Office East of the 20th of last month, from which we were pleased to see that instead of the originally envisioned lease, IG can now consider the pur-

chase of "Boruta." As you know, we welcome this arrangement very much because it especially disposes of the various technical difficulties which would have existed in a lease of the enterprise for the duration of the war only. We would like to ask you, therefore, to advise the Main Trustee Office East [Haupttreuhandstelle Ost] that we are entirely agreeable to enter into purchase negotiations as soon as convenient. In accordance with our telephone conversation, we have prepared a draft for the purchase agreement (which we submit to you attached), with the request for examination and earliest possible comment on your part as well as on the part of the Main Trustee Office East.

In the meantime, our assessment of the value of stocks and equipment has progressed considerably and we hope to be able to transmit to you our proposals in this regard within a relatively short time.

Heil Hitler!

I. G. Farbenindustrie Aktiengesellschaft

Signed: v. SCHNITZLER

Signed: KUEPPER

Enclosure

P. S. For your information we enclose copy of an advisory memorandum¹ of Attorney Siegmund Puppe, Litzmannstadt [Lodz], dated 3 July 1940, which we requested in connection with the draft for the purchase agreement, especially in regard to the question of the obligations of Boruta prior to 1 October 1939, and we would be grateful if you would also fully clear up this particular point with the Main Trustee Office East.

**TRANSLATION OF DOCUMENT NI-1197
PROSECUTION EXHIBIT NO. 1859**

FARBEN LETTER TO DIRECTORS SCHWAB AND SCHOENER, 16 JANUARY 1941, ENCLOSING A COPY OF A LETTER OF DEFENDANT VON SCHNITZLER TO DR. WINKLER² HEAD OF THE MAIN TRUSTEE OFFICE EAST

I. G. Farbenindustrie Aktiengesellschaft, Frankfurt (Main) 20
Management Department Dyestuffs

16 January 1941

Director Hermann Schwab, Litzmannstadt

Director Dr. P. Schoener, Wolfen

Registered

Subject: "Boruta," Zgierz

We do not wish to fail to transmit to you enclosed, for your strictly confidential and personal information, a copy of the letter which, in

¹The enclosure was not part of this exhibit.

²Dr. Max Winkler was a defense witness. His testimony can be found on pp. 14173-14181 of the transcript. Before becoming chief of the Main Trustee Office East, he was the mayor of Lodz under the German occupation.

consultation with Dr. ter Meer, Dr. von Schnitzler sent to Oberbuergermeister [Lord Mayor] Dr. Winkler. We shall keep you informed on further developments.

I. G. Farbenindustrie Aktiengesellschaft

Signed: by proxy ECKERT

Signed: as deputy KUFUSS

Enclosure

I. G. Farbenindustrie Aktiengesellschaft, Frankfurt (Main) 20

16 January 1941

To Oberbuergermeister Dr. Winkler

Haupttreuhandstelle Ost [Main Trustee Office East]

Berlin, Potsdamerstrasse 28

Dear Oberbuergermeister,

At the recent meeting of the Aufsichtsrat of Ala [Ala Anzeigen A. G.], I had an opportunity to inform you on the state of negotiations which my firm is conducting with the Main Trustee Office East with regard to the purchase of the chemical plant "Boruta" in Zgierz, near Litzmannstadt [Lodz]. At the last conference which took place on this subject, the representative of the Reich Commissioner for the Strengthening of Germanism [Reichskommissar fuer die Festigung deutschen Volkstums (Himmler)] stressed the point of view that one expects I. G. Farben primarily to do positive reconstruction and improvement work in the Warthegau. We are willing to take this point of view into consideration, and I am authorized to confirm herewith my oral statement that I. G. Farben takes upon itself the obligation to invest, within the next 5 years, in the Warthegau, a total of at least 5 million reichsmarks, in addition to the purchase price of Boruta. We thereby wish to contribute also, for our part, an important share to the industrialization of the Warthegau, because we fully agree with your intentions that the Warthegau, which has been won back for the German people, is to serve not only as a superabundant agricultural region, but also to constitute—as a structure of mixed economy—the economic backbone for the strength of the German people in the East.

After a thorough examination, we have formed the following plans for Boruta:

1. In order to strengthen Germanism, we consider it an especially urgent task to create, in the vicinity of Zgierz and at an appropriate distance from the Boruta plant, a settlement for the employees of the plant for which, initially, we estimate 100 dwellings. For this settlement the latest experience is to be utilized which was derived from the construction of settlements in Greater Germany; that is,

in a mixed construction style to provide homes for employees including an appropriate land allocation, as well as buildings having several floors for the use of employees who are not inclined to do a considerable amount of agricultural work after completion of their duties.

2. To strengthen the spirit of common bonds among the ethnic German employees, the construction of a community house is planned which, in addition to a room for meetings, is to have a plant kitchen, a canteen, a library, and similar facilities. Provisions for plant sports activities will likewise be made.

3. A prerequisite for the strengthening of Germanism among the employees is the provision of appropriate hygienic facilities in the plant which will comply with the requirements of the German trade inspections. Therefore, appropriate washrooms, bathing facilities, and dressing rooms are proposed, as well as medical facilities for all the employees (as at present available in all German plants).

4. The Boruta plant installations for production call for a complete adaption to modern installations. It will be unavoidable to abandon completely and pull down a part of the existing plant buildings, and to erect in their stead new plant installations which meet requirements and are bright and airy, in which the products of Boruta (organic products and dyestuffs) can be manufactured under hygienically satisfactory conditions and according to the principles of modern manufacturing processes. After the completion of this modernization the Boruta production of organic products and dyestuffs on the whole will have reached a level which surpasses the peak at any time reached under Polish management and, as a result, Boruta will then be the leading production site in the organic chemical field for the requirements of the Warthegau and of the Government General.

5. In subsequent developments we are going to include Boruta in all of our firm's planning of new installations in the Greater German Reich. For the time being it will be our task to expand Boruta for such new manufacturing as is to be initiated as a result of the expected industrialization of the Warthegau. With the progress planned for the Warthegau in water routes, in waterpower plants, and in the distribution of power, we later on hope to be able to include in our planning large-scale chemical plants also.

You were kind enough to indicate to me in a general way your approval of such plans in principle. In particular, you said to me that it is desired to encourage important firms from Germany proper to participate in the economic development of the Warthegau. I believe that once we have taken root in the Warthegau along the lines planned here, resulting conditions will be such that the Warthegau,

too, will be taken into consideration for any projects we may launch from time to time, as far as technical limitations permit. The transfer of the Boruta plant for commitments as here described would constitute a first step for firmly establishing I. G. Farben also in the Warthegau.

I consider the disagreement which still exists between our and your experts as to the purchase price to be immaterial; a just agreement on this point should undoubtedly be possible without undue difficulties.

As you yourself were kind enough to undertake the decision in this matter, I should like to ask you to set a date for me and my technical colleague, Dr. ter Meer—possibly in the first half of February, preferably Monday, 10 February or Tuesday, 11 February—to make our personal report.

Yours very truly, and Heil Hitler!

Signed: v. SCHNITZLER

**TRANSLATION OF DOCUMENT NI-8382
PROSECUTION EXHIBIT NO. 1146**

**LETTER FROM DR. MAHNKE, REICH MINISTRY OF ECONOMICS, TO
DEFENDANT VON SCHNITZLER, 23 APRIL 1941, CONCERNING THE
POSITION OF REICHSFUEHRER SS HIMMLER WITH RESPECT TO THE
"BORUTA" PLANT**

Dr. jur. Hans Mahnke

Attorney at law

Specialist for Tax Laws

Member of the National Socialist Lawyers' Association

Berlin W 9,

Hermann Goering Strasse 7

23 April 1941

To Director Dr. G. von Schnitzler

Frankfurt (Main) 20, Grueneburgplatz

Dear Director,

According to information telephoned to me by the Reichsfuehrer SS, the latter has now made up his mind to allocate the "Boruta" plant to your firm. I hope, therefore, that at the beginning of May we shall be in a position to conclude the final negotiations regarding the purchase agreement at the Main Trustee Office East.

I shall do my best to speed up this conclusion as much as possible.

With kind regards, and Heil Hitler!

Yours very truly,

[Signed] DR. MAHNKE

**TRANSLATION OF DOCUMENT NI-8385
PROSECUTION EXHIBIT NO. 1147**

**FILE NOTE OF FARBEN'S DR. KUEPPER, 9 MAY 1941, CONCERNING THE
EFFORTS OF THE GUTBROD BROTHERS TO ACQUIRE "BORUTA"**

Very urgent

Frankfurt/Main, 9 May 1941

Subject: Boruta/telephone call from Geheimrat Mahnke
on 9 May 1941

Geheimrat Mahnke referred to his letter of 23 April 1941 addressed to Dr. von Schnitzler, according to which Reichsfuehrer SS [Himm-ler] has made up his mind to let Farben have the Boruta plant. As Geheimrat Mahnke has ascertained, matters are not yet quite clear. According to a remark made by attorney at law Schaefer, the Reich Commissioner's entourage is convinced that Boruta can only be taken over by Farben; but unfortunately the Gutbrod brothers, who have excellent connections, are still trying to get Boruta and keep on making petitions. The office of the Reich Commissioner for the Strengthening of Germanism is also convinced that there is no question of a transfer to the aforementioned. Efforts are now being made to convince the Gutbrod brothers that the acquisition of Boruta would not be expedient for them; in this connection it was intended to advise them to inspect the plant themselves. The aforementioned agency therefore intends to write to the HTO [Main Trustee Office East] in Lodz and request it to contact the Boruta trustees with regard to an inspection of Boruta by the brothers Gutbrod.

For the rest, Geheimrat Mahnke advised us not to wait for the tele- phone call from attorney at law Schaefer requested in our letter of 6 May 1941, but to call him up ourselves. The telephone number can easily be ascertained at the HTO in Berlin.

I informed Director Schwab of the above telephone call.

[Signed] KUEPPER

To:

Director Dr. von Schnitzler
Director Dr. ter Meer
Director Dr. Struss
Prokurist Eckert

TRANSLATION OF DOCUMENT NI-806
PROSECUTION EXHIBIT NO. 1148

LETTER FROM DEFENDANT VON SCHNITZLER TO SS BRIGADIER
GENERAL GREIFELT, 19 JULY 1941, CONCERNING FARBEN'S ACQUI-
SITION OF "BORUTA"

SS Brigadier General Ulrich Greifelt*

[Office of] Reich Commissioner for the Strengthening of Ger-
manism, Berlin W, Kurfuerstendamm 142

Dear Mr. Greifelt,

With reference to our recent conversation, I do not wish to fail to inform you that our negotiations with the Main Trustee Office East for the purchase of the "Boruta" chemical works at Zgierz near Lodz have been concluded. A sum of 5 million reichsmarks has been fixed as purchase price for the whole of the installations and stores. Both sides are in agreement on the provisions of the purchase contract which the HTO [Main Trustee Office East] will now draw up. The special investment and welfare grants which we have taken over in connection with the acquisition of the "Boruta" in accordance with our letter to the Main Trustee Office of 20 February 1941, will again be definitely confirmed by separate correspondence.

I take the opportunity to express once more my sincere thanks for the considerate attitude you have shown towards our offer, and for your decision, and assure you again that in developing the "Boruta" we shall do exemplary work from the technical, no less than from the social and national-political, point of view. We assume that we may, if necessary, confidently apply to you for help in overcoming any difficulties which may arise in putting into effect, on the spot, the projects which we shall take in hand at the earliest possible moment.

With sincere regards and Heil Hitler!

*Greifelt, who was a defendant in the RuSHA case (see vols. IV and V, this series), was chief of the SS Main Office of the Reich Commissioner for the Strengthening of Germanism.

TRANSLATION OF DOCUMENT NI-6941
PROSECUTION EXHIBIT NO. 1164

LETTER OF FARBEN TO THE REICH MINISTRY OF ECONOMICS, 1 AUGUST 1941, CONCERNING THE PURCHASE OF FRENCH SHARES IN THE "WINNICA" PLANT

I. G. Farbenindustrie Aktiengesellschaft
Management Department Dyestuffs

[Stamp]

Legal Department, Dyestuffs
Received: 4 August 1941

Frankfurt/Main 20
1 August 1941

To: The Reich Ministry of Economics
Attention: Assessor Dr. Scheidtmann
Berlin W 8, Behrenstrasse 43

Subject: Purchase by our company of the 1,006 shares of the "Chemische Fabrik Winnica A. G.," Winnica near Warsaw, at present owned by the Centrale des Matières Colorantes Paris.

We beg to refer to the interview which our Dr. Kufuss had with you on 30 July 1941 regarding the above matter, the contents of which we repeat in the proposition below:

The "Chemische Fabrik Winnica A. G.," Winnica near Warsaw, was founded in 1929 in agreement with us by the French dyestuffs industry in order, on the one hand, to create an enterprise to rival the Polish factories in Poland and, on the other hand, to maintain and regain business (lost through customs and import restrictions) by manufacturing goods in the country itself. Organic coal-tar dyes were to be produced. The final capital of the company amounted to 2 million zloty, divided into shares of 1,000 zloty each. Originally the French group and, at Farben's suggestion, the firm of Eduard Greutert & Co., Basel, each took half the shares in the company. Later the Greutert firm passed on the Winnica shares in its possession to the firm of H. Sturzenegger & Cie., Basel. Ostensibly, Winnica, however, always passed as an entirely French company. The necessary means for covering the working capital were put at the disposal of Winnica by the French group and debited accordingly; we, on the other hand, charged the French group—basing ourselves on the original joint management—with our share of half of this working advance in each case.

As is known, I. G. Farben will acquire a 51 percent holding in the French dyestuffs industry in the course of the reorganization of European dyestuffs production. Within the framework of this reorgani-

zation, a French participation in a dyestuffs factory located in the General Government was no longer desirable. We therefore reached an agreement with the French dyestuffs industry to purchase the 1,006 Winnica shares which they hold. A purchasing price of 1 million reichsmarks was agreed upon, subject to the simultaneous transfer of the claims of the French group on Winnica to us, as well as the cancellation of the claims of the IG on the French group regarding the title "Winnica."

As soon as we obtain your permission, payment of the above-mentioned purchasing price will be made in cash. We herewith beg to request the Reich Ministry of Economics to authorize us to remit the amount of 1 million reichsmarks to the *Établissements Kuhlmann*, Paris, for the French group, and we request instructions regarding the franc account through which the payment is to be made.

Heil Hitler!

I. G. Farbenindustrie Aktiengesellschaft

Signed: v. SCHNITZLER

Signed: by proxy, Eckert

3. TESTIMONY OF DEFENDANT ILGNER

EXTRACT FROM THE TESTIMONY OF DEFENDANT ILGNER ¹

DIRECT EXAMINATION

* * * * *

DR. NATH (counsel for defendant Ilgner): Dr. Ilgner, we were talking about count two of the indictment and the subject of Poland. I have only one single question on that subject. In part 1 of the Trial Brief, on page 102 in connection with Poland, there is the following sentence, and I quote:

"On 28 July 1939, a comprehensive report was prepared under the direction of the defendant Ilgner, which was entitled 'The Most Important Chemical Plants in Poland.'"

Do you know this report of which the prosecution submitted three excerpt in exhibits 1135, 1136, and 1137,² all in book 55?

DEFENDANT ILGNER: I did not know it before. I note it is a typical specialized report of the VOWI, dozens of which were constantly being prepared. I have already testified here from the witness stand that the VOWI, in 1934 or 1935—or at the time of the Friendship Pact with Pilsudsky—was interested in the Polish market and at that time prepared an extensive market analysis treating especially dyestuffs in Poland.

Q. Now, on 28 July 1939, as the prosecution contends, did you have a new work on Poland prepared?

¹ Further extracts are reproduced in subsection E 4 below, and in sections IV D 2, VII D 4b, and O 7c in volume VII, this series.

² Reproduced in full or in part in 2 above.

A. It was impossible for me to have done it because I had been away from Berlin for 6 months by then, but I have discovered this is a new edition, such as was often prepared.

* * * * *

4. TESTIMONY OF DEFENDANT WURSTER

EXTRACTS FROM TESTIMONY OF DEFENDANT CARL WURSTER ¹

DIRECT EXAMINATION

* * * * *

DR. WAGNER (counsel for defendant Wurster) : I now come to the trip where you accompanied Dr. Pohland to inspect some chemical plants in Poland. How did it come about that you accompanied Dr. Pohland there?

DEFENDANT WURSTER : I was asked by Dr. Pohland, who was an Oberregierungsrat in the Reich Office for Economic Development as expert for inorganic chemistry, to accompany him on an inspection tour of chemical factories in Poland as a technical adviser. He came to me because he knew me through some conferences on sulfuric acid which we attended.

Q. Did you accompany Dr. Pohland in your capacity as a representative of Farben interests?

A. No.

Q. Was your trip in any way connected with safeguarding Farben interests?

A. No. Not at all.

Q. Are you aware, Dr. Wurster, whether representatives of other branches of industry accompanied Reich officials on such inspection trips?

A. Yes. I know, for example, about representatives of the Solvay and the Kernstoff combines, and the Metallgesellschaft, just to give a few examples.

Q. Dr. Wurster, there is a draft of a report on this trip which you sent to Dr. Buergin several weeks later. This report is contained in NI-1149, Prosecution Exhibit 1134 ², book 55, English page 34, German page 54.

A. Yes.

Q. Since this exhibit is only a draft, did you ever send a final report to the authorities on whose behalf Dr. Pohland made the trip?

A. As far as I can remember, I think that is impossible. For one thing, I would not have been making a draft weeks after my return from this short trip, which I expressly called a draft in my own handwriting.

¹ Further extracts are reproduced earlier in sections VII H 4e and I 7g, volume VII, this series.

² Reproduced in part in 2 above.

Q. After this trip, did you have anything to do with negotiations concerning the leasing or acquiring of Polish chemical factories?

A. No.

Q. You know that the prosecution, in this trial, has charged Farben with the acquisition of three chemical factories in Poland, calling it plunder and spoliation. These are Wola, Winnica, and Boruta. Did you ever visit Wola?

A. No.

Q. Did you visit Winnica?

A. No.

Q. Did you visit Boruta?

A. Yes, briefly.

Q. Is there another factory called Boruta?

A. No. You can see from my report that there are two plants which belonged to the company. I was, for a short time, in one of them on this official trip.

Q. And the final question on this subject. Did you have anything to do with the acquisition of chemical factories in Poland—namely Wola, Winnica, or Boruta—by Farben? Did your trip have any connection with the acquisition?

A. No.

* * * * *

CROSS-EXAMINATION

* * * * *

MR. SPRECHER: Now, let us go over to Poland. You testified concerning the report of your trip to Poland in October 1939, which is in evidence as Document NI-1149, Prosecution Exhibit No. 1134. Did you show copies of your report on Poland to any other Farben official, apart from the defendant Buergin?

DEFENDANT WURSTER: To the best of my recollection, I sent it only to Mr. Buergin.

Q. Did you report about your inspection of the Polish plants in the fall of 1939 to any other leading officials of Farben except the defendant Buergin?

A. I remember that in the Vorstand meeting, and in a meeting in Ludwigshafen, I reported about this trip, particularly and—as far as I remember—exclusively about my impressions of the effects of air raids on chemical plants. That is the best of my recollection, and I believe that it was at those two meetings.

Q. Did you report on the economic condition, as well as the technical condition of the Polish plants you visited, to the Vorstand?

A. Not as far as I remember. As far as I remember, the very brief report was limited to my impressions [of air raid protection measures] because we were all concerned about that. Moreover, Mr. Prosecutor, if you read these notes, you will see that I always paid particular at-

tention to this on my trip because I was much interested in that. I was worried about my own plant, also, in this respect.

Q. Your testimony then is that you reported concerning the effect of air raids upon the chemical industry in Poland to the Vorstand, is that right?

A. That I gave an account of my observations on the few plants that I had visited, that is my recollection.

Q. Now, you said you didn't have anything to do with the acquisition or the operation of Boruta thereafter. As a matter of fact, Dr. Wurster, did not the Vorstand decide, on the very same day that you made your report to the Vorstand concerning your inspection of Polish plants, that a dummy corporation should be planned in order to acquire or to operate the Boruta plant—on the very same day?

A. I do not remember any more. But that certainly was not in connection with my report, for the negotiations conducted by representatives of Farben about this affair were all before my time and not in this connection.

MR. SPRECHER: Now, in this connection, Your Honors, we would like to introduce NI-15107, as Prosecution Exhibit No. 2120.* These were extracts from the 14th Vorstand meeting of 8 November 1939, and I think that can just go by way of supplementation of the testimony we have just had.

PRESIDING JUDGE SHAKE: Mr. Sprecher, I am just wondering. This is not an instance here of where you are putting in some evidence in chief that is neither cross-examination nor rebuttal. This does not dispute anything that the witness has said.

MR. SPRECHER: I beg your pardon. May I refer to the document?

PRESIDING JUDGE SHAKE: Yes.

MR. SPRECHER: I don't think we will have to be detained longer on that, Your Honor.

Mr. President, do you have paragraph 2, the report on industrial plants in Poland there?

PRESIDING JUDGE SHAKE: Yes.

MR. SPRECHER: Do you notice in the second line, with respect to the trips of both Buergin and Wurster—"Both gentlemen report on their general impressions as well as particularly on technical condition and the economic situation of the plants inspected—"?

PRESIDING JUDGE SHAKE: Now, does that dispute the witness' testimony?

MR. SPRECHER: The witness testified that as far as he remembered he did not report on the technical conditions of the plant.

Now, if you further look down and see the decision made during the report of the Commercial Committee, under "3," where they discuss the acquisition of Boruta, the direct relationship between a report

*Reproduced in 2 above.

concerning the economic and technical conditions of the plant and an approval by the Vorstand concerning some steps to be taken pursuant to acquiring these plants—it seems to me it is exceedingly clear.

PRESIDING JUDGE SHAKE: That is just the point that I was thinking about; your point last mentioned there. I think that I remember that you had evidence in chief on that, did you not, on the organization of this buffer company?

MR. SPRECHER: Yes, Your Honor, there has been evidence concerning that buffer company, but the last witness indicated that there was no relationship between his activities and this acquisition. Perhaps introducing this document would have been anticipatory and cumulative—and Your Honors specifically asked us to avoid introducing anticipatory and cumulative evidence at the early stage of this trial. We have attempted to comply.

Now, when we come to a piece of testimony like we have just had, I don't think this is any longer anticipatory, and it is certainly no longer cumulative, and adds to the whole coordination between the trip which this defendant had—although we certainly do not say that that was the only thing that inspired Farben to acquire the Boruta plant. But we do submit that it shows a direct relationship which Your Honors must consider in connection with measuring the conduct of this and other defendants.

PRESIDING JUDGE SHAKE: Well, I am more concerned about keeping the prosecution conscious of not abusing the functions of rebuttal by giving us cumulative documents than I am about the question on this particular document. Your point may be well taken, but please scrutinize your documents pretty carefully so that we do not get ourselves into a situation of having documents presented under the pretext of rebuttal that should have been in chief. That is just an admonition. I am not ready to say that this violates that rule; I just wish you would watch that because that is a danger that is hard to guard against.

* * * * *

5. TESTIMONY OF DEFENSE WITNESS SCHWAB

EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS HERMANN SCHWAB*

DIRECT EXAMINATION

DR. VON KELLER (associate counsel for defendant von Schnitzler): Witness, for the record, will you please state the date and place of your birth?

*Complete testimony is recorded in mimeographed transcript, 29 and 30 January 1948, pp. 6052-6135.

WITNESS SCHWAB: I was born on 8 June 1886 at Bad Homburg, Upper Taunus.

Q. Please describe briefly your career with I. G. Farben.

A. In November 1909, I entered the dyestuffs works at Hoechst. In February 1910, I was transferred to the agency at Vienna for the purpose of reorganization, and later I had to travel. I stayed in Vienna until the middle of 1912. In July 1913, I was sent to Turin for the purpose of reorganizing the agency there. In March 1914, I came back and went to Brussels. Until July 1914—

Q. Perhaps you could go into a little less detail, Witness.

A. Then during World War I, I was prisoner of war for 4 years and then I returned to the plant at Hoechst, and was at first in the "Romanic Department," and in the merger with the eastern business in 1929. Then I was concerned especially with the Polish business. I was in Poland from 1939 to 1943, as trustee of the three Polish dyestuffs factories; and from 1943 to 1945, I was back in my old department in Frankfurt.

Q. When did you receive power of attorney?

A. In 1921. In 1922, Prokura, and in 1929, I became "Titular Director."

Q. Can you describe briefly what the expression "Titular Director" means?

A. That means Procurist under commercial law, but not a member of the board of directors.

Q. Instead of board of directors would you please use the German expression, so that no translation difficulties arise.

A. Vorstand.

Q. Can you give me a brief description of the Polish dyestuffs industry, first regarding over-all production?

A. The total production averaged about 2 thousand tons, with a value of about 10 million reichsmarks.

Q. What was the rate of exchange between the reichsmark and Polish currency?

A. Before the war, one zloty was equivalent to 47½ pfennigs. During the war, the rate was set at 1 reichsmark for 2 zlotys; that is, the zloty was equivalent to 50 pfennigs.

Q. What were the largest Polish dyestuffs factories?

A. The largest one was Pabjanicer.

Q. And the other names, so that we may have them all together?

A. The second largest was Boruta, considered from the point of view of dyestuffs factories; the third was Winnica, and the fourth one, Wola. Then there were a few smaller ones.

Q. What percentage of the total of Polish dyestuffs production was produced by these four larger factories which you have just named?

A. Almost 95 percent of the production.

Q. Now, will you briefly tell me the amount of production and the form of organization of these four companies, beginning with Pabjanicer.

A. I cannot give you any production figures, but merely turnover figures. In the case of Pabjanicer, I do not have any exact figures at the moment, but it was probably 6½ to 7 million zloty. Boruta, in the year 1937, had a turnover of 6.2 million zloty of pure dyestuffs. Winnica in 1937, 4.1 million zloty; and Wola, 2.7 million zloty.

DR. VON KELLER: Mr. President, I hope you do not object if the witness refers to notes when giving such figures, as a number of figures will have to be mentioned during the examination which go beyond the scope of a normal memory.

PRESIDING JUDGE SHAKE: That is entirely permissible.

DR. VON KELLER: Now please tell me in what form these four companies were organized.

A. Pabjanicer was a joint stock company. The stock capital was 4 million zloty, 95 percent in the hands of the Company for Chemical Industry in Basel, called CIBA. The Aufsichtsrat consisted of Swiss gentlemen exclusively. A German bank director from Hoechst was vice-president. Pabjanicer was the only plant of the German and Swiss dyestuffs industry in Poland which went back to the Czarist period.

Boruta was also a joint stock company, capital 3.75 million zloty. The principal stock holder was the State Landwirtschaftsbank in Warsaw, with 80.38 percent of the stock. The rest was divided up into many small amounts.

Winnica was a joint stock company under commercial law in French and Swiss possession, and economically in French-German possession—that is, in Farben possession. Stock capital 2 million, which, with the exception of 12 shares, was in the hands of two big stockholders, the French dyestuffs factories and I. G. Switzerland.

Wola was a private enterprise, in the hands of Dr. Maurycy Szpilfogel. The invested capital amounted to an average, in the last few years, of 1.7 million zloty.

Q. Witness, I want to determine for the record whether these figures of the shares capital that you have given were all in zloty.

A. Yes, all in zloty.

Q. I shall now read three passages from the indictment. At first from [paragraph] No. 77, the last sentence in No. 77, it reads: "Farben later absorbed the Polish chemical industry."

Now, I shall now read from No. 97 of the indictment: "In Poland the three major chemical industrial firms were" and then Boruta, Wola, and Winnica are named.

And the third passage which I shall read is No. 100: "Farben"—here I am leaving out part of the sentence—"integrated the entire Polish chemical industry with its own operations * * *".

To clarify this point, please describe to me briefly the proportionate relationship between the Polish chemical industry and the Polish dyestuffs industry. What was the order of the various types of Polish chemical industries according to size?

A. In my opinion, in first place—if one considers the number of employees and the value of production together—was the nitrogen industry; in the second place, artificial silk; in the third place, the rubber industry; in the fourth place, the pharmaceutical and cosmetics industry; fifth, the soap industry; and only in the sixth place, came the dyestuffs industry.

Q. What was the proportion of the Polish dyestuffs industry in the total Polish chemical industry from the point of view of value—expressed in percentage approximately?

A. About 3½ percent, perhaps 4 percent.

DR. VON KELLER. Mr. President, the subject of cartel arrangements has already been dealt with in this connection. I shall, therefore, ask the witness only the most essential questions on the subject.

What contractual obligations, Mr. Schwab, existed between the German dyestuffs industry and the Polish dyestuffs industry?

A. There were connections in two directions. First of all, the Farben Tripartite Cartel; and the Tripartite Cartel with the Polish firms. The Tripartite Cartel was founded in 1929 between Farben, the French dyestuff factories, and the Swiss dyestuff factories, for a duration of 40 years. The agreement between the Tripartite Cartel and the so-called Polish group, composed of Boruta and Wola, was begun in 1932 with a limited provisional agreement and, in 1934, this was changed to a 9-year contract.

Q. Witness, you have just mentioned the Polish group and named Boruta and Wola. Did Pabjanicer and Winnica not belong to the Polish group?

A. No. Pabjanicer was a subsidiary of a Swiss firm and belonged to the Tripartite Cartel. Also Winnica, as a subsidiary, so to speak, of a French firm, belonged to the Tripartite Cartel.

Q. You just spoke of the market regulation agreement of 1934 which was for 9 years. How did this market regulation agreement operate, which, as you said, affected Wola and Boruta?

A. Wola and Boruta on the one hand, and the firms of the Tripartite Cartel on the other hand. In 1929, at which time there was a serious economic crisis in Poland, the Boruta administration had put out feelers to the French industry and to Farben, after the Tripartite Cartel had at first taken measures which proved to be very effective for itself. The contracts at that time led to no results. In 1932 under the leadership of the Landwirtschaftsbank—Bank Gospodarszja Krasowego in Polish—which was interested, as the principal stockholder of Boruta, in stopping Boruta's constant losses, Farben was approached through middlemen, and after very long negotiations, in the

spring of 1942, the first contract was concluded in which the Polish group had quotas from 21 to 22 percent. In 1934, the quota was increased.

Q. Mr. Sprecher was just kind enough to call a mistake to my attention. I believe you meant to say 1932, not 1942.

A. Yes, 1932. Thank you.

The quotas were set at 20 to 22 percent in the provisional agreement. In the final agreement, they began at 29.5 percent and increased in the course of years to 33 $\frac{1}{3}$ percent.

Q. Now, I should like to ask you, to make it clear, how much fell to Boruta and Wola on the one hand, and to the whole Tripartite on the other hand?

A. The Polish quota at the outbreak of war was 30 or 31 percent, and the rest fell to the Tripartite Cartel as a whole—that would be about 70 percent.

JUDGE MORRIS: Counsel, I have been trying to review in my memory the evidence regarding this Polish situation and refresh it somewhat by reading the index in the various volumes, and I am completely at a loss to find out in my own mind where all of this testimony regarding Polish cartels has anything to do with the case that has been presented by the prosecution, either in refuting direct testimonies or as a matter of defense. I wish you would enlighten me a little bit about what you have in mind and where you are going with all this detail regarding the Polish cartels.

DR. VON KELLER. YOUR HONORS, I have been attempting—and I have more or less finished—to bring out through the testimony of the witness the connections between Farben and the Polish factories in order to show that Farben had basically friendly relations with Polish industry, especially with the Polish dyestuffs industry; that Farben had no inclination to subjugate the Polish dyestuffs industry, but assigned to it increasing quotas and thus gave it increasing possibilities. I wanted to use part of these statements for my later argumentation, from the point of view that by virtue of these close connections there could be no question of intended spoliation. I will need part of these statements later in dealing with the subject of Winnica, in which Farben had a financial interest through ownership of stock. But I believe that I have really completed this subject with the witness and can go over to another point.

JUDGE MORRIS: All right. I'll make no further comment then.

DR. VON KELLER: Witness, did you yourself participate in such cartel negotiations?

A. I participated in all Tripartite meetings where Polish questions were discussed, and also all meetings with the Polish group.

Q. Witness, I should now like to show you three prosecution documents. They are Document NI-9151, Prosecution Exhibit 1135;

Document NI-9154, Prosecution Exhibit 1136; and Document NI-9155, Prosecution Exhibit 1137.* They are all in document book 55. The English pages are 50, 52, and 53. According to the copies which I have, these are photostats of typewritten documents which the prosecution submitted on 23 October. The prosecution, in its preliminary memorandum brief, on page 102, asserts, and I should like to read two sentences—

“While von Rundstedt and von Bock were deploying the German legions on the Polish frontier in accordance with their plan of attack, Farben was carefully surveying the Polish chemical industries in anticipation of the benefits to be derived from conquest. On 28 July 1939, a comprehensive report was prepared under the direction of the defendant, Ilgner, which was entitled ‘The Most Important Chemical Plants in Poland,’ and which set forth a detailed description of the physical structure of these plants, the products they manufactured, their adaptability to the German war economy, and the names of their owners and directors.”

What do you have to say to the three documents? Did you know about them?

MR. SPRECHER: Objection.

PRESIDING JUDGE SHAKE: Well, there’s no harm in the question as to whether he has the documents and knows about them. Objection is overruled.

MR. SPRECHER: I’m sorry, Mr. President—

PRESIDING JUDGE SHAKE: That’s purely preliminary.

MR. SPRECHER: I understood that the question was “What do you have to say to these documents?” and that question followed upon the quotation of what the prosecution had to say in its trial brief. That is why I objected.

PRESIDING JUDGE SHAKE: Well, the witness may ignore the statements of what the prosecution had to say about the documents in brief, but he is entitled to testify as to what he knows about the documents that are in evidence. Is there any objection to that?

MR. SPRECHER: Well, then, I object further to the form of the question as to what he knows about the documents as being very broad—

PRESIDING JUDGE SHAKE: Well, that is broad. I recognize that. I thought, in the interests of time, that he would get around to it.

I think we will better sustain the objection, Dr. von Keller, on the ground that your question is too broad. If you can direct the attention of the witness to what you want to know about the documents, that will be better.

DR. VON KELLER: Mr. President, I shall make my question more precise.

Q. Witness, did you earlier—that is, in 1939—know this report?

*All three documents are reproduced in 2 above.

A. Not in this form. VOWI made many reports and, as far as they concerned my field of work, I received them all; but in the form as shown here, in this size, etc., I did not see it. Perhaps I could be shown the original document.

Q. Unfortunately, we have only a photostat here, but in order not to waste time on the original document—

A. It has just come to me; that probably this was a pamphlet of about 28 centimeters which came shortly before the outbreak of the war. I looked through it briefly and then I put it away, as I had plenty of material in my department on everything. Above all, I had the large handbook of Trade and Industry in Poland, in four languages, which was published regularly in Warsaw, and I also had the very exhaustive handbook of Chemical Industry in Poland, which contained such figures. I know all that very well, because the Winnica, when it belonged entirely to Farben—

PRESIDING JUDGE SHAKE: Perhaps, Dr. von Keller, you had better ask another question and get the witness on the track of what you are concerned about.

DR. VON KELLER: Witness, when you were shown this document for the first time, did you connect it with preparations or plans for war?

A. No. Certainly not. I considered that as merely diligence on the part of VOWI.

Q. Was there anything in it that was news to you?

A. No.

Q. Are the contents of this document correct? Will you look at Exhibit 1136 carefully?

A. What page is that?

Q. You have the original there.

A. There are inaccuracies about the composition of the Winnica Aufsichtsrat. Dr. von Schnitzler is mentioned there and Dr. ter Meer but, at that time, there were only Polish and French gentlemen on the Winnica Verwaltungsrat.

Q. That is sufficient. Witness, you said before that in 1939 (until 1943), you were trustee for the Polish dyestuffs factories. Please tell me who appointed you?

A. The Reich Ministry of Economics.

Q. Since you had been a former employee of Farben until then, can you tell me what reasons guided the men of Farben when they placed two employees at the disposal of the Reich Ministry of Economics for this task?

A. The basic idea was to maintain the economic life in Poland and, above all, the Polish market was to be supplied, which Farben—in collaboration with the Tripartite Cartel and the Polish groups—had worked towards with great expenditure and great effort. This should not be lost. For this purpose, it was necessary to prevent outsiders

and speculators from getting the factory into their hands. That would very soon, most likely, have led to waste and careless working; the material would have been squandered.

Q. That is sufficient. I now want to ask you who were your superiors in the execution of your duties as trustee?

A. First of all, the Reich Ministry of Economics; and then, for a short time, the head of the civilian administration in the Army High Command VIII, Lodz; he was then, from about the middle of November 1939, replaced by the Main Trustee Office [East], Berlin, with a branch office in Litzmannstadt [Lodz] and, after the Government General was set up, the Economic Trustee Office in Cracow.

Q. Did these authorities supervise your activities?

A. They supervised them to the extent that orders and regulations were poured upon me. In addition to that, there were very strict regulations about balance sheets, statements, and business reports, and the books were examined. Supervision was thus very close.

Q. Did the regulations governing your activity contain any provisions for punishment?

A. Yes. As trustees we were, so to speak, civil servants, and the regulations for trustees provided that, in the case of negligence, personal payment of damages was to be exacted; for the offense of obstruction, sentences by a special court; and in the case of insubordination, the death sentence.

Q. Did you receive your salary from the state or from Farben?

A. Schoener and I did not receive any remuneration from the state or the concerns which we administered, either in money or in kind. We were on leave from Farben for this work, and our salaries from Farben were continued.

Q. Did Farben have any right to issue instructions to you and your cotrustee Schoener?

A. No. We both came under the orders of our superior authorities, the Trustee Office in Berlin or Cracow.

Q. I ask you to look at document book 56 now, which will be handed to you in a minute. Will you look at Prosecution Exhibit 1157, Document NI-7371, book 56, page 22 in the English and page 54 in the German. On the third line there you will see "administered by Farben as trustee."* Is this statement correct?

A. No. That is a letter of an employee in Leverkusen, who probably was not informed about the exact circumstances. He knew some-

*This phrase appears in the first paragraph of a letter of 10 November 1942 from the dyestuffs department of Farben's Leverkusen plant to Farben's analytical laboratory at the Leverkusen plant. The subject of the letter is "Taking Over of Products of 'Wola,' Litzmannstadt." The first paragraph of this letter states: "From the stocks of the former Polish dyestuffs plant 'Wola Krzysztoporska' Chemische Fabrik Litzmannstadt, which has been closed down and is administrated by Farben as trustee, quite a series of products are available which we may take over. An analytical check is to be carried out to establish the value of these products. For this purpose, we send you samples of the products mentioned on the following list and request you to examine them and to inform us as to the result." The letter is not reproduced herein.

thing about Farben being the trustee, but did not know the details. Instead of saying "two men of Farben," or "Mr. Schoener and Mr. Schwab," he just wrote "Farben."

Q. That is sufficient, Witness.

DR. VON KELLER: Your Honor, I shall now deal with individual plants which are especially mentioned in the indictment, and I shall observe the same order observed by the prosecution. I shall begin with Boruta, then Wola, and finally Winnica.

Witness, what did you do when, on your assignment, you first came to Boruta; when was that?

A. That was on 3 October 1939, in the afternoon.

Q. Please tell me where Boruta is?

A. Boruta is in the small town of Zgierz. I might say that it is a suburb of Lodz. Zgierz in later documents is also called by the German name Goernau.

Q. What was the German name for Lodz, in order to make it clear in the documents?

A. The German name for Lodz was Litzmannstadt.

Q. To what part of Poland did Boruta belong after the cessation of hostilities in Poland?

A. Boruta belonged to the Warthegau.

Q. Can you tell me the difference between the Warthegau and the rest of Poland?

A. The Warthegau was included in the eastern territories incorporated into the German Reich which had formerly belonged to the Republic of Poland. That was in the north, the Warthegau; and in the south, Bilitz. The area around Bilitz was formerly Polish Upper Silesia.

Q. In what condition did you find Boruta when you came there the first time?

A. The factory was undamaged. In the night of 5-6 September 1939, by order of the Polish Government, the administration had left the factory and all the cash—about 400,000 zloty—and all checks, drafts, and the most important records were taken away, according to orders. During this night, the workers and employees present were paid advances on their salaries and the cashier had about 20,000 zloty of available fund left over.

Q. What did Boruta produce?

A. Boruta produced primarily dyestuffs and a number of intermediates or preliminary products connected with dyestuffs. In this field of preliminary products it was the biggest producer in Poland. It also produced, in small quantities, accelerators and anti-oxidants for the rubber industry and there were plans for expansion through the establishment of a pharmaceutical industry. Buildings had been constructed and some machinery was present.

Q. We need not go into detail. Were there any other products?

A. Yes. There was an explosives plant at Boruta.

Q. What was produced there?

A. It belonged to the Polish War Ministry. It produced picric acid, dinitronaphthalene, and chloropicrin.

Q. Can you give me the production quantities approximately?

A. Picric acid, about 15 tons per month; chloropicrin, small quantities; dinitronaphthalene, about 10 tons, I estimate.

Q. Now, which of these three products are explosives?

A. Picric acid and dinitronaphthalene. Chloropicrin is tear gas.

Q. Were supplies of these explosives there?

A. Yes. There were about 15 tons of picric acid at the factory and near the factory there were four loaded railroad cars. On the afternoon of 3 October, a Polish chemist brought our attention to this explosives plant that had been in operation and Schoener immediately had it put under water.

Q. That is sufficient. Now what did you order as trustee of Boruta?

A. My work first of all, on the business side, was to draw up a status—we took inventory of the stocks. We inspected the plant from the technical point of view. We finished the production that had been started. We started work immediately; in the factory for 3 days, and in the offices for the full week. About 350 people were employed and this number increased to 500 at times.

Q. Did the reopening of the plant proceed without difficulties or in what field did you have special difficulties?

A. The greatest difficulty was the financial difficulty. I have already said that there were 20,000 zloty in cash on hand. That was just enough to pay wages for one week. I had to get some money and I went first to the chief of the civilian administration who was the authority there, and he said: "Trustees are there to help themselves." I did help myself. I called together my friends in Farben and the big firms in Lodz and I said to them, "You have to pay because if no payments are made then economic life cannot continue." And I got money immediately from these big firms and for my part I paid all the workmen of Boruta—whether they were Poles, Germans, or Jews, it made no difference. And after a few weeks I wrote to Dr. Herle in Berlin and said—

Q. Who was Dr. Herle?

A. Dr. Herle was head of the Trustee Office in Berlin—"Unless things are cleared up here we can't go on working."

Q. Now, were you able to manage with temporary financial aid that you got on the spot?

A. The cash matters functioned well. That was because from the middle of October on, the industry began to work again, more or less, so that we had some new sales and we sold only for cash. Above all,

Pabjanica, the main customer for intermediates, began to place orders again and paid immediately.

Q. Did you try to get aid from any other sources?

A. Yes, from the Trustee Office. I approached them in November. I wanted to have 200,000 marks. I had not examined the figures then. It was only after 7 months that they came to look at our books. In the meantime, the situation became critical because when the plant started to operate the costs increased too. We had to get raw materials and we had to pay for them. Nobody would deliver on credit. I was in a rather difficult position and then Dr. Deissmann came. That was a Farben employee—a former employee that is to say—who was a soldier in the Wehrmacht and who had already taken an interest in the IG agency in Warsaw, where he was stationed. He came to Lodz and I said to him, “Deissmann, you have to tell these gentlemen about my difficulties. Perhaps Farben can lend me something.”

Q. Do you know what Mr. Diessmann did?

A. I do not know in detail. I only heard that Farben, in a meeting on 20 October, had discussed the creation of a holding company to operate Boruta. This holding company was to act as trustee and operate Boruta, and this would, of course, solve the financial question.

Q. Was this plan for the trust company realized?

A. No, it was not. That was to be done in the form of a lease, but the negotiations went on for a long time without any tangible results.

Q. Now, what did you do in the meantime?

A. We muddled through.

Q. Did the Chief of the Civilian Administration help you?

A. No, he couldn't. He was no longer there.

Q. Did the Trustee Office help you?

A. I have already said they thought it over for 7 months before they started, and then I was to get the 200,000 marks long after I ceased to need them.

Q. Did you see any possibility of getting a bank credit?

A. No. Bank credits were blocked because the Boruta plant had a mortgage of over 6 million zloty. This mortgage went back to the Sarzyna connection of Boruta.

Q. I don't believe we need go into that. But I should like to ask you from where you did finally get help?

A. Help came from Farben. That was at the beginning of June. I had enough money on hand to pay wages for one day and I sent a telegram to Frankfurt: “Help me.” I had been in Frankfurt in May and I consulted with the gentlemen as to how help could be obtained before any agreement was reached with the Trustee Office. Then we figured the way out—orders should be allotted which would be paid in advance and just when I was having the worst time financially the first advance came—the first 100,000 marks.

Q. Witness, you mentioned some specific dates. Can you tell me where you got these precise dates?

A. Yes. In the summer of 1945 for—I believe it was the Special Finance Section in Frankfurt—I worked out reports on the three firms, Boruta, Wola, and Winnica, on the basis of records in Frankfurt and I have copies here. Also, a few weeks ago I found my Poland diary for the period of 26 September 1939 to 14 July 1941 where, in addition to private notations, I used to record the more important business matters from day to day.

Q. Witness, you just now spoke about the financial difficulties which you had as a trustee of the Boruta. To illustrate that fact, please tell me what the difference was between turnover and expenditures in the Boruta?

A. During the first months of 1940, the turnover averaged approximately 135,000 reichsmarks, and the monthly expenditures amounted to 250,000 reichsmarks.

Q. Then you said that you were helped at the last moment by orders and advance payments from Farben. Can you tell me the extent of these orders, both in regard to production and in regard to the cash value?

A. These were orders amounting to about 400 tons of intermediate products and vulcanization accelerators and approximately 500 tons of dyestuffs. Advances were paid in installments of 100,000 to 200,000 marks until the conclusion of the purchasing contract, altogether 1.1 million reichsmarks.

Q. Were these 1.1 million reichsmarks actually paid?

A. Yes. They were actually paid through the Reichsbank.

Q. Did Farben, in return for these advance payments and work contracts have any rights or privileges in Boruta?

A. No. Up to the conclusion of the purchasing contract, there was no guarantee given.

Q. You said previously that the holding company did not materialize. What was the course of negotiations with regard to the lease, and how did these negotiations develop?

A. In the project for the holding company, a lease of the Boruta for the duration of the war had been provided. It was not actually leased, because in June 1940 the administrator of Boruta, appointed by the Main Trustee Office in Berlin, informed Farben that, instead of a lease, a purchase could be taken into consideration.

Q. I want to bring out particularly who made the suggestion that the Boruta should be purchased?

A. The suggestion for the purchase emanated from the trust company by way of the administrator.

Q. Do you know what thought and ideas motivated this suggestion?

A. The existence of numerous plants administered by way of trusteeship was threatened by financial difficulties and the Trustee Office could not, or did not want to advance the fund themselves for further operations. I remember that in the commentary on the law for the confiscation of Polish property it was stated that, in the case of a purely bureaucratic administration of the plants, the original capital unavoidably would be gradually absorbed, and that for that reason the sale of the plant to serious prospective buyers should be considered.

Q. Do you know what answer Farben gave to the suggestion of purchasing the Boruta?

A. Farben stated that they were ready to buy, because if they concluded a lease agreement it would have been very difficult to introduce their "know-how"—if I may call it so—into the Boruta without guarantees.

Q. What practical offer did Farben make?

A. In September 1940 Farben made a written suggestion for a lease, which—

Q. Did you say in September a suggestion for a lease?

A. I meant to say a suggestion for purchase. I am sorry.

Q. What purchase price was mentioned in this connection?

A. 3.2 million reichsmarks for real estate, equipment, and stocks.

Q. What was the further course of negotiations for purchase?
When did the two parties meet?

A. To my recollection, in December 1940 in Berlin, for the first time. The trustees, Schoener and myself, were present.

Q. In the course of purchase negotiations, did any competitors appear?

A. Yes, the Gutbrod brothers, who operated a paint factory of medium size near Frankfurt and who had excellent connections with the SS. The SS had taken a number of factories in the eastern territories under their own protection—cement factories, brick yards, a paper factory in Czenstochau [Czestochowa] and in Landsberg, a large textile factory, and they probably had the intention of constructing a chemical enterprise as well.

Q. What was to be feared as a consequence, if the Gutbrod brothers had acquired the Boruta?

A. The Gutbrod brothers were no experts. One had to assume that they were in no position at all to operate this enterprise, and the result would have been that they would have ruined the enterprise and wasted all the capital and stocks and that, as a result, the plant would have finally been closed down.

Q. How were the purchase negotiations carried out between the Main Trustee Office East and Farben?

A. There were various discussions. I remember a meeting shortly before Christmas in 1940 which was broken off without results. Then

in July 1941, in Berlin, there was a long, detailed discussion in which oral agreement was reached. The formal purchase contract was not concluded until the end of 1941; probably in November, before a notary in Berlin.

Q. How about the purchase price? You mentioned Farben's suggestion of 3.2 millions.

A. The HTO [Main Trustee Office East] did not accept this suggestion. Their demand was much higher; they demanded 5 million marks. Mr. von Schnitzler finally agreed to that demand.

Q. Did the Main Trustee Office East ever demand more than 5 million?

A. No. I personally am of the opinion that the Trustee Office East wanted to keep as close as possible to the value at which these plants and stocks were assessed in the Boruta balance sheet of 30 September 1939; and that was a little more than 10 million zloty.

Q. What did Farben actually acquire by this purchase contract?

A. They acquired the real estate, the equipment, and the stocks of Boruta.

Q. When Farben took over Boruta, as far as you know, was this a final measure? Was this to be the last word in this affair?

A. No, at that time one could not speak of final measures at all. I believe that, according to the course of events, the possibility was left open for achieving an understanding at a later time with the Polish proprietors.

Q. As the man particularly acquainted with conditions at that time in Poland, I ask you what would have become of the Boruta if Farben had not put any capital into it and had taken over the plant?

A. It would have suffered the same fate as did all other plants in a similar situation. It would have become impoverished slowly and then it would have become paralyzed, and it would have died away.

Q. Would it have received any allocations of coal and other materials from the authorities?

A. Coal was comparatively easy to obtain for Boruta because it was near the coal fields of Upper Silesia. But coal was one of the bottlenecks. It was much more difficult in the case of benzene toluene, and sulfuric acid; and in the further course of events, if I remember the situation correctly, these allocations were made at the expense of the Farben quota, at least partly.

Q. How long did the Boruta keep operating after that?

A. Until 19 January 1945. In the evening of that day the management left the plant—after the spearhead of the Russian armored force had surrounded the factory.

Q. Did the management of the plant or the German Wehrmacht damage any of the Boruta installations before they left?

A. Boruta was left complete undamaged and in a better condition than when we took it over.

Q. Did Farben profit from operating Boruta?

A. No. Farben's total loss for Boruta, from the first of October 1939 until 30 September 1944, amounted to 1,238,497 marks.

Q. Witness, I now come to another plant, the second dyestuffs plant mentioned in the indictment; that is Wola.

PRESIDING JUDGE SHAKE: Dr. von Keller, I am wondering, in view of the detail that the witness has gone into thus far, that with respect to these other two plants you could not place the emphasis on the more important issues without going into all of the intricate matters, as you have in the past?

DR. VON KELLER: I shall try, Mr. President, to be as brief as possible on the subject but I believe that, particularly in the case of Wola, many details are mentioned in the prosecution's documents. Of course, I would—

PRESIDING JUDGE SHAKE: Do the best you can along that line.

DR. VON KELLER: Witness, when did you visit Wola for the first time?

A. On 20 October 1939.

Q. Where is Wola situated?

A. About 13 kilometers southwest of Petrikau.

Q. In what condition did you find Wola?

A. Wola had been closed down since the beginning of the war. Heavy fighting had taken place around Petrikau. Wola had been damaged by artillery shelling and partly burned.

Q. Was the plant in a condition that it might have operated?

A. No. As we found it, that was hardly possible.

Q. Did it still have any means of transport?

A. No transportation of any kind was available.

Q. Witness, I shall now show to you the document, Exhibit von Schnitzler No. 1, which was presented here on 23 October 1947.

It is a photograph. Please look at this photograph and tell me what it represents.

A. This photograph was taken by me on 20 October 1939, with a 6x9 camera, and I enlarged it myself. It represents the sulfur black plant of Wola, which had been damaged by artillery shelling.

Q. Does it represent a shed or does it represent the sulfur black plant?

A. The whole of Wola consisted of light brick buildings with wooden roofs covered with roofing felt. They might be called sheds.

DR. VON KELLER: I now ask that I be permitted to hand three further photographs to the witness which are marked with the letters A, C, and D. I ask that I be permitted to offer them as von Schnitzler Defense Exhibit No. 7* for identification. Unfortunately I have only one copy but I will have others made.

*Document von Schnitzler 7 not reproduced herein.

PRESIDING JUDGE SHAKE: Do you wish to give those numbers—exhibit numbers—now and to offer them?

DR. VON KELLER: For identification, No. 7, Mr. President.

PRESIDING JUDGE SHAKE: Very well. It is so ordered.

DR. VON KELLER: These are three photographs.

WITNESS SCHWAB: "A" is the factory road looking toward the entrance of the plant, as I wrote on the bottom of the picture. It gives the general impression of the type of construction of the Wola plant. "C" is also a part of the street running through Wola with a few better stone buildings. The stone building at the left is the plant for basic dyestuffs. "D" is the old sulfur black plant near the factory entrance, and in the background there is the boiler house and the chimney.

Q. Is any damage to be seen on the pictures and, if so, what caused this damage?

A. In photograph "D", at the left and at the right in the foreground, one can see walls that have collapsed because of artillery shelling. Photograph "A" does not show any visible damage. And "C" shows only the disorder in the factory that was caused by the war.

Q. What action did you cause to be taken as trustee of this Wola plant?

A. Schoener had the dyestuffs production started again as far as possible, and then had the walls of the sulfur black plant repaired, and the roof, and the windows—

Q. That is enough. How about the commercial aspect?

A. We could not do very much because the offices had been plundered by the mob. All receptacles had been broken into, and the safe also had been opened. The records were lying around on the floor, knee high. The chief records had been taken away by Dr. Szpilfogel to Warsaw.

Q. Did you find any cash?

A. Not a penny.

Q. What questions confronted you as trustee in regard to possible rebuilding and operation of the plant?

A. One could hardly think of resuming production in Wola. Wola is very unfavorably situated as far as transport is concerned—out in the country, 13 kilometers from the railroad, no transportation facilities—a cab drive from Wola to Petrikau and back, at that time, already cost 100 zloty. The transport of raw materials and the removal of the finished products would have made any profit impossible; moreover, Dr. Szpilfogel himself had been both the technical and commercial head of the plant, aided by a few younger gentlemen of his family, of whom nobody was present any more—only one old man, a chemist more than 70 years old.

Q. That is enough. How about the financial situation?

A. We had no money at all. After the bookkeeper had told me that the main banking connections had been done with the General Credit Bank [Allgemeine Kreditbank] in Warsaw, I went to the director of the bank, whom I knew personally, and from him I heard that he would not be able to grant any credit to Wola because Wola was already too much in debt to his bank.

Q. Shortly after your first inspection of Wola did you, at any time, draw up a report on the financial situation of Wola?

A. We were not able to do so. We could begin to work only after we had had the first talk with Mr. Szpilfogel and had received the index of his customers and eight packages with the most important documents, among which were all insurance policies, etc. There were also the personal insurance policies of Dr. Szpilfogel, which, of course, I returned to him.

Q. What was the relationship between the outstanding debts and the assets?

A. In the bank, Wola had credit of 126,000 zloty and a debt of 127,000 zloty. But to that one had to add claims from the bank on drafts which had been discounted, in the amount of 255,000 zloty. According to regulations of the Trustee Office, claims had to be investigated according to three aspects. The trustees, to their best knowledge and belief, had to estimate themselves what could be justifiably considered as outstanding debts and what percentage were of a doubtful nature; and all claims which were in the Russian territory—the Russians had marched into East Poland on the evening of 17 September 1939—had to be evaluated as zero.

Q. What was the result of this check on the claims?

A. Debts outstanding amounted to approximately 315,000 zloty, and claims of suppliers, which we also had to divide into the same three categories, amounted to approximately 34,000 zloty.

Q. Apart from these technical and financial difficulties, I also ask you to describe to me the difficulties from the sales angle.

A. The business of Wola rested, for the most part, in the two large textile centers of Lodz and Bialystok. Bialystok was in the hands of the Russians and so was eliminated. Lodz was in the Warthegau, and in the Warthegau, according to regulations, German prices had to be the basis of the sales prices.

Q. Was there any customs boundary between the Government General and the Warthegau?

A. Yes. There was a customs boundary but not for export from the Government General to Germany—there had never been any tariffs on dyestuffs in Germany—but the other way around, to the Government General from the Reich and Warthegau. For this import into the Government General, the very high autonomous Polish tariffs were in effect.

Q. How high were the German fixed prices in Lodz?

A. They were about 20 to 40 percent below the prices that had been current in Poland.

Q. What markets did Wola still have?

A. Only the Government General, in which there was not very much textile industry. The leather industry in Lemberg also was in Russian hands.

Q. What conclusion did you and Herr Schoener, the two trustees, draw from these various factors?

A. We were forced, for all these reasons, to let the already paralyzed Wola plant remain inactive, and the Landrat [head of the county] of Petrikau, who accompanied us on this first visit, agreed with this resolution.

Q. Witness, I now submit to you a document of the prosecution. It is in document book 55, Document NI-2749, Prosecution Exhibit No. 1139,* page 56 of the English, page 87 of the German. On page 2 it says, at the beginning of a paragraph:

"The chemical plant Wola Krzysztoporska, which is based almost exclusively upon intermediate products of the Boruta, and which has no great importance as an independent place of production, would have to be closed down."

From the first page of this document you can see that it was written on 14 September 1939—that is before the reflections that you have just related to me.

Can you tell me why and for what reasons the closing down of Wola was already discussed on 14 September 1939?

A. Yes. That was a consideration of a technical and economical nature. From their long years of experience with the Polish dye-stuffs business, Farben knew this firm very well. Under war conditions one had to expect a decrease in the business, and the question was: Should we expose all four plants to the dangers of this decrease, the extent of which we could not yet foresee and permit these four plants to run the danger of foundering, or should we close down the worst one of the four in order to strengthen the other three? The worst plant from a technical and economic point of view—and here again I point out the unfortunate situation as far as transport was concerned—was Wola.

Q. I now ask you, did later developments, independent of the results of the war, justify this consideration?

A. Later developments definitely justified this point of view, because in the course of developments we not only had to close down Wola, we also had to close down Winnica later.

Q. I now ask you to look at three paragraphs above, in the same document, in which it states, "The chemical plant Wola Krzysztoporska is a non-Aryan family enterprise." That is in book 55, the

*Reproduced in 2 above.

second page of the document book, in the German version as well. Did that fact have anything to do with the suggested closing down of this particular plant, Wola?

Have you found that passage, Witness?

A. What sentence are you speaking about?

Q. "The chemical plant Wola Krzysztoporska is a non-Aryan family enterprise."

A. That has no causal connection with the closing down of the plant. You have to look at the whole sentence, "reason," given in the middle of page 2, and the further explanations concerning Winnica. All of this is an explanation of the cartel relations of the plants, the legal structure, and the conditions of ownership.

Q. But this document mentions the fact especially that this plant is a "non-Aryan family enterprise." How do you explain this particular stress?

A. That was part of the ownership conditions. It was a condition which we had to state; we could not evade that because, since 1938, a differentiation was made between so-called Aryan and non-Aryan enterprises. If we had left that out, then we would certainly have had to expect further questions of the Ministry, especially as this was a private enterprise.

Q. Did the fact that this was a non-Aryan family enterprise have anything to do with the closing down of the plant?

A. No. It would have been closed down just the same if it had been an Aryan enterprise.

Q. At the beginning of your examination this afternoon, you said that the owner of Wola was Mr. Szpilfogel. Since when had you known Mr. Szpilfogel?

A. I had known him by sight from 1929 on and I made his personal acquaintance when we concluded the contract in 1932.

Q. After the war, on what occasion did you meet him?

A. A week after our visit to Wola I visited Mr. Szpilfogel in Warsaw, together with Dr. Schoener.

Q. What was your personal relationship with Dr. Szpilfogel?

A. I have been always on good terms with Dr. Szpilfogel.

Q. What was the particular cause of your visit to Dr. Szpilfogel in Warsaw?

A. First of all, I wanted to make sure whether he had taken any documents with him, as had been reported to me in Wola, and I wanted to learn from him whether I might retrieve these documents, which actually happened, because on the next day he had them delivered to me.

Q. When did you see Herr Szpilfogel again?

A. I must look it up. On 2 December I saw him again personally, but we corresponded in between.

Q. What was the reason—or what was discussed at this second visit?

A. At this second visit we discussed only the questions of assistance. Dr. Szpilfogel had already asked us—Dr. Schoener and myself—for assistance during our first visit. Really, for us, the Trustee Office in Radom was competent but we had not been received in a very friendly manner there, and for that reason we went to the Trustee Office in Warsaw, which was really not competent, where a friendly gentleman from Vienna was in charge. He gave us permission to pay Mr. Szpilfogel 500 zloty a month—but only orally.

Q. Did you try to get more for Mr. Szpilfogel?

A. Five hundred zloty was fixed as the maximum by the Trustee Office. If more was necessary, a special request had to be made.

DR. VON KELLER: Mr. President, in this part of the examination, I must go into a number of details and therefore I must refer to Prosecution Exhibit 1159.* It is Document NI-10416. It is in document book 56, and should be on page 19 of the English—it was put in afterward. In the German it is on page 51. Oh, I beg your pardon. I was mistaken. It is on page 25*a* of the English and in the German on page 60*a*.

Further, I also want to refer to Prosecution Exhibit 1155, Document NI-707;* also in document book 56, page 19 of the English, page 51 of the German.

Witness, Mr. Szpilfogel said that he had to request assistance for three families, because of his Wola ownership. What can you say in that connection?

A. This is the state of affairs: Szpilfogel himself was the sole owner of Wola. Unfortunately, he had invested his other property in houses in Warsaw, Otwock, and Lodz and he had had them carried on the books of his business, as well as purely private affairs, such as barber's bills. In these books, current account claims were listed, I believe 30,000 zloty from Mrs. Wyzswianska, his daughter, and 10,000 zloty from his sick son.

Q. Were these two people partners or were they current account creditors?

A. According to the books they were purely current accounts clients; only the name, the date, and the amount were listed on the index files.

Q. According to the legal regulations, was it possible for you to pay assistance to current account creditors or were you permitted only to pay money to the proprietor?

A. Only the proprietor could get any financial assistance in this case.

Q. What was the further course of these financial assistance affairs?

*Not reproduced herein.

A. When this subject of three families was raised in December and Mrs. Szpilfogel, especially, tearfully explained to us their difficulties, I discussed this matter in detail with Dr. Szpilfogel and explained to him why our hands were tied. I recommended to him to make an application in writing for an increase of the minimum. He did not want to do that, for reasons unknown to me, and he did not do so. This day in December affected Schoener and myself very much and all the way back we discussed the problem of how we could help the Szpilfogel family. We saw no other way out than to go once more to Gutenberg—that was the gentleman from Vienna in the Trustee Office in Warsaw—for our affairs were a little irregular. That was in 1940 and he said to us, “Be careful. I warn you. Don’t do anything which you are not entitled to do.”

Q. What regulations determined that more than the amount you said could be paid only on special application?

A. General trusteeship regulations. Here I must tell you that Dr. Szpilfogel was sent to the Warsaw Ghetto in November 1940 and in December 1940 the general regulation was issued which decreased this assistance from 500 to 250 zloty, with the added regulation that petitions for increase were to be made to the competent district head [Kreishauptmann] with a confirmation of the Jewish Elders concerning the financial conditions of the applicant.

Q. When was Mr. Szpilfogel sent to the ghetto?

A. November 1940.

Q. Would you now please look at the correspondence* which begins on page 51 of the German document book, and on page 19 of the English document book? That is book 56. What date does Mr. Szpilfogel’s letter bear?

A. 16 January 1941.

Q. What is the date of the answer of Mr. von Schnitzler?

A. His answer is dated 24 January 1941.

JUDGE HEBERT: These documents are in evidence and they have the dates plainly on them. I do not see the need of taking the time of the Tribunal to read off dates from documents which are already in evidence and which we have before us and which we have just scanned in the first part of this testimony.

DR. VON KELLER: I merely wanted to ask the witness what conclusions he drew from the prompt answer to this letter. Altogether, only 8 days passed between the time the letter was sent from Warsaw and the answer of Herr von Schnitzler. It may be that the witness has drawn certain conclusions from that.

JUDGE MORRIS: It may be that the witness has drawn certain conclusions; but wouldn’t the Tribunal be competent to draw the conclusions, rather than the witness? I do not think the conclusions are of

*Prosecution Exhibit 1155, Document NI-707, not reproduced herein.

any value at all to us, Counsel. You have a statement of facts here that is to be passed upon by the Tribunal and if there are any conclusions to be drawn from the prompt reply, why the Tribunal will draw those conclusions. That is one of the things that we are here for. We do not need the aid of a witness to draw that kind of conclusion.

DR. VON KELLER: Certainly I did not want to anticipate any of the functions of the Tribunal.

Witness, what impression did you have, and what did you think you should do, when you received Dr. von Schnitzler's letter?

WITNESS SCHWAB: I had known Dr. von Schnitzler for many years. I knew that he had to phrase his letter carefully. The letter might fall into the hands of the censor and be sent on to the Gestapo and I understood perfectly that he wanted to help Mr. Szpilfogel, who had been known to him personally since 1934 through old negotiations with the Polish group and whom he respected. He could not give me any instructions personally and for that reason he said, "See what you can do." For me, that was just as good as if he had said, "Do what you can." That can be seen from my very prompt and detailed reply to this letter, in which I explained the situation to Dr. von Schnitzler and I acted immediately.

Q. You just said that you knew Dr. von Schnitzler well. How long have you known him?

A. I have known Dr. von Schnitzler since the middle of 1912, from the time he entered the dyestuffs plant in Hoechst, and at that time Mr. von Schnitzler did me the honor to ask me about matters concerning the old factory in Hoechst and the agency.

Q. Can you give me a short general description of Mr. von Schnitzler professionally; very roughly?

A. I consider Mr. von Schnitzler an excellent man, a man of caliber not only in German economy but, more than that, in European economy. Personally he was kindness itself and always ready to assist. Privately and also in business affairs, nobody left him having received a stone instead of bread. He was a beneficent and magnanimous superior. From the time of our close cooperation, especially close since 1934, he permitted me freedom of action to a very high degree. I never heard a harsh word from him. He was generally esteemed and very popular; and may I say here that, at the end of June 1939, I participated in a tripartite and subsequent quadripartite cartel meeting in Paris, where in the evening, on the occasion of the tenth anniversary of the Tripartite Cartel, the French held a banquet. Speeches were made at this banquet, in which the British gentlemen, and especially Director General Josef Frossard and Dr. Rechlin, as spokesman for the Swiss factories, participated. These were no celebration speeches; they were appreciations coming from the heart for Dr. von Schnitzler and for his life's work, the European dyestuffs cartel.

Q. Thank you very much, Witness, for your statements. Can you explain to me briefly what you know about Dr. von Schnitzler's attitude on the Jewish question?

A. Dr. von Schnitzler was no anti-Semite. I remember that when founding the cartel with the French firms, he worked closely with both of the Weinbergs especially, and I have never heard an anti-Semitic statement from him.

Q. Can you say something quite briefly about Mr. von Schnitzler's attitude on national socialism?

A. He was not a National Socialist. In his position, he had to join the Party, but in intimate circles he always criticized it sharply. I remember in 1934, when we were seated together in a corner with the Swiss and French gentlemen in the "Schuetzenhaeusl" [restaurant] in Basel, Mr. von Schnitzler expressed himself quite loudly about the Nazis; the people sitting around us began to stare at us, so that I thought it necessary to point that out to him, because I was facing toward the room.

Q. That is sufficient. I should now like to come back to the Szpilfogel affair. What did you do after you received Mr. von Schnitzler's letter?

A. I first of all replied promptly to Mr. von Schnitzler; then I went to the Trustee Office, and I heard, as is customary with authorities: "You have to stick to official channels—an application to the Kreishauptmann [regional head] and a certificate from the Jewish Elders."

I wrote that to Dr. Szpilfogel, again very promptly, on 11 February 1941.

Q. Did you receive any reply?

A. No, I did not; and on 25 March—in the meantime I had been in Frankfurt for about a fortnight—I reminded him about it.

Q. Did you receive any reply?

A. No, I did not.

Q. Witness, I ask you expressly, because you mention those two dates, are those dates recorded in your original diary of 1940 and 1941?

A. Yes.

Q. Did you have any other possibility of getting in touch with Mr. Szpilfogel?

A. I did not have such a possibility. The initiative had to come from Mr. Szpilfogel, through a personal messenger, with some code word that only he and I knew; then I would have been able to pay him something from Farben funds through such a messenger. I dared not do that on my own initiative without risking my life, for either I would have fallen into the hands of a crook, who would have taken the money himself, or a spy, and that would have been fatal for me and for Mr. Szpilfogel.

Q. Please describe briefly how the [Warsaw] ghetto was cut off from the outside world.

A. It was so separated that where there were any houses they were evacuated; streets into the ghetto were blocked off by a wide wall, about four or five meters high, with glass and barbed wire on the top. It was very strongly guarded. The guards were Latvians under the supervision of the SS, and they were reckless shooters.

Q. Did you ever have any experience with the guards of the ghetto?

A. At the beginning of 1942, one evening, I went with an auditor through the Saxony Garden, the park behind the big castle in Warsaw, and we approached the ghetto. When we got within sight of the ghetto, at the turn of the street, we heard shots, so that we picked up our heels and started to go back.

Q. Were letters censored between the outside world and the ghetto?

A. Yes.

Q. The last question on this point: Could you initiate any investigation as to the circumstances of Mr. Szpilfogel?

A. That was impossible for me.

* * * * *

Dr. von KELLER: Your Honors, during yesterday's examination of the witness Schwab I had left off with the Document NI-10416, Prosecution Exhibit No. 1159,* in book 56, page 25a of the English, and page 60a of the German. There are a few points mentioned in this document that I still have to deal with.

Q. Witness, the affiant, Mr. Szpilfogel, states in this affidavit that Farben confiscated intermediates and dyestuffs and sold them. What is the story on that?

A. It was not Farben who confiscated and sold these intermediates and dyestuffs, but the trustees did that. Dyestuffs and intermediates were not sold for the account of Farben but for the account of Wola. It was always cash sale and the profit was put to the credit of the trustee administration of Wola.

Q. To whom were these dyestuffs sold?

A. Chiefly to the former customers of Wola and mainly by the representative of Wola in Lodz who was a friend of mine for many years and who worked very well together with the trustees in the interests of Wola.

Q. Were these monies accounts checked by Farben or by the Trustee Office?

A. No. Farben had nothing to do with this at all. The monies were used to pay salaries and larger amounts especially for arrears of taxes. The balance remained in the bank.

Q. In Mr. Szpilfogel's affidavit, it is stated further that the "commissioners" had confiscated his automobiles. Can you tell me what the story is about that?

*Not reproduced herein.

A. This is not true. The automobiles were used by the Polish military on their retreat, so we were told. His personal automobile, his large car, Mr. Szpilfogel took with him to Warsaw, where the German military confiscated it.

Q. How about Mr. Szpilfogel's estate in Otwock, and Mr. Szpilfogel's house in Warsaw?

A. Both houses were in the balance sheets as well as in the books of Wola. The construction costs had been entered in the books of the firm. Therefore, we had to look on them as belonging to the working capital of Wola. The estate in Otwock was not really an estate but a large piece of ground on which a private building was to be constructed which had only been completed on the outside. The house in Warsaw was habitable but not quite finished yet, but it was occupied up to the roof.

Q. Did you, in your capacity as trustee, administer this real estate in Warsaw and Otwock for Farben?

A. No. We administered it only for a few months. Then real estate and houses were administered by a special trustee who checked the loss or profit on them with us.

Q. One further point. In Mr. Szpilfogel's affidavit * he states on page 4 of the German copy at the beginning of a paragraph, "According to their plan that everything should be confiscated for Farben, Messrs. Schwab and Schoener demanded that for the small apartment in my Warsaw house in which I lived with my family, I should pay a monthly rent of, I believe, 150 zloty to the Secretariat of the Farben representative, Fulde."

Can you tell me anything about that?

A. The state of affairs was this. We had been given oral permission by the Trustee Office in Warsaw to grant Mr. Szpilfogel 500 zloty a month as financial support. The rent for the house was the same as had been fixed previously for this residence by Mr. Szpilfogel for another lessee. If the trustees had permitted Mr. Szpilfogel to live without paying rent, then they would have had to subtract the amount of the rent from the monthly support that he received; otherwise, that financial support would not have amounted to 500 but to 650 zloty.

Q. How about payment to the representative of Farben, Fulde?

A. To help me, I had engaged a young Polish lady, a Miss Welulet, in order to protect her from having to report for labor and evacuation to Germany. Miss Welulet took care of this house administration during the first few months, and her office was in the building of the Farben agency in Warsaw. There was no other possibility for me for office accommodation in destroyed Warsaw. The money, of course, was also put into the bank for the account of Wola.

*Document NI-10416, Prosecution Exhibit No. 1159. This affidavit and the testimony of Dr. Szpilfogel (Tr. pp. 2629-2661), concerning his experiences during the German occupation, have been omitted because of space limitations.

Q. That is, to the account of the trustee administration for Wola?

A. Yes, quite correct. To the account of the trustee administration for Wola.

Q. Witness, Mr. Szpilfogel, the affiant, states in another passage in the affidavit: "Schwab interpreted such regulations as unfavorably as possible." In another passage, Mr. Szpilfogel says: "As I emphasized, Schwab was always particularly severe."

I believe it is important for me to ask you what your attitude was toward the entire Szpilfogel question?

A. To this I should like to state the following: I met Mr. Szpilfogel during the first agreement made with the Polish group in 1932. During those first 2 years in which the contract was in effect—

PRESIDING JUDGE SHAKE: Mr. Witness, I think you detailed yesterday your acquaintance and the beginning of your association with Mr. Szpilfogel. It will not be necessary to repeat that. If you get directly to answer the question, in this connection, what was your attitude and relationship to him, I think it would suffice without reviewing the history of your acquaintance with him.

WITNESS SCHWAB: Not only did I regard Mr. Szpilfogel as the leading man in the Polish dyestuffs industry but I also esteemed him as a human being. In February of 1939 I was a guest in the Szpilfogel house in Wola and I learned to know Dr. Szpilfogel in his family circle as a lovable family father.

Q. Witness, please be a little more brief.

A. We spent many hours together and I found Dr. Szpilfogel to be a man of high culture and great knowledge. To me, as a business man and administrator, the unpleasant task was delegated to enforce such regulations. I approached Mr. Szpilfogel and his wife with a feeling of shame. It would be impossible to see the distress of a mother, who begs for her child, without having a heart. We did what we could, but our hands were tied as trustees. We had our instructions and there were serious penalties imposed for noncompliance. In retrospect today, you have to take account of our situation. There were spies and people who provoked us. We were members of Farben. Party circles, either openly or secretly, hated Farben. It would have meant a devilish pleasure for them to have two Farben directors fall and break their necks, and even those who were in their favor they would have like to have executed. I often felt like a tight-rope walker over an abyss. Only he who has been in such a situation as we were, under this pressure and remained without fault, can throw a stone at us.

Q. Mr. Witness, did you see any possibility to do any more than you did to help Mr. Szpilfogel?

A. I repeat, we had our instructions. We went to the man who was most approachable once more, but he too only stuck to his instructions.

Q. Thank you very much. That is enough.

I now turn to another count in the indictment, that is the betaoxy-naphthoic acid plant which was situated in Wola, Prosecution Exhibit 1163, Document NI-8394,* in book 56, page 32 of the English, and the following document also, Prosecution Exhibit 1154, Document NI-8378,* page 17 of the English. The German pages are 47 and 49. When did you find this plant and what is the story about this? May I mention that this plant is also mentioned in Mr. Szpilfogel's affidavit.

A. We found this plant during our first visit in Wola on 20 October 1939.

Q. Do you know how Farben learned about this plant?

A. I do not remember any details.

Q. As far as you know, why did Farben suggest the evacuation of this machinery to Germany?

A. There was a pressure boiler, among this machinery, of small dimensions which could have been well used for experimental purposes, according to Schoener's point of view, and Farben suggested to the Reich Ministry of Economics that this machine should be transferred to Boruta for the duration of the war against payment of a lease.

Q. Was a lease contract concluded?

A. No, the negotiations were not conducted by the trustees but by Farben in Frankfurt direct; first, with Berlin and later, with Cracow.

Q. What took the place of such a lease contract?

A. Upon the suggestion of Cracow, there was a purchase contract instead.

Q. What was the price?

A. Forty-four thousand zloty, which is equal to 22,000 reichsmarks. I must explain that we did not remove the entire machinery, but only this one high pressure boiler with the pump and piping which belonged to it.

Q. Can you explain to the Tribunal quite briefly what this machinery looked like so that we can obtain an idea of it, as laymen?

A. Do you want to know how the high pressure boiler looked?

Q. Its dimensions approximately?

MR. SPRECHER: Objection as irrelevant.

PRESIDING JUDGE SHAKE: Well, it is certainly a very minor detail which would not have any persuasive influence with the Tribunal, I am quite sure. I think it might well be omitted, Counsel.

DR. VON KELLER: Had this plant already been operating?

A. Once, shortly before the war, as an experiment. The pump had broken down and the pump piston was sent back to the manufacturers in Cracow to be repaired and was not returned.

Q. When was it dismantled?

*Not reproduced herein.

A. It was dismantled by a mechanic from Offenbach in 1941 and packed and labeled "Farben property," because it had been paid for. It was removed, because of weight of boiler, only in 1944.

Q. What happened further to this machinery?

A. As far as I know, it remained in Offenbach and it was not unpacked, because at that time Offenbach was already being bombed heavily.

Q. After the end of the war, was it still in good condition?

A. It remained intact, and on the instigation of an American-Polish commission, it was returned to Poland to Boruta.

Q. Not to Wola?

A. No.

MR. SPRECHER: Mr. President, with respect to the latter statements of the witness concerning the history of this particular piece of machinery from the time it was dispatched from Poland and finally returned to Poland, we are in a position to state that those are the facts and that it need not be gone into further because it is agreed between the parties.

PRESIDING JUDGE SHAKE: Very well; very well.

DR. VON KELLER: Thank you for this agreement.

Q. Witness, what would have happened if Farben had not sold this machinery and if it had remained in Wola?

A. It would have suffered the same fate as the other installations in Wola, which by a decree of the district chief of Radom of 28 December 1942, were confiscated.

Q. May I again refer to Mr. Szpilfogel's affidavit in this connection, who states on the penultimate page: "The gentlemen of Farben took almost all the equipment away, especially machinery, engines, motors, and so on." May I go into this particular point? What was the fate of the remaining machinery?

A. I should like to answer in telegraph style: 20 May 1942, decree of Economic Office for Iron, Cracow—all non-used machinery to be sold as scrap or old machinery to monopoly holder Binder, Warsaw.

Q. Did this monopoly holder have anything to do with Farben?

A. Not in the least. Subsequently, special confiscation of all of Wola's installations by District Chief of Radom for Binder. According to an estimate of sworn Polish experts—Binder—

PRESIDING JUDGE SHAKE: That is enough of that, I think. It shows what became of it and we would not be interested in any further details along that line, I feel quite sure.

DR. VON KELLER: Mr. President, may I be permitted to ask whether Farben had anything to do with the payment, either the accepting of the purchase price or fixing the purchase price?

PRESIDING JUDGE SHAKE: You may answer the question.

WITNESS SCHWAB: No. The decree went to the trustee—

PRESIDING JUDGE SHAKE: Mr. Witness, you have answered when you said "No."

DR. VON KELLER: Mr. Witness, when did you hear about Wola for the last time?

A. From September 1943 I was not in Poland any more. In the middle of 1944 I was informed that because of partisan fighting, communications with Wola had been interrupted.

DR. VON KELLER: That is enough. Your Honors, I now turn to the third plant producing dyestuffs in Poland; that is Winnica.

Q. Mr. Witness, when did you visit Winnica during your first Polish journey after the war had begun?

A. [On] 30 September 1939.

Q. From the data submitted by you one can see that you visited Winnica first. Why did you visit Winnica first?

A. On 17 September 1939, the Russian troops had marched into Poland, and the Vistula was fixed as the demarcation line. Winnica lies on the eastern bank of the Vistula, 12 kilometers distant from Warsaw.

Q. Did Farben or German industry have any special interest in Winnica?

A. Farben was especially interested in Winnica. As far as shares were concerned, Winnica belonged to the French dyestuffs factories and to the I. G. Chemie in Basel, Switzerland. Industrially, however, the French and Farben plants were interested.

Q. In what ratio?

A. Fifty-fifty.

Q. Did Farben have any other interests besides industrial ones in Winnica?

A. Yes. Farben constituted, so to speak, the entire volume of business of Winnica from their other business.

Q. Has Farben built any particular installations into this plant?

A. Not Farben itself, but the French had built an anthraquinone plant. The process used in this plant was a Farben secret.

Q. Please describe briefly why Winnica was founded and in what form the German dyestuffs industry participated in this foundation.

A. There was a Polish increase in tariffs, in 1928, of 2.8 zloty to 11.2 zloty. The result was that cheap production with a sales price below the duty was no longer possible. At the same time, the French participating in the world market in the Tripartite Cartel could not supply enough.

Q. What do you mean by not supplying enough in the Tripartite Cartel?

A. They were not able to fill their quota. Consequently, through the Polish-French relations—two possibilities (1) both Farben and French to produce in the country; (2) French to fill their quota.

Q. Perhaps you can use complete sentences instead of that telegram style. It is more understandable.

A. Am I to repeat what I said?

Q. From now on it is better if you use complete sentences.

A. Practically, the French had no business in Poland. During this particular period of the Tripartite Cartel, their share was less than 1 percent. In 1931 it was increased to 6 percent, and in 1934 to 20 percent.

Q. What was done to increase the French share?

A. Mainly, Farben—but also the Swiss firms—had to cede some of their business. Added to that, was the fact that in 1931 Winnica acquired a monopoly for two dyestuffs for dyeing the Polish military khaki uniform material. The Polish Ministry of War granted this monopoly to Winnica.

Q. Witness, why was Winnica founded? A little while ago you spoke about the increase in tariffs.

A. I said, in order to produce in the country the dyestuffs which they were no longer able to import after the increase of tariffs.

Q. Who were the founders of Winnica?

A. Ostensibly only the French because, lacking a commercial contract, the German firms in Poland had no settlement rights. Internally, however, Winnica belonged 50 percent to the French group and 50 percent to Farben. The production program was drafted jointly. The sales, with the exception of khaki, which was handled solely by the French representative, were also dealt with on a 50-50 basis by the German sales organizations and the French sales organizations.

Q. Who were the members of the French group?

A. Members of the French group were Kuhlmann, Saint-Denis, Saint-Clair-du-Rhône and Société de Mulhouse.

Q. How was the relationship between Farben and the Swiss firm?

A. I did not mention any Swiss firm, Mulhouse is in Alsace.

Q. Excuse me. How were the interests of Farben safeguarded?

A. How do you mean that?

Q. You said because of a lack of a commercial treaty between Germany and Poland, Farben did not have the right to found openly any agencies.

A. The administrative organizations of Winnica consisted exclusively of five French gentlemen, Frossard—Joseph Frossard—as president, and two Polish gentlemen. The Farben share in the stocks, at the request of Farben, was taken over by the I. G. Chemie, Basel, Switzerland, with an option for Farben in Frankfurt to buy back the shares at any time they desired. Besides that, Farben in Frankfurt had given its word to I. G. Chemie, Basel, that the latter would not suffer any damage from this Winnica affair.

Q. Did Farben and the French group check each others' books constantly?

A. Every business transaction was accounted for on a 50-50 basis. From the time of the foundation of Winnica in 1929 I considered myself the second father of Winnica. Farben received copies of all original documents of Winnica by way of Paris, and they were able to keep a control balance sheet in Frankfurt independently.

Q. What was the position of these calculations at the beginning of the war?

A. At the beginning of the war, from long-term credits given in the form of goods or money by way of Paris, we had a claim of approximately 242,000 reichsmarks. From short-term advances to the plants we had about 61,000 reichsmarks; altogether that is 503,000 reichsmarks.

Q. I think you have made a mistake in your arithmetic. What was the long-term operation credit?

A. Everything was handled as I have said already, on a 50-50 basis, 50 French, and 50 Farben.

Q. How did Winnica invest these operational credits which Farben gave to Winnica by way of Paris?

A. In the buildings and in stocks.

Q. What was the condition in which you found Winnica when you visited it for the first time?

A. It was practically undamaged. The director and plant manager were present. He [the plant manager] was an old employee of Farben.

Q. For what length of time had he been an employee of Farben?

A. Since 1909, just as Schoener and I, for 30 years.

Q. How long had he been with Winnica?

A. Since the foundation of Winnica.

DR. VON KELLER: I have submitted to you four photographs, Witness. I ask the Tribunal that I may be permitted to offer them later as Document Schnitzler 8, Schnitzler Exhibit 8.* The photographs are marked "E," "F," "G," and "H," respectively. May I be permitted to offer them for identification only, now?

PRESIDING JUDGE SHAKE: You are marking them Exhibit 8, and it consists of four photographs marked "E," "F," "G," and "H," and you are asking now that they be marked merely for identification? Very well.

DR. VON KELLER: Mr. Witness, what do these photographs represent?

A. I took them myself on 14 October 1939. "E" represents the entrance to the Winnica plant. "H" represents the intermediate productions building, and in the middle of the photograph the boiler house—and on the right the office building. "G" is the intermediates

*Not reproduced herein.

building seen from the back. "F" represents, on the right, the naphthol plant and on the left, the waste products purification plant.

Q. That is enough. Do these pictures correctly represent the plant as a whole?

A. The pictures are original photographs enlarged, and they give an impression of the plant which corresponds to the truth.

Q. What did you undertake after you arrived as a trustee in Winnica?

A. Just as in the other cases, I ordered that the production that had begun should be completed. We had coal in Winnica but to save fuel we didn't want to produce during wintertime. That was not necessary. Winnica had 183,000 kilograms of stocks.

Q. What did you do?

A. Again I made an inventory from the commercial aspect. I found out what the position was. Here was a difference, however. Winnica had accounts in the bank. We, the trustees, recalled Dr. Hierszowski and immediately installed him again as plant leader and director; it is true, however, with a limitation of his authority. He was given control of up to 5,000 and later up to 10,000 zloty.

Q. Witness, you were just now speaking about the coal supply. Where did it come from?

A. Winnica had no railroad connections either, but the distance to the nearest railroad station was only 6 kilometers, and it possessed a 5-ton Chevrolet truck which had been delivered a few days before the beginning of the war and which had been hidden under some hay.

Q. How did you try to solve the coal problem?

A. That became more and more difficult. The Vistula—

PRESIDING JUDGE SHAKE: Just briefly, Witness; we will not go into a great deal of detail on this coal problem. Summarize, if you will, please.

A. It became more and more difficult. We had tried peat and that was not possible. We tried to borrow coal; but for the entire time we were in difficulties.

DR. VON KELLER: What were the results of these difficulties over coal?

A. In 1940 we worked for 7 months. We produced 102,000 kilograms. In 1941, we worked for 11 months and we produced 95,000 kilograms—that was with peat. In 1942 we only worked 4½ months and produced 39,000 kilograms.

Q. What difficulties were there in the sales field?

A. Small possibilities of selling in the Government General where industry did not require much dyestuffs. Then there were tariff and currency barriers with regard to the Warthegau, where the German prices, which were 20 percent to 40 percent lower, had been fixed by regulations.

Q. What had happened to the former sales territories—that is, the areas in which the textile industry was situated?

A. As in the case of Wola, Bialystok too, with a very large military cloth industry, was lost to us, and Lodz as well, because of prices.

Q. Did Winnica also supply the leather industry?

A. Yes, that is Lemberg [Lvov]; but that was in Russian hands and no longer accessible.

Q. You said a little while ago that Winnica supplied dyestuffs for military cloth. What was the proportion of this production? What percentage did it represent of the entire turnover?

A. The Winnica business in khaki amounted to about one-third of the entire turnover. It reached its highest point immediately before the war in 1938 and 1939.

Q. After you had administered Winnica in 1940 and 1941 as a trustee, I should like to ask you: What happened in 1941 in regard to the French-German relations in Winnica?

A. During the Francolor negotiations, the French group and Farben agreed to the transfer of the French shares in Winnica for a payment of 1 million reichsmarks, equal to 20 million French francs, and to make a mutual surrender of their claims on Winnica.

Q. When did Farben formally become the sole shareholder of Winnica?

A. In February 1942, by buying back the shares which had been held by the Swiss in Basel.

Q. A short while ago you said that Farben had given its word to I. G. Chemie in Basel that I. G. Chemie should not suffer any harm through Winnica. I wanted to clarify this for the translation. Is it correct that I. G. Chemie in Basel was not to suffer any harm?

A. Yes. I. G. Chemie in Basel was not to suffer any harm.

Q. And I. G. Farben in Frankfurt bought the shares from them?

A. Yes. That is correct.

Q. What effect did the fact, that Farben had now become the sole shareholder of Winnica, have on your personal relations with Winnica?

A. I resigned as a trustee of Winnica and was elected as the director by the Vorstand.

Q. What was the further fate of this Winnica plant?

A. In December 1942, the high tariffs were abolished on all German goods in the Government General, and prices in the Government General were fixed at the same level as those in Germany. That was the knock-out for Winnica.

Q. With losses would it have then had to work—or had it to be kept in operation?

PRESIDING JUDGE SHAKE: We wouldn't be interested in the details. It is all right to show that the plant couldn't operate profitably and that will be enough on that.

DR. VON KELLER: What conclusions did you draw from this fact that you were not able to manage the plant properly any more under these circumstances?

A. We had to close Winnica down.

Q. What happened to the machinery there?

A. In order not to have to turn them over to Binder, the machines were transported to Boruta and installed there.

Q. Is that the same Binder of whom you spoke before, who held the monopoly for buying scrap iron?

A. Yes.

Q. What happened to the real estate and the building?

A. The real estate and the buildings were leased to the neighboring firm, Pharmelia, for approximately one hundred thousand zloty per annum.

Q. What did Pharmelia produce?

A. Pharmelia produced vital pharmaceuticals.

Q. When did you receive the last news from Winnica?

A. I received the last news from Winnica at the beginning of 1945 in Frankfurt, from the chief bookkeeper. He said Winnica was occupied by troops, middle of June 1944—German troops coming back from Russia. He himself had been evacuated across the Vistula.

Q. I now come to a particular point, the so-called anthraquinone plant. This machinery is mentioned in document book 56, in Exhibit 1160, NI-8396,¹ page 27 of the English and page 61 of the German; and also in Exhibit 1161, NI-8400,² page 29 of the English and page 63 of the German. It is furthermore mentioned in Exhibit 1626, NI-8398²—I believe it is page 29a of the English because the document was furnished at a later date, and page 63 of the German. Will you please explain to the Tribunal what the anthraquinone plant is and what it is used for?

A. I mentioned already that Winnica was granted a monopoly for dyestuffs by the Polish War Ministry. The dyestuffs had been invented by the head professor for organic chemistry at the Technical College of Warsaw. They had first been offered to Farben and Farben had passed them on to the French group, in particular to Saint Clair-du-Rhône. The preliminary product required for these dyestuffs was anthraquinone. Kuhlmann in Paris held a license for the Farben anthraquinone process. By agreement with Farben, this process was now also used in Winnica without payment of a license. It was only a small plant of about five or six tons monthly production. Kuhlmann and Farben were obligated to keep the process secret.

Q. Did I understand you correctly that you said that the anthraquinone process was a Farben process?

¹ Reproduced in 2 above.

² Not reproduced herein.

A. The anthraquinone process was a Farben process.

DR. VON KELLER: Please forgive me, Your Honors, if I ask the witness to give a short description of this particular process, because it is important with regard to what was later removed.

Witness, can you describe briefly what this plant looked like, what the essential parts were, and what its value consisted of?

A. I am a businessman and I am not a technician, but I will try to explain. The machinery consisted of two similar brick furnaces I would say. These furnaces had been constructed of firebrick. They were impregnated with anthraquinone which sublimated through heat and was precipitated as a loose powder in an adjoining chamber. What the apparatus looked like on the inside, I don't know, but the pipes for these gases and the arrangement of the machinery on the inside were probably the main points in the process.

Q. Were the main parts of this apparatus masonry, or were they metals? Were they precious metals—valuable metals?

A. I had the impression that the main part consisted of masonry. The furnaces were about 6 meters long, 1½ meters wide, and approximately that height.

Q. That is enough. How did Farben try to safeguard its interest in keeping this process secret?

A. I have already stated that the construction of the apparatus was the secret of the process. Therefore, Farben tried first of all to remove the apparatus from the proximity of the frontier by way of a lease agreement. The Trustee Office in Cracow again suggested that it be sold. Farben accepted this suggestion. A Polish certified engineer estimated the price. They demanded 100,000 zloty. Farben paid the price and the apparatus was dismantled in 1941. There was little iron or metal in it.

Q. Was this purchase price of 100,000 zloty equal to what the Polish certified engineer had estimated?

A. As far as I remember, yes; and it was paid back to Winnica.

Q. Do you know for what reasons Farben considered that they were justified in safeguarding this plant, either by way of lease or purchase?

A. The secret of the anthraquinone apparatus was within the apparatus itself. Kuhlmann and Winnica were only the licencees. Whoever owned the apparatus also owned the process.

Q. That is enough on this subject. You said yesterday, Mr. Witness, that there were four large Polish dyestuffs factories, and in that connection you mentioned Pabjanicer which also belonged to the cartel, but which was owned by the Swiss. Did your trusteeship administration also extend to Pabjanicer?

A. No. In September 1939 Farben had offered their services to CIBA in Basel to represent their interests in Pabjanicer. But the Swiss did not think—

Q. You had something to do with Pabjanicer?

A. From October until January 1945, Pabjanicer received intermediate products from Boruta. I had known the gentlemen of Pabjanicer since 1929.

Q. That is sufficient. I now turn to another plant which is mentioned in document book 56; that is Document NI-6064, Prosecution Exhibit 1168,¹ on page 89 of the English book and page 129 of the German book. This document speaks about a plant or a place called Blizyn. Do you know anything about that?

A. I don't know anything at all about that.

Q. I now turn to another plant which is also mentioned in document books 55 and 56. It is called Sarzyna. It is mentioned in the following documents—Prosecution Exhibit 1133, Document NI-5947,² in book 55, on page 32 of the English and page 46 of the German; also Exhibit 1134, Document NI-1149³ also book 55, English, page 34; German, page 54. It is also mentioned in Exhibit 1150, that is book 56, NI-6831¹ on page 4 of the English, and page 4 of the German as well. What was the story of this Sarzyna?

A. Sarzyna was an explosives plant situated in the central industrial region between the Vistula and the San, that had just been begun.

Q. Who gave the order to build this explosives plant?

A. The Polish Ministry of War. Boruta was commissioned to construct it. Boruta had an option for its later operation. It had been financed by the Landwirtschaftsbank, to the account of the War Ministry.

Q. Were you, as trustee of Boruta, competent for Sarzyna as well?

A. In the beginning this was not quite clear. There were only the final figures in Boruta about Sarzyna. The bookkeeping itself was done in Sarzyna. By way of negotiations with the Trustee Office, I clarified whether we were competent or not. After the Government General had been established, the Sarzyna—Boruta plant was a third enterprise and a special trustee was appointed.

Q. Did you exercise any trusteeship functions in Sarzyna?

A. Only until the position was clarified. We were informed as to this on 3 October, when the Sarzyna administrator came to Boruta, and we advanced 20,000 zloty to this administrator of Sarzyna for the salaries of the employees and workers for the account of the building project.

¹ Not reproduced herein.

² Reproduced in 2 above.

³ *Ibid.*

Q. Did Farben have anything to do with Sarzyna?

A. As far as I know, not in the least.

Q. Did Farben dismantle any apparatus?

A. No.

Q. That concludes this point concerning Sarzyna. I now turn to one further point which the prosecution has raised. It is the purchase contract for Boruta. This is Exhibit 1150, just mentioned by me. Document NI-6831, book 56, English page 4, German page 4. It is the beginning of the document. Under paragraph 7 of this purchase contract, a passage is contained which reads:

“All financial assistance, annuities, or similar payments by Boruta which may have originated from previous employment contracts signed in the days of Polish control or from any other agreements, in particular, payments from the so-called savings fund, will not be taken over by the purchaser.”

Can you tell me what was the state of affairs that caused this paragraph 7 to be written?

A. In the case of Boruta, Farben bought only the real estate, the buildings, and the stocks. All other assets and liabilities prior to the first of October 1939 remained in the possession of the liquidator whom the Main Trustee Office East had appointed. This liquidator considered the savings funds as a priority claim in principle, and he had drawn up a list of them.

(Recess)

DR. VON KELLER: Witness, in connection with the matters you have just dealt with, I would like to ask you this question: Were you a member of the Nazi Party?

A. Yes. On 1 June 1940 I joined the Party. I considered myself forced to do so because I was in constant contact with all authorities and Party offices. My empty buttonhole was always conspicuous, and sly remarks were made: “Well, he is a Farben director! He thinks he doesn’t have to do it.” Farben had a bad reputation with the Party. And then finally, in July 1940, I joined the Party for purely business reasons.

Q. Witness, I asked you this question also because of the question to come, and also in view of paragraph 7 of the Boruta sales contract which we have just discussed. When we discussed this paragraph 7, the representative of the prosecution stated—on page 2619 of the English transcript, and 2615 of the German transcript: “I believe that paragraph 7 again shows the whole racial and Germanization policy * * *”

MR. SPRECHER: Objection, I move that the remark be stricken.

PRESIDING JUDGE SHAKE: That is not a matter of interest or concern of the witness, but perhaps counsel might justify his statement

as being directed to the Tribunal for the purpose of showing the object he has in mind, so far as his testimony is concerned.

DR. VON KELLER: Mr. President, I believe that when it is asserted that Farben had looted three dyestuffs factories, and in order to judge the responsible men and to judge their conduct, it is important to know what their attitude was towards the problem which has been called here "a racial and Germanization policy," and even towards the human problem. I wanted to ask the witness to describe in a few words what social measures Farben, who was supposed to be the looter, took for its workers.

PRESIDING JUDGE SHAKE: Ask your question.

DR. VON KELLER: Witness, can you tell me in a few words what welfare measures Farben took in the various plants? And I ask you to consider whether a difference was made between Germans, Poles, or other people.

A. First of all—Boruta. Despite the fact that it was forbidden, we gave sickness benefits (to Germans and Poles) up to 3 months to workers and employees, and we gave them support for their families, either as a donation or as a loan. We appointed—I think as the first plant in the Warthegau to do so—a factory physician who treated Germans and Poles. As early as in the summer of 1940, he detected cases of the Egyptian eye disease [trachoma]. We improved the dressing rooms and mess halls and installed a factory kitchen, and we did this against the opposition of the Labor Front. And Germans and Poles had the same food in the same room at the same price. We saw to it that the Class I tariff, as in Lodz, was applied to Zgierz, which had first been in Class III; the difference between Class I and Class III was about 20 percent. When the Polish wage cut was introduced, we made use of the possibility to give additional compensation and we did this so extensively that we had no case, practically speaking, where Polish workers did not get the same wages as they did before.

Q. What were the special welfare achievements in Winnica?

A. In Winnica a savings fund was founded, with bonuses for each 5 years of employment. When Winnica was closed down, I paid out all of the savings and bonuses. A factory kitchen was installed in Winnica which grew its own potatoes and other vegetables. We had to supply these potatoes, which we raised ourselves, for 12 zloty, and on the black market I bought potatoes for up to 300 zloty per 100 kilograms. In Winnica, from the beginning of 1940 until the middle of 1942, all workers received a half a liter of milk every day. The total of these expenses in Winnica amounted in the second half year of 1940 to more than the entire amount for wages and salaries.

Q. What expenses were higher than the wage payments?

A. The expenses for the kitchen in Winnica in the second half year of 1940.

Q. Did you take similar welfare measures in Wola too?

A. In Wola—

PRESIDING JUDGE SHAKE: Mr. Witness, you may answer that if you can as to whether you did or did not take similar measures in Wola.

A. Yes—not so extensive.

DR. VON KELLER: I have no further questions to put to the witness.

PRESIDING JUDGE SHAKE: Do any of defense counsel desire to interrogate this witness further?

DR. WAGNER (counsel for defendant Wurster): Your Honor, my client has been named by the prosecution, because of his brief Polish trip. This gives me cause to question this witness. I have only two brief questions.

Witness, in connection with the chemical industry in Poland, did you ever speak with Dr. Wurster or correspond with him, or did you have anything to do with him?

WITNESS SCHWAB: No.

Q. Did you ever hear that Dr. Wurster had anything to do with the question of the chemical industry in Poland?

A. Yes. Dr. Schoener told me about the trip of Dr. Wurster. At that time I was not yet in Zgierz.

Q. That is all you ever heard?

A. Yes.

DR. WAGNER: Thank you. That is all.

PRESIDING JUDGE SHAKE: Anything further, Counsel?

Then it seems that the defense is through with the witness. The prosecution may cross examine.

CROSS-EXAMINATION

MR. NEWMAN: Mr. Schwab, do you speak the Polish language?

WITNESS SCHWAB: No. I understand it a little.

Q. You were in Poland most of the time from October 1939 until the end of 1943, is that correct?

A. Until December 1943.

Q. I should now like to mark Document NI-7369* as Prosecution Exhibit 1857. This is an affidavit of this witness dated 24 June 1947.

I would like you, Mr. Schwab, to first read the first part where you mention that Dr. von Schnitzler sent for you on 7 September 1939. Did you read it?

A. Yes.

Q. Now, is it not true that, from the very beginning, it was the objective of Farben itself to administer and operate the Polish dyestuff factories?

*Not reproduced herein.

A. That is correct. But the motives were, as the document here shows, to prevent these factories—

Q. I didn't ask for the motive, Mr. Schwab. You said yesterday it was Farben's idea, when contacting the Reich Ministry of Economics, that the economic life in Poland was to be supported and, above all, the Polish market was to be supplied. Now, is it not true that, in accordance with von Schnitzler's own suggestions, the Reich Ministry of Economics appointed you for the distinct purpose that you adapt the plants to meet the requirements of the German war economy and the German export trade with neutral countries?

A. Mr. Newman, may I give an explanation for this phraseology?

Q. Will you first answer my question and then you may explain it, if the Court allows. Is it not true that this is the purpose for which you were appointed?

PRESIDING JUDGE SHAKE: Witness, you should, if you can, answer the question "yes" or "no," but it is not obligatory on you to do so. If neither "yes" nor "no"—

WITNESS SCHWAB. I can—

PRESIDING JUDGE SHAKE. Just a moment. If neither "yes" nor "no" conveys to you what you should say in order to respond to the question, you may answer it in your own way.

WITNESS SCHWAB: The intention of Farben, the motives of Farben, were not to let these plants fall into the hands of non-experts, in order to prevent them being misused and exploited. That applies especially to the stocks. We had had our experiences in the First World War and in the inflation, when forestallers bought up large stocks of dye-stuffs, and then, until the years 1935-36, upset the foreign markets. I personally had such a case in Latvia.

PRESIDING JUDGE SHAKE: Mr. Witness, you have answered the question; wait for another now.

MR. SPRECHER: Well now, Mr. President, I was going to suggest that the question be repeated because to that question as to why he was appointed there was no answer whatever.

PRESIDING JUDGE SHAKE: We have no way of reading the question back, but counsel may ask the question again if he wishes to direct the witness's attention to what the question was.

MR. NEWMAN: My question was: Did the Reich Ministry of Economics appoint you for the distinct purpose that you adapt the plants to meet the requirements of the German war economy and the German export trade with neutral countries? Maybe your recollection will be refreshed if you will turn to page 2 of the affidavit before you.

A. What passage?

Q. Page 2.

A. In the document it says the installations—

PRESIDING JUDGE SHAKE: Mr. Witness, we are not concerned with what the document says. We have the document. We can read it. You should answer the question, and counsel has asked you to look at the document before you answer. Now, what we want is the fact, not what the document says, because we can read that.

A. The document says what the prosecution has mentioned. But—

PRESIDING JUDGE SHAKE: We are not concerned with what the document says. We want to know what you have to say about it. You have the document. You may look at it for whatever it may be worth to you. Please answer the question.

MR. NEWMAN: In fact, my question is answered, Mr. President.

PRESIDING JUDGE SHAKE: I am not sure. It might be to your satisfaction, but as far as I am concerned I don't know that he did answer it. I am not sure. All he said was what the document says.

DR. SIEMERS (counsel for defendant von Schnitzler): Your Honors, for the second or third time, the witness had not been given the possibility by the prosecutor to make explanations; that is, he has not the possibility of answering completely. If I understood correctly, the oath says that one should tell the truth and should withhold nothing. I think therefore, that, in the sense of the oath, the prosecutor should have the kindness to give the witness the possibility of complying with his oath to withhold nothing.

PRESIDING JUDGE SHAKE: My only concern was as to whether or not the witness was trying to answer as to what the document said while he has the document before him—it has been passed to him. The question was for the fact, not what the document said. This is not a complicated matter, and if counsel will ask another question we will try to get this thing into the proper channels here.

MR. NEWMAN: I have no more questions for this witness on this point.

PRESIDING JUDGE SHAKE: Very well.

MR. NEWMAN: Mr. Schwab, when you reported to the—

A. Please talk a little more slowly.

Q. When you reported to the HTO, "Treuhandstelle-Ost," or other government agencies, were you in the habit of sending copies of your reports to I. G. Farben?

A. As far as I can recall, I sent to government agencies only one preliminary report at the start of a journey. Later my reports went only to the Trustee Office. If I remember correctly, I sent Farben a copy of the preliminary reports, but it was merely a matter of a statement of the situations I found.

Q. Which Vorstand members of Farben visited Poland, according to your knowledge, at the end of 1939, in order to inspect Polish factories?

PRESIDING JUDGE SHAKE: Counsel, how do you justify that as the proper cross-examination of this witness? In the interest of time, we should like to hold the cross-examination down to its proper sphere. We have taken a lot of time with this witness. And, if anything is proper, we shall place no limitation on you, but we do not recall where the counsel for the defense went into any such subject as to justify that cross-examination.

MR. NEWMAN: I think it refers to the last half of the examination but I drop the question.

PRESIDING JUDGE SHAKE: Very well.

MR. NEWMAN: Now, turning to the Boruta, apart from you and Schoener, were there any other Farben employees working in Boruta before Farben took title?

A. Yes.

Q. How many, according to your recollection?

A. There was a bookkeeper, a chemist, and a sales manager. I alone could not do the work in two countries, and the Polish personnel was inexperienced and did not know the German laws or the language; therefore, they were not in a position to work alone.

Q. Did your answer refer up to the end of 1941, when Farben acquired title to the Boruta?

A. It refers to that time.

Q. Then, to refresh your recollection, I would like to submit Document NI-1168 * to you, and I would like to give it Prosecution Exhibit No. 1858.

A. Yes. I beg your pardon. At the moment I didn't remember. In addition to the departmental chiefs, there were a few German auxiliary workers who were necessary in order to adapt the book-keeping to the German system. Then there was a master locksmith to replace an engineer, and the people who were mentioned here—a calculator—

Q. Is it not true, Mr. Schwab, that you knew that the foreman Heinzig was taken from I. G. Farben Wolfen plant and taken over to Boruta in order to direct workers there?

A. When the Boruta was taken over, Mr. Heinzig was taken over by Boruta; but that no longer was Boruta, but the Teerfarbenwerke Litzmannstadt G. m. b. H., which was then exclusively Farben.

Q. You mean this was, if I correctly understand, after Farben acquired title to Boruta?

A. Heinzig had been there previously and after the title had been taken over by Farben he remained, as far as I recall.

*The exhibit in question includes a letter of the witness, dated 17 May 1941, to Farben's Dyestuffs Department. This letter contains the following sentence:

"When introducing Dr. Matzdorf, Dr. Savelsberg and Henschler, I dropped the remark that, at present, there are 9 more gentlemen from the IG active in Boruta—at the expense of IG—to assist the trustees, besides the two trustees active in an honorary capacity." The document is not reproduced herein.

Q. Did Farben consider itself the lessee of Boruta even without a lease?

A. Not as the lessee.

Q. Did Farben consider itself the lessee of Boruta even without a lease agreement?

A. No. I said yesterday—

Q. Now, in order—

A. I said yesterday that—

PRESIDING JUDGE SHAKE: You have answered the question. This is rather inconceivable—how there could be a lessor or lessee without a lease agreement. Lessee is implied.

MR. NEWMAN: My question, Mr. President, was whether Farben considered itself to be the lessee and acted accordingly, and I would now like to show the witness NI-8396. This, Mr. President, is our Exhibit 1160.*

PRESIDING JUDGE SHAKE: Counsel, are you intending to pursue the matter—that while there was no lease agreement, that Farben regarded itself as a lessee? Is that what your theory is?

MR. NEWMAN: Mr. President, my point is this: We heard at 5 o'clock yesterday, and today, about what Farben intended to do in Poland and what the position of Farben and of the trustees was before Farben acquired title. Now, I think what the witness said yesterday on this point is rebutted by this document, and I would like to refresh his recollection to prove this point on the strength of this document where Farben, before it was elected to the authorities, called itself the lessee of Boruta in early 1940.

PRESIDING JUDGE SHAKE: Well, in the absence of the document I withdraw my remark, but I am still dubious about it.

MR. NEWMAN: If I may repeat, this is document book 56, page 27 of the English and page 61 of the German. And if you will kindly see, this is number two of this letter.

A. In my opinion, this is a formulation which was just made on the spur of the moment. Lease negotiations were pending at the time, and Farben believed that they would come to a favorable conclusion. The purchase suggestion of the HTO could not be expected by Farben.

Q. You testified yesterday that by your activities as trustee you managed to keep operating one of the three plants of which you were trustee, and that the economic life of Poland was to be supported thereby. Now, can you tell us, at the end of 1944, what percentage of the Polish workers who had worked in Boruta in 1939 were still employed in the Boruta plant, approximately?

A. I can not give you the percentage. The composition of the Boruta personnel, that is, workers and employees, under the trustee-

*Reproduced in 2 above.

ship administration was always two-thirds Poles, and one-third Germans and ethnic Germans, approximately. In 1939, before the beginning of the war, Boruta had a great number of personnel. They were just building up the pharmaceutical industry; a new prefabricated storehouse of ours was being built, and this work was mostly conducted under their own direction. Only, to give an example, the great masses of ice which are needed in dyestuffs production were taken by hand out of the pond. The trustees, already in the first winter, had mechanized this ice production, and the crushing plant.

Q. Were you informed as to the number of Polish nationals who were evacuated from Zgierz in connection with the Germanizing of the Warthegau as a new organ of the German Reich itself?

A. I can not give you any figures. In connection with the plant kitchen we helped a Polish peasant to keep his farm by employing him. I may add here that, as early as the year 1941, the policy of removing Poles out of the Warthegau was reversed in view of manpower, because it was realized that the Polish workers were necessary. And it was just Schoener who, in the tariff negotiations, as director of a large IG plant who had had a great deal of experience, always told the representatives of the Labor Front that if the Polish workers were treated well they would be equal to the German workers.

Q. You knew the Polish workers were evicted from Boruta so that the Germans could live there, did you not?

A. Yes. May I add something here. We had no influence on this. These were governmental measures. We had chemists and workers who had been evacuated from their homes in the city, living in the plant grounds. And in every case—

PRESIDING JUDGE SHAKE: You have answered that enough. Wait for another question. Go ahead.

MR. NEWMAN. How many of the Polish workers of Jewish extraction, who worked for the Boruta in 1939, continued to work for Boruta in December, or at the end of 1944?

A. To my knowledge, before the first of January 1939, the Boruta had no Jewish workers or Jewish employees. The Boruta was a Polish Government plant, and whoever knows the conditions, knows that in such plants there were no people of the Jewish faith, and not even, or only a few, Protestants.

Q. Is it true that one of the Farben foremen beat a Polish worker in the Boruta plant, to your knowledge?

A. That was the locksmith, Heinzig, mentioned before. That was a typical case where a foreman rose to a higher position and had an attack of so-called "eastern frenzy" [Ostkoller]. I myself was never present when things like that happened, but my people, the previously mentioned sales manager, had told me about it, and I complained to Schoener, and his assistant Dr. Matzdorf, and asked that such things should be stopped.

Q. Did you make sure that such steps were successful?

A. During your interrogation, I already told you that for disciplinary reasons, we had to draw a sharp line between technical and business matters, and we had to keep to that line. I informed Schoener and Matzdorf, and they took steps.

DR. VON KELLER: Your Honor, in order that the transcript be corrected, I would like to correct a small translation difficulty. The witness was speaking of "Ostkoller." I think the best translation for "Koller" would be "mania."

PRESIDING JUDGE SHAKE: Very well.

MR. NEWMAN: Mr. Schwab, you testified today with respect to the steps taken in the interest of the Boruta workers. Were you, in this connection, or was Farben, in contact with the office for the Strengthening of Germanism?

A. One could not call it contact. The Reich Commissioner for the Strengthening of Germanism in the East, in December 1940, intervened in the negotiations between Farben and the Trustee Office, giving a reason that this was not merely a purely commercial matter, but that ethnic and racial considerations in the East would have to be taken into consideration also.

Q. Was SS Brigadefuehrer [Brigadier General] Greifelt the head of this agency?

A. Yes, as far as I know. The supreme chief was Himmler.

Q. Do you remember that you took a number of steps to please Greifelt?

A. Does this question refer to myself, Dr. Newman?

Q. Either yourself or Farben, in connection with the Boruta plant.

A. I never saw or spoke to Herr Greifelt. I merely know of one conference between Dr. von Schnitzler and Greifelt.

PRESIDING JUDGE SHAKE: You were not asked about any conference between other parties. You were asked as to your own contacts.

MR. NEWMAN: Did Dr. von Schnitzler prepare or take steps to follow the German racial policy in Poland?

PRESIDING JUDGE SHAKE: Counsel, is that cross-examination?

MR. NEWMAN. I think it is.

PRESIDING JUDGE SHAKE: I will be glad to hear your views. I am doubting, but I will listen to you.

MR. SPRECHER: Mr. President, may I say a few words?

PRESIDING JUDGE SHAKE: Yes.

MR. SPRECHER: The whole conduct of Farben and of these defendants in Poland had some relation to what was going on in Poland, by Himmler (and we have introduced the decrees concerning that), and by the defendant Frank (in the first IMT trial) who put a lot of measures into effect in Poland. We have just had a recitation by this witness of a rather idyllic situation for maintaining the economy in

the Warthegau, and we are now attempting to show that here was also a part of the policy of Germanizing that section of the world, regardless of what happened to the Polish people who were there, and to show that Farben's settlement steps and Farben's activities were directed to sustain the war effort first. Second, we have already shown it was to keep other dyestuffs people from coming in; and third, we are now about to show that it was done in connection with the agency of which Griefelt was the immediate head in Poland, and Himmler the ultimate head. I believe Your Honors will recall how Schnitzler went to Griefelt in order to get the Gutbrod brothers pushed out and in order that Farben should get its way in Poland.

PRESIDING JUDGE SHAKE: Did this witness testify as to anything in connection with that?

MR. SPRECHER: Certainly, Mr. President. This witness talked about the efforts to improve the economy in Poland during the occupation for the benefit of the Polish economy, and we are about to show that the efforts on behalf of the so-called Germans who were in Poland, and the Germans who were brought there, acted to exclude Poles from that area, and to throw them out of the economy.

PRESIDING JUDGE SHAKE: We will start off. It is possible my memory is defective. Go ahead.

MR. NEWMAN: I do not think you answered my last question. Did Mr. von Schnitzler prepare or take steps to follow up the general Nazi racial policy in Poland?

WITNESS SCHWAB: No.

Q. Did you or Mr. Schnitzler prepare steps in connection with the settlement of German employees of the Boruta plant, in order to strengthen Germanism beyond the old Reich borders?

A. No. May I explain? In the order for 5.2 million marks to extend Boruta, we had to bind ourselves to do something in a welfare respect too. That, however, included the general housing situation in Poland and in Zgierz—I would say, that according to official Polish statistics, 98 percent of the dwellings in Poland were one-room apartments. If Farben took over Boruta, we were compelled already by our traditions to create better conditions for the workers in Boruta.

MR. SPRECHER. Mr. President, I think the Tribunal is somewhat displeased with the course of this examination. It seems to us that if the witness could be instructed, perhaps, to answer fairly—and Dr. Siemers may be sure that he may have a right to answer fairly—but he goes on to completely collateral subjects and gives very long answers which are not responsive to the question; for instance, the last question is very clear, and the last answer is not in response to it.

PRESIDING JUDGE SHAKE: It is entirely proper under these circumstances to interrupt the witness if he goes beyond the question, and the Tribunal will be very happy to sustain the interruption. I may

say to counsel, do not assume that this Tribunal is displeased about anything. We will rule on objections as they are made. I think we will try to exercise all of the necessary patience to permit a thorough cross-examination of the witness.

MR. NEWMAN: My next question: Was a community house planned for the distinct purpose of strengthening the community spirit of the so-called racial German elements of the Boruta employees?

DR. SIEMERS: Your Honor, I believe the witness had not completed his answer, when he was interrupted by Mr. Sprecher. Perhaps Mr. Newman would be kind enough to let the witness complete his answer. May I add another word to what Mr. Sprecher said. If, in cross-examination, one treats matters which have not yet been dealt with in direct examination, then, I think, the prosecution ought not to be surprised that it is commented on; and if one asks about Germanization, when there was no word about it in the direct examination, one should not be surprised if the witness then talks about things, such as welfare measures, which he really carried out.

PRESIDING JUDGE SHAKE: Gentlemen, permit me to observe that the trial of lawsuits is strenuous work, and perhaps a bit of refreshment may get us all in a better mood, and we shall come back a little better organized to go along with the completion of the cross-examination.

We arise for our recess.

(Recess)

MR. NEWMAN: Before I repeat my last question, which is the last one in this connection, I would like to show you Document NI-1197, which is Prosecution Exhibit 1859.* This is a letter [written] before Farben acquired title to the Boruta plant, 16 January 1941, to the witness and his cotrustee.

Will you please read just the parts I have marked by red pencil?

WITNESS SCHWAB: May I read the whole document, so that I can get the gist of it?

Q. This is a lengthy document, and it will do in this connection if you just read the 3 or 4 lines I have marked.

What I have marked for the witness, Your Honors, is on the second page, the first line of No. 1, and also the first line of No. 2, of No. 3, and of No. 5.

Just a moment, Witness; let me repeat my question.

My question was: Was there a community house plan in Boruta for the distinct purpose of strengthening the spirit of common bonds among the so-called racial German elements of the Boruta employees?

A. The community house was principally intended to be a dining room for the employees. If in some high-faluting language they repeat some matters in this document—and that is all I consider this document to be—then that was the manner of expression common in

*Reproduced in 2 above.

the Third Reich, which Farben had to use as well, and which, from the standpoint of Farben, was only speaking to the gallery.

Q. You testified that the suggestion that IG acquire title to the Boruta originated with the HTO (Haupttreuhandstelle Ost), and not with I. G. Farben. Is it not a fact that before HTO finally agreed to Farben's getting title to Boruta, Farben repeatedly tried to convince HTO that Farben should acquire title?

A. In the course of the negotiations about the lease, Farben repeatedly expressed the opinion that it would not be able, in the case of a pure lease agreement, to invest its knowledge and its "know-how" in Boruta. If it were to do that, it would need long-term, clear-cut agreements which would guarantee Farben's investing its "know-how" in this plant.

Q. That does not quite answer my question. My question was, who took the initiative in Farben's acquiring title to Boruta?

A. I have nothing to add to my statement.

Q. Coming back to the time immediately following the attack on Poland, you were shown, yesterday, a letter by the defendant von Schnitzler to the Reich Ministry of Economics, of 14 September 1939.* Is it true that this letter was dictated in your presence?

A. Yes. That is correct.

Q. Turning to Wola, as to the hopeless financial situation (to which you testified) in September 1939, is it not true that Wola at that time had a claim against I. G. Farben resulting from the Tripartite Agreement?

A. As a member of the Polish group, Wola had this claim against Farben. The leading firm of the Polish group was the Boruta, and they were the clearing house. The claim was not against Farben, however, but against the Tripartite Cartel in which Farben was predominant.

Q. Did you ship supplies confiscated or seized in Wola to Farben agencies in Poland through which they were sold?

A. Such sales were effected by the Farben representative in Warsaw, on a commission basis only, for the trusteeship administration of Boruta.

Q. Now as to Winnica, is it not true that the anthraquinone plant, which was shipped from Winnica to a Farben plant in Germany, was the only one in Poland and one of the three plants of this kind in Europe?

A. The anthraquinone plant was not shipped, as such, to Ludwigs-hafen. Its main part was masonry, firebrick, which remained in the Winnica plant.

Q. The record so shows; you said so this morning. My question just was—Was it one of the three plants in all of Europe, and the only one in Poland?

*Document NI-2749, Prosecution Exhibit 1139, reproduced in 2 above.

A. Yes. It had become superfluous in Poland.

Q. I didn't ask you whether it was superfluous. Was it the only one in Poland? Is your answer yes?

PRESIDING JUDGE SHAKE. Now wait a minute. He does not have to say, "yes."

WITNESS SCHWAB. Yes.

PRESIDING JUDGE SHAKE. Very well. Go ahead.

Mr. NEWMAN. And was it one of the three plants of this kind in Europe?

A. I do not know how many such plants were in Europe.

Q. Did I correctly understand you this morning that the 100,000 zloty for the anthraquinone plant were paid back to Farben?

A. Not to Farben, but to Winnica.

Q. Do you know of any individual case since September 1939, where any compensation was paid to any expropriated Polish or Jewish owner?

A. Until I left Poland that was not the case.

Mr. NEWMAN: I have no further questions, Your Honor.

PRESIDING JUDGE SHAKE: Any redirect examination?

* * * * *

REDIRECT EXAMINATION

DR. VON KELLER: In connection with the last question of the representative of the prosecution, I should like to ask you for information. What were the regulations governing the compensation to be paid for expropriated property in Poland?

WITNESS SCHWAB: No final, or even preliminary, regulations had been issued. The liquidator made all preparations in Boruta to carry out the liquidation according to German regulations, and I already mentioned that, in regard to the savings funds, he considered them as priority claims. Furthermore, I have learned that the liquidator prepared to call the shareholders. Whether this was actually carried out I do not know.

Q. Do you know that in the first decree which was issued concerning this confiscation a compensation was provided for?

A. I would have to see that decree. I can say nothing from memory.

Q. Was it left to the individual firms who bought something from Poland, or in Poland, to decide to whom they would pay the purchase price of confiscated property?

A. That either went to the Trustee Office in Berlin, or, in the area of the Government General, to the trustee administration office in Cracow.

Q. Another subject, Mr. Witness. You have just been asked whether you knew how many anthraquinone plants existed in Europe. I should like you to tell me, for reasons of clarification, whether you have

enough technical background for you to be expected to give such technical information?

A. As a businessman I do not have such technical background.

Q. The next subject is the Boruta. This morning it was mentioned that there were a certain number of German employees working in Boruta. How were these German employees engaged?

A. Schoener and I could not manage the Polish personnel, few of whom knew the German language sufficiently, because we had a flood of regulations and directives, all worded in the "to be answered by * * *," et cetera, style. For that reason, I asked Farben for assistance which they granted me.

Q. Did this request emanate from you or from Farben?

A. From me, personally, because we could not do our work properly. In Lodz it was said that we were expected to board a train running at full speed!

Q. Would you have been able to get similar special assistance from some other agency?

A. No.

Q. The last subject. Do you know of any relations between the defendant von Schnitzler and Himmler?

A. No.

Q. Did you personally, Mr. Schwab, have any relations with high Party functionaries in Poland or with leading SS persons?

A. No, I neither knew Greiser,* nor Frank, the Governor General of Poland, personally—that is, I was not introduced to either of these gentlemen, and I kept out of their way. My acquaintance who had the highest position was the Regierungspraesident in Lodz, otherwise I knew only district chiefs.

Q. Were these people Party functionaries, or were they in the government?

A. They were Party people with government functions.

DR. VON KELLER: I have no further questions.

JUDGE MORRIS: Are there any more questions on the part of counsel? If not, I would like to inquire of the witness: With whom in Farben did you negotiate in order to obtain the Boruta loans you have told us about?

A. I did not understand the question, Your Honor.

Q. With what individuals in the Farben organization did you negotiate when you obtained the Boruta loans that you have testified about?

A. I only talked or wrote to Dr. von Schnitzler about it and to his adjutant, Mr. Eckert.

*Arthur Greiser was the Reichsstatthalter (governor) and Gauleiter of NSDAP of the Wartheland from 1939 to 1945.

Q. Would you say that the loans that Farben made to you as trustee of Boruta were made by Farben entirely on a voluntary basis?

A. Yes. There was no legal basis of any other nature.

Q. And the request for the loan was made by you entirely as your own idea, and not under the suggestion of any Reich government official?

A. It was my own cry for help. No government official suggested it. They could not help me.

Q. When the purchase was made by Farben of the Boruta property—that is, real estate, the plant, and the stockpiles—would you say that that purchase was made voluntarily upon the part of Farben, or was that made under some governmental pressure?

A. No; no pressure on the part of the government. It was a voluntary resolution of Farben to save these plants from destruction or to protect them against falling into the hands of speculators.

Q. Thank you; that's all of my questions.

PRESIDING JUDGE SHAKE: Are there any other questions that any of counsel desire to ask this witness?

Since none is requested, the Tribunal will excuse the witness from further attendance.

6. TESTIMONY OF DEFENDANT TER MEER

EXTRACTS FROM THE TESTIMONY OF DEFENDANT FRITZ TER MEER*

DIRECT EXAMINATION

DR. BERNDT (counsel for defendant ter Meer): Mr. President, Your Honors. The defendants are charged with having undertaken acts of plunder in Poland. However, up to this point the prosecution has not stated specifically against whom among the defendants they bring this charge. Up to this point, the problem of Poland has not yet been clarified, partly because individual defendants have not taken the witness stand, and partly because no exhaustive questions have been put about this problem.

In the interest of clarifying the Polish question, I therefore see myself forced, not only for defendant ter Meer, but also for Your Honors' enlightenment and for the presentation of the point of view of the defense to the prosecution also, to clarify this Polish question somewhat.

I should like to ask you, Dr. ter Meer, to tell me briefly what the chemical industry in Poland was like before the Second World War,

*Further extracts are reproduced below in subsections D 3, E 4 and section IX F 2; and earlier, in section VII C 5b, E 3, G 3, H 4b, I 7e, J 4, K 3a, M 3 and O 7a, in volume VII, this series.

particularly bearing in mind the fact that witness Schwab has already given a brief survey about the chemical industry of Poland.

DEFENDANT TER MEER: I personally do not know the Polish chemical industry well, but if the indictment speaks of the Polish chemical industry, this is the same mistake as in the case of France. The Polish dyestuffs plants were enterprises of small and medium size and constituted only a fraction of the entire chemical industry of Poland.

Q. Before the war broke out, did you know the Polish dyestuffs plants?

A. I knew them only by name. Once, in 1934, I was in Warsaw at the cartel conference mentioned by Mr. Schwab, but I did not visit any plants on that occasion. I did not even go to see the Winnica plant, which is situated close to Warsaw. The Polish dyestuffs industry was created by artificial high tariff barriers. It was not a large industry, and I was not interested in it at all.

Q. Did you or Farben, before the war broke out, have any plans in regard to the dyestuffs industry of Poland?

A. No. We did not consider them at all and certainly had no plans. You know that I did not expect war.

Q. The prosecution however, has shown us a VOWI pamphlet published at the end of July 1939, which related to the Polish chemical industry. How do you explain that?

A. From my own positive knowledge, I cannot say anything about that. The Office of the Technical Committee [TEA] never collaborated very closely with the VOWI in Berlin, because we generally interested ourselves in technical things, and the VOWI actually collected only economic problems from newspapers, magazines, and so on. Therefore, I can only express my opinion about the origin of this pamphlet on Poland. The chief of VOWI was a very ambitious person and certainly wanted, on various occasions, to show that his department was up to date. Just as a newspaper or a magazine will publish an article about a country where there happens to be some political or other event of interest, I think that the chief of VOWI, here again for journalistic reasons, perhaps wanted to produce something about Poland when the first friction between Germany and Poland became known. About the value of this piece of work Mr. Schwab has already made very clear statements.

Q. You had nothing to do with the pamphlet then, and you did not issue any instruction about it?

A. No, I issued no instructions about it. I do not even know if I read it; that is possible, however. You know that at that time I was in Karlsbad taking waters, in August.

Q. Shortly after the war broke out, two commissioners were appointed for the Polish dyestuffs factories. Who appointed these commissioners?

A. The Reich Ministry of Economics.

Q. Who was that? What persons were they?

A. They were Mr. Schwab and Mr. Schoener.

Q. Were these Farben people?

A. Yes, Mr. Schwab was a commercial man, and Mr. Schoener was a technical expert of Farben. The suggestion to appoint these two men as commissioners was based on the fact that the dyestuffs trade, from both a business and a technical angle, is a specialized industry which in Germany was practically dominated by Farben. Consequently, if one wanted to appoint reasonable people for trustees in Poland, one had to take people who knew the business, and they were only people from Farben.

Q. Who suggested Mr. Schoener as technical commissioner?

A. I was asked at the time for a suitable technical expert, and I named Mr. Schoener.

Q. Can you tell me why you especially selected Mr. Schoener as technical commissioner?

A. Mr. Schoener was the plant leader of the Wolfen plant. He had had a great deal of practical experience in the dyestuffs field and knew particularly well those groups of dyestuffs that were predominantly produced in Poland. Also, Schoener was a very calm and objective person. He was not a pushing man in any way, and for that reason too, I considered him suitable for a trustee.

Q. Did you give any instructions to Mr. Schoener for his work?

A. As far as I remember, before Mr. Schoener made his first trip to Poland in September 1939, I talked to him only over the phone. He did not receive any instructions from me. That was the affair of the Reich Ministry of Economics. I want to make one thing quite clear. As far as I was concerned, Schoener was a commissioner, a commissioner of the government, and he had to act according to the instructions given to him by the Reich Ministry of Economics, and later by the Main Trustee Office East.

Q. Did you maintain that point of view later?

A. Yes. Schoener tried repeatedly to discuss his trusteeship activity in Poland with me, and I always said to him, "Schoener, you are a commissioner; that is your affair. I don't bother about that. You must make your own decisions."

Q. In accordance with what did he have to decide?

A. In accordance with the instructions he was given by the Berlin authorities.

Q. Did Schoener send you the reports that he prepared for the Reich Ministry of Economics in his capacity as commissioner?

A. As Mr. Schwab has already testified, the first four reports about the inspections of the plants were sent to Frankfurt, and I took cognizance of these reports at the time; but later no more reports arrived. Mr. Schwab has testified to that also.

Q. Did you consider the appointment of commissioners or trustees for the Polish dyestuffs plants proper and correct?

A. Yes. I always consider it proper if measures are taken which are to maintain order and preserve existing values. Apart from that, we had our own interest to safeguard in the case of the Winnica plant, because we participated in it.

Q. The prosecution has submitted Document NI-2749, Prosecution Exhibit 1139 * in book 55, page 87 German—page 56 in the English. This is a letter from Farben to the Reich Ministry of Economics dated 14 September 1939. This letter speaks of the significance of the Boruta Winnica plants for the German military economy. What is meant by that?

A. I did not write that letter. I do not think I would have put it in that form, because these are purely dyestuffs plants. This letter points out that 85 percent of German dyestuffs production was situated in the West and that for that reason any plant not situated in the West of Germany was twice as valuable. That points to the fact that there can be no question of military economy.

Q. The prosecutor, in the cross-examination of the witness Schwab, asked whether it was correct that the Reich Ministry of Economics appointed him for the purpose of adapting the Polish plants to the requirements of the German war economy; the same is to be found in Document NI-1093 Prosecution Exhibit 1140 * in book 55, page 94 German—page 60 of the English. Must one infer from that that a reorganization of the Polish plants to the production of Wehrmacht requirements was intended?

A. No, that was never intended and never happened. As we know from the reports of the trustees, there was a small plant in the Boruta enterprise for the production of explosives and for the production of tear gas. This plant was never put back into operation. During the entire war, Boruta and Winnica never produced anything but intermediates for dyestuffs, dyestuffs themselves, chemical for the rubber goods industry, and other peacetime products. Merely to be quite correct, I want to add here that the phenylbetanaphthylamine produced for rubber goods was called an indirect Wehrmacht requirement in the case of Francolor. I have already called that a play on words. It does not change the fact that phenylbetanaphthylamine was an auxiliary product for the rubber goods industry or for the stabilization of buna, and that it is not gunpowder, not an explosive, and not a poison gas.

Q. Were any negotiations conducted with the Army Ordnance Office for the adaption of Polish production to Wehrmacht material?

A. I don't know anything at all about that; I consider it completely impossible.

*Reproduced in 2 above.

Q. How do you explain the expression, "adaptation to the German war economy"?

A. This is perhaps a general formulation referring to the War Economy Regulation issued on 4 September 1939. It is contained in Document Book I in the collection of laws and decrees submitted by you as Document 15. For the rest, the sentence in the appointment certificate of both trustees says that their activity was to adapt itself to the requirements of German war economy and German exports to neutral countries. That does not point to the production of army requirements.

Q. We will now discuss briefly the three Polish plants. First we shall take Winnica. Please describe to me the ownership conditions of the Winnica plant before the war broke out.

A. By an internal arrangement with the French dyestuffs group, Winnica was considered as owned one-half by the French and one-half by Farben. Mr. Schwab has described that already. I can fully confirm what he said: that the French always gave us all records on production, sales, financial questions, financial statements, et cetera. I myself frequently examined these records before the war and discussed them with Monsieur Frossard. The fact that the shares were held by the I. G. Chemie in Basel I always explained in this way: at that time, the Germans did not have the right of settling and of operating plants in Poland, and therefore were not permitted to appear as the owners of shares. For that reason, the shares were made out in the name of I. G. Chemie Basel. But, as Mr. Schwab has stated, it was understood by I. G. Chemie Basel and Farben that these shares were held on our behalf—they were, so to speak, held in trusteeship for us—and we could take them from I. G. Chemie Basel at any time by refunding the purchase price.

Q. Then in your eyes Farben was the legal coowner of one-half of Winnica?

A. Yes.

Q. Why then was Winnica confiscated by the German authorities and made subject to a trusteeship administration?

A. I don't know; but it may be that from a purely formal point of view the firm was considered as having French ownership, a country with which Germany was at war, and that it was confiscated for that reason. I cannot say.

Q. Were you ever in Winnica yourself?

A. No.

Q. We need not go into details about Winnica, especially since the witness Schwab has testified about it already. I would rather ask you, in your capacity as a technical expert, to explain the anthraquinone question again briefly, since the witness Schwab did not know very much about that.

A. Anthraquinone is an intermediate for dyestuffs. One can also produce a laxative from this substance. I do not know any other uses to which it may be put. It has nothing to do with military requirements, neither directly nor indirectly. One cannot produce any military material from it. In all the dyestuffs factories in the world there are anthraquinone facilities. In Europe there are at least eight that I could name, probably even more. Anthraquinone is produced by various processes. At the beginning of the 1930's, Farben granted a license to the French for a certain anthraquinone process, which was suitable for the very small plant in Winnica. It produced only six tons a month, according to its capacity. This anthraquinone was used for the production of a khaki dyestuff for the Polish military and other authorities. That was why anthraquinone had to be produced in the country.

Q. Was the suggestion to dismantle the anthraquinone machinery made by Farben or by the government commissioners?

A. As far as I know, this suggestion was made quite unequivocally by the two commissioners. Farben had no interest in this small apparatus, because in its own plants it worked with much larger units, so that the machinery would not have fitted into the Farben machinery, which moreover, for the most part, worked according to a different process.

Q. Why did the commissioners raise this question at all?

A. I do not know. Perhaps the Reich Ministry of Economics gave them instructions to secure important machinery. Apart from that, it was probably, as Mr. Schwab testified, because this machinery was to be taken away from the Russian line of demarcation in any case, because they considered it an important industrial secret.

Q. What happened to this machinery?

A. Unfortunately I cannot tell you that in detail. From the documents introduced by the prosecution, one can see that this plant was at first to be leased. Instead of that, it was purchased, probably at the request of the Main Trustee Office East. What finally happened to this machinery we have not been able to find out as yet. In Document NI-8400, Prosecution Exhibit 1161,* in book 56, in a letter of 5 February 1941, a Director Dr. Baumann in Ludwigshafen is mentioned. This man is dead. He was the plant leader of the anthraquinone plant in Ludwigshafen, who was said to have taken a great interest in this machinery. But it seems that the machinery never arrived in Ludwigshafen, for when, after the end of the war, all machinery had to be registered that had been brought to Germany from the occupied territories, Ludwigshafen did not register this machinery because it was not there. I would assume that it stayed in the Boruta plant, but, as I said, I do not know.

*Not reproduced herein.

Q. Now something else. You said that the ownership of the Winnica was one half Farben and the other half French. In July 1941, Farben purchased the fifty percent share that the French held in Winnica. What was the reason for that?

A. That was in the course of the entire Francolor transaction. One factor may have been that, by acquiring all the stock, we wanted to avoid the confiscation of Winnica and the trusteeship administration, so as to have freedom of action.

Q. Were the French agreeable to this transaction?

A. In July 1941, I personally conducted the negotiations for Winnica with the French in Paris and, as I remember, they were in complete agreement. The fact that the khaki business had been eliminated for Winnica produced an economic situation in that enterprise that looked anything but rosy, and, as far as I remember, the French were not at all dissatisfied with being able to get out of that risk.

Q. That is probably enough for Winnica. We now turn to Wola. Can you tell me any details about that?

A. No. I never saw that plant.

Q. Did you order that Wola should be shut down?

A. No. The suggestion did not come from me. The order was issued by the Reich Ministry of Economics.

Q. Betaoxynaphthoic acid machinery was to have been removed from Wola. Do you know anything about that?

A. In my opinion, this is again a suggestion made by the trustees, based, I presume, upon general regulations of the government. You must remember that we in Farben did not even know that Wola had a plant for the production of betaoxynaphthoic acid. The trustees found that out only after they made an inspection on the spot.

Q. Was that machinery of any particular significance for the Farben plants?

A. No, because again, only a very small apparatus was involved. In our plant where this product was made, we worked on a much larger scale—and we operated at barely 50 percent during the war, as these dyestuffs were of lesser importance. I believe that the securing of this machinery was really a measure of the trustees for preventing it being sold cheaply or scrapped. I would take that from the letter of 10 November 1939, from Farben to the Reich Ministry of Economics which reads—this is Document NI-8380, Prosecution Exhibit No. 1141,* book 55, page 98 of the German, page 62 of the English—I quote:

“The holding company would furthermore be entitled to remove from the Wola plant, which has also to be closed down, all installations still fit for use, in particular the new betaoxynaphthoic acid

*Reproduced in 2 above.

plant, and to bring them to the 'Boruta,' without such transfer causing any change with respect to the ownership conditions of the plants. If the occasion arose, a lease agreement might also have to be concluded with respect to these plants, and on the other side a guarantee given that no creditors of the 'Wola' be allowed to prejudice the realization of the agreement by measures pertaining to an execution."

Q. But Farben later purchased that plant?

A. Yes. I have tried very hard to find out details and have applied to my former associates Dr. Struss, Dr. Loehr, and Dr. Giesler, who all unanimously told me that neither they—and certainly not I—were active in that matter at all. From the affidavit of Dr. Hagenboecker, in Jaehne document book 3, Document Jaehne 48, Jaehne Defense Exhibit 19, I saw that Dr. Hagenboecker pursued his own personal initiative here. He wanted to have the machinery for experimental purposes. He sent a foreman from Offenbach to Poland to inspect the machinery. I did not know anything at all about that, to the best of my recollection. Neither did I know anything about the removal in 1944, since I was in Italy at that time.

Q. What about Document NI-7371, Prosecution Exhibit 1157, which the prosecution has offered in book 56, from page 54 onwards—page 22 and following, of the English—where it speaks about taking over the products of Wola?

A. That concerns dyestuffs intermediates from Wola stocks. Apparently the trustees could not utilize these stocks when they sold the Wola products in Poland, and, therefore, offered them to Farben. The documents that you mentioned are internal Farben letters to various plants and laboratories concerning the testing of these products as to their quality. As far as I remember, I learned of this event only through the documents. Whether Farben took over these products, I don't know.

Q. Now about Boruta. Did Farben from the very beginning have the intention of buying Boruta?

A. No. I can assure you quite definitely that I never had this intention. The Polish dyestuffs plants were small and technically backward plants. I opposed the purchase of Boruta for a very long time.

Q. But it is not a fact that Farben later did acquire Boruta, nevertheless?

A. Yes. That is true. This is a case that happens sometimes, that one is drawn into something against one's own will. I believe that was the way it was here. The documents also speak for that point of view. In Document NI-8457, Prosecution Exhibit 1138,* book 55, page 85 of the German and page 54 of the English, Mr. von Schnitzler speaks about the stocks which were to be utilized in the interest of

*Reproduced in 2 above.

the German economy. Then, in Document NI-5947, Prosecution Exhibit 1133,¹ book 55, on page 46 of the German and page 32 of the English, a file memo of a meeting of the Commercial Committee—which I, however, did not attend—speaks of the point of view of the Commercial Committee which is to be transmitted to the two trustees; that is, to found a holding company in Poland to administer the Boruta plant by way of trusteeship. This holding company was never organized. Mr. Schwab has explained to us very vividly here how he tried with all means at his disposal to get money to keep Boruta operating. Finally he found a way out, by Farben giving orders to Boruta and loaning the money to Boruta to fill these orders. The first of these orders was given in July 1940, and others followed. Through the whole of the year of 1940, lease negotiations were conducted for the duration of the war, in the course of which the Trustee Office stated that a purchase might be considered. This is shown by Document NI-2998, Prosecution Exhibit 1144,² book 55, on page 109 of the German and page 71 of the English text. These negotiations again took a long time. Other interested parties put in an appearance, the Gutbrod brothers, for instance. Then, finally, in November of 1941, the purchase agreement was concluded.

Q. Then you changed your personal opinion about the acquisition of Boruta during the course of the negotiations?

A. Yes. That is correct. What was decisive for me was that I wanted to avoid the plant getting into the hands of laymen. That went against the grain with me as a technical man, because then Boruta would undoubtedly have collapsed.

Q. And what are the reasons for your assumption that Boruta would collapse?

A. Boruta was situated in the Warthegau. The Warthegau had been made a part of German customs territory. That removed the high customs protection that these Polish plants had previously enjoyed. Boruta could consequently not compete with the better equipped and much larger German plants.

Q. Did you have any legal misgivings?

A. No, I had no legal misgivings. The entire affair was handled by the legal department of Farben and did not cause me any misgivings. The plant was not bought from the Polish State, but from a German agency.

Q. Did you participate in the purchase negotiations?

A. Dr. Giesler, who worked partly in the TEA office and partly in the Mannfurth works, was commissioned by me, approximately at the end of 1940, to make an estimate of the value of the Boruta plant, at that time probably in order to form a basis for the amount to be

¹ *Ibid.*

² Reproduced in 2 above.

fixed for the lease. When the purchase was decided upon, Dr. Giesler made a plan, on my orders, of how a rational expansion of Boruta could be carried out, and during the decisive negotiations with the Main Trustee Office East in Berlin, I presented these technical points of view. I have already testified to that during cross-examination.

Q. What was the content of this plan for the expansion of Boruta?

A. If we acquired Boruta we would have to expend large sums of money to modernize it, to rationalize it, and to produce new material, for otherwise we certainly would not be able to keep it in operation. And that was the plan. We planned to start a number of new productions and to modernize the machinery already functioning.

Q. And what happened to the products of Boruta? Were they brought to Germany?

A. The Boruta was in the Warthegau, and the Warthegau was part of Germany at that time. But the dyestuffs practically all remained in the Warthegau, for Lodz is an important industrial center, and at that time the textile industry in Lodz was working very busily. Then we supplied the Swiss dyestuffs plant Pabjanicer (which Mr. Schwab mentioned), with intermediates, because the Swiss gentlemen had asked us to help them to maintain their personnel during the war. Part of the intermediates, however, went to Germany.

Q. At one time you said that in the autumn of 1942 you visited Boruta. What did you do there?

A. After Farben had bought Boruta, a certain Dr. Matzdorf, who had been appointed there by Dr. Schoener, became the plant leader. I did not know this Matzdorf, and I wanted to see what he looked like. And on that occasion, I also wanted to find out how the modernization was progressing.

Q. How long were you in Lodz?

A. One day.

Q. What did you do there?

A. In the morning I inspected Boruta and talked to Dr. Schoener and Dr. Matzdorf about the technical program, production, new plants, et cetera. Dr. Matzdorf made a very favorable impression on me. He was a calm, objective technical expert. In the afternoon, I then visited one of the largest textile enterprises in Lodz, because the textile articles it produced interested me. On the next day I left again.

Q. Did you visit any Party agency in Lodz, or did you visit the office of the Reich Commissioner for the Strengthening of Germanism in the East?

A. No. I would never have thought of that, even in my dreams.

Q. During your visit to Boruta did you notice any things that had to do with the "Strengthening of Germanism"?

A. I don't remember that these things were ever discussed at all during my visit to Boruta. That was an affair for the Party, after all, and I did not interest myself in it.

Q. Did you know the Reich Commissioner for the Strengthening of Germanism in the East?

A. No.

Q. Do you know whether Farben at any time dismantled equipment from the former Polish State property of Boruta and brought it to Germany?

A. To the best of my knowledge, no.

Q. The documents mention a plant called Sarzyna, which the Boruta built on orders of the Polish War Ministry. Do you know anything about that? And particularly whether equipment was dismantled from this Sarzyna plant and brought to Germany for Farben plants?

A. To the best of my recollection, I have heard of this name Sarzyna only now from the prosecution, but it is possible that I read about it earlier. However, to the best of my knowledge, at no time was any equipment acquired by Farben from Sarzyna and brought to Germany. Mr. Schwab too, has testified along those lines and emphasized that Farben had nothing to do with Sarzyna.

Q. In Document NI-6064, Prosecution Exhibit 1168,¹ in book 56, page 89 of the English text, a plant named Blizyn is mentioned. Do you know anything about that plant?

A. I did not know the Blizyn plant either. I do not know anything about the events described in the document.

Q. Do you know of any other case in which Farben acquired equipment from Polish chemical factories?

A. No.

Q. To conclude your examination on the charge of plunder and spoliation, I want to ask you a general question. Did you at any time wonder whether contracts for the lease or purchase of plants violated the principles of international law?

A. No, in these affairs I had to deal primarily with the technical side. For the legal considerations there was the legal department of Farben. Thus, for instance, all the contracts referring to dyestuffs were handled by the Legal Department Dyestuffs without exception. All correspondence went through the Directorate Department Dyestuffs, which worked closely with the Legal Department Dyestuffs. The chief of the legal department was Dr. Kuepper,² who has repeatedly testified here as a witness. To the best of my conviction, he certainly would have warned me if he had detected anything that

¹ Not reproduced herein.

² Gustav Kuepper testified as a prosecution witness on 13 and 28 October 1947 (tr. pp. 1933-1942: 2896-2934), and as a defense witness on 28 and 29 January 1948 (tr. pp. 5976-6051). Extracts from Kuepper's testimony as a defense witness are reproduced in section VII F 4, volume VII, this series.

violated the law in those contracts. Contracts of that nature outside of the dyestuffs field were all drawn up also in close contact with the competent legal departments. I would have opposed or rejected any contract if the competent authorities had pointed out to me that such contracts might possibly violate existing international law. Nobody told me that at the time.

DR. BERNDT: Mr. President, I have one more very brief question to do with plunder, and then I shall have finished. Would you permit me to ask that question before the recess?

PRESIDING JUDGE SHAKE: Go ahead. Ask your question.

DR. BERNDT. Mr. ter Meer, the last question: Did you get any profit or advantages of a personal nature from those acquisitions and participations abroad?

A. No. My contract of employment provided that any income from commission that came to me from the Aufsichtsraete and other boards, would have to be counted against my salary, and that was always done in these cases.

DR. BERNDT: Mr. President, I have no further questions.

* * * * *

CROSS-EXAMINATION

MR. SPRECHER: Mr. President, just so we can make our plans, and defense counsel can also act accordingly, perhaps to help you in supervising the situation, I can state that we will have no questions on Poland.

* * * * *

D. The Francolor Case In France

1. INTRODUCTION

Paragraph 103 through 110 of count two of the indictment contain the specifications of the charges concerning the Francolor case. Four of the defendants were convicted under these charges—Schmitz, von Schnitzler, ter Meer, and Kugler.

The evidence concerning these charges selected for the present subsection begins with some twenty contemporaneous documents written between August 1940 and October 1942 (2 below). The selections from the evidence of the defense have been taken from the testimony of three of the defendants; ter Meer, Ambros, and Kugler (two of the defendants convicted upon these charges, Schmitz and von Schnitzler, did not elect to testify on their own behalf). The arrangement of the testimony by the three defendants is unusual for the reason that the order of the examination of the defendant ter Meer concerning spoliation was unusual. During ter Meer's direct examination, his counsel

requested that ter Meer's direct examination on spoliation be deferred until a late stage of the case so that his testimony on that subject could cover a number of defense documents which would be introduced in the interim. The Tribunal granted this request, but at the same time upheld the prosecution's contention that this arrangement should not prevent the prosecution from cross-examining the defendant upon all counts of the indictment once he had taken the witness stand (extracts from the transcript of the discussion concerning this procedural matter is reproduced in section XVIII G 10, vol. XV, this series). Pursuant to this arrangement, the prosecution conducted the first examination of defendant ter Meer concerning the spoliation charges during cross-examination. More than 2 months later, defendant ter Meer was recalled to the stand for further examination by his own counsel concerning the spoliation charges. In the meantime, a number of other defendants had testified on the spoliation charges, including defendants Ambros and Kugler. Since ter Meer's later testimony is predicted in part upon the preceding testimony of Ambros and Kugler, his testimony has been separated here as it was in the trial itself. Accordingly, the defense evidence reproduced below on the Francolor case has been arranged as follows: extracts from the testimony of Defendant ter Meer upon examination by the prosecution (3 below); extracts from the testimony of Defendant Ambros (4 below); extracts from the testimony of Defendant Kugler (5 below); and extracts from the testimony of Defendant ter Meer upon his recall to the witness stand for further examination (6 below).

2. CONTEMPORANEOUS DOCUMENTS

PARTIAL TRANSLATION OF DOCUMENTS NI-6839 PROSECUTION EXHIBIT 1241

EXTRACTS FROM A MEMORANDUM BY DR. TERHAAR ON THE TRIP OF FARBEN OFFICIALS TO WIESBADEN,* PARIS, AND BRUSSELS IN (LATE AUGUST AND EARLY SEPTEMBER 1940

TOP SECRET

Negotiations for Peacetime Planning in Wiesbaden (29 August), Paris (31 August-2 September), Brussels (4 September), and Wiesbaden (5 September)

Participants:

Consul General Mann [defendant], Leverkusen; Director Dr. Grobel, Leverkusen; Director Dr. Kugler [defendant], Frankfurt; Director Dr. Krueger, Berlin; Dr. Terhaar, Berlin.

*The Franco-German armistice negotiations following the campaign in the West in May-June 1940 took place at Wiesbaden, Germany.

I. Preliminary Discussions in Wiesbaden (29 August)

As the chief result of the preliminary discussions held on 29 August with the Armistice Delegation for Economic Questions (Legation Secretary von Maltzan serving as deputy in the absence of the head of the delegation, Minister Hemmen), it is to be noted that, after a detailed exposition by Consul General Mann of the problems existing in the pharmaceutical field, the Armistice Delegation for Economic Questions unanimously approved our plan to bring about a private economic settlement with Rhône-Poulenc* which would at the same time suit public interests, with the reservation that if the occasion arose after the termination of the journey to Paris, we could have a final discussion with the head of the delegation, Minister Hemmen, on the separate items of our proposals.

A discussion on dyestuffs followed which showed that (apart from the reply given by the delegation in the meantime to the Union Syndicale), Wiesbaden has not changed its attitude at the moment in regard to the building of the Kuhlmann question.

With respect to cellophane, Maltzan was informed in accordance with the directives of Anderhub that it seems expedient to advise the French agencies officially at a suitable opportunity that cellophane production must be considered a luxury production, so that the way can be prepared in this manner for fruitful negotiations with the French partner without burdening Kalle.

As regards the question of purchases, it was settled that the supply of phosphates still depends for the time being on the preliminary questions relating to the clearing agreement which will still require a certain amount of time for clarification. It was agreed that Wiesbaden should be given an exposé clearly informing it of our interests in the phosphate field.

During this special conference, the general political and economic situation of France was discussed. The chief thing to be noted here is that, out of the current negotiations concerning the relaxing of the line of demarcation and the strengthening of German influence in the top key offices of the French organization (in particular for foreign trade, supervision of foreign currency, prices, and rationing), a new phase is obviously opening up in our political-economic relations with France which will probably make it necessary to inaugurate a series of new measures, the details of which it is impossible to foresee today.

As one of these measures concerns the clarification of the French customs system (which is characterized today by the use of a general tariff), it was agreed that the wishes of Farben as regards customs should be coordinated and, after relevant discussion with the German agencies, they should be sent on to the Armistice Delegation for the information of Hemmen.

*Société des Usines Chimiques Rhône-Poulenc.

In this connection, the Armistice Delegation was warned of the possibility that the development of the clearing business would soon give rise to transportation difficulties, and that France would undoubtedly endeavor to counteract forced German exportation by the introduction of some form of control of quantities. For this reason it was decided to keep in regular contact with Wiesbaden for the clarification of all difficulties resulting from the clearing transactions.

II. *Conferences in Paris (31 August-2 September)*

a. Office for Economics and Armaments (Lieutenant Colonel Neef). Neef was informed through Consul General Mann of the pharmaceutical interests and the Leverkusen plans. The goal and procedure used by Leverkusen were approved by Neef—although, however, he emphasized the fact that their effect on the Rhône-Poulenc production in the unoccupied zone might meet with certain difficulties. Neef hopes, however, to counteract these difficulties for our Farben interests by introducing his plans for a compulsory authorization for the resumption of production, and to this end he requested the corresponding particulars, in which the following approximately is to be set down separately for the occupied and unoccupied zones:

- (1) Statement of firms which are producing.
- (2) The productions of these firms.
- (3) Reasons against taking up a particular production.
- (4) Establish how German deliveries can cover French requirements for goods, the production of which will not be resumed by French firms.

As it was possible only in the case of dyestuffs to dispense with the agreement of other German firms or with the agreement of the economic group necessary for such a proposal, it is only for dyestuffs that such a proposal has been passed on to Neef up to now, and this has been done with a simultaneous report to the Economic Department France and to the Armistice Delegation. Whether further proposals are useful is a point which it will only be possible to decide when it has been shown clearly that the point of view taken by the Economic Department France, which is opposed to that of Neef (and according to which such authorization procedure will be turned down), is right or not.

In conclusion, arrangements were made to maintain regular contact with Neef in Wiesbaden and Paris. Neef is willing to put himself at our disposal for further consultations.

b. Economic Department France.

- (1) *Chief of War Administration, Ministerialdirektor Michel*

Ministerialdirektor Michel, who was informed by Consul General Mann in the same way as Neef about the pharmaceuticals situation and was advised by Dr. Kugler about the further development of dyestuffs,



declared himself in complete accord with Farben's actions. It is noteworthy that throughout his statements he stressed the fact unequivocally that the fundamental principle of his work was that the existing "historic chance of adjusting French economy to German requirements through appropriate encroachment on the French economic system, must be utilized completely and to the full."

He confirmed thereby the development which they had already learned of in Wiesbaden, whereby the relaxing of the line of demarcation is to be compensated by a new appointment in the supreme command (a commissioner for foreign trade, without the right to issue directives but with the right of veto), and German-Italian agents on the French customs borders.

The relaxing of the line will be restricted to the gradual abolition of the limitation imposed on passenger traffic (with the institution of a compulsory visa), improvements in the shipment of goods and in the facilities for currency circulation, and in the postal traffic between the occupied and unoccupied zones which hitherto has been restricted to a quota of 300 letters a day.

With respect to the pressure which we felt might be necessary in the sphere of the negotiations planned for private economy, he referred to the fundamental necessity of calling on the Department for Industrial Economy or the Chemical Group in the Economic Department France.

He declared that he himself was ready, on the occasion of his frequent conferences in Paris with the accredited State Secretary of the French Ministry of Production, to refer to the wrong which had been caused by the patent system to the German pharmaceutical industry, and to the increasing burden which was thereby being created for the future of French industry. In this way, he hoped to help us with respect to the difficult problem of acquiring control over the Rhône-Poulenc production situated in the unoccupied zone. For the purpose of this action, Michel was given a short memorandum on the Rhône-Poulenc situation. After this, Michel was informed of the difficulties which might arise for German exports as a result of the new clearing agreement. The problem of transportation, which stands in the forefront, is to be clarified according to his directive through our contacting the chief of the Chemical Group, Dr. Kolb. Of essential interest for the concrete handling of the steering of production in the French factories which interest Farben was his reference to the comparatively far-reaching autonomy of the regional offices of the military administration, with which contact must be established as a matter of expediency through the respective Feldkommandantur [military administration headquarters], in order to prevent short circuits from that side. A list of the Feldkommandanturs has been prepared.

(2) *Oberkriegsverwaltungsrat* Bolck (Department of Industrial Economy, Chemical Group-Dr. Kolb)*. The result of the detailed exposition made by Consul General Mann was that our point of view with respect to the treatment of pharmaceuticals was accepted in principle by both gentlemen. With regard to separate items, the following decisive points seem especially worthy of note:

(a) The settling of the pharmaceuticals question through the channels of patent legislation would doubtless be an excellent solution but has the drawback that this solution will probably take a long time to materialize as it is bound up with French legislation and the peace treaty. For this reason, it would seem advisable to seek an interim solution through the channels of private economy.

(b) Considerable difficulties will certainly arise from the fact that Rhône-Poulenc is situated in the unoccupied zone and our chances of gaining influence there are very slight. For this reason, Dr. Kolb suggests that we should endeavor to acquire direct influence both in the occupied and unoccupied zones by the exercise of control over the allocations of raw materials.

(c) A further matter for consideration is the variety of the Rhône-Poulenc production; above all, the fact that Rhône-Poulenc has a positive value also for the Germans in the staple rayon field and through its relations to Rhodiaseta.

The beginning of part-production in this field and in that of various chemicals seems difficult to avoid, especially as German interests have already been emphasized through the visit of State Councillor Schieber.

There results from all this the necessity for particular foresight and for adequate agreement with the other German parties interested. The necessity for contacting Grillet, which was mentioned by Kolb, is of considerable importance in this connection.

Discussion of this complicated situation gives rise to the question whether, as a parallel to the dyestuffs field, a special settlement can be found for Leverkusen through the exclusion of the pharmaceuticals part of Rhône-Poulenc.

(d) The conclusion arrived at from the debate is the recommendation that, in agreement with Ungewitter, connections must be established with Rhône-Poulenc (at whatever appears to be a psychologically suitable moment) in order to come to a sound agreement as regards private economy. Bolck and Kolb are at our disposal to exercise pressure for any such future transactions, should it appear desirable in the course of the development. At the discussions of dyestuffs, which brought up no new points of view, it was announced that objections had been made to the authorization procedure proposed by Neef (see above). In spite of this, for purposes of information,

*Higher official of the Army administration.

Bolck was given the text of the Farben memorandum which had been sent to Neef for the authorization procedure.

With regard to the field of photography, we had been informed that the German Kodak company had intervened with the Propaganda Office at Paris (Langfeld, Berlin). This may bring it, according to all appearances, a revival of the French Kodak company which will run counter to the plans for prohibiting the reopening of the French photographic industry. Discussion of this problem gave no very clear results. Nevertheless, the assurance given by Bolck and Kolb was to the effect that the decision which had been taken, and which must unfortunately be kept secret, would be satisfactory in every way for Farben.

The report which followed on the production of cellophane was answered by Mr. Kolb with the statement that the open prohibition of production superfluous in the present situation could be avoided through a camouflaged procedure which seemed to him more expedient; namely, through the nonallocation of indispensable raw materials (softening agents and solvents), and this would have the effect of preventing the restarting of "La Cellophane."

The following discussion of the transportation question showed that there was perfect willingness to give us comprehensive support. It was agreed that the Farben offices in Paris, which are overburdened as a result of transportation difficulties, should contact the officials in charge of transportation in the Economic Department (von Sussdorf) in order to try and find ways of bringing about adequate relief until the general easing of the transportation question, which may be expected in some 4 weeks' time.

(3) *Chief of Interior Administration, Public Health Service (Dr. Bardenheuer)*. In order to avoid any wrong instructions which might arise from the situation of the pharmaceutical products supply in connection with the regulations of the German agencies in Paris relative to their health policy, the acting chief of this group was informed of the situation of pharmaceuticals and of the ample possibilities for delivery by Leverkusen.

(4) *German Embassy. (a) Legation Counsellor Rahn*. In order to keep the German Embassy currently informed, as it may possibly organize a special economic department to supplement the German agencies which already exist, Legation Counsellor Rahn was informed of the different fields in which Farben is interested.

(b) *Legation Counsellor Gardemann*. Legation Counsellor Dr. Gardemann, who is the member of the Embassy in charge of the working out of agrarian questions, was given the same information with respect to the special problems in this field. Close contact and the transmittal of all particulars was promised.

(5) *Propaganda Office Paris.* In view of the outstanding importance for Agfa of the activity of the Propaganda Office in the sphere of film production, preparation was made for technical consultations by Mr. von Mallinckrodt by establishing contact with the head of the office, Waechter. At the technical consultations of Mallinckrodt, it was seen that the lack of raw film is actually a decisive element for the evaluation of the Kodak situation in France which is to be clarified in Berlin (by means of negotiations with all the agencies involved) in the first week of September. It is to be presumed that the contact which has now been established between Agfa-Paris and Waechter will have created a possibility for stating clearly the interests of Farben in the steering of French film production.

(6) At different negotiations, which were conducted with *Maitre Loncle* among other people, the question of the incorporation of the pharmaceuticals business in France in the SOPI* was stated so clearly from the legal point of view that, after a consultation between Consul General Mann and Mr. von Schnitzler, this incorporation can be effected. Apart from the negotiations already mentioned, all those who took part in the mission had conferences for purposes of information with their business acquaintances and with all the members of Farben who could be reached in Paris. In order to insure helpful cooperation and to derive the utmost benefit from all information which fell into their hands, regular contact was arranged with Farben employees who live in Paris.

From the mass of information gathered at these conferences, the following items are chiefly interesting:

Duchemin is in touch with Kolb and is said to be "reasonable." Thesmar is in Paris and is considered by the German agencies to be "nicer than the Kuhlmann people." Frossard, like Rhein, is in the unoccupied zone in Toulouse.

According to what he says, Frossard cannot enter the occupied zone as he would have to expect trouble in the occupied zone as a "German deserter." Rhein gave, on authority, his opinion that Kuhlmann would shortly "go ahead in great style."

According to the information of the pharmacist whom Dr. Grobel has reengaged from Rhône-Poulenc, both Rhône-Poulenc and Kuhlmann are concerned because Farben has not yet made any attempt to renew connections with them in some way or other.

III. *Conferences in Brussels on 4 September 1940*

1. *Oberkriegsverwaltungsrat Keyser.* Keyser, who was informed of the fundamental interest of Farben, and in particular of the pharmaceuticals situation, pointed out that he was not in a position to take any stand on the separate technical questions of Farben. He sketched

*Société pour l'Importation des Matières Colorantes et des Produits Chimiques.

a picture, however, of the economic-political situation of Belgium at the present time and underlined the importance of the interlocking of the German and Belgian economy which was desired by Reich Marshal Goering in connection with the work of reconstruction.

* * * * *

In addition to these negotiations, conferences were held for purposes of information with—

Legation Counsellor Werkmeister, the delegate of the Foreign Office attached to the Military Commander.

Dr. Flad, the head of the Foreign Commerce Group in the Economic Department Belgium.

Dr. Hartenstein, the head of the section for Belgian Enemy Property.

Sonnenburg, who at the present time is entrusted with investigation work in connection with Belgian industry.

Dr. Bard, Office for Chemical Merchandise, Brussels.

As a result of the conference with Dr. Flad, it was agreed that Dr. Flad should be informed as soon as possible of the wishes which Farben had submitted with respect to customs, and that he should also be informed of the concrete relationship between the production in northern France and the French dyestuffs production in order to facilitate a profitable steering of exports from the territory in northern France to France.

In this connection, it is important that Dr. Bard was advised of Farben's application not to permit, at present, the resumption of production by the French dyestuffs producers.* Dr. Bard has promised to take, in his turn, a negative attitude if the Kuhlmann factories should apply for a license for heavy chemicals for organic factories in the mentioned Départements [administrative regions] in the occupied areas.

IV. Conference in Wiesbaden on 5 September 1940 (*Armistice Delegation for Economic Questions, Minister Hemmen*)

Hemmen, who was kept informed of the results and impressions of the Paris conferences, put himself at our disposal, in principle, for the starting of the negotiations which we had planned in the field of private economy, but he stressed the fact that it would seem advisable to him that, in view of the new situation created in the economic policy towards France as a result of the relaxation of the line of demarcation, the pressure required for our negotiations should develop, so to speak, from the natural course of events as the economic situation in France grew more and more difficult, and not prematurely to any extent through action taken by the Armistice Delegation.

Through references to individual developments of importance (French colonies, coal situation, government crisis in Vichy, et cetera),

*See first paragraph of Document NI-792, Prosecution Exhibit 1242, immediately following.

Hemmen showed clearly that in these circumstances a policy of delay and further waiting on our side until the late autumn or early winter would give us an effective basis for our negotiations.

The following points in his statements are worthy of note:

1. The intention to do away with Reich treasury notes [Reichskassenscheine] and thereby to shift to France the formal responsibility for the shaping of her finances.

2. The statement that we have decided to introduce again the lowest possible tariff into the customs zone on an autonomous basis. Hemmen hopes in this way to activate the necessary exports to France.

To our objection that sometimes even the lowest customs duties are not adequate for large-scale export (for example, of photographic and pharmaceutical articles to France), he requested that Farben should submit a collection of its wishes with regard to customs, together with the reasons for them, so that they could be made use of in further negotiations with the French.

It is important to add to the statements of Hemmen the result of a conversation with the Reich Ministry of Economics, that the introduction of minimum tariffs by the Germans will obviously lead to France also applying minimum tariffs to German exports to France. The final and formal handling of this problem has not yet been completely settled at the present time, but it should be settled in the near future.

14 September 1940.

**TRANSLATION OF DOCUMENT NI-792*
PROSECUTION EXHIBIT 1242**

**LETTER FROM DEFENDANT KUGLER TO DR. TERHAAR, 12 SEPTEMBER
1940, CONCERNING FARBEN'S PROPOSAL TO PREVENT RESUMP-
TION OF FRENCH DYESTUFFS MANUFACTURE FOR THE PRESENT,
AND RELATED MATTERS**

Dr. Jost Terhaar,
Berlin NW 7, Unter den Linden 82

12 September 1940

Dear Dr. Terhaar,

Thank you for your letter of the 9th instant. The file note which you drafted gives an excellent summary of the course and results of the Paris and Brussels meetings. After looking through my own notes I have practically nothing to add. With regard to the "official" part, I would only suggest that you might perhaps mention on page

*Photographic reproduction of this document appears in the appendix.

3 of the Brussels report my conversation with Dr. Bard, of the Reich Office for Chemical Merchandise, Brussels, indicating that this gentleman is competent for economic planning in the Départements of Pas-de-Calais and Nord and that he was informed of Farben's proposal not to permit manufacturing to be resumed in French dyestuffs factories at present. Dr. Bard agreed to reject any applications for heavy chemicals from the Kuhlmann factories in the above-mentioned Départements for organic plants in occupied territory.

I told Mr. von Schnitzler about Consul General Mann's intention of working towards a 51 percent capital participation in connection with the reorganization of our relations with Rhône-Poulenc. The whole subject will be discussed again orally at the next meeting of the Commercial Committee. No doubt you purposely refrained from mentioning the idea of the 51 percent participation in the memorandum.

I wonder whether it would be of interest to insert the following items of private information in the appropriate place (very briefly):

Duchemin has contacted Kolb and is said to be "reasonable." Kolb's opinion of the small percentage of Frenchmen (10 percent) who have genuinely accepted the new conditions and adapted themselves to them.

Thesmar is in Paris and is considered by the German offices to be "nicer than the Kuhlmann people."

Frossard, like Rhein, is in the unoccupied zone—in Toulouse, to be exact. Frossard, according to his statement, cannot enter the occupied zone, as he would have to expect trouble as a "German deserter." Rhein told an informant his opinion that Kuhlmann would soon "go ahead in great style."

Information received from the pharmaceutical expert reengaged by Dr. Grobel from Rhône-Poulenc, according to whom both Rhône-Poulenc and Kuhlmann are worried because Farben has not yet tried to resume the association in any way.

I leave it entirely to your discretion as to whether you add any of these points to the file note, or possibly to a covering letter which will accompany the final text.

With kindest regards,

I remain

Signed: KUGLER

**PARTIAL TRANSLATION OF DOCUMENT NI-6161
PROSECUTION EXHIBIT 369**

**EXTRACTS FROM THE MINUTES OF FARBEN'S COMMERCIAL
COMMITTEE, 25 SEPTEMBER 1940**

Strictly confidential

Minutes of the 36th Meeting of the Commercial Committee on
Wednesday, 25 September 1940, at 9:30 a. m. in Frankfurt/Main

Present:

Geheimrat Schmitz; von Schnitzler, chairman; Buhl; Dencker;
Frank-Fahle; Hanser; von Heider; von der Heyde (temporarily);
Ilgner; von Knieriem; Krueger; Kugler; Kuepper; ter Meer;
Mueller; Oster; Otto; Terhaar; Waibel; Weber-Andreae.

* * * * *
3. France. Referring to the negotiations of Consul General Mann
and the other gentlemen at the end of August and beginning of Sep-
tember in Wiesbaden, Paris, and Brussels, Dr. von Schnitzler reports
on the further development of Franco-German relations, whereby it
is agreed that to begin with, one should adopt a waiting attitude con-
cerning direct negotiations with the French partners.

Dr. von Schnitzler furthermore gives a summary of the reorganiza-
tion of the organic chemical industry in Alsace-Lorraine, while Mr.
Weber-Andreae reports on the inorganic sphere.

* * * * *

Berlin, 27 September 1940
FF/Bs 36/50

Signed: FRANK-FAHLE
Signed: VON SCHNITZLER

**TRANSLATION OF DOCUMENT NI-795
PROSECUTION EXHIBIT 2144**

**LETTER FROM DEFENDANT VON SCHNITZLER TO THE ECONOMIC
GROUP CHEMICAL INDUSTRY, 4 OCTOBER 1940, CONCERNING
PLANS FOR DEALING WITH THE FRENCH PHARMACEUTICAL AND
DYESTUFFS INDUSTRIES**

4 October 1940

Dr. Johannes Hess

Chief of the Economic Group Chemical Industry
Berlin, Sigismundstr. 6

Dear Dr. Hess,

Let me once again express my satisfaction at your decision to join
the Reich Group Industry on their trip to France. In view of the

great interest that at present exists, especially for the chemical industry, with regard to the forthcoming New Order in France, it is of particular importance that an influential representative of that industry participate in this first trip undertaken by the official representatives of industrial economy.

The address of our main agency in Paris is as follows:

“SOPI”, Société pour l’Importation de Matières
Colorantes et des Produits Chimiques, Paris
(16e) 32–34 rue Galilée.

This agency comes at present administratively under the trusteeship of Dr. Hans Kramer who, naturally, will be at your disposal for any information that you may desire. As you know, we have worked out a program in every detail, according to which the future activities of Farben directed towards (and in collaboration with) France should, in our opinion, be coordinated. This program provides for large-scale agreements of private enterprises with French industries, particularly those of dyestuffs and pharmaceutical products. So far, however, we do not think that the time has come to initiate these negotiations—a view shared by both the government and military representatives in Paris, and by Minister Hemmen of the Wiesbaden Armistice Commission. Recently, however, Consul General Mann seems to have the intention, after all, to make a first attempt of contacting the French pharmaceutical industry in Paris. According to my information, he is at this moment on his way to Paris. We Farben people would like to await the outcome of a trip to Switzerland scheduled for next week, since it is our belief that we might get a tip or two during discussions with the Basel dyestuffs industrialists which, in turn, might influence our future tactical conduct during the negotiations to follow. The French group, at present, seems to be under the impression that our government has not yet authorized us to confer with the French industrialists. Should you, therefore, hear of any such remarks made by representatives of the French industry such as Mr. Duchemin, we would be grateful to you if you would just listen to Mr. Duchemin rather than contradict him. This is the situation: In reply to their inquiry as to whether such negotiations of private enterprises were not indicated for the dyestuffs industry, Mr. Hemmen, with our consent, informed the French Armistice Delegation that, prior to recommending the opening of negotiations to German industry, he wished to await the conclusion of negotiations concerning the so-called demarcation line. There is nothing further to add to the problem of France at the present moment.

I sincerely wish you a pleasant and interesting trip and remain, with kind regards, and Heil Hitler,

Respectfully yours
Signed: v. SCHNITZLER

PARTIAL TRANSLATION OF DOCUMENT NI-15228
PROSECUTION EXHIBIT 2142

EXTRACTS FROM A LETTER, SIGNED BY DEFENDANTS SCHNITZLER AND
KUGLER, TO FARBEN'S DR. KRAMER IN PARIS, 8 NOVEMBER 1940

Dr. Hans Kramer

c/o "SOPI"

Paris 16, 32/34 rue Galilée

8 November 1940

* * * * *

Quite apart from the fact that it would not have been very well possible to oppose Mr. Hemmen's desire to have the negotiations take place in Wiesbaden, we should definitely like to welcome this development of the matter as being in our interest. It is quite obvious that our tactical position towards the French will be far stronger if the first fundamental discussion takes place in Germany and, more particularly, at the site of the Armistice Delegation; and if our program as outlined, is presented, so to speak, from official quarters.

We do not know whether you have already mentioned to Ministerialdirektor Michel and the members of his staff that it was our original plan to have the negotiations take place in Paris. Of course, we should like to avoid any ill feelings on the part of the Paris agencies, with which we will have to cooperate closely in the further course of discussions with the French group. We also feel we may assume that the gentlemen will have complete understanding for our complying at once with a wish expressed by the Armistice Delegation, this wish presumably being based on the fact that similar negotiations concerning industries of direct military importance have already been conducted in Wiesbaden, and that the settlement in the dyestuffs field is to serve, to a certain extent, as a pattern for other industrial fields.

* * * * *

Sincerely

I. G. Farbenindustrie Aktiengesellschaft

Signed: v. SCHNITZLER

Signed: KUGLER

**PARTIAL TRANSLATION OF DOCUMENT NI-15232
PROSECUTION EXHIBIT 2146**

**MEMORANDUM BY FARBEN'S DR. KRAMER CONCERNING
DISCUSSIONS IN PARIS ON 13 DECEMBER 1940**

Dr. K/K

13 December 1940
No. 77/D

Memorandum on the discussion with Dr. Michel and Dr. Kolb at the
Hotel Majestic, Paris, on 13 December 1940

Subject: Dyestuffs negotiations

* * * * *
General situation

* * * * *
As far as the steps in the chemicals field are concerned, I reassured myself, on the strength of the export applications that were rejected during the last few days, that the agreement I reached with the competent authorities at the end of last week, is strictly being adhered to. No export of dyestuffs or other chemical products into the unoccupied zone is being approved at present.

[Signed] KRAMER

**PARTIAL TRANSLATION OF DOCUMENT NI-790
PROSECUTION EXHIBIT 2193**

**EXTRACT FROM A LETTER OF DEFENDANT VON SCHNITZLER TO
DEFENDANT SCHMITZ, 21 NOVEMBER 1940, CONCERNING THE
WIESBADEN CONFERENCE**

Frankfurt/Main, 21 November 1940

Geheimrat Dr. Hermann Schmitz
Regina Palast Hotel, Munich

Dear Mr. Schmitz,

We have just returned from the first conference with the French dyestuffs industrialists in Wiesbaden. Thanks to the very methodical and energetic chairmanship of Minister Hemmen, we were able to get down to business at once and shall now hear tomorrow morning what the French dyestuffs industry, represented by Messrs. Duchemin and Thesmar, thinks of our "claim to leadership."

* * * * *
With kind regards

Yours

PARTIAL TRANSLATION OF DOCUMENT NI-15240
PROSECUTION EXHIBIT 2194

EXCERPT FROM RENE P. DUCHEMIN'S BOOK, "HISTORY OF A NEGOTIATION," PARIS 1942, REFERRING TO THE FRANCO-GERMAN NEGOTIATIONS AT WIESBADEN

Extracts from the book by Rene P. Duchemin, "History of a Negotiation,* 21 November 1940-18 November 1941"

Paris, 1942

Annex IV (pp. 81 ff.): Extracts from the French minutes of the Wiesbaden meeting of 22 November 1940

* * * * *

Duchemin: "We did not request the immediate resumption of the 1929 cartel; we only asked for a statement on your part that you consider it to be still in force.

"Since your dictate of yesterday we know that you consider it canceled."

Von Schnitzler: "There was no dictate."

Duchemin: "Please be assured that I am just as much trying to avoid an argument as you are. But I maintain the expression 'dictate.'

"After this has been said, let us return, if it suits you, to your conclusions of yesterday, as amended by your oral statements; that is, to the terms of the alliance you want to impose on us."

* * * * *

Thesmar: "If we renounce all exports, we lose 35-50 percent of our production capacity, including intermediary products."

Von Schnitzler: "Your exports only amounted to 25 percent, not considering the last few years, because French consumption was greatly reduced.

"As a matter of fact, we only want to restrict your exports but not to suppress them entirely.

"It is necessary to normalize the exports; this way, an understanding could be reached concerning certain eastern markets."

Waibel and ter Meer state that this last possibility seems to be very doubtful.

* * * * *

* "Histoire d'une Négociation", Paris, 1942.

TRANSLATION OF DOCUMENT NI-14224
PROSECUTION EXHIBIT 1886

FILE NOTE BY DEFENDANT KUGLER CONCERNING CONFERENCES IN
PARIS IN LATE NOVEMBER 1940

Circulate among:

Dr. von Schnitzler [initial] v S 4/12

Dr. ter Meer

Kommerzienrat Waibel

Dr. Kuepper

Return to Management Department Dyestuffs
Strictly confidential and only for inside use

File Note on the Conferences in Paris on 28, 29, and 30 November 1940
(Dr. Kugler, Dr. Terhaar, Dr. Kramer)

1. *Conference with Ministerialdirigent Dr. Michel and Dr. Kolb.*

The question of the place for the first Franco-German dyestuffs conference was taken up again and still seems to hold a degree of importance for the Paris offices, which makes the individual case in question take on fundamental proportions. Mr. Michel volunteered the information that Mr. Burandt has recently left for Berlin expressly in order to obtain a clarification in the Reich Ministry of Economics as to whether Paris or Wiesbaden is to take precedence. The point of view held in Paris is that, in principle, such negotiations should have their start in Paris, unless the object of the negotiations is to be charged from the outset with political meaning. According to Paris, Wiesbaden would be considered only if such negotiations remained without positive success and if it were necessary to apply political pressure which, as Herr Michel himself declared, Paris is in a position to exercise only on a limited scale.

In the special case of the dyestuffs negotiations, it was all the more regrettable that the first conference took place in Wiesbaden, as the situation had already been prepared and clarified to the greatest extent in line with German ideas, through the negotiations in Paris with Messrs. Duchemin and Frossard. If the conference had taken place in Paris, it would have been simply impossible for the French to begin the negotiations with the thesis of the existence of the Franco-German cartel, and discussion could have started at once on the realization of the "claim to leadership" of Farben. The transfer to Wiesbaden gave the French cause and opportunity for a "change of tactics" and necessarily encouraged the hope in them of achieving something better in "official surroundings" than what had been prepared unofficially, so to speak, in Paris, although it must be admitted that the course taken by the negotiations in Wiesbaden as such was not to be criticized.

Moreover, the prestige of Paris had, unfortunately, been badly prejudiced through the course of events. In the absence of Dr. Michel, Dr. Kolb had heard from M. Blanchard via Lt. Col. Neef that the date had been fixed for 21 November, and had then arranged with Berlin over the telephone about his own part in things so that it would be possible to "save face" at least with regard to the French. Both gentlemen recognized, in the course of discussion, that Farben found itself in a somewhat delicate situation in the whole affair and that it was difficult for it to consider the case from any other angle than that of its intention to remain the object of official decisions. It can be said that the case is to be considered as settled for Farben and that no resentment has remained. Its clarification was aided substantially by a letter which was written by Ministerialdirigent Dr. Bergemann to Dr. Michel and delivered to the latter by Dr. Terhaar.

Dr. Michel certainly expects further conferences to take place in Paris; and this was also proposed, it being pointed out that Wiesbaden considers the private economic conferences as being already under way, and will not make any demands as to where the negotiations shall take place. Wiesbaden must naturally be advised in due time of developments.

In the further course of the conversation, the result of the Wiesbaden negotiation was discussed in detail and the file note of the private economic conference of 22 November was handed over. Neither the account of the discussion of 22 November nor Farben's demands gave rise to any conflicting opinions. Farben's wish for tactical and material support is understood. There is readiness to comply and see that, within the scope of the possibilities given in Paris, the French production facilities at least are not improved, and that no alleviations are offered which might weaken the opponent's will to negotiate and allow him to assume that work could go on for the time being, even without coming to terms with Farben. In underlining the general interest in a speeding-up of the Franco-German dyestuffs conferences, and in the achievement of their positive outcome, special emphasis was laid on the fact that, in the meantime, Farben could not influence French export activities and that there are already indications of disturbances which prejudice German receipts of foreign currency. Dr. Michel promised that in the meantime, in his capacity as Commissioner for Foreign Trade, he would take appropriate measures in this respect.

Dr. Kolb said that he already had proof of the reactions of French industry to the Wiesbaden conferences. In the meantime, he had talked to both M. Blanchard and M. de KapHerr. Farben's demand was described as "*très dur*" [very harsh] and its claim to a majority as strongly affecting the feelings of the nation. However, there was no danger that the French would be dilatory in handling the matter.

On the contrary, the whole question was being discussed with lively interest. It is true that a counterproposal was obviously being weighed on the French side with the idea of preventing the founding of a corporation for production with a German majority and, instead, to promote a sales corporation, with German influence. The origin of this proposal obviously goes back to conversations held on the French side with Rhône-Poulenc and to the suggestion made to the latter firm by Farben under completely different conditions. The fact was stressed, both to Dr. Kolb as well as to Dr. Michel, that such ideas as these for the settlement of the dyestuffs question would necessarily be devoid of interest for Farben, and that the "situation unique" in the dyestuffs field could only be settled by way of participation in production. On the other hand, the situation was such that the proposals which were planned for its settlement could in no way be considered by the French as prejudicial to a third party. It appeared all the more necessary to emphasize this point of view as in the Hotel Majestic¹ there is obviously a certain predilection for such qualified minorities and joint sales corporations, and as the agreement Schieber-Usines du Rhône (30 percent) is looked on as a model in this respect. In this connection, the opposite case is interesting; viz, that Henschel,² by way of private-economic agreements, has acquired the majority in the French railroad engine factory "Somua," and that the requisite application for foreign currency has been approved in the amount of 30 million French francs.

The necessity for a German majority participation in production was further discussed at a dinner with Dr. Kolb on 28 November and at a dinner with Dr. Michel on 29 November (in the presence of Consul General Mann and Director Grobel), and understanding was expressed for this demand. Both Dr. Michel and Dr. Kolb are of the opinion that the realization of Farben's demand might be decisively influenced by the suggestion made to the French that the majority should be acquired in return for a surrender of Farben stock. There is no doubt that such an operation would be appropriate to remove any obstacles and psychological opposition which still exist.

2. *Conference with Reichsbankrat [official of the Reichsbank] Weniger and Diplomingenieur Henko* (until now employed in the administration of the Protectorate in Prague). Both persons work in the military administrative services on the development of the organization of French industry and, in particular, of the distribution of raw materials in the chemical field. They were informed in detail of the results of the Wiesbaden negotiations and were given the file note of 27 November. Tactical and material support was promised here as well, and should be especially successful in this case as, through this

¹ The offices of the German Occupation Forces were located in the Hotel Majestic in Paris.

² Henschel und Sohn G. m. b. H. was a German locomotive company.

channel, the allocation of raw materials for French dyestuffs factories in the occupied zone can be decisively influenced. Moreover, upon termination of organizational preparations, the ultimate supervision of the allocation of raw materials in the chemical sector is said to be vested in Dr. Kolb.

Messrs. Weniger and Henko pointed out that, in view of the prevailing circumstances, it would be useful to confer with the Economic Department in Brussels on the question of drawing chemical preliminary products from the two northern provinces, as this question was so important for the allocation of raw materials. To this end, Dr. Terhaar will return via Brussels and will deliver a special report on the result of the corresponding negotiations in Brussels.

3. *Conference between Dr. Kramer and M. Thesmar on 30 November 1940.* Dr. Kramer asked M. Thesmar for a conference on the pretext of settling a question concerning the Saint-Denis depot. M. Thesmar came to talk about the SOPI. The following points in the conversation are to be noted:

M. Thesmar describes Farben's demand as very far-reaching and qualifies the Wiesbaden conference, as well as the way in which the negotiations were conducted by Minister Hemmen, as very depressing. The thesis of the still-existent Franco-German cartel was brought up in all good faith. It is interesting to note here that, according to what M. Thesmar says, contact was also established in this respect with the Swiss IG which, as far as it was concerned, like the English, would have to consider the cartel as being dissolved on the grounds of official regulations.

At present, the members of the French group are busy examining the whole situation. A profusion of problems has arisen. It is hoped that their attitude will be made known in about two weeks. As to the nature of their attitude, M. Thesmar would not make any statement. In his opinion, it would be advisable that there should be no further meeting for negotiations until January 1941. Dr. Kramer gave his personal advice, that under no circumstances should the German side be allowed to get the impression that the affair was being handled in a dilatory way.

The conversation with M. Thesmar confirmed the suspicion that the idea of a sales corporation is also influenced by the negotiations of Farben with Rhône-Poulenc; for the night before, M. Thesmar had been together with Messrs. Grillet and Bo who had just come from the negotiations with Consul General Mann.

4. *Conference of Dr. Kramer with M. J. Frossard.* M. Frossard has been ill for about 8 days and is at home. Dr. Kramer called on him at his house on the pretext of discussing the settlement of the question of phthalic acid deliveries, and M. Frossard talked fairly openly about

the whole problem of the agreement. Dr. Kolb's suspicion as to the tendency of the French counterproposal is confirmed.

There is agreement with Farben about the necessity for the small factories to disappear but, on the other hand, the German suggestion for the promotion of a single uniform corporation for production is considered to be very complicated and "unpractical." In addition to this, there is hesitation about giving up, officially, the character of a "national" dyestuffs manufacture with a "French head," which would necessarily be the case in the event of a German majority participation in the corporation for production. The German claim to leadership could nevertheless be satisfied also, in his opinion, by way of a sales corporation which would conclude agreement as to sole distribution with the dyestuffs-producing plants of the *Établissements Kuhlmann, et cetera*. Ultimately, production could, in any case, be influenced automatically through sales and, in addition, provisions could be made for a periodic German control of the factories to be effected through the medium of the sales corporation. The sales corporation could also keep the accounts. The sales corporation should be managed by a "Comité de Direction," which, with a German participation of only 50 percent, might be composed possibly of two German representatives and one Frenchman. A settlement of this kind could also, in addition to the private-economic agreement, be given a public guarantee by means of a special government decree. He himself had not taken part in the Wiesbaden negotiations because he was not a member of the French industrial organization. As a result of the new stock corporation law, he had recently become president of Saint-Clair, while at the same time he kept his position in Kuhlmann. He hoped to be able to take part in the further negotiations with Farben. He himself had the deepest comprehension for the attitude of Farben. Not only did he think to a certain extent along German lines because of his origin and education, but he was now facing the fact that Germany had won the war. It was true that not all of his colleagues thought as he did. To these opinions must be added a remark made by Dr. Kolb, according to which Frossard and KapHerr are obviously the persons who are "ready to come to an arrangement," or appear to be so.

Signed: KUGLER

Distribution:

Management Department Dyestuffs, for circulation in Dyestuffs
Steering Committee
Dr. Kugler
Dr. Terhaar
Dr. Kramer

PARTIAL TRANSLATION OF DOCUMENT NI-6727
PROSECUTION EXHIBIT 1246

MEMORANDUM CONCERNING THE MEETING OF REPRESENTATIVES
OF THE GERMAN AND FRENCH DYESTUFFS INDUSTRY BEFORE
MINISTER HEMMEN AT WIESBADEN, ON 21 NOVEMBER 1940

Chemical Meeting held on 21 November 1940 at 11 o'clock

[Initials of]
TER MEER
KUGLER

The following were present:

Minister Dr. Hemmen; Oberregierungsrat Dr. Schoene; Director Hartlieb; Kriegsverwaltungsrat Kolb; Dr. von Schnitzler, Dr. ter Meer, Kommerzienrat Waibel, Dr. Kugler, Dr. Terhaar, of I. G. Farbenindustrie A. G.; Dr. Jekel (Interpreter)

M. Raty; M. Drillien; M. Duchemin (Éts. Kuhlmann); M. Thesmar (St. Denis); M. Castès; General Blanchard; M. Robert (Interpreter)

Minister Hemmen first of all welcomed the representatives of the French dyestuffs industry and recalled General Huntziger's note, dated the beginning of August, stating that the directors of the French coal-tar dyestuffs works desired an opportunity of conferring with the representatives of the German coal-tar dyestuffs industry in order to discuss problems connected with the present position of the industry on a common basis. He had at that time informed General Huntziger, as chairman of the French economic delegation, that he was willing, in principle, to grant this wish, but thought it an unsuitable time to introduce conferences of this kind. In the meantime, on 30 October, he had informed the present chairman of the French delegation, Gouverneur de Boisanger, that he thought the time for these conferences had come. He had done this because the negotiations between the two delegations had made such progress that everything was ready to facilitate traffic across the demarcation line as far as possible in present circumstances. He himself had gone still further and had declared his willingness to allow traffic across the demarcation line forthwith, as far as goods and payments were concerned. All other French claims were to be left open and to be dealt with later according to their wishes.

The above-mentioned note had led to today's meeting, at which he wished to give the representatives of both groups an opportunity of talking over their respective wishes. As the suggestion had come originally from the French side, he thought it appropriate that they should be the first to speak. He would leave it to them to put forward any wishes which they might have, as far as these wishes had been

approved by the French Government, which claimed the leadership of the industrial delegation.

M. Raty, speaking for the representatives of the French dyestuffs industry, expressed his thanks for this welcome, and asked General Blanchard to state the reasons underlying the request, made a month earlier by the French delegation, for a discussion with the representatives of the German dye industry.

General Blanchard referred to an agreement concluded between the German and French coal-tar dyestuffs industries in 1927 after lengthy negotiations, in the course of which every aspect of the problem had been most carefully examined. During the negotiations, Professor Bosch had explained especially that constantly increasing competition on the part of the American dyestuffs industry had compelled the European dyestuffs industry to join forces to fight this American competition effectively. This agreement had been made effective for a period of 40 years, so that it should remain in force until 1968. It had given both parties a share in the whole of the dyestuffs markets in France and abroad, whereby the share allotted to the French industry was approximately 9 percent. A further agreement had been made between the German and French group and the Swiss dye industry in 1929; and England had also joined the triple convention in 1931, when the markets were redistributed among the four countries. This cartel agreement had worked excellently until the outbreak of war; and all the difficulties which invariably arise in connection with such complicated agreements had been overcome, thanks to the good will shown by both sides. The tenth anniversary of the German-French agreement had been celebrated in Paris in 1937; and on that occasion, the German and French representatives had congratulated each other on the spirit of friendly cooperation in which the agreement had been carried out during the periods which had elapsed.

The French industry wished now to resume the collaboration which had worked so well for 13 years. The 1929 and 1931 agreements had ceased to function; firstly, because Switzerland regarded the agreement as cancelled by the war, and secondly, because Britain declared that the war entitled her to regard it as null and void. The French industry, on the other hand, after consulting its legal experts, considered that the cartel agreement of 1927 could be continued, as it had only been in abeyance during the war and could now be resumed when the state of war had come to an end. It had to be admitted that, owing to war conditions, the agreement could no longer be carried out on the same terms as before the war. The new terms between the German and French partners must therefore be jointly examined. In order to do this, the French industry had asked its government for permission to arrange the meeting now being held.

Minister Hemmen asked whether General Blanchard had expressed

the wishes of the French delegation in its entirety, as he had spoken in rather general terms. He would prefer to hear the French views on the subject of how the French dyestuffs industry was to be set going again and how the cartel agreement could be continued.

M. Raty stated that General Blanchard had put forward the desire of the French dyestuffs industry to maintain and continue the cartel agreements, while *M. Duchemin* would state the French point of view with regard to the details of the terms.

M. Duchemin stated that when the Centrale des Matières Colorantes suggested to the French Government in July that a conference with the German dyestuffs industry should be arranged through the Armistice Commission in Wiesbaden, they were under the impression that the occupying power must be contacted at the moment when the plants resumed production. They had also thought that it would be useful to begin discussions with their German colleagues on the basis of the prewar agreement, as they had not considered it void.

He would remind his German colleagues that, although the Swiss dyestuffs industry had withdrawn from the convention and Britain had declared that the war had cancelled it, it had, according to French opinion and French legislation, only been in abeyance. The conditions under which the agreement was to be considered cancelled were defined in precise terms in the two-party agreement of 1927, and it had been settled, just as in the three-party and four-party agreements of 1929 and 1931, that the agreement could only be cancelled by arbitration.

* * * * *

Minister Hemmen declared that, although he did not wish to anticipate the remarks of Director General von Schnitzler, he could not refrain from expressing his astonishment that the French side held the opinion that the cartel agreement still held good and that they had expressed the hope that this cartel agreement would be continued in spite of the political circumstances. As the representative of the German Government, he must point out to the gentlemen of the French dyestuffs industry that political circumstances had arisen in the meantime which had created an entirely new political situation between Germany and France. He would say nothing of the fact that he was aware that some changes had also taken place in economic conditions in France, but he thought that they were taking a good deal for granted in approaching him with a request to uphold an agreement described by a neutral party as invalid and likewise broken by England, with whom Germany was engaged in a life-and-death struggle. Political reasons compelled him to refuse this demand.

M. Raty apologized for not yet allowing Mr. von Schnitzler to speak; but he wanted first to explain at greater length that the French industrialists had not intended to include England in the cartel, but

only to maintain the present relationship of the German and French partners.

Minister Hemmen stressed the fact that the arrival of the French gentlemen with proposals of this kind rendered him speechless. If the negotiations with the German industrialists were to be conducted on this basis, he must say in the name of the German Government that he was unable to conduct such negotiations with the French side. If reference was to be made to the meeting of the two heads of state, he must say that such a reference was out of place. No new policy has so far been adopted; they still based themselves entirely on the Armistice Agreement. He begged them not to introduce political events of this kind to bolster any unjustifiable commercial maneuvers. It was taking a great deal for granted to expect to continue the cartel agreement with Germany when one of the parties had withdrawn and Germany was at war with the other.

Director General von Schnitzler explained that the last thing he had expected was to be met at Wiesbaden with a proposal simply to restore the old cartel. All those concerned knew that the old German-French cartel had been completely merged in the three-party and four-party cartels, and that this world cartel had involved the distribution of world markets in such a way that it was impossible to separate the German-French cartel from the entire complex. The basis for a German-French cartel, therefore, no longer existed. The French dyestuffs industry was acting as if it had observed none of the events which had taken place in the last year. For instance, the German-French cartel aimed at giving French industry an interest in the German market. It was incomprehensible to him how the French side could expect to maintain this interest today. The international agreement was cancelled according to law; the German-French agreement had been rendered invalid by the war.

M. Raty noted these remarks and stated that he would inform his government of the German reply to the French reference to the discussion between the two statesmen. He would also note the German point of view with regard to the collapse of the prewar cartel. It only remained for him to ask the representatives of the German dyestuffs industry for their comments.

Director General Dr. von Schnitzler then read the German memorandum (which will be found in the appendix).

Minister Hemmen then stated that he would have liked to avoid making any reference to the past—and especially to the past of the greater part of the French dyestuffs industry—in these discussions. As that was impossible he would say what had to be said with all due clarity and would address himself in particular to the representatives of the French Government and the representatives of the French dyestuffs industry. Speaking in both his personal and his official ca-

capacity, he would preface all discussions on this matter by stating that he had not the slightest objection to leaving the future of the French dyestuffs industry to be settled by a German-French peace treaty to be concluded in the near future. Should the French side prefer this, he would not oppose it. They would still be at liberty during the intervening period to communicate with the German Military Commander in France with regard to possibilities of working together. He did not know what prospects they would have, nor whether Germany would repeat certain measures which France had forced upon Germany in the Treaty of Versailles; for in that respect, their fate was still in balance. The members of the French delegation must, however, have realized by this time that he himself, in the course of his negotiations at Wiesbaden, had always followed a line which had been much more successful in preserving the true economic interests of both sides on a commercial basis, even before the conclusion of such a peace treaty. The greater part of his efforts hitherto had been devoted to creating normal economic relations on a free basis by means of negotiations, in order to shape the relations between the two countries in accordance with their respective economics and with the actual facts of the situation before the peace treaty came to be negotiated.

It was immediately obvious that this method of procedure, as compared with the method used against Germany by France more than twenty years before, represented an enormous advantage exclusively for the French side. On the other hand, although Germany had, in this respect, shown much more understanding for the French economy, France would have to realize that these discussions could only be conducted on a basis of concrete reality. It was out of place to take, as their starting-point, connections which had been broken off by this disastrous war. If the representatives of the French dyestuffs industry had consulted the government representatives in the French delegation, they would have been informed that even the German-French treaty of 1927 had been cancelled by the war. Why should it be otherwise in the case of individual private legal agreements?

The memorandum read by Director General Dr. von Schnitzler was a sufficient indication of the way in which German industry envisaged collaboration with the French dye industry. As representative of the German Government, he accepted as a matter of course the directives and principles laid down in it, although he himself had also heard it for the first time an hour before. As government representative—and looking at the matter from the point of view of the German Government—he therefore entirely agreed that the representatives of German industry should exchange views on this basis with the representatives of the French industry under the auspices of the Economic Delegation of the German Armistice Commission.

Director General von Schnitzler added that the idea underlying the whole memorandum was that the German dyestuffs industry felt itself called upon by reason of its achievements, both past and present, and the claims which it could lay to the French market, to take the lead in the reconstruction of the French dyestuffs industry. This applied to the technical and commercial leadership as well as to the leadership in general matters. The German dyestuffs industry saw in collaboration of this kind the only solution which was favorable to both the German and French industries, and would allow the French industry, of whose range and variety the German industry was fully informed, to be successfully developed. He saw no reason why the memorandum should not be handed over to the French side so that they might study it in detail.

M. Duchemin said that, in accordance with the German wishes, he would not refer to the past, but that while listening to Mr. von Schnitzler he was strongly reminded of the negotiations which had led to the conclusion of the 1927 agreement. In that case, too, the legal consultations of both parties had led to entirely opposite results. Now that Germany's intentions were known, however, it was easier for them to work on the future. He thought it best to examine the memorandum in detail first and to renew the contact afterwards, in agreement with the German Government.

M. Raty observed that the German memorandum contained a certain number of general conditions laid down by the German dyestuffs industry to regulate future collaboration with the French industry. During the oral explanations, however, a new idea had been added which did not appear in the memorandum: the claim for German general leadership with regard to the French dyestuffs industry. As he thought that this idea would have to be more precisely formulated, he would like to ask whether this could be done now or whether it must be held over for another discussion later.

Director General von Schnitzler dealt with this question immediately. As his first point, he stated that—in agreement with the members of the French group—French *production* would be arranged in the way best adapted to the market situation. Secondly, it was intended to allow the French industry to retain their *domestic market*, as it had hitherto done, allowing the German industry to export only odd lots [Spitzensortiment] into France, while the French industry was to supply mainly its own market and the French colonial market. The *export* of goods was, in principle, to be undertaken only in exceptional cases and in certain directions, in agreement with the German industry, so that there should be no overlapping in prices or in the sales organization. He was of the opinion that the German industry should have a direct *financial* interest in the French industry within the scope of the development as a whole. With regard to *sales*, he must

say in conclusion that these must also be organized within France itself in such a way as to work smoothly and in close collaboration with Farben's organization in Paris, so that friendly intercourse between the members might insure that no overlapping took place in the case of the customers either.

Minister Hemmen emphasized that the proposal made by the German chemical industry was understandable in connection with the economic rehabilitation of Europe; he would confirm its dominant position, but would at the same time give the French dyestuffs industry, on the one hand, the possibility of continued work and development and, on the other hand, eliminate for the future the difficulties described in the memorandum. At the same time, there must be cooperation from production to sales, so that those branches of production for which favorable conditions existed in France could be continued and promoted, and others, which were working under less favorable conditions, could be left to Farben. Whereas formerly all these industries had been fully developed in each country, the new economic order in Europe had brought with it a return to the classic principles of economic theory, according to which all branches of production should not be carried on in each country, but only those which could be produced there to the best advantage. Germany had no wish to destroy, although today it was in a position to do so. As a dyestuffs industry existed on French territory, however, and its workers must be kept in employment, there was no intention at present of making such difficulties that these workers would be thrown out of employment. If this French dyestuffs industry was to go on working, however, it could be fitted into the new organization of Europe as a whole. This demand was only reasonable in view of Farben's world interests, and the French industry should not be surprised by these proposals, which allowed it to continue to function and made it an efficient and useful part of the organization as a whole, although they deprived it of the possibility of making use of contracts as before in order to compete with German industry and squeeze it out of certain markets.

This was the line which he had hitherto followed in Wiesbaden, not only in the sector of the dyestuffs industry, but in a series of efforts which he had made in the economic sphere generally; and he would continue to follow that line. He wished the German and French economy to work together and for the same end; to borrow a word from a French statesman, he wanted "cooperation"! The meeting of the two statesmen in Mentoire must be viewed in this light, and not as meaning that the magnificent efforts of the two statesmen were to be exploited for the sake of obtaining a petty commercial advantage. This was his opinion, since the chairman of the French sub-committee attached such importance to transmitting it to his gov-

ernment. He knew that his interpretation of the meeting of the two statesmen was identical with that of the German Government.

Considered from the angle of a coming peace treaty, the German proposal was favorable to the French side; he assumed that it had also been made in Farben's financial interests, as it excluded competition. As he regarded the whole question, however, as part of the wider problem of building up in the future a European economy on a continent-wide scale, he would warmly welcome the achievement of an agreement in the sphere of dyestuffs production which could serve as a model for further negotiations now aimed at between the more important German and French industries, and he would congratulate them on reaching such an agreement. The dyestuffs sphere possessed the advantage that production was centralized on both sides on uniform principles and under uniform leadership. This should make it correspondingly easier to reach, by means of negotiations, an agreement which would work well for both countries. With this in mind, he wished them every success in their discussions, which were for the time being to be left entirely to the two industries without any participation by the government.

M. Raty confirmed that the commercial framework outlined in the German memorandum could certainly form a basis for the experts' negotiations. With regard to capital participation in the French companies, he would remind them of the French note, in which the leader of the French delegation had pointed out that negotiations of this kind on the part of representatives of the two governments must be carefully watched, and asked whether both these questions, the capital participation and the commercial arrangement of the sales organization, should be taken together.

Minister Hemmen replied that he could see no reason why he should have been concerned in his capacity as representative of the German Government if the proposals of the German dyestuffs industry were not intended to be more than purely commercial negotiations. He was in full agreement with the attitude of the French Government with regard to the demand that the negotiations in connection with German participation in French industry be conducted under the auspices of the Armistice Economic Delegation. He had regarded the Wiesbaden discussions in this light from the first, as the view held by the German members was that organized collaboration between two industries of such magnitude was only possible on the basis of some form of combination of capital. He thought it proper, therefore, that the representatives of industry on both sides should discuss matters personally after the first general and official comments had been made. These gentlemen had dealt with each other for decades, possessed exact knowledge of the requirements of their industries and all other details concerned with them and, as they were meeting as business men, they

would, no doubt, very soon realize the opportunities for collaboration which existed. Many details would still have to be discussed in the field of distribution of production and distribution of markets, as technical questions were concerned here. With regard to the claims of the German dyestuffs industry to leadership, the economic representatives would have to discuss the question of what steps should be taken to revive both industries. The length to which German participation should go was a matter which must be settled purely by reasons of commercial expediency. He himself was not sufficiently informed on these matters, so he would propose that the economic representatives should contact each other in a subcommittee meeting within the framework of the negotiations arranged by the government. Should they fail to make progress, a fresh meeting of all the members under the leadership of the two governments could be called. If, however, positive results were achieved, then these results would have to be investigated within the scope of the government negotiations; and it would therefore be the task of both governments to pass judgment on them and to decide whether both governments could sanction what the economists thought possible and right. His own task here was to ascertain whether both governments could agree to the industrialists' proposals, or whether they would have to make still further demands. He gave only general directives to the German representatives; otherwise he left them complete freedom. In so doing, he acted in strict accordance with the wishes of both governments, which had stated that the agreements made by the industrialists must receive their express sanction.

In conclusion, it was decided that the industrialists should meet on the following day for direct contact.

The proceedings adjourned at 12:55.

Dr. Schoene

[Handwritten note] After reading the foregoing 12 pages—and judging from the whole arrangement, the kind of type and the technical formulation—I have no doubt that this is a carbon copy of the record made by Dr. Jekel from the stenographic notes of the meeting held on 21 November 1940.

Nuernberg, 20 June 1947

[Signed] DR. SCHOENE

**PARTIAL TRANSLATION OF DOCUMENT NI-15238
PROSECUTION EXHIBIT 2147**

**LETTER OF DEFENDANT KUGLER CONCERNING DEVELOPMENTS IN THE
NEGOTIATIONS WITH THE FRENCH, 18 FEBRUARY 1941**

18 February 1941

Dr. Hans Kramer
Army Postal No. 06661

Dear Dr. Kramer,

Unfortunately, we had no chance to talk to each other during your last stay at Frankfurt. Your report of 14 February got here this morning via Berlin. Director Otto had already conveyed the contents to Dr. von Schnitzler (by telephone yesterday), so that in our usual Monday discussion we could discuss the present state of affairs. For your private information, we have, in any event, set aside the week beginning 10 March for a trip to Paris. Whether the trip will take place, will now depend on whether M. Blanchard intervenes at Vichy, and whether Vichy will grant its approval for a German majority participation. Your attitude toward the French group which you have shown in the present interim stage, was, by the way, approved in all respects.

Let us hope, therefore, not only from a business angle, but also to a certain extent from a private angle, that the Paris trip can take place at the beginning of March.

* * * * *
Thanking you very much for your friendly efforts, and with kindest regards, I am

Yours
Signed: KUGLER

**TRANSLATION OF DOCUMENT NI-15222
PROSECUTION EXHIBIT 2148**

**FARBEN FILE NOTE ON A CONVERSATION WITH DR. KRAMER, 6
MARCH 1941, CONCERNING THE ATTITUDE OF FRENCH OFFICIALS
TO FARBEN'S CLAIM TO A 51 PERCENT PARTICIPATION IN
FRANCOLOR**

File note on a telephone conversation with Dr. Kramer on 6 March
1941, 16:30 *

Dr. Kramer reports that he spoke to Minister of Production Pucheux. The Minister of Production rejects a 51 percent par-

*This document bears no mark to indicate the author. It was located in the I. G. Farben Control Office of the Records Building at Griesheim, in a folder marked "Main Points of the Francolor Contract" [Hauptakten des Francolor-Vertrages].

ticipation. The countersuggestion of the Ministry of Production is: 45 percent German group, 45 percent French group, 10 percent French government. For its 10 percent participation, the French Government demands to be represented in the Aufsichtsrat.

Dr. Kramer has stated that the countersuggestion is not acceptable. Farben, he said, must insist on a 51 percent participation; as a maximum concession, points 2 and 3 could be granted in accordance with the discussions of 2 March. Under the circumstances, Dr. Kramer does not consider it expedient to conduct the contemplated negotiations. He feels it is necessary first to put the French agencies under pressure before taking up further discussions.

Dr. Kramer will transmit a written report to Frankfurt through either Mr. Mack of the firm Lanz-Mannheim, or Mr. Fischer of the firm Zeiss-Jena; these gentlemen will arrive in Frankfurt on the Paris train on 7 March, at 12 o'clock.

**TRANSLATION OF DOCUMENT NI-15227
PROSECUTION EXHIBIT 2196**

**COPY OF A LETTER FROM DEFENDANT VON SCHNITZLER TO MINISTER
HEMMEN, 17 MARCH 1941**

Copy of a Letter to Minister Dr. Hemmen, Dated 17 March 1941

Dear Minister,

Will you please allow me to come back to the conversation we just had at the Potsdamer Bahnhof [railroad station in Berlin].

The result of the negotiations with the French dyestuffs industry has fully met our demands. According to my sincere convictions, this would never have been accomplished had not the Reich agencies in both Wiesbaden and Paris helped and advised us in so outstanding a way. Under these circumstances, it would be most embarrassing for us if any discord between the Reich agencies were to overshadow the whole affair. The entire matter has developed so automatically that one could really not speak of interference by the Paris authorities in a pending procedure.

Wiesbaden had recommended to us to make the trip since Vichy had approved of our program, and since there was only one not exactly definable detail concerning the question of the "eternal" French president which needed clarification. But during the first discussion with the French group, we found out that they did not yet know anything about such approval by Vichy, but that Vichy was considering a compromise suggestion, according to which the French State would be included as third participant with a share of 10 percent, while the other two groups were to receive 45 percent each.

We declared that this suggestion was unacceptable, and recom-

mended the French group to take up the matter with their government in order to eliminate the last obstacle to an understanding. Mr. Duchemin then asked us to declare our preparedness to talk to the French Government representatives together with him and his colleagues. I declared that I would only be able to do that in the presence of representatives of our own government. Mr. Duchemin thereupon went to see Mr. Barnaud and Mr. Pucheux. Those two, in their turn, called upon Mr. Michel, and thus, at the request of the *French*, the final discussion took place in the presence of representatives of both governments.

I believe that I have herewith informed you about all important matters on the course the Paris negotiations took. I should be happy if the results were equally welcomed by all quarters as accomplished by the joint efforts of both government and private economy.

Signed Signature

[Handwritten] v. SCHNITZLER

**PARTIAL TRANSLATION OF DOCUMENT NI-15220
PROSECUTION EXHIBIT 2153**

**EXTRACTS FROM A LETTER OF DEFENDANT KUGLER TO DEFENDANT
VON SCHNITZLER, 12 MAY 1941**

12 May 1941

[Handwritten notes]

- | | |
|---------------------------------|---|
| a. Correct translation? | 1. Trip, Dencker - Wallenborn
ter Meer |
| b. Number of excerpts complete? | 2. Distribute evaluating data |
| | 3. Work on reduction (?) |
| | 4. Collate bylaws |

Dear Mr. von Schnitzler :

I. On Saturday, Dr. Kramer got here from Paris and brought with him the new version of the "Convention" and the bylaws. He also brought along translations of those parts of the Loehr draft that were handed over to the French in Paris, together with remarks; and also various other documents, details of which appear from the memorandum [bordereau] attached to Mr. Frossard's letter of the 9th addressed to you, which is enclosed herewith. Dr. Kramer simultaneously submitted a file note on a discussion which he had with Mr. Duchemin on the 8th—paragraph 3 of the note likewise refers to the bylaws and the draft of the agreement. Copy of the file note is also enclosed herewith.

This morning, in a first reading in a small circle (Kuepper, Rospatt, Loehr, Eckert, Kramer) we sifted the final version of the French, including their remarks concerning the parts of the Loehr draft that were given to them; we also compared these with our own notes of the last meeting in Paris. This, unfortunately, completely confirmed the

impression which was conveyed by Mr. Frossard's letter to you of the 9th, and by paragraph 3 of Mr. Kramer's file note of the 8th on the discussion with Mr. Duchemin. The French are going back on practically all matters which are essential for us, and on which we thought an agreement had been reached more or less, at the end of April. This particularly applies to the following:

1. The question of the transfer and the functioning of the chemical field. (The French now make a restriction to the effect that not everything in the line of organic chemicals at present being manufactured in the Francolor plants is to be transferred to Francolor; that the parent companies are not willing to enter into a competition clause; and that, altogether, the management of production and sales is solely to be vested in the president, excluding the competence of the Verwaltungsrat.)

2. In accordance with the statements made by Mr. Duchemin to Dr. Kramer, the field of development has been newly outlined (under completely different angles) in the remarks of the French concerning the Loehr draft.

3. As far as the question of deliveries of preliminary products by the parent companies or St. Gobain is concerned, the French countersuggestion contemplates settling this question in such a way that one can put it in this short form: All duties, but no rights and securities for Francolor.

4. The field of activity of both the Technical Committee and the Commercial Committee is being limited, and both committees are being converted to mere advisory committees. [Handwritten marginal note: Where "claim to leadership"?)

5. In a new formulation, which is a countersuggestion to the paragraph on Francolor's sales (7,000 tons, et cetera), as dictated by you in Paris, the attempt is being made above all to mitigate substantially the fundamental export prohibition.

6. The question of the relief of the president by the Conseil [board] instead of by the general stockholders' meeting, has been recently raised.

This only covers the most essential points. The trend appearing from all this can be summarized to the effect that the French are trying everything in order to limit the activities of Francolor to the dyestuffs field only, and to reserve for the parent companies a development of their own in the chemicals field or in the field of evolution respectively. After his discussion with Mr. Duchemin, Mr. Frossard had a conversation with Dr. Kramer in which he explicitly stressed that the wording of various countersuggestions does not express his opinion. He also described in vivid terms his difficult position, especially during the last few days. In any event, it seems that within the parent companies, and more particularly within Kuhlmann, certain

forces seem to have gained momentum which are trying to prevent the weight of the whole organic sector from being shifted to Francolor. These forces also try to forestall an alleged hegemony of Farben in the non-dyestuffs field. Thus, in our next meeting, we will have to tackle anew these problems—while it had seemed, during our last discussion, that it would be comparatively easy to bridge any resistance anticipated in this connection.

Our ideas as to further procedure are that we again convene the day after tomorrow, in order to take up the countersuggestions of the French and to prepare a complete new draft of the "Convention," incorporating therein that part which is already settled. Upon your return, this draft would first have to be discussed internally with Dr. ter Meer and Mr. Waibel. I assume that it meets with your approval if I dispense with sending you the agreement data A-C, especially in view of the fact that these have to be mimeographed first.

The other data mentioned in the memorandum, referring to the evaluation of the total object, will hardly be usable in the present form. A certain clue can be derived from the turnover data which refer to the previous years (in present francs), and which show a total turnover for the dyestuffs field and for the chemicals field of about 800 million francs—40 million reichsmarks. The data concerning the evaluation of plants, real estate and buildings, however, are not usable in this form. They proceeded on the cost prices which, for all properties combined, are said to have been 500 million francs "tel quel." Using index figures which have not been designated in any detail—or a gold calculation, respectively—the following "rectified values" are arrived at:

920 million
1,100 million, and
1,670 million

In our first discussion today we contemplated suggesting to Dr. ter Meer that, upon his return next Thursday, Messrs. Dencker and Wallenborn go to Paris at the beginning of next week in order to have a discussion with the French, together with the three technicians who are over there anyhow at the present time. This way, they could clarify, at first, the calculation method on which evaluation is based. Thereupon, they could try to prepare the data which would bring us nearer to the "actual value" and which thus could be made the basis of a price settlement. In view of the state of the negotiations about the wording of the agreement as described in the beginning, it seems unlikely that final discussions, or the signing of the contract will be achieved in the week of 16 June. Precautions should be taken, however, so that it will not become necessary to take up and discuss, in Paris, the elementary foundations of the evaluation. I, therefore,

trust that the contemplated suggestion to Dr. ter Meer will meet with your approval.

* * * * *

I am, with kind regards

Yours

Signed: KUGLER

cc: Eckert

Kramer

Circulate: ter Meer, Waibel, Kuepper

**PARTIAL TRANSLATION OF DOCUMENT NI-15224
PROSECUTION EXHIBIT 2143**

**EXTRACTS FROM A LETTER OF DEFENDANT VON SCHNITZLER TO
DEFENDANT KUGLER, 13 MAY 1941**

Bad Kissingen, 13 May 1941

Dear Dr. Kugler:

I immediately answer your friendly lines of yesterday's date [Prosecution Exhibit No. 2153, Document NI-15220]. I am not surprised at the fact that the French afterwards became afraid of their own courage, and did not swallow, right away, the "claim to leadership" in the field of chemicals and of new products. I had also expected a counterproposal for the "commercial part"; I would appreciate receiving the exact wording of this suggestion. But it certainly is quite a presumption if they now try again to come back to the matter of the "revocation" of the president. The meeting of 16 June will thus be, in the first place, a second reading; in view of the innate suspicion of the French, this could not have been any other way.

I fully agree that, in continuing the internal work, you follow the goal of separating "settled" and "unsettled" questions, so that we will be in a position, in the week of 26 May, to have a preliminary picture of the status of the matter. It will then be possible to determine, in the week after Whitsuntide when all of us will be present, the final wording as desired by us. It would be advisable if, as far as the French are concerned, we just refer to the fact that a preliminary examination of their new suggestion has shown that it contains fundamental deviations and changes as compared with what was discussed in Paris, and that we leave it to the new negotiations, to start on 16 June, to clarify and settle the situation.

Your plan to send Mr. Dencker to Paris is, in my opinion, not without risk.

The calculations, which the French have worked out for a possible evaluation, are entirely erroneous in their set-up and result. Therefore, in my opinion, any discussion of them on the part of our first

accountant might possibly give to these figures a prejudicial recognition which may be very embarrassing later on. [Handwritten marginal note]: "actual value" to be determined.

My main objection which I want to state, in the first place, is that assets are indiscriminately added up, without any consideration of the fact whether they have been written off or not. For instance, it is not proper to show, in this compilation, all expenses for equipment up to and including 1931; the same applied to all assets which have become obsolete through lapse of time or technical progress and which, therefore, do not represent any potential value for a going concern. It will be sufficient, however, if Mr. Wallenborn tells the French all this and many other things. If Dr. ter Meer agrees that Mr. Wallenborn tries, from a technical angle, to bring some sort of clarification into this turmoil of figures, this might entail a certain benefit though not a decisive one.

* * * * *

[Signature] G. v. SCHNITZLER

**TRANSLATION OF DOCUMENT NI-6957
PROSECUTION EXHIBIT 1885**

**EXTRACTS FROM THE RECORD OF A FARBEN CONFERENCE ON THE
FRANCOLOR AGREEMENT, 22 MAY 1941**

Minutes of a Conference held in Frankfurt/Main on 22 May 1941

Those present were: Dr. ter Meer, Dr. Struss, Dr. Hoyer, von Heider, Borgwardt, Flotho, Dr. Prentzel, Ohliger

Subject: Francolor agreement

Dr. ter Meer started by explaining the fundamental idea on which we based our first proposals for the agreement. We intended, through Francolor, to collaborate on a grand scale in building up a modern chemical industry. Not only dyestuffs, intermediates, and dyestuffs auxiliary products, but also the organic chemicals which happened to be produced in the parent companies, were to be Francolor monopolies.

The French counterproposals to regulate the manufacture and sale of products belonging to the "chemical field," in which they had, in principle, reserved all rights to themselves, compel us, however, to deviate from our original idea.

As Kuhlmann and Saint-Denis are unwilling simply to turn their chemical production over to Francolor, we must also reserve to ourselves the maximum freedom in the "chemical field."

In principle, both sides are to be allowed freedom with regard to *inorganic chemicals*. Francolor is to be bound to remain outside the

field of inorganic chemistry, except in the case of products for its own requirements.

There is no large production of inorganic chemicals by the parent companies. Saint-Denis manufacture sulfate hydrochloric acid, sodium sulfate and sodium sulfide mainly for its own use; zinc sulfate and zinc chloride only for sale. Villers-St. Paul manufactures chlorine, solution of caustic soda and hypochlorite for its own use.

With regard to products intended for sale, our attitude towards possible agreements with the French firms will not be influenced by the fact that these companies are our partners in Francolor.

In the "*chemical field*" which, owing to the diversity of products which it covers, is to be described as "produits divers" in the draft of our new government, a solution must be found appropriate to the nature of the separate products or groups of products. There is, above all, as a result of the French counterproposals, no longer any reason to assign the sale of the products of the "chemical field" unreservedly to Kuhlmann and/or St. Denis, as provided in our first proposals for an agreement.

In our new negotiations with the French, we shall take the point of view that we are naturally unable to transfer to Kuhlmann and St. Denis the sales of those chemicals in which they are in competition with Francolor.

The inclusion of SOPI for the sale of certain products cannot be discussed with the French at present. This question, is, however, to be brought up for discussion by us at a later date.

No mention is to be made in the agreement of the importation of the products in the "chemical field" from Germany to France, so that we may retain our freedom of decision in this respect. The agreement will also not hinder us in principle—at least, as far as the "chemical field" is concerned—from combining in any form with third party French enterprises. In deliberating on cases of this kind, the interests of our subsidiary company Francolor must, of course, receive the first consideration.

Some of the problems arising in connection with the "chemical field" are defined in the following paragraphs:

Vulcanization accelerators, antioxidants

Our demand aims at obtaining a leading position for Francolor (in connection with these products) by making it responsible not only for the sale of its own products, but also for that of the large output of St. Denis. It must be admitted that this proposal will be unpopular with St. Denis, as the vulcanization accelerator is one of its main fields of production today, and we must make up our minds at once to assign the sale of Francolor products to St. Denis. In this case, however, we shall demand that the sale of new products, for example,

the AZ products (special buna accelerator) to be introduced by us to Francolor in the future, be assigned to Francolor or possibly SOPL.

Vinyl resins, vinylchloride, polyvinylchloride

These are parent company products still in the experimental stage. We shall reserve to ourselves full freedom in this field, and shall not, in the meantime, introduce any of our experience or our processes into Francolor. In any case, we shall reserve the right to decide whether we shall supply the demands of the French market by importing or producing jointly with other French firms.

Phenolic resins and lithic resins [Harnstoffharze]

We cannot demand the transfer of production of phenolic resin from Kuhlmann to Francolor; but we intend to try to reserve the manufacture of lithic resins solely for Francolor. In this way, the Kaurit glue business could be developed in Francolor without the restrictions imposed by competition.

Intermediate products will be regarded as Francolor monopolies in full conformity with the treatment of dyestuffs and auxiliary product. Where exceptions must be made—as in the case of phthalic acid, monochloroacetic acid, benzaldehyde, paradichlorobenzene, et cetera, each case must be negotiated separately. For instance, phthalic acid is an intermediate product of which only insignificant quantities are required by Farben. As a result of the backwardness of the French lacquer production in comparison with the modernity of its chemical work (France hitherto had ample quantities of oil at its disposal), the demand for phthalic acid for plasticizing agents and phthalic resin is at present negligible. Even now, however, it is clear that a change is impending. In this case, Kuhlmann could make a claim at the appropriate time to cover the increased demand for phthalic acid themselves. It is more than doubtful if we could refuse to consider Kuhlmann's wishes with regard to this product, which is of importance to manufacturers of organic chemicals. Dr. ter Meer would be inclined, in certain circumstances, to allow Kuhlmann to participate in the phthalic acid production. In that case, of course, we should not assign the sale of Francolor products to Kuhlmann; both manufacturers would handle sales, either in competition with each other or on the basis of agreements regulating the market.

In principle, the intermediates will be sold by Francolor:

1. In France, the French colonies, and in mandated territories only.
2. Not to dealers.
3. Exports to take place only with our agreement, if at all.

We must be very cautious in framing the clause concerning *technical assistance*—and this applies to the whole field covered by the agree-

ment. Farben will not enter into any binding obligation to render technical assistance, but will, rather, reserve the right to decide each case separately. When in the course of time, the Francolor plants have become completely separated from the parent companies in both technical and personnel respects, thus affording a guarantee that processes and experience in the possession of Francolor cannot be diverted to the parent companies, then this clause may be treated more liberally.

The condition laid down in the first draft of the agreement, to the effect that Francolor is entitled to transfer production to other localities within Francolor and to develop production further, will be included in our new proposals for an agreement. This contractual stipulation is intended to exclude the possibility of demands from the parent companies (in cases where Francolor decides to close down plants in order to erect them under better conditions elsewhere) that production be transferred to their own plant.

The dyestuffs Sparte originally intended to include Mulhouse and Dornach in the Francolor agreement. This intention was abandoned, however, as it would have rendered our position with regard to Francolor more difficult, and we considered this undesirable.

In the sphere of dyestuffs and auxiliary products, the French are restricted (by the agreement) to the French market and export to Belgium and Spain, so that they will no longer compete with the dyestuffs Sparte in any other markets.

Pharmaceutical products are not included in Francolor's assignments.

[Handwritten initial] OH [Ohliger]

Ffm., 26.5.1941

Oh/Hz

**PARTIAL TRANSLATION OF DOCUMENT NI-15219
PROSECUTION EXHIBIT 2149**

**EXTRACT FROM A FARBEN FILE NOTE CONCERNING THE TESTIMONY
OF THE PROPOSED FRANCOLOR CONVENTION, 13 JUNE 1941**

Paris, 13 June 1941

Result of the Conferences between Dr. Kuepper and Maîtres Loncle*
and Fockenberghé on 12, 13 and 14 June 1941

* * * * *

III. Maître Loncle has considerable misgivings about the text of the preamble [to the Francolor agreement] (exposé). The preamble lays too much stress on the fact that the French Government surrendered participation in the French dyestuffs industry after protracted negotiations and at the wish of the German Government; that is to say, to a certain extent under pressure. Maître Loncle fears

*A Farben representative in Paris.

that a change in the conditions might open the possibility for the French group to "annul the Convention." These apprehensions I had already expressed myself. Maître Loncle refers also to the *clausula rebus sic stantibus*. The preamble as it now stands might in any case prove of great disadvantage to us. In its place, he would suggest the following wording for the preamble: "After various negotiations which have lasted several months and with the full accord of the German and French Governments, the following agreement being established on the 3 following points": Then come the 3 known points which are at the bottom of page 3 and at the top of page 4 of the draft.

* * * * *

[Signed] DR. KUEPPER

**PARTIAL TRANSLATION OF DOCUMENT NI-15218
PROSECUTION EXHIBIT 2150**

**EXTRACT FROM A MEMORANDUM OF DR. KUEPPER TO DEFENDANTS
VON SCHNITZLER, TER MEER, KUGLER, AND OTHERS, 1 JULY 1941,
CONCERNING THE PREAMBLE OF THE PROPOSED FRANCOLOR
AGREEMENT**

[Handwritten note]

Compared with new version of 15 July 1941
Frankfurt/M., 1 July 1941

To: Dr. von Schnitzler
Dr. ter Meer
Kommerzienrat Waibel
Dr. Kugler
Eckert
Dr. Loehr
Dr. Kramer

Subject: France—Agreement

Dr. Kramer reported that Maître Loncle still has considerable misgivings about the "exposé" (preamble) remaining in the [Francolor] Convention. The following is to be noted in this respect:

It is no doubt desirable that the "exposé" in its present form should be eliminated from the Convention, if only for the reason that, whenever the Convention is being referred to, the attention is drawn again and again to its history, which is unpleasant for the French. Dr. Kramer therefore suggested that the elimination of the "exposé" should be effected, not through private economic negotiations but via the staff of Michel, on the grounds that it is considered undesirable by the German Government.

Should this not succeed, the following must be said from the purely legal point of view:

As the present version stands, the Articles are independent of the Convention. Legally, the corporation is promoted first and then, subsequent to the promotion, agreements are made between the partners. The reasons for collaboration, which are very sharply defined in the "exposé," may, under certain conditions, with a change of circumstances, cause the French group to demand the termination of the Convention. Then the Convention will collapse but the corporation will stand. Should the Convention, however, continue to stand, it will bring important advantages to the French group. Thus, there is little to incite the French group to denounce the Convention for the reasons mentioned above. The corporation itself can only be dissolved against our will by a legislative act which would constitute a plainly hostile action. The question whether, according to French law, a stock corporation can be dissolved for some important reason and whether, in certain circumstances, a change in political conditions would constitute such an important reason, has yet to be clarified with Maître Loncle. (Cf. Art. 1871, Civil Code.) From the legal point of view, therefore, the misgivings of Maître Loncle do not carry much weight. There is also the fact that the previous history is not only revealed by the "exposé" but can also be proved at any time by the declarations of witnesses. Should it be impossible, therefore, to have the "exposé" struck out, we can still accommodate ourselves to the situation legally.

* * * * *
 [Signed] DR. KUEPPER

**PARTIAL TRANSLATION OF DOCUMENT NI-8077
 PROSECUTION EXHIBIT 1177**

**EXTRACT FROM THE MINUTES OF THE MEETING OF FARBEN'S MAN-
 AGING BOARD, 10 JULY 1941, CONCERNING DEFENDANT VON
 SCHNITZLER'S REPORT ON THE SUCCESSFUL CONCLUSION OF THE
 FRANCOLOR NEGOTIATIONS**

*Minutes of the 26th Meeting of the Vorstand on 10 July 1941, at
 0930 hours in Frankfurt A. M., Grueneburgplatz*

The meeting was attended by all the members of the Vorstand, with the exception of Messrs. Brueggemann, Weber-Andrae; Buergin, Jacobi, ter Meer (came in the afternoon). Dencker was present in the morning.

* * * * *

11. *Commercial committee*

Von Schnitzler gave a report on the negotiations which had been successfully concluded with respect to "Francolor"; from the capital of "Francolor," which amounts to 800,000,000 francs, the IG will take over 51 percent in return for the ceding of IG shares, reckoned at a

rate of 160 percent. Consequently, at the official rate of exchange of reichsmarks; francs (1:20), the IG must hand over 12,750,000 reichsmarks in nominal IG shares.

**PARTIAL TRANSLATION OF DOCUMENT NI-14175
PROSECUTION EXHIBIT 1883**

**EXTRACT FROM A LETTER WRITTEN BY FARBEN'S LAWYER, MAÎTRE
LONCLE TO FARBEN'S PARIS REPRESENTATIVE, DR. KRAMER, 14
JULY 1941, CONCERNING THE FRANCOLOR AGREEMENT**

Sté Francolor

* * * * *

Article 11—Paragraph 1

[Handwritten remark] No.*

Maitre Decugis requests that after the words "nor to favor such an enterprise in any way whatsoever" the following provision be inserted:

"However, this undertaking does not restrict the liberty of the French contracting corporations to invest capital in enterprises having their activities abroad."

It would seem that this provision only serves to make more clear the intentions of the contracting parties who, at the last conference, had consented to add the word "actively" in the sentence which said that French corporations should not participate in other enterprises.

**PARTIAL TRANSLATION OF DOCUMENT NI-6845
PROSECUTION EXHIBIT 1255**

EXTRACTS FROM THE FRANCOLOR CONVENTION, 18 NOVEMBER 1941

Contract between the undersigned companies

1. The Cie Nationale de Matières Colorantes et Manufactures de Produits Chimiques du Nord réunies—Établissements Kuhlmann, situated in Paris, 11, Rue de la Baume, hereinafter called "Kuhlmann," represented by Mr. R. P. Duchemin, authorized to act in this matter by decision of the board of management, dated 12 July 1941.

2. The Société Anonyme des Matières Colorantes et Produits Chimiques de Saint-Denis, situated in Paris, 69, Rue de Miromesnil, hereinafter called "Saint-Denis," represented by Mr. G. Thesmar, authorized to act in this manner by decision of the board of management, dated 24 September, 1941.

3. The Cie Francaise de Produits Chimiques et Matières Colorantes de Saint-Clair-du-Rhône, situated in Paris, 143, Boulevard Haussmann, hereinafter called "Saint-Clair", represented by Mr. J.

*The defendant ter Meer testified that he wrote this "No" on the margin. (Tr., p. 7224.)

Frossard, authorized to act in this matter by decision of the board of management, dated 9 July, 1941.

designated "Le Groupe Francais" [The French Group], on the one side,

and I. G. Farbenindustrie Aktiengesellschaft, situated at Frankfurt on Main, hereinafter called IG, on the other side.

The following has been laid down and agreed upon:

Preamble

The negotiations between the contracting parties entered upon with a view to concluding the present agreement were commenced at Wiesbaden on 21 November 1940 between the representatives of the undersigned parties in the presence of the representatives of the French and German Governments.

The German representatives indicated from the outset that the cartel agreements previously in existence between the undersigned parties were to be considered invalid in view of events which had occurred during the war. The French representatives then observed that, in accordance with the terms of French legislation then in force, agreements previously concluded between the French and the Germans were simply suspended for the duration of hostilities, but not abrogated, and that an express abrogation appeared necessary in order that the old agreements might be replaced by new ones. The German representatives, maintaining their point of view, considered that there was no necessity to have recourse to arbitration as provided for by the aforementioned agreements concluded previously, designed to resolve the problem of whether the agreements were still valid. They requested the French representatives to acknowledge their control of a 51 percent interest in the capital of a French Société Anonyme comprising all the French dyestuffs factories and enjoying a monopoly of the production rights for these products in France. They submitted a memorandum indicating their reasons for claiming majority rights (Fuehrungsansprueche) in the French dyestuffs industry.

The French representatives replied that, despite their desire to reach a friendly agreement, they could not subscribe to the German views on this subject and that they would refer the matter to the French Government.

The discussions were resumed in Paris on 20 January 1941. The IG representatives then stated that they had modified their original proposals, and offered to pay the German investments in the new company not in kind but in IG shares.

On the occasion of a third interview in Paris on 12 March 1941, IG stated that it renounced the right to a monopoly in France of production rights for dyestuffs in the future Company.

During a meeting held on 12 March 1941, convened and presided

over by Dr. Michel, Chief of War Administration, in which other representatives of the Military Commander of France and the representatives of the French Government participated, the Delegate General to the Franco-German Economic Relations Commission gave his consent to the admission of 51 percent IG interest, the agreement having been based on the three following points:

1. The President of the new company shall always be a Frenchman and his appointment shall take place by common consent of the two groups concerned.

2. Each group shall have the right to nominate the same number of administrative officials. The election of these officials shall be carried out by the general meeting on the nominations of the two parties.

In accordance with paragraph 1, the president to be elected shall be among those nominated by the French Group.

The Military Commander sees no reason why the arrangements decided upon in paragraphs 1 and 2 above should not be permanently established by French law.

3. On the German side, no demand for majority interest in any branch of French industry shall be made on the grounds of the precedent established by the present agreement, this regulation constituting a unique case, by virtue of the history of the development of the agreement and of existing technical and commercial factors.

Implementing the agreement described above, the parties are agreed on the draft of the statutes of a French Société Anonyme, the title of which shall be "FRANCOLOR," with a capital of 800 million francs divided into 80,000 shares of 10,000 francs each.

In consequence of this agreement on the constitution of this company, the parties have decided to conclude the contract which follows. The French Government is to recognize the legality of the terms both of the above-mentioned statutes and of the present contract, which may be contrary to present or future laws of France.

* * * * *

SECTION II. CONSTITUTION OF THE FRANCOLOR

Article 1: Annulment of Cartel Agreements

The parties declare invalid so far as they are concerned, with effect from 1 September 1939, the Franco-German Cartel Agreements concluded on 27 April 1927, 23 July 1931 and 15 November 1938 between IG, on the one side, and the seven French Companies of which Kuhlmann, Saint-Denis and Saint-Clair are signatories of the present contract and of which the remaining four are:

1. Société Durand & Huguenin, Huningue (incorporated in the meantime into Établissements Kuhlmann);

2. Société des Produits Chimiques et Matières Colorantes de Mulhouse;

3. Établissements Steiner, Vernon :

4. Société Anonyme pour l'Industrie Chimique de Mulhous-Dornach, on the other side.

The French Group guarantees that the signature of these three latter companies to the agreement will be obtained.

The Franco-German-Swiss Cartel Agreement, known as the "Tripartite Agreement," concluded at Basel on 27 April 1929, and the cartel agreement signed in London on 26 February 1932 between the signatories of the Continental Dyestuffs Cartel Agreement consisting of the German, French and Swiss Groups, on the one side, and the Imperial Chemical Industries Limited, London, on the other side, shall be considered invalid in view of the declarations made by the Swiss Group and by I. C. I.

The French Group itself undertakes to bring about the annulment of the Franco-Swiss Cartel Agreement of 27 April 1929 and guarantees to the new company to assume full responsibility for this matter.

Article 2: IG Investments

Kuhlmann, Saint-Denis, and Saint-Clair jointly undertake to retrocede to IG 40,000 Francolor shares due to IG in payment for IG shares, thus putting IG in possession of 51 percent of the share capital. This retrocession shall take place immediately after the acceptance of the final constitution of Francolor.

Article 3: Payment for FRANCOLOR shares by IG

The Inalienability of IG shares. IG shall pay for the Francolor shares which are thus sold to it by the transfer to the companies of the French Group of 12,750 IG shares with a nominal value of 1,000 reichsmarks each, current issue. These shares shall be assigned as follows:

- 1. to Kuhlmann..... 7,770 shares
- 2. to Saint-Denis..... 3,442 shares
- 3. to Saint-Clair..... 1,530 shares

The French Group undertakes not to dispose of in any way, nor mortgage, the IG shares of which the present agreement puts them in possession. Transfers may, nevertheless, be effected within the French Group.

Article 4: Working Capital

The working capital of the Francolor shall be provided up to the amount of 400 million francs by means of advances on current account, yielding interest at the rate of 6 percent per annum, in proportion to the contribution made by each of the contracting parties to the capital.

* * * * *

SECTION III. ORGANIZATION OF THE FRANCOLOR

Article 6: President

The contracting parties are agreed upon the immediate appointment of M. J. Frossard as the first president of the Francolor.

Article 7: Managers

The following shall be the first managers: Messrs. (1) H. Kramer, (2) M. Fockenberghé, (3) G. Vieillard, (4) B. Ledoux.

Article 8: Technical and Commercial Committees

A technical committee and a commercial committee shall be formed to serve in an advisory capacity, to each of which three delegates shall be sent by Francolor and three by IG. Meetings of these committees shall be held regularly. The president of Francolor shall, if he is present, preside over the meetings of the committee; in his absence, the chair shall be taken by the delegate nominated by IG.

The members of the administrative board of Francolor shall be authorized to participate in the discussions of the committees. The committees shall be at liberty to hold open meetings. They shall be allowed to invite to their meetings experts of Francolor or of IG.

All information and documents necessary for the accomplishment of their work shall be put at the disposal of the members of the technical and commercial committees. In particular, the members of the technical committee shall have at their disposal information connected with the calculation of production costs, and those of the commercial committee shall have access to commercial statistics, data on sales profit, sales costs, et cetera—these figures to be established according to products and countries concerned.

* * * * *

Article 11: Noncompetitive clause for the French Group

For the entire period of the existence of Francolor, Kuhlmann, Saint-Denis, and Saint-Clair undertake, vis-à-vis IG and vis-à-vis Francolor, not to engage in any activity in France, in her colonies and protectorates or abroad, whether directly or indirectly, concerning the manufacture or sale of products within the province of dyestuffs, nor to participate actively in an enterprise engaged in the manufacture or sale of these products, nor to assist such an enterprise in any way at all. Kuhlmann, Saint-Denis, and Saint-Clair shall see to it, and stand surety, that the firms Mabboux et Camell at Lyons, the Société des Matières Colorantes de Croix-Wasquehal (Burel) at Roubaix and at Rieme-Ertvelde, shall accept a similar undertaking vis-à-vis Francolor and IG.

As for the Établissements Steiner at Vernon, in which no member of the French Group has any interest, a special agreement to the same effect shall operate between the Établissements Steiner and Francolor.

Kuhlmann, Saint-Clair, and Saint-Denis undertake additionally vis-à-vis Francolor and the IG, to demand a corresponding pledge, if possible, for a period of three years, on the part of those of their representative offices in France or abroad, sales agencies, et cetera, which will not be taken back by Francolor. Kuhlmann, Saint-Clair, and Saint-Denis will see to it, and stand surety, that the firms Établissements Steiner at Vernon, Mabboux et Camell, at Lyons, Société des Matières Colorantes de Croix-Wasquehal (Burel) at Roubaix and Rieme-Ertvelde, demand a corresponding pledge, if possible, from their representative offices in France and abroad.

The costs of these provisions shall be settled by common agreement and borne by Francolor.

* * * * *

SECTION V. SUNDRY CLAUSES

Article 22: Stoppage of various factories

The factories of Mabboux et Camell at Lyons, and of the Société des Matières Colorantes of Croix-Wasquehal (Burel) at Roubaix and Rieme-Ertvelde, belonging to the companies of the French Group, will be purely and simply stopped, so far as concerns manufactures in the field of dyestuffs. The Steiner factories at Vernon shall cease the manufacture of products in the field of dyestuffs, all the charges for these measures being borne, after previous agreement, by the Francolor.

The indemnities payable to dismissed staff shall be fixed in accordance with French laws and in conformity with the collective agreements in force and with the practice of the different companies concerned. The costs of this shall be borne by Francolor.

* * * * *

Article 23: Duration of the Agreement

The duration of the present agreement will be that of Francolor.

Article 29: Modifications

The dispositions of the present agreement can always be modified by agreement between all the parties and the Société Francolor.

Paris, 18 November 1941

I. G. Farbenindustrie Aktiengesellschaft

Signed: G. VON SCHNITZLER

F. TER MEER

Cie Nationale de Matières Colorantes et Manufactures de
Produits Chimiques du Nord Réunion—Établissements
KUHLMANN

Signed: R. P. DUCHEMIN

Sté Anonyme de Matières Colorantes et Produits
Chimiques de SAINT-DENIS

Signed: G. THESMAR

Cie Française de Produits Chimiques et Matières Color-
antes de SAINT-CLAIR-DU-RHÔNE

Signed: J. FROSSARD

**TRANSLATION OF DOCUMENT NI-14119
PROSECUTION EXHIBIT 1907**

**EXTRACTS FROM A LETTER OF THE ECONOMIC DEPARTMENT OF THE
MILITARY COMMANDER IN FRANCE, 13 FEBRUARY 1942, CON-
CERNING THE TRANSFER OF FARBEN PRODUCTION FOR GERMAN
ARMED FORCES REQUIREMENTS TO THE FRANCOLOR PLANTS**

Copy

The Military Commander in France
Administrative Staff, Economic Department
Economy II/G 1 (Chemistry)

Paris, 13 February 1942

To the Reich Ministry of Economics, Chemistry Department

Attention: Ministerialdirigent Dr. Mulert

Berlin W 8, Behrenstrasse 43

Subject: Chemical Industry in France

At a conference which took place on 5 February in the Economic Department of the Military Commander with leaders of the I. G. Farbenindustrie, new suggestions were made by I. G. Farben for the transfer of both the direct and indirect requirements of the Armed Forces to plants belonging to Francolor. These suggestions were based on the fact that in the big, highly mechanized, German IG plants, where synthetic benzine or buna are produced, and where, for reasons important to the war economy, only German workers can be employed, there is a disturbing lack of such specialized workers. On

the other hand, it is natural that a certain number of especially reliable German workers should remain in the less mechanized plants which at the present moment are chiefly filled with foreign workers.

The I. G. Farbenindustrie then examined Francolor plants to see whether it would be possible to develop other products there which were important for the war effort but which did not have to be kept especially secret. It was found that, from the point of view of the labor question and of the means available in the way of apparatus, there is every possibility of making a transfer of production from Germany to France.

The discussion of 5 February, however, showed that there is a series of obstacles to hold up the plan of I. G. Farben: for example, general measures are under way to remove a still greater number of workers from France for employment in Germany, and those Francolor workers who are free at the time will be included among them.

In addition, there are difficulties in procuring the necessary raw materials, although some of them, for example, urea, could be delivered by I. G. Farben from Germany. For the procuring of benzene and/or naphthalene derivatives, formaldehyde, et cetera, the possibilities must be examined for an increase of production in the Départements which would come under consideration, namely the Nord and the Pas-de-Calais. This question will be the subject of suggestions made by I. G. Farben to the Military Commander in Belgium and Northern France, who is competent for the above-mentioned regions.

The chief obstacle to the execution of the plan lies in the guaranteeing of the requisite quantities of coal, which, according to careful estimates, would amount to an additional 5,000 tons per month. It is out of the question that this quantity should be derived from the amounts allocated to the French economy, which are already totally insufficient.

The suggestions of I. G. Farben concern the following products chiefly:

a. For the direct needs of the Armed Forces:

Centralite.....	14 tons per month
Diphenylamine.....	34 tons per month
Nitronaphthalene.....	100 tons per month
Dinitrochlorobenzene.....	200 tons per month
Pentaerythrite M.....	50 tons per month
Hexamethylenetetramine.....	100 tons per month

b. For the indirect needs of the Armed Forces:

Kaurit glue.....	500 tons per month
Alkyd resins.....	50-100 tons per month
Phenol resins.....	110 tons per month
Monochloroacetic acid.....	25 tons per month

Pigment green.....	10-20 tons per month
Phenylbetanaphthylamine.....	70 tons per month
Vulcanization accelerators.....	25 tons per month
Ramasit.....	50 tons per month
Phenol.....	50 tons per month

As far as the direct needs of the Armed Forces are concerned, the I. G. Farbenindustrie is following a suggestion made by General of the Artillery Leeb in the Army Ordnance Office. The I. G. Farbenindustrie hopes that with the aid of the Army Ordnance Office it will be able to fulfill the prerequisites with regard to coal, in order to carry out the suggestions.

Hesitation as to the employment of workmen of the Francolor group who have either nothing or not enough to do, thereby preventing their employment in Germany, can be overcome by the consideration that French workmen are being released from IG plants.

The question of the guaranteeing of chemical raw materials is still the object of discussions at the moment between the special department for chemistry [Referat Chemie] and the local representatives of I. G. Farbenindustrie. When various details have been clarified, direct contact will be established, if necessary, with the special department for chemistry in Brussels.

Copies are attached for the information of the chief of the Army Ordnance Office and the Reich Office for Chemistry.

For the Military Commander
Chief of the Administrative Staff

BY ORDER:

Signed: DR. MICHEL

**TRANSLATION OF DOCUMENT NI-14089
PROSECUTION EXHIBIT 1908**

LETTER FROM DEFENDANT AMBROS TO COLONEL BECHT, HIGH COMMAND OF THE WEHRMACHT, 16 APRIL 1942, CONCERNING DIFFICULTIES INVOLVED IN THE TRANSFER OF FARBEN WAR PRODUCTION FROM GERMANY TO FRANCE (FRANCOLOR)

Dr. Otto Ambros

Member of Vorstand of I. G. Farbenindustrie A. G.

To the High Command of the Armed Forces

Attention: Colonel Becht

Berlin W 62, Kurfuerstenstrasse

Dear Colonel,

On Saturday 11 April, after a meeting at the Reich Office of Economic Development with Oberregierungsbaurat Dr. Mureck, I had the opportunity also to discuss the question of the transfer of I. G.

manufacturers to Francolor. By way of introduction, I pointed out that the suggestion for these transfers was made through the competent Ministries a year ago, and that the affair has recently become especially urgent because of the well-known difficulties as regards the allocation of labor. The number of foreigners from every conceivable country whom we have to employ in plants and on the erection of machinery, at the present moment, is so high that, with the shortage of regular personnel, it requires a special effort on the part of the German workman to control them. The further recruitments which are to follow will only aggravate the situation.

We achieved the best cooperation, especially in the technical plants, with the French civilian workers. Unfortunately, in the last few weeks, the latter have shown a tendency to want to return to France, which is to be attributed to the effects of the new food-rations and the adjustment of their wages to the German tariffs. For French civilian workmen the attraction of coming to Germany is on the wane. At home, the workman lives with his family; and in France, especially, he has numerous possibilities for procuring food supplies from relatives in the country. Consequently, it is an immensely difficult task for our officials who are in charge of the employment of labor, to recruit these workers who are so important for us, and to keep them.

However convincingly these reflections speak in favor of a transfer to Francolor, we nevertheless realize seriously we must estimate the great difficulties with regard to coal supplies in the occupied territory. We hear that a plan is under consideration to deliver to the Francolor plants all the coal which theoretically is set free in our own plants by the transfer of manufactures. We are quite prepared to fall in with this idea. But it is necessary to point out that the increase of war production in all our plants brings with it bigger requirements of coal.

In this connection, we will refer only to the example of the Ludwigs-hafen factory which is particularly interested in a transfer of manufactures involving a greater intensity of work on account of the buna production which is to start there this year. Special endeavors must be made here to guarantee the greater requirements which are to be expected as regards coal for the production of power and coke for the production of carbide, so that the buna plant and the other armament plants attached to it are able to hold out in the coming winter. In previous planning we had hoped, for example, that when we set the buna manufacture going we should be able to close down our first ethylene oxide plant. The new armament programs, however, enjoin us not only to keep these manufactures going in addition to the new plants, but also to expand them on a basis which is independent of alcohol. These new orders imply a further increase of our coal requirements. In spite of everything, in our negotiations for the

distribution of coal we are endeavoring to give consideration as far as possible to your idea of an allocation of certain quantities of coal to Francolor.

In order to alleviate our manufacture as rapidly as possible, and in response to the direct and indirect armament needs, we have cut down our original production program and thus reduced requirements to the amount of 2,000 tons. In order to utilize the coal to the fullest, we have, above all, entrusted the factories of Villers and St. Denis with these tasks. In addition to the pure raw materials for the production of powder and for stabilizers, we have also listed manufactures which are of decisive importance; for example, for the rubber supply and lacquer sector and, consequently, for all three branches of the Wehrmacht.

In accordance with the above we are forwarding you a table of productions as planned for the coming period—*Summer program 1942*.

On the occasion of the technical discussions which have taken place in the last few days in Paris, we were able to obtain confirmation of our opinion as to the appropriateness of the transfer. As regards apparatus, the Francolor production centers we have mentioned are well suited to start these manufactures. The majority of the workers, who have been trained for years in these industries, live in the neighborhood of the factories and have records to their credit which, owing to the comparatively favorable standard of living, are comparable to those of our own skilled workers.

We are therefore firmly convinced that a transfer of all productions which involve a special intensity of work can be carried out as rapidly and effectively as possible.

I would request your support, Sir, in our endeavors, so that there may be a simultaneous and large-scale release of our own German labor for plants for the fuel, buna, and gunpowder program which are of decisive military importance.

Heil Hitler!

I remain yours obediently

Signed: DR. O. AMBROS

[Distribution List]

Ministerialdirigent Dr. Mulert, Reich Ministry of Economics

Colonel Letis, at present High Command of the Armed Forces

Major Schulz, Military Commander, France

Lieutenant Dr. Lederle, U 4855

Director Dr. ter Meer, Frankfurt a/Main

Director Dr. von Schnitzler

Director Dr. Wenk, Leverkusen

Dr. Kramer, Paris

Dr. Roell, Ludwigshafen

Enclosure

Summer Program 1942

	Product in tons				Coal in tons
	Villers St. Paul	St. Denis	Oisiel	St. Clair du Rhone	
Mononitronaphthalene.....		125			100
Mononitronaphthalene.....				125	100
Diphenylamine.....		34			205
Centralite.....		20			200
Phenyl-beta-naphthylamine.....		75			260
Accelerator G and D.....		25			120
Kaurit.....	300				300
Monochloroacetic acid.....	25				33
Formaldehyde.....	400				400
Alkydals.....	100				14
Dinitrochlorobenzene for Dianisol in Wolfen.....			120	80	232
Total.....					1,964

[Handwritten]
In June 1942

**TRANSLATION OF DOCUMENT NI-14245
PROSECUTION EXHIBIT 1910**

FARBEN LETTER, SIGNED BY DEFENDANT AMBROS, TO THE HIGH COMMAND OF THE WEHRMACHT, 8 MAY 1942, CONCERNING THE FRANCOLOR PROGRAM*

I. G. Farbenindustrie Aktiengesellschaft Ludwigshafen [Rhine]
Intermediates Group

Copy: Director Dr. Ambros
Director Dr. Wenk
Director Dr. Hoyer

To the High Command of the Armed Forces
Attention: Oberregierungsbaurat Dr. Mureck
Berlin W 35, Tirpitzufer 72-76

Secret

Files 74, Military Economics and Armaments Office/Ro [Raw Materials Department] III No. 4269/42 g 8 May 1942
TK/FC/Dr Roe/S

*The enclosure to this document was the "Summer Program 1942," the same enclosure which appears at the end of the last document reproduced above.

Francolor Program

Dear Dr. Mureck,

We acknowledge receipt of your letter of the 5th instant to Director Dr. Ambros concerning the coal allocation which has now been fixed for the work program of the Francolor plants. The manufacturing program which has been drawn up in accordance with our suggestions to Brigadier General Becht will, in consequence, be started without delay. We also ascertained from your letter that there is increased interest in France in additional phenol production, and we note that your opinion is correct when you estimate the efficiency of the phenol plant in Oissel at a monthly capacity of 700 tons. We will consult with Francolor without delay and find out up to what point the plant in Oissel is ready for operation, also under what conditions manufacture can be taken up again. Primarily it is necessary to clarify in what way the raw materials which are needed can be procured, such as benzene, sulfuric acid, and caustic soda.

We hope to be able to submit these particulars to you as soon as possible.

Heil Hitler!

I. G. Farbenindustrie Aktiengesellschaft

Signed: AMBROS

Signed: as deputy, ROELL

**TRANSLATION OF DOCUMENT NI-15233
PROSECUTION EXHIBIT 2197**

**FARBEN MEMORANDUM ON DELIVERIES OF PRODUCTS OF FRENCH
PLANTS, 21 SEPTEMBER 1942**

I. G. Frankfurt Sales Combine Chemicals

To: Director Dr. Kugler, in the building

Prokurist Eckert, in the building

Our References Report No. Frankfurt/Main
Borgwardt Office Bgt/Kz 21 September 1942

Subject: Francolor

The Paris discussions of 17 September have resulted in a clarification of all matters in question. The Wehrmacht deliveries in centralite, diphenylamine, alpha-mononitronaphthalene, dinitrochlorobenzene, and Alkydal will be directly accounted for between the Wehrmacht agencies and Francolor.

As far as *accelerators and phenylbetanaphthylamine deliveries to Farben* are concerned, *new prices and delivery terms*, as well as new quantities, were agreed upon.

There also took place a *preliminary discussion* for an *agreement between* Saint-Denis and SOPI on certain accelerator transactions in France. There will be further negotiations on this matter between SOPI and Saint-Denis, on the strength of directives which I gave to Mr. Post.

[Signed] BORGWARDT

**PARTIAL TRANSLATION OF DOCUMENT NI-4845
PROSECUTION EXHIBIT 1887**

**EXTRACTS FROM THE MINUTES OF A MEETING OF FARBEN'S ENLARGED
DYESTUFFS COMMITTEE CONCERNING FRANCOLOR, 20 OCTOBER
1942**

No. 242

*Minutes of the Meeting of the Enlarged Dyestuffs Committee on 20
October 1942*

The following were present: Dr. v. Schnitzler; Kommerzienrat Waibel; Dr. Kugler; Herr Koehler; Dr. Kuepper; Herr von Bruening; Herr Ecker; Herr Jungbluth; Dr. Kessler; Dr. Nuesslein; Dr. Overhoff; Herr Pabst; Dr. Pflaumer; Herr Schwab; Herr Voight; Herr Weigandt; Dr. Wingler; and also Dr. Struss

* * * * *

4. *Francolor*

The following report was issued of the meeting held by the Comité Commercial [Commercial Committee (Francolor)] on 6 October 1942 and of that of the Conseil d'Administration [administrative board] on 7 October 1942.

The course taken by the production and turnover of Francolor may be termed satisfactory, considering the difficulties which are known to exist with respect to fuel. Francolor was guaranteed definite assistance by the assurance that, for intermediary products, et cetera, it could be supplied with orders to fill German Wehrmacht requirements. In addition, the Francolor production will now be turned to account for manufactures for the Kehrl-Schieber plan.

The situation as regards profits is also satisfactory. This fact and considerations in general make it possible to foresee that Francolor will pay out a dividend in 1942 already.

Admittedly, this would presuppose a deviation from the provisions contained in the agreement for the granting of credits to plants. The parent companies in Francolor are reducing their credits to plants to the amount put forward by IG. The sums which are then still needed by the plants are borrowed by Francolor directly from French banks at a favorable rate of interest.

* * * * *

[Signed] v. SCHNITZLER

3. TESTIMONY OF DEFENDANT TER MEER (FIRST PART)

EXTRACTS FROM THE TESTIMONY OF DEFENDANT TER MEER ¹

CROSS-EXAMINATION ²

* * * * *
MR. SPEECHER: Now, you say that you are not a lawyer, Dr. ter Meer. Technically, I suppose, that is true, but you studied law for several years, did you not?

DEFENDANT TER MEER: No, I registered for law one semester in a university, but unfortunately I attended only two lectures during the semester. Then I studied chemistry.

Q. During your internship in your father's factory, didn't you study commercial legal matters at his request?

A. If you confine the expression "commercial legal matters" to mean cartel contracts, conventions, and perhaps a license agreement now and then—then you are right. I do know such contracts.

Q. Now, the Francolor Convention is in evidence as Prosecution Exhibit 1255,³ Document NI-6845, Book 58, English page 35, German page 41. Now, Article 11 forbids the French firms who are parties to the Francolor agreement to participate either directly or indirectly in the production or sale of dyestuffs products, apart, of course, from the arrangements of the convention.

Do you recall that the French firms wanted to be permitted to acquire financial participation in enterprises outside of France?

A. You mean that the French enterprises who participated in the Francolor Convention wanted to acquire participations in foreign firms?

Q. That is right.

A. I don't know what you have in mind. Would you perhaps point it out to me.

Q. Indeed. Is it not a fact that you personally intervened against the French request to be permitted to acquire financial participations outside of France?

A. Is that mentioned in the document?

Q. No, no, I haven't given you any document about that matter. I am just asking you the question.

A. I thought since you referred to this document, page 41, I must say quite frankly that I do not know what this question has to do

¹ Further extracts are reproduced above in subsection C 6, below in subsections D 6, E 4, and section IX F 2, and earlier in section VII C 5b, E 3, G 3, H 4b, I 7c, J 4, K 3a, L 3d, M 3, and O 7a in volume VII, this series.

² As explained in 1 above, the first examination of defendant ter Meer concerning spoliation was conducted during cross-examination by the prosecution for the reason that the Tribunal had approved a request of ter Meer's counsel that his direct examination on this subject be deferred until a later stage of the case. The later direct examination of defendant ter Meer is reproduced in 6 below.

³ Reproduced in 2 above.

with the negotiations regarding Francolor, because participation abroad was not even under discussion.

Q. Well, perhaps it will refresh your recollection if I show you Document NI-14175 which will become Prosecution Exhibit 1883.¹ This is a letter from your then Paris representative, Attorney Loncle, to Mr. Kramer, which is dated 14 July 1941. We shall show you the French original text, and for your convenience and for the convenience of defense counsel, a German translation of the paragraph we have in mind has been prepared. Will you turn to page 3 of the French original copy, Dr. ter Meer. Is the M. Decugis the representative of the French parties there?

A. Yes, I believe that Decugis was the representative of the French group, but I don't recall that.

Q. Now, I would like to read the appropriate entry there concerning Article 11 of the Francolor Convention which was under discussion in this letter where Decugis requested that after the words "nor to favor such an enterprise in any way whatsoever," the following provision should be inserted, "However, this undertaking does not restrict the liberty of the French contracting corporations to invest capital in the enterprises having their activities abroad." Now, my question is rather simple. Isn't the "nein," "no," which is written in the margin just to the left in your handwriting?

A. Yes, undoubtedly that is so.

Q. Now, the Francolor Convention was dated 18 November 1941. That's in evidence as Document NI-6845, Prosecution Exhibit 1255?² The Charter of Francolor, which is Exhibit 1256,³ Document NI-6886 is dated 18 December 1941. Now, Dr. Kuepper testified here that the French representative or lawyers drew up many technical points of the Charter of Francolor. Now, may I ask you this; did not your deputy, Loehr, the Deputy Chief of the TEA Office, draw up a draft of the Francolor Convention as early as April 1941?

A. Yes, Dr. Loehr undertook on my behalf to work out those particular clauses dealing with the transfer of know-how, patents, and regulations dealing with these things.

Q. Didn't the provisions of his proposal go a good deal beyond "know-how" and patents?

A. I believe secrecy matters were also included, the obligations of certain employees to keep matters secret. He took the contract of Trafford Park as the model contract—the one we concluded with I. C. I.—and he applied those clauses to a great extent to the Francolor agreement. I gave him that mission at the time.

Q. Now, I will show you Document NI-14176 which will become

¹ Reproduced in part in 2 above.

² *Ibid.*

³ Not reproduced herein.

Prosecution Exhibit 1884,¹ which is a memorandum of the TEA Office dated 25 April 1941. Please turn to Paragraph 5 on page 8 of this document. Now, isn't it true that the whole question of the restriction of the powers of the president of the French concern, Francolor, which was to be set up, is shown to have been decided, so far as Farben was concerned, as early as 25 April 1941?

A. Yes, the draft of this contract apparently was worked out in the TEA office on 25 April. It bears a number of corrections and remarks of mine.

Q. Now, even before the Francolor Convention was signed, do you recall that in conferences within Farben you, yourself, referred to Francolor as a Farben subsidiary?

A. I don't remember that, but it's possible that I made such a remark.

Q. Now, as to the technical assistance to be given to Francolor, which is mentioned in the various agreements, do you recall that you personally took the following position at an internal Farben conference of May 1941 and I quote:

"We must be very cautious in framing the clause concerning the technical assistance—and this applies to the whole field covered by the agreement. Farben will not enter into any binding obligation to render technical assistance, but will rather reserve the right to decide each case separately. When, in the course of time, the Francolor plants have become completely separated from the parent companies in both technical and personnel respects, thus affording a guarantee that process and experience in the possession of Francolor cannot be diverted to the parents companies, then this clause may be treated less rigorously."

Do you recall that as being the product of your own mind and hand?

A. Yes, I consider that quite possible.

Q. I will show you NI-6957 which will become Prosecution Exhibit 1885.² This is a protocol of a conference presided over by you in which your statement is recorded. Do you have any question about it now?

A. Yes, this needs some more explanation, because the technical assistance for those products which are the main products of the Francolor contract are not concerned here, but only those products outside the main field. This discussion took place with the people from the chemicals department who wanted to know how this collaboration was to be conducted outside the dyestuffs field with the Francolor, or parent company, and the other French firms. I remember this conference very well. I believe I explained it to the gentlemen very explicitly.

¹ Not reproduced herein.

² Reproduced in 2 above.

Q. Doctor, look at the part that I quoted to you a minute ago where it says in the first line "and this applies to the whole field covered by the agreement."

A. Yes, that's right but, nevertheless, what I just said is also correct, namely the fact that this conference, in particular, dealt with those fields outside the dyestuffs field. Moreover, the preliminary discussion in May is not important, but what is important, is what was actually included in the contract later. Furthermore, it would have to be considered what we actually did after the contract was concluded in regard to transfer of know-how and patent rights.

Q. Now, with respect to Exhibit 1257, Document NI-6537,* Book 58, English Page 123, German Page 124, an affidavit of your own, you state there that, according to your recollection, the German military government as well as the Ministry of Economics gave every support to I. G. Farben. Now, did the idea originate with you, or did it originate with the military authorities that efforts should be made in France by the military authorities and the German Government authorities to make the resumption of production impossible for the French dyestuffs industries until they gave in to the Farben demand in connection with Francolor? With whom did that idea originate?

A. To the best of my knowledge, the French dyestuffs industry, or Kuhlmann, Saint-Denis, whatever their name is, never closed down the production of dyestuffs, so that at no time could we have talked about resumption of production in those closed-down plants. As far as I know they kept on working. Of course, after the war broke out and especially after the collapse of France, they were not able to work so intensively as before, but I do not believe they were ever completely closed down. However, [about things that happened] before January 1941, when I was in Paris for the first time, I am not so well informed or I do not remember it so well any more.

Q. Well, suppose I reframe my question. Did the initiative come from Farben to see that there was no intensification or increase of whatever dyestuffs or chemical production the French dyestuffs plants were getting on with, during the time of the Francolor discussions with Farben?

A. I assume that you have reference to a report offered by the prosecution about the delivery of some intermediate products from northern France.

* Not reproduced herein. The paragraph of this exhibit, an affidavit of defendant ter Meer, which was here in question stated: "Although, in this entire matter, the initiative was not furnished by the German Government, I nevertheless believe I remember that the German military government and the Reich Ministry of Economics gave every support to I. G. Farben. I cannot remember any details. But wholly from the point of view of negotiation technique, I want to say that during the negotiations—for example during a visit of Mr. Frossard—the French group would probably have assumed a position which would have been much more difficult for the IG if the government had not maintained this line."

Q. I had reference to a little bit more than that as well, but you can take that as a point of departure. I am just saying now, where did that initiative come from?

A. If that was an initiative that had any practical results, then it would have originated with Farben.

Q. Now, did Dr. Kugler inform you that Farben was getting proper support from the military government in that connection—that is, in connection with keeping down, or restricting, or limiting, the production of dyestuffs factories in France until they came to terms?

A. I personally do not share the opinion that Farben at the time made any particular efforts, or wanted to make any particular efforts, to put any pressure on the French dyestuffs plants in order to negotiate. Conditions in France were bad enough already. I lived in northern France for several years and I know what it means for a firm to have its seat north of Paris, and if it has to rely on the northern provinces of France for delivery of coal and raw materials. I know from descriptions of M. Frossard, and also from later meetings in Paris, that all traffic routes were very much disrupted at the time. The transport of coal was by water and the sluices and bridges were blown up, and conditions had arisen that Farben had no influence on at all. I have the impression that these things are frequently misinterpreted by persons who don't know the conditions.

PRESIDING JUDGE SHAKE: Counsel, we will recess.

(Recess)

* * * * *

MR. SPRECHER: Now, coming back to the matter we were discussing just before the recess. My question was, I thought, rather simple; that is, whether or not Dr. Kugler advised you whether or not the military government had promised him to do its best in order not to allow the French to increase production until the Francolor terms, as proposed by Farben, were met?

DEFENDANT TER MEER: I don't remember it at all.

Q. Now, were you advised of any discussions which Kugler and other Farben directors held with governmental agencies, other than Dr. Michel of Paris, where Farben asked that the governmental agencies should not allocate further raw materials to the French dyestuffs factories in the occupied zone?

A. I believe that the document referring to that matter, which was submitted by the prosecution, became known to me only when it came into evidence here. But I may be mistaken.

Q. Now, I would like to read you, for the purpose of attempting to refresh your recollection, a brief statement, and then I will ask you about it, and this has to do with something involving Kugler—I'll tell you that in advance. "Farben's wish for tactical and material support is understood." That should be in quotes:

“Farben’s wish for tactical and material support is understood. There is readiness to comply and to see that, within the scope of possibilities given in Paris, the French production facilities at least are not improved, and that no alleviations are offered to production which might weaken the opponent’s will to negotiate and allow him to assume that work could go on for the time being, even without coming to terms with Farben.” Does that refresh your recollection?

A. Yes, that reminds me of the letter which you introduced, but I don’t remember these things having been discussed with me at the time.

Q. Now do you recall any references to a conference with the Reichsbankrat Wenniger, and some other people in the military administration in France, which was reported to you as follow :

“Tactical and material support was promised here as well, and should be especially successful in this case and, through this channel, the allocation of raw materials for French dyestuffs factories in the occupied zone can be decisively influenced.”

Before we were talking about the civil authorities, and now we are talking about the military authorities. Do you remember any such reports made by you?

A. No, I don’t remember.

Q. I show you Document NI-14224, which will become Prosecution Exhibit 1886,¹ the report by Kugler which is directed, among others, to you and to defendant ter Meer, you will notice—to you and the defendant Schnitzler, I mean—as well as to the former Vorstand members, Dr. Waibel, and to Dr. Kuepper, who has testified here.² Does that refresh your recollection about having received such reports concerning the tactics to be employed during this period of discussions with the French?

A. It does not become clearly apparent from this document that I saw it. My name is mentioned on the attached page, and you will find an initial of Schnitzler only but not my initials; and at the foot of the page it says it is to be distributed for circulation in the Inner Dyestuffs Committee. [Dyestuffs Steering Committee]. I was not a member of the Inner Dyestuffs Committee, therefore, I am still in no position to tell you whether I was positively informed about these details, or not.

Q. In view of your general recollection of the tactics that were employed, does that particular information shock you at the present time?

PRESIDING JUDGE SHAKE: You don’t need to answer that.

¹ Reproduced in 2 above.

² Dr. Gustav Kuepper’s testimony is recorded in the mimeographed transcript 13 and 28 October 1947, 28 and 29 January 1948, pages 1933-1942; 5976-6051; 2896-2945. Extracts from his testimony are produced earlier in section VII F 4, volume VII, this series.

MR. SPRECHER: Then I have no further question on the topic, Mr. President. With respect to the negotiations, I come to the last topic concerning Francolor, which has to do principally with the production and technical assistance or technical interchange of information.

Q. Between the time of the Francolor agreement and the time you went to Italy, in September 1943, did you concern yourself in any substantial way with problems of production in the French dyestuffs factories, such as the necessary raw materials, obtaining of equipment in order to carry on production, the labor supply, and finally, the types of products which the French dyestuffs factories were to produce during the war?

A. Yes. I attended one or another meeting of the technical committee, which existed at the Francolor, where such questions were discussed, and I appointed a number of gentlemen to carry out this cooperation with the French dyestuffs factories—for instance, Director Wenk from Leverkusen for cooperation in the dyestuffs and intermediates field. Then there was Dr. Hoyer from TEA; and later, Dr. Loehr was a member of the technical committee and, in addition, Dr. Ambros and his associate, Dr. Roell, attended these conferences. I know all of this, and it all happened.

Q. What other Vorstand members besides Dr. Ambros, if any, paid any substantial attention to the nature of the products which were to be produced in the Francolor factories, after the Francolor agreement had been completed?

A. I don't believe anyone else from the technical members of the Vorstand.

Q. Was the matter taken up in any of the subcommittees of the TEA?

A. The question of cooperation in the dyestuffs field was discussed during meetings of the dyestuffs technical experts, who were then in Frankfurt. I remember having recently seen a memorandum about this. Apart from that, this matter was probably discussed in different commissions, which after all were responsible for the handling of such matters.

Q. Now, after the Francolor Convention, did the Francolor firms produce principally dyestuffs, or did they produce principally chemicals, apart from what may be technically called dyestuffs?

A. The Francolor factories were a little bit behind in regard to dyestuffs production. We therefore tried to give them additional orders in the fields which, either in Germany or in France, were important then for economic and also for military purposes.

Q. When you say they were behind in dyestuffs—

A. Well, the figures of production were retrogressive—they decreased.

Q. Yes, indeed. And was not one of the reasons for the decrease

because you directed—by that I don't mean you alone, personally, but you and Ambros, among others—that they should produce chemicals which were needed for German production?

A. This is an erroneous conception. At first, one must consider that Dr. Ambros and I, even in Francolor, had no authority to issue directives, but that these matters were agreed to in technical commissions with Mr. Frossard and his associates. I know of no case where we exerted any pressure on the Frenchmen to accept any production orders. On the other side, one must also consider that dyestuffs production during the war not only decreased in Germany but also in France. It could not be executed to its full extent, because the dyestuffs production was not so important, and yet it consumed important raw materials. If, therefore, one wanted to keep the factories or Francolor at work, one had to assign them such orders for production where raw materials, coal, et cetera, could be made available by the authorities. We were able to assist the Frenchmen considerably in this field. On various occasions, we gave benzene and naphthalene from our German quota and made these substances available to the French plants in order that they might increase their quota of production.

Q. On that we are most completely agreed with you, that is, helping the French—

PRESIDING JUDGE SHAKE: Counsel should not argue with him.

MR. SPRECHER: I don't want to, Mr. President. All I want to do is to lay a foundation for my next question in order to indicate to the witness clearly the extent of our agreement. I thought it was a fair remark.

PRESIDING JUDGE SHAKE: Well, I think you had better just ask the question.

MR. SPRECHER: Thank you. Then let me ask you the following, since you raised the question about talking to Frossard: Do you recall, before the Francolor agreement was entered into, that Kugler reported to you concerning Frossard as follows: "Not only did he think to a certain extent along German lines, because of his origin and education, but he was now facing the fact that Germany had won the war." Do you remember Kugler reporting that to you?

A. No, I don't remember that either.

Q. May I refresh your recollection by having you look at the last paragraph of Exhibit No. 1886, Document NI-2224, which we introduced just before the recess—

PRESIDING JUDGE SHAKE: Wait a moment now.

MR. SPRECHER: I meant Document NI-14224, I am sorry. I beg your pardon, Mr. President.

DEFENDANT TER MEER: Where is the passage to which you just referred?

MR. SPRECHER: That is on page 7 of the original, just before Kugler signed it.

A. Yes, I have found the passage. That is the same exhibit which we discussed before, about which I said before that I possibly received it because it was to be circulated to my department, but I also said that my name was not mentioned on the distribution list. It was initialed by Mr. von Schnitzler but not initialed by me. I must tell you quite honestly I don't know about any such small details. Such remarks by Mr. Frossard were not very important.

Q. Dr. ter Meer, when you look at the original, you see your name personally on the distribution list, although this copy we have here bears only the initial of Schnitzler, and was taken from Schnitzler's file.

A. But on the last page you have the distribution list, and I explained before that this distribution list does not mention me. I may have read it, but how am I to remember today any such remark about Mr. Frossard's feelings.

Q. Now, roughly speaking, what percentage of production in Francolor firms, after you gave them these orders, was calculated to assist the maintenance of the French domestic economy during the war?

A. I cannot reply to this because I have not prepared any questions in reference to count two in detail. I have some figures about that, but I don't think it is proper in cross-examination for me to fetch my files here.

Q. Can you give us any estimates from your own memory of the time—if you thought about the matter at the time—with respect to what percentage was left over for French domestic consumption?

A. No, I cannot do that.

Q. Is it true that the principal revisions in the plants and equipment of the Francolor firm were accomplished during the first 2 years after the Francolor Convention was signed, so that Farben could leave production to the Francolor firm and thereby use the German skilled workers to work on buna production, synthetic oil and other products which required a high degree of mechanization?

A. I believe that these standards of comparison are not correct. Certain quantities of dyestuffs production and certain intermediates production were transferred to Francolor. I do not believe, however, that the number of workers released through the procedure in Germany is so large that it had a very far-reaching influence on buna production. It may have played some part in one or another of the plants at some time, but I believe that this comparison between buna production and the activity of Francolor is not quite correct.

Q. Do you recall that Farben talked to the authorities, both in Germany and in France, about this transfer of production from Farben

plants in Germany to the Francolor plants, and that you received reports on the results of these meetings in which it was stated that the indirect needs of the Wehrmacht could better be served if that transfer of production was made?

A. There is no doubt about that. There is no doubt that we tried to transfer as much dyestuffs and intermediates production to France as Francolor could cope with. That would have been the reasonable thing to do. In France there was labor, there were production facilities; and we had particular scarcities of labor here in Germany. But you were putting the question in connection with the buna plants, and I said that the parallel did not seem to be right.

PRESIDING JUDGE SHAKE: May I interrupt you to read a note to you? "Your Honor, will you please instruct the defendant to make a pause after the question so that the German translation can catch up?" That speaks for itself. Please bear that in mind. I realize that under the spur of answering a question that has been asked, you are tempted to go too rapidly, but it is really a problem here.

DEFENDANT TER MEER: I am sorry, Mr. President.

MR. SPRECHER: Do you recall whether any of Farben's orders for the supply of the SS were transferred to the French dyestuffs concern?

A. I don't know that.

Q. Do you remember that according to a plan which Farben worked out, and to which the Reich agencies agreed, the following report was made, or a report like this in substance:

"The entire personnel of the Francolor plants, which amounts to about 3,500 employees and workers, will be engaged in manufacturing for Germany."

A. I really cannot say. If you would put the document before me, I could define my attitude towards it.

Q. Dr. ter Meer, I show you Document NI-4845, which will become Prosecution Exhibit 1887.* This has not been previously introduced, but you will find it in Document Book 58, English page 181, German page 196. Mention is made there in connection with Francolor—it is an excerpt from a report of the enlarged Farben committee, of 20 November 1942. Mention is made there of the Kehrl-Schieber Plan and that Francolor products will be turned over to the account of the production. Just so we have the record straight, was Kehrl the head of the Planning Office of the Central Planning Board?

A. He was the head of the so-called Raw Materials Office. Do you mean the Central Planning Board by that?

Q. Yes.

A. That was—

Q. Was that a different Kehrl?

(Laughter)

*Reproduced in part in 2 above.

A. No, no, that's the same Kehrl, but Kehrl was not the chief of the Central Planning Board.

MR. SPRECHER: To understand what is funny about that, Your Honors, I'm afraid you will have to know a little German. Kehrl, which is also "Kerl," means fellow in German as well.

Q. Now, the Schieber that is mentioned there is the Schieber—

(Laughter)

Your Honors, the word "Schieber" means "black marketeer" in German. Now the Schieber that is mentioned is the Schieber who testified here,¹ is that right?

A. Yes, that's right.

MR. SPRECHER: That humor was unintentional, Your Honor. I am sorry. Now, Dr. ter Meer, you are aware that the prosecution has alleged that the acts and conduct set forth under count two of the indictment, concerning alleged spoliation, are also incorporated as acts and conduct in count one, on the theory that they were directly related to the carrying on or waging of wars of aggression, among other things. Now I want to ask you a factual question. I have made that statement so that you are fully advised of my purpose, and there is absolutely no surprise in this question of fact. In view of the statements you have just made, with respect to Francolor production during the war, is it not a completely fair statement to say that this production program in France and as it was carried out in France, was directly and unequivocally related and integrated with Germany's war production program?

A. Yes.

Q. Dr. ter Meer, I have one last document to show you, and that happens to be the outside [cover page] of your personal folder found in Frankfurt, concerning Francolor. It is entitled, "France, 1940-41. German-French Dyestuffs Discussion." Under this heading on the outside of the folder there appears a little extract from a poem, or a ditty of some kind. The words are, in the German, "Denn im Wald da sind die Raeuber," which may be translated as followed: "For in the woods there are the robbers."

I ask you whether or not that is in your own handwriting?

A. Yes, it is.

Q. I have no further questions on that point.

PRESIDING JUDGE SHAKE: You had better make your showing here now that document, NI-14235 becomes your Exhibit 1888²; is that correct?

¹ Walter L. Schieber's testimony is recorded in the mimeographed transcript, 14 January 1948, pages 5259-5295.

² Not reproduced herein.

MR. SPRECHER: Yes, Mr. President.

[Further cross-examination concerned other charges of the indictment. The next testimony of defendant ter Meer concerning the Francolor case took place more than two months later in the trial. This testimony is reproduced in 6 below.]

4. TESTIMONY OF DEFENDANT AMBROS

EXTRACTS FROM THE TESTIMONY OF DEFENDANT AMBROS*

DIRECT EXAMINATION

* * * * *
DR. HOFFMANN (counsel for defendant Ambros): Mr. Ambros, I should now like to go into the Francolor question with you. My first question is, when was the first time that you had anything to do with Francolor?

DEFENDANT AMBROS: The first time I had anything to do with Francolor was in the summer of 1941. I went to Paris, and that was the first time after the outbreak of war that I met our French friends.

Q. You said, your "French friends." Did you personally have connections with these Francolor gentlemen earlier?

A. Francolor is part of the Kuhlmann concern, and I. G. Farben for many years had friendly relations with Kuhlmann. In 1937, I personally was sent to Paris for the first time on an official matter, and that was in connection with license negotiations in all possible fields, which we worked on until shortly before the war. We were planning an ethylene plant, a polystyrene plant, and, as for your question, this brought me into business contact with the leading men of Kuhlmann, and from this there developed personal friendships which even extended to the families on both sides; I believe that I therefore have the right to speak of friends I had known from the time from before the war.

Q. Mr. Ambros, when, in May or in the summer of 1941, you came to France, was the work or the contract for a participation by Farben in Francolor already finished, or what was the situation?

A. The negotiations, in broad outline, were already concluded. The contract itself, as far as I recall, was signed in November 1941—but in the summer the picture of the negotiations was already becoming clear, and that was, no doubt, the reason why I was appointed to participate in the work with Francolor at that time.

Q. You say participate "in the work" of Francolor. What do you mean by that?

A. Dr. ter Meer appointed me to enter the administration body of Francolor as sort of a member of the administrative council with the

*Further extracts are reproduced below in subsection E 4 and section IX F 4, and earlier in sections V B 4, VII G 7b and K 6, in volume VII, this series.

special duty of supervising technical questions of organic chemistry within Francolor. You know that Francolor did only organic chemistry work, that is to say, dyestuffs and their intermediates, and all the organic chemicals, detergents, tanning agents, resins, and lacquers, and the field that I have been talking about in the last few days. That was the reason why I was put on this board as a representative of organic chemistry.

Q. Did you have anything to do with the previous contractual negotiations concerning Farben's participation in any influential capacity?

A. I did not participate in any negotiations. I had nothing to do with the negotiations.

Q. You said that it was your duty, if I understood you correctly, to advise Francolor as a chemist and to help them during the negotiations. What did you do to help Francolor in this respect?

A. It was a difficult situation for the French industry, after the end of the campaign. We learned to know the situation personally only a year after the Armistice of Compiègne. Now we were confronted with four factories whose raw materials supply was not yet secured, and where one did not know at first how these factories were to be employed. That was the first task, to get to know what it was practicable to do at that time to attain full employment for these French firms.

Q. Mr. Ambros, was it possible to give Francolor any assignments to keep it going in its capacity as a chemical works?

A. In the first moment, we suggested that part of our dyestuffs manufacture should be turned over to France. If I remember correctly there were 12,000 tons of dyestuffs which were to be produced in France instead of in our own plants. I do not know whether you can realize what it means for a manufacturer to give up some of his volume of production. From our point of view, as technical men, it was a sacrifice to give up a volume of our dyestuffs from our factories to the French; but that was the simplest and above all, the quickest remedy, in order to give Francolor sufficient occupation quickly. But things did not turn out as we had hoped, because at that time France was short of everything. There wasn't enough coal; the intermediates were lacking, and the occupation authorities had no understanding, of course, and did not want to use the small coal stocks or the small coal production of the northern provinces for dyestuffs manufacture.

Therefore, my second task, which I worked out together with Dr. ter Meer, was to find out how we technical men could succeed in employing the French factories with orders for which we could get a permit or certificate for coal allocation, or get permission to operate at all. I may say now that we succeeded, absolutely, in this.

In the year 1942, we achieved the same turnover at Francolor that Francolor had had in 1938, the last peace year.

Q. Mr. Ambros, what you have just given us is the picture that you had when you were sent to Francolor later?

A. Yes.

Q. And the ideas on the commercial side that might have existed at that time, you could not say anything about them?

A. No, that had nothing to do with me. I had the very definite problem of getting the French factories working after the campaign, in spite of all the difficulties, and bringing them back to the old volume, if possible, that they had before the war.

Q. But you did that without regard to the commercial aspect?

A. I did that purely as a technical man.

Q. Now in the field of the employment of Francolor in which you were interested, did you have any difficulties?

A. Yes.

Q. What was their nature?

A. They were manifold. Just to get a license alone, I had to deal with the occupation authorities, and I had to act as if I were actually one of the Frenchmen. I had to get permission for the railroad to bring in the coal, or for the ships on the canal. I had to fight to keep the people in the factory, and above all I had to manage to get the raw materials, benzene, naphthalene—all the raw materials needed for benzene—because it was only natural for the Wehrmacht to prefer to use benzene for fuel purposes rather than for our chemistry.

DR. HOFFMANN: Your Honors, from Document Book 8-a, I am going to offer Document OA-801, as Ambros Defense Exhibit 172.* That is an affidavit by Dr. Ernst Roell, who, from 1934 to 1943, worked for Otto Ambros as his specialist for foreign projects, and is today plant leader and custodian of Anorgana G. m. b. H. at Gendorf.

It seems to me that the letter or the statement of 31 March 1942, to the president of Francolor, concerning the outcome of the conference of the Francolor technical committee at Ludwigshafen, in March 1942, is important. At this conference, a number of important technical measures were decided upon that were to be taken by Farben for Francolor, and the affidavit reads:

“As a member of the Francolor technical committee, I am in a position to state from personal knowledge that the measures in favor of the Francolor factories, to be taken in accordance with items 1-6 of the report as per enclosure, were in fact all carried out. This fact was due mainly to the initiative of Dr. Ambros.”

As a result of those measures, Francolor received the quotas of coal, iron, and chemical raw materials necessary for the continued operation

*Not reproduced herein.

of its plants. The technical measures carried out were connected with the production of lacquer, raw materials, plastics, anti-oxidants for rubber and other products required for civilian consumption.

Mr. Ambros, for this production, I am sure, one needed various products or basic materials. It may be that they were sometimes scarce in Germany too, and therefore I want to ask you if you recall that there was any opposition in connection with giving up these things.

A. You are, I believe, referring to the example of naphthalene. In the letter just quoted, you speak of the production of a lacquer intermediate. For this purpose one needs naphthalene. Naphthalene was almost impossible to get in France because the naphthalene installations in northern France had been destroyed in the war. In Germany, naphthalene was scarce because a big firm in Central Germany made fuel for submarines out of it, so, of course, the Reich authorities took over the allocation of naphthalene. To get this French factory into operation, I urged that we should give up some of our own supplies Ludwigshafen; that we should send twenty railroad cars of naphthalene to France.

Mr. Hoffmann, the same thing holds true of methanol. The only methanol factory in France, near Courieres, was no longer in operation. Now, formaldehyde is a derivative of methanol, and is extremely important. Therefore, we sent methanol to the French. The French process for the production of formaldehyde was inefficient. We at Ludwigshafen, in the middle of the war, dismantled our equipment and sent it to France, to Villers St. Paul, in order to produce better formaldehyde in larger quantities, and cheaper.

Q. Your Honors, in proof of the statements made by Mr. Ambros, I offer from Document Book 8-A, the next document OA-802, which will be Ambros Defense Exhibit 173.* This is a letter of a graduate chemist, Koenig, from the TEA Office at Frankfurt on Main, to a member of the technical committee of Francolor. This letter is dated 10 December 1941. This Koenig inquires whether, in view of the shortage of naphthalene which has occurred, it is justifiable for naphthalene to be sent to France for the production of phthalic acid (a preliminary product for lacquer raw materials). He says that Dr. Struss—I presume he means the witness who has appeared here—believes that under the circumstances this is not justifiable. In the letter he says:

“Dr. Baumann of Ludwigshafen, in agreement with Dr. Ambros, on the other hand, considers we ought to abide by the provisions of the agreement regulating supplies, as, in view of the state of unemployment, it would be a very severe blow for Francolor if phthalic acid production had to be discontinued owing to lack of supplies of naphthalene * * *”

*Not reproduced herein.

As I should like to emphasize, this is a letter from the year 1941, and you, Mr. Ambros, were informed about these events and this letter corresponds to your opinion at the time?

A. Yes.

Q. Another question. Can you mention any other products, produced by Francolor at your suggestion?

A. Another product which is mentioned in Document AO-801 is phenyl-betanaphthylamine, an important product which is needed to protect rubber. It happened that in France, production was impractical. Therefore, we made our process available to them, and we saw to it that this plant at Saint-Denis went into operation. Another product is pentaerithrite. This morning we said that pentaerithrite is a substitute for glycerin, an old and well-known product, and we emphasized that pentaerithrite can be used for military purposes, or for lacquer for purposes of private industry.

We were very interested in seeing that no definite Wehrmacht production was set up in these French factories. Therefore, we suggested that they should produce the lacquer quality of pentaerithrite; but since Francolor did not have the process, we asked the French gentlemen to come to Ludwigshafen and to take over the process for the production of pentaerithrite. The chemists were trained, and we gave France help for producing pentaerithrite at Villers-St. Paul.

Q. Was it the same in the case of phenol?

A. The situation in the case of phenol was this. Here Francolor had a very good process in Oissel, near Rouen. One day the Reich Office for Chemistry, Mr. Ungewitter, decided that phenol production in Germany and also in France should be reduced. The Reich Office considered it superfluous to produce phenol because all these articles—bakelite, et cetera—were no longer so necessary. We technical men urged that our German installations should be closed down because the French process was very good and operated very well, and because the French plant, on account of its own pyrites, was in a good economic position.

Q. Your Honors, in connection with the statements of the defendant Ambros, I should like to offer Documents OA-803, that is Ambros Defense Exhibit 174,* a memorandum of 9 April 1942 about a conference with the Francolor technical committee in Ludwigshafen in March 1942. This memorandum shows that it was decided that Francolor should commence production of pentaerithrite as an intermediate for lacquer raw materials. The next document is OA-804, Ambros Defense Exhibit 175.* This is a letter from Farben—that is, from Ambros—to the Reich Office for Chemistry, dated 27 October 1942, showing that Farben had learned that the Reich Office for Chemistry

*Not reproduced herein.

wished to discontinue phenol production as a preliminary product for plastics and tanning acids, in Francolor, and Ambros intervened in order to prevent this measure.

[The next question and answer concerned the Rhône-Poulenc firm and five documents were thereafter introduced in evidence.]

Q. On this entire technical aspect of your work, Mr. Ambros, I have one question by way of summary. Please tell us what the production of the Francolor works was, primarily, during the war; specifically with respect to its use.

A. We were producing dyestuffs in Francolor. The requirements for dyestuffs fell off because there was a lack of fibers; only some special types were in demand—for example, paints—but in general, the dyestuffs business was just as bad as in Germany.

Another field which was newly developed, very strongly developed, and which compensated for this falling off, was the lacquer raw materials which we delivered to the lacquer factories. When I say "We" I am speaking as if I were a member of the French firm, which I actually was in the frame of Francolor.

Then there was a lack of detergents and fats, and synthesis had to step in. We produced synthetic detergents in France. So it went on in dozens of little products, and taking everything together, one can say that what Francolor lost because of the war in the field of dyestuffs was compensated for by processes which we brought in with our patents and our apparatus.

Q. Now, Mr. Ambros, I would like to know whether this production was directly and definitely connected with the war needs of the German Reich, and if so how much.

A. As far as I can recall—nothing. There were a few intermediates, for example, some Centralite production which had existed before, which of course was continued. But your question was whether gunpowder, explosives, or poison gas was produced. No, not one gram and not one drop. I believe the best proof of that is that all these factories were hardly bombed, but were able to produce all during the war until, of course, it became more and more difficult; and when the Allied invasion came, it stopped altogether.

Q. I have already asked you about the motive for your taking technical action in Francolor. Now, I want to ask you directly. The prosecution has mentioned Francolor in connection with you personally in the case of plunder and spoliation. Now, what was your view of the taking over or of participation in Francolor? Did you, as a chemist, think about this at all?

A. No, I did not, and I must say the atmosphere in which we worked with Francolor, with the excellent French president, Mr. Frossard, was such that there was absolute equality. We met with technical men, as we had met everywhere in the world, and our aim and

duty was to keep the plant operating. It was exactly the same with our commercial colleagues; they worked together on this principle of equality.

* * * * *

CROSS-EXAMINATION

MR. AMCHAN: Dr. Ambros, you attended, did you not, the meetings of the TEA and the Vorstand when the negotiations relating to Francolor, Rhône-Poulenc, and Alsace-Lorraine were discussed?

DEFENDANT AMBROS: I was present in the TEA when the stages and also the results of the Francolor negotiations were reported. About Rhône-Poulenc, or perhaps even the Alsace subjects, I do not remember, but it may well be that they were also discussed in the TEA during my presence.

Q. Were you present at the Vorstand meetings when these negotiations were discussed?

A. I believe I was also present in the Vorstand meetings. You can see that from the lists of those present.

Q. Were you not one of the administrators of Francolor?

A. Yes. I was one of the members of the Conseil d' Administration of the Francolor.

Q. And is it not a fact that ter Meer and von Schnitzler were also on the board of administrators?

A. Yes. Both these gentlemen and the late Mr. Waibel were members of the administration of Francolor.

* * * * *

Q. Is it a fact that the production of the plants in France was kept going by you and Farben in order to sustain the French civilian economy?

A. I believe that in the direct examination by my counsel I have also given examples which show that a certain part of the production, for instance, was sent to Germany; I have also indicated that an indirect requirement of the Wehrmacht was covered. However, I said quite distinctly that it was my task to create a production capacity in Francolor, and I emphasized quite clearly that the first step in this endeavor, that is, to put 12,000 tons of dyestuffs into the Francolor venture, failed for at that time there was a military government, and a military government has the very responsible task of correlating the necessity of a production with the question of what raw materials may be allocated for this; and, Mr. Amchan, it was very difficult—it was an art—to keep a plant busy producing such things that would not be contradictory to the military administration and served the economy.

Q. Would you answer that directly, yes or no? Was my question correct, or not? Is it a fact?

A. It is a fact that the production was not serving the French civil economy 100 percent, but that certain parts of it were delivered to Germany, as, vice-versa, certain raw materials came from Germany.

* * * * *

Q. I asked you, Dr. Ambros, is it not a fact that the main reason for keeping the Francolor factory running was so that they could produce the products needed by the German Armed Forces? Could you answer that "yes" or "no," please?

A. I cannot answer that with "yes" or "no." We are now entering a field that was "window dressing" at the time, as it is called. Certainly, in certain documents, it was mentioned that the Armed Forces had a direct or indirect interest, for otherwise Francolor would not have received one gram of coal. However, these facts are important: no explosives, no chemical warfare agents, and nothing military was produced; but, with the coal, Francolor was occupied in making such products that it was not necessary to carry out a single air raid on any Francolor plant.

Q. Now, do you recall a conference, in February 1942, with the Military Commander in France, where you suggested that the direct and indirect requirements of the German Armed Forces be transferred to the Francolor plant? Do you recall such a conference?

A. I do not remember the conference, but it would prove what I just said now. May I ask for the document?

Q. Now, I show you Document NI-14119, which we offer as Prosecution Exhibit 1907,* which is a letter of 13 February 1942 from the Military Commander in France addressed to the Reich Ministry of Economics, and I call your attention to the first paragraph, which states:

"At a conference which took place on 5 February in the Economic Department of the Military Commander with leaders of the I. G. Farbenindustrie, new suggestions were made by I. G. Farben for the transfer of both the direct and indirect requirements of the Armed Forces to plants belonging to Francolor."

Now, I ask you, Dr. Ambros, does that document refresh your recollection?

A. This document does not contain my name nor have I ever received it. It is written by a man from the Economics Ministry, Dr. Michel, and it is written to his colleague, Dr. Mulert.

* * * * *

Q. Now, Dr. Ambros, is it not a fact that the products listed in your production tables covered direct Army Ordnance orders and indirect orders for the Armed Forces, which were given by Farben? Is that a fact?

*Reproduced in 2 above.

A. Yes, there was one product that was demanded by the Army Ordnance Office (that is an intermediate; not an explosive, not a powder but an intermediate): mononitronaphthalene, and besides that, Centralite. All other products were not manufactured, and were not produced.

Q. Now, Dr. Ambros, I show you Document NI-14118 which we offer as Prosecution Exhibit 1909.* That's a letter of 17 March 1942, from the Commissioner of the Wehrmacht, for gunpowder and explosives; and I note on the top right-hand corner your name. Now, I direct your attention to page 2 of the German, the paragraph beginning with:

"Whereas up to now, in the field of the chemical industry too, orders streamed to France without any control whatsoever and with no system or central steering, a production plan is now to be drawn up for the plants belonging to Francolor, and this will embrace both direct and indirect orders which are important for the conduct of the war and, by utilizing all the intermediate and auxiliary products, will guarantee the maximum use of power * * *."

And then there are tables of particular products. Does that refresh your recollection?

PRESIDING JUDGE SHAKE: It is not a complete inquiry because you only asked him, does it refresh his recollection. As to what you endeavored to refresh his recollection about you have not indicated, Counsel.

Q. Does that refresh your recollection that all of the products listed therein related to your production program and covered the direct Army Ordnance orders and the indirect orders for the Armed Forces given by I. G. Farben?

DR. HOFFMAN: May I ask this favor—that as this letter comprises five or six pages, this witness be permitted to read the entire letter?

PRESIDING JUDGE SHAKE: The witness may take his time to familiarize himself with the letter about which he is being interrogated within reasonable limits.

Q. Does your answer stand?

A. It refreshes my recollection that a certain Colonel Letis made a certain plan on behalf of the Wehrmacht, to send suggestions to private industry. Please look to page 2 where you can see, "1. Orders of the Army Ordnance Office (SS orders)." That has nothing to do with the SS [of the Nazi Party]. SS merely means especially urgent [priority]; it has nothing to do with SS. Furthermore, you will find that in this table I began to make certain deletions against the proposals of the military authorities, and I did so only with the orders of the Army Ordnance Office. After dinitrotoluene I put a minus.

*Not reproduced herein.

Pentaerythrite I crossed out, and hexamethylenetetramine too. Against dianisol, I put a question mark. So, therefore, there remains only the Centralite, that I told you about last week, and mononitronaphthalene, which is really one of the most inferior products that were used in armaments, or perhaps were not even used at all. Furthermore, the letter emphasizes once more my idea to transfer to France the plants which produced products marked with a plus—the indirect and private peacetime products, such things as vulcanization accelerators, glue, Alkydal, monochloroacetic acids for detergents—all that I transferred to France so that the evacuation of French workers from these plants would be stopped, because these workers were much better off at home than if they had been taken away.

PRESIDING JUDGE SHAKE: The Tribunal will rise for recess.

(Recess)

MR. AMCHAN: You just have before you, Dr. Ambros, Prosecution Exhibit 1909, NI-14118. Now I ask you, is it not a fact—

A. DEFENDANT AMBROS: May I ask again what exhibit that was?

Q. Do you have before you the last document I handed to you, NI-14118, a letter of 17 March 1942?

A. Yes, thank you.

Q. Now I ask you, Dr. Ambros, is it not a fact that you suggested this manufacturing program to the military authorities? Is that a fact?

A. In the third paragraph on page 1, it says—

Q. Do you understand my question, Dr. Ambros? Is it a fact that you suggested this manufacturing program to the military authorities?

A. I am sorry but I cannot answer "Yes" or "No." I certainly assume responsibility for what is said in paragraphs 2 and 3 but * * *

Q. I am not asking you about that document. I am asking you generally.

PRESIDING JUDGE SHAKE: Counsel, when you speak of the manufacturing program, do you have reference to the program set out in this exhibit?

MR. AMCHAN: The general manufacturing program for Francolor.

PRESIDING JUDGE SHAKE: Independent of this exhibit?

MR. AMCHAN: That is correct.

PRESIDING JUDGE SHAKE: Then do you understand the question? The question is not directed at the exhibit but at the general manufacturing program of Francolor.

DEFENDANT AMBROS: I was not one hundred percent decisive for the production [program] of Francolor. That was the result of negotiations of the business people of the German side; of the French group, a group of our technical men and, as in this case, of the influence of the

Army Ordnance Office, which also expressed certain desires. However, I shall be glad to take it upon myself to say that I was decisive in carrying out Francolor's production to the extent that I was the technical adviser, on the German side, of the president of our company, Mr. Joseph Frossard, or the first director of the Francolor, Mr. Rui Frossard.

MR. AMCHAN: Now, Dr. Ambros, I show you Document NI-14245, which we offer as Prosecution Exhibit 1910.* It's a letter from you to the High Command of the Armed Forces, dated 8 May 1942, and I direct your attention to the second sentence which reads, "The manufacturing program, which has been drawn up in accordance with our Suggestions to Brigadier General Becht, will in consequence be started without delay." I ask you, Dr. Ambros, does this document refresh your recollection that you suggested the program of manufacturing to the military authorities? Does it refresh your recollection?

A. Yes, it does refresh my recollection that I sent the corrected production program, that I discussed previously, containing an important number of Army requirement products that were deleted. This program, that had been thus reduced, I took upon myself. That is correct.

Q. Now, as part of the production program for Francolor, was it not your purpose to have the entire personnel of Francolor plants work for the German armament?

A. No.

Q. Do you have before you NI-14118, which is Prosecution Exhibit 1909? I handed it to you a minute ago. I direct your attention to the bottom of page 3 of the German, that is the bottom of 3 of the English, and do you see the last sentence reading, "In this way the entire personnel of the Francolor plants, which amounts to 3,500 employees and workers, will be engaged in manufacturing for Germany." Do you see that, and does that refresh your recollection that it was your suggestion, as part of the production program, that the entire personnel of the Francolor plants work for German armament? Does it refresh your recollection?

A. May I point out to you that this is a letter of a certain Colonel Letis. I cannot be responsible for statements made by Colonel Letis, who didn't know the circumstances. The fact remains that this program, as set forth on page 2 and 3, was not used totally for German production. I shall be able to prove to you that all the Alkydal remained in France. The Kaurit glue remained in France. I cannot be responsible for what this Colonel drafted up in this document.

Q. Did you receive this document?

A. Yes.

Q. Is that your handwritten note on top? Your name?

*Reproduced in 2 above.

A. Yes, I was sent the document because Colonel Letis drafted it and because I probably explained to him that the Colonel was mistaken.

Q. Now do you still have before you Exhibit 1910, NI-14245, which I handed to you a minute ago? Now there are two signatures to that letter, yours and Dr. Roell's.

A. Yes.

Q. Now we ask you, is that Dr. Roell listed on that letter the same Mr. Roell who has made the affidavit which is in your Document Book as Document OA-801, Ambros Defense Exhibit 172? Is that the same person?

A. Yes, that is the same Dr. Roell.

Q. Now in the winter of 1942, did you not inform Frossard of Francolor that the most important thing for Francolor was to keep the armament production going?

A. I do not remember that, but there may have been certain conversations dealing with this direct or indirect armament as it is contained in this program.

* * * * *

Q. Did you not order the Villers plant to be converted to an armament plant to produce, among other things, phthalic acid?

A. I'm sorry, from phthalic acid nothing can be produced for armament; only lacquers and dyestuffs can be produced. But, Mr. Amchan, that belongs to that part called "window dressing." You could tell the Army that it's important for military purposes, but every chemist will be able to prove to you that other things are produced from phthalic acid, for private and peaceful purposes; nothing can be produced from phthalic acid that cracks or explodes; only lacquers and dyestuffs.

Q. Now, I'll show you NI-14240, which we offer as Prosecution Exhibit 1914;* and I ask you to note in the upper left-hand side the written notation, "Villers must become an armament plant." And I also ask you to note in the middle of the page, "Phthalic Acid." Now, does this document refresh your recollection that the Villers plant was to become an armament plant to produce, amongst other things, phthalic acid?

A. I cannot follow your argument. I'm sorry from phthalic acid no armament products can be produced, but formally an enterprise can be termed "armament enterprise" so that it gets coal, manpower, and so that the plant is not closed down; but phthalic acid will never become a preliminary product for armaments. That's a chemical fact.

Q. Now, you refer to "window dressing". Did you hear that the Military Commander in France, and the military authorities, were engaged in "window dressing" with respect to the production of the Francolor plant?

*Not reproduced herein.

A. A little while ago you produced a document about a meeting in Ludwigshafen on December 1942. The French director, Louis Frossard, proceeded in all haste to Ludwigshafen and asked me for my assistance not to have the plant closed down—because the Military Commander was not interested in their productions. It was not very difficult to influence the military authorities by means of “window dressing,” and we succeeded in keeping this plant running until the last day of the war, producing things that we have shown by our figures. That’s what I call “window dressing,” that formally you comply, and you state that it’s important for the Military Commander, but practically all three Francolor factories remained plants for private economy, and deliveries to Germany—with the two exceptions, mononitronaphthalene and Centralite. The chiefs of the Francolor will confirm that to you today.

Q. Now, Dr. Ambros, were you trying to deceive the German military authorities through this device of “window dressing?”

A. I think “deceive” is putting it a little too strongly. I intervened on behalf of the French firms as though those firms were my own. I fought for the coal; I fought to have the French remain there. The French were grateful to me, even after the war, for this. Sometimes it became necessary to draw a certain picture to counteract a decree of Berlin; and then we always pushed forward mononitronaphthalene. Dr. Elias will certainly confirm to you that mononitronaphthalene is an absolutely insignificant product, but it was sufficient for window dressing for the military and, still more, for the Berlin authorities.

Q. Now, Dr. Ambros, isn’t it a fact that all orders of the Army Ordnance Office were channeled through Farben, and you regulated the production of the French plants to carry out those orders? Is that not a fact?

A. The orders went to the directorate of Francolor, at Avenue George V, and each time I was in Paris I took care of these at the request of my president, Mr. Joseph Frossard, and at the request of the technical director of Francolor, Mr. Louis Frossard. I did this in execution of my duty as a member of the Conseil d’ Administration de la Francolor [Francolor Administrative Board]. Yes, I tried and I achieved what has been demonstrated here.

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5. TESTIMONY OF DEFENDANT KUGLER

EXTRACTS FROM THE TESTIMONY OF DEFENDANT KUGLER ¹

DIRECT EXAMINATION

* * * * *

DR. VON KRAFFT² (associate counsel for defendant Kugler): Mr. Kugler, when examining you about Francolor, we want to take into account that, according to an order of the Tribunal, Dr. Meer is going to be examined about Francolor subsequent to your examination. Therefore, I shall confine myself only to these questions that are not going to be gone into by Dr. ter Meer.³

I have a few preliminary questions: Did you work on the French business of Farben, or in what capacity did you participate in the French negotiations?

DEFENDANT KUGLER: I participated in these negotiations in my capacity as head of Directorate Department Dyestuffs, with which, up to the war, the so-called Central Agency for International Dyestuffs Agreements had been connected.

Q. Were you, in the case of Francolor, also the executive organ?

A. Just as the work on the technical part of the later agreement was done by the TEA office, and just as the legal questions were handled by Dr. Kuepper, as the manager of the Legal Department Dyestuffs, so the commercial part was worked on by the Directorate Department Dyestuffs—and to a certain extent, one can characterize my functions, (or one can compare them) to the activity of Dr. Struss in the TEA office, or with the activity of Dr. Kuepper in the Legal Department Dyestuffs.

Q. Did you have a decisive influence on the question as to whether or not the Francolor negotiations would be concluded by Farben, and on the basic contents of the agreements?

A. One cannot say that. The decision was not in my hands, but in the final analysis it was in the hands of the Vorstand members.⁴

Q. Mr. Kugler, please tell us when you started to participate in the work and in the negotiations which brought about the Francolor agreement.

A. As head of the Secretariat to the Directorate, I participated in the preliminary work; then, I participated in the preliminary discussions that were conducted with the Armistice Commission in Wiesbaden. Whether I participated in all of these meetings I do not recall

¹ Further extracts are reproduced earlier in section VII C 5g and O 7d, volume VII, this series.

² Dr. von Krafft's complete given and family name is Dr. Leopold Krafft von Dellmensingen, but he used the abbreviated form "Dr. von Krafft" in signing motions and petitions.

³ See the later testimony of defendant ter Meer, reproduced in 6 below.

⁴ Defendant Kugler was one of four defendants who were not members of Farben's managing board.

at the moment. These discussions in Wiesbaden served the purpose of taking up the initial contact with those agencies which were responsible for the reactivation of business activity in France, in addition to the Reich Ministry of Economics, and those agencies that were decisive for conducting the industrial negotiations. I remember that the suggestions concerning France in the dyestuffs field were explained in August, Mr. von Schnitzler reported in Wiesbaden about the impressions that he had gained during his first trip in France.

Q. Mr. Kugler, what sort of trip was that and who participated in it?

A. This first trip was undertaken by Mr. von Schnitzler together with Dr. Terhaar. As far as I remember, it was to be a preliminary informational trip about the situation in France as it presented itself after the termination of hostilities. On the basis of information of German agencies in Paris at that time, interesting information for the Dyestuffs Department was imparted to us to the effect that the French textile industries would probably not start operating again in the immediate future. That was interesting for us dyestuffs salesmen because the textile industry in France, just as in other countries, was the chief consumer of dyestuffs. One can say that, in countries like France, the share of the textile industry in the consumption of dyestuffs was approximately sixty or seventy percent.

Q. Mr. Kugler, can you please tell me what was the immediate cause for this trip?

A. It was not one single reason alone. You have to take into consideration the situation at the time. Before the war, we had considerable business interests in France. There was a large agency in Paris, the SOPI [Société pour l'Importation de Matières Colorantes et des Produits Chimiques]. We knew, by way of Switzerland, that during the war a lawsuit for espionage activity had been brought against SOPI. Mr. von Schnitzler wanted to find out, on the spot, what the fate of the members of that firm was, as these employees were our employees, or at least they were employees of our firm before the war. There were stockpiles and stores and one didn't know what had happened to them. And the same is true for outstanding debts, and other property that we had in France before the war. Thus Mr. von Schnitzler, as the chief of the Sales Combine Dyestuffs, had a whole number of reasons why he should undertake such a trip. Above and beyond that I thought that the reason was that Mr. von Schnitzler wanted to inform himself, in his capacity as chief of the Tar Dyes Sub group, about the entire situation.

Q. Is it correct, Dr. Kugler, that next to the Armistice Delegation, the Reich Ministry of Economics was also a decisive agency?

A. Yes, that is absolutely correct.

Q. Did you yourself negotiate with the Reich Ministry of Economics in the Francolor question?

A. Not as far as I remember.

Q. Who discussed these questions with the Reich Ministry of Economics?

A. I remember that Mr. von Schnitzler talked to the Reich Ministry of Economics, and occasionally, people from the Berlin office may have talked to the Reich Ministry of Economics during the first period of the occupation of France.

Q. Before the beginning of the negotiations with the French group—that is before the Wiesbaden meeting on 21 and 22 November 1940—had you been in France?

A. Yes. At the end of August or the beginning of September 1940.

Q. Can it be the period from 29 August until 5 September 1940?

A. Yes.

Q. Is that the trip, Mr. Kugler, to which Prosecution Exhibit 1241 refers, Document NI-6839?*

Mr. President, this is the prosecution document contained in book 57 (of the Prosecution Document Books) on page 31.

A. Yes, that is right.

Q. I shall deal later with that exhibit, but now I should merely like to find out from you what brought about this trip at the end of August and the beginning of September 1940.

A. On 20 August 1940, there was a meeting in Berlin of the Commercial Committee. I participated in this meeting as a guest. Mr. von Schnitzler reported during that meeting, among other things, about his first trip to France that I have already mentioned. Mr. Mann informed the people present of his intention also to undertake a trip to France at the end of August. Dr. Terhaar and Dr. Krueger wanted to join his staff. These people were from Berlin NW7. I had known Mr. Mann for many years. I was a particularly close friend of Mr. Mann's during the years 1921 and 1925, when I was under his charge at Hoechst during my apprenticeship with Farben. It was a kind gesture of Mr. Mann to suggest to Mr. von Schnitzler during that meeting that I should be permitted to take part in that trip. Mr. von Schnitzler agreed. I remember this very clearly. It was during a lunch at the Hotel Adlon. And thus I became a member of that group. I should merely add that as railroad traffic had not yet been restored regularly, the trip was undertaken in two automobiles belonging to the firm.

Q. Did the people participating in this trip have an outlined program or a joint task that was prearranged?

*Reproduced in 2 above.

A. No. From the point of view of Farben's organization, the circle of people was a very colorful conglomeration. There were people from the Pharmaceutical Sparte; there were people from Berlin NW7, with quite different types of work; and finally there was one dyestuffs man in the group. The people participating in the trip were to try to get a picture of the general situation, as Mr. von Schnitzler did on his first trip. I personally was to visit those agencies, among others, with whom contact had been established already during the first trip of Mr. von Schnitzler and Dr. Terhaar. Mr. von Schnitzler considered it particularly desirable to talk to these agencies once more, because during the first trip a confusion of opinions had arisen about the future intentions of the military agencies with regard to the industrial activity in France. One could say that every man there had a different opinion and attitude, and therefore I was to investigate and try to find out if anything had been clarified in the meantime.

Q. During that trip, apparently, various agencies were visited in Paris. I should now like to know whether all participants in that trip went to see these various agencies in Paris together.

A. No, we did not arrive there, so to speak, as a six-member or seven-member delegation. Some visited one and some another. I believe the visit with Dr. Michel was carried out together, but for the rest the circle in Paris broke up very quickly and individual discussions were conducted. Mr. Mann went to one agency, Mr. Grobel went to another, or the two of them went together. I myself visited friends and acquaintances, and Mr. Krueger had other friends. In the evening we met perhaps for dinner at the hotel, or during mid-day for lunch.

Q. As can be seen from Exhibit 1241, that I mentioned previously, a joint report was rendered. How did that come about?

A. Dr. Terhaar, who has some journalistic talents, thought that it might perhaps be expedient to draw up a travel report. We didn't contradict that suggestion. Dr. Terhaar went about making notes of what he heard during a joint conference, or of what he understood during a joint conference, or what he thought he had understood from certain stories that were told him in the evenings after the individual visits.

Q. We shall deal with that affair later. At this time I should like to find out this from you. Please comment, Dr. Kugler, about the question of your other participation in the Francolor negotiations.

A. As the manager of the Directorate Department Dyestuffs, I participated in the preliminary negotiations which brought about the Wiesbaden negotiations of 21 and 22 November. I then took part in the numerous Paris negotiations that took place in 1941—that is, in all of them, beginning with the meeting of 20 and 21 January 1941. I kept the minutes at all of these meetings.

Q. Dr. Kugler, did you yourself conduct negotiations at any time or did you only have the part of an expert?

A. Of course I spoke up now and again during the meetings and negotiations, but when you say "expert," I believe you have properly characterized my activity.

Q. Say something briefly about your functions that you carried out after the Francolor enterprise was founded.

A. The consortial agreement between the original firms and Farben, the so-called Convention, provided that the Conseil d'Administration be given two committees as advisory organizations—namely the Comité Technique and the Comité Commercial. I became the chairman of the Comité Commercial on the German side. There was also a French chairman. And in the Comité Technique, Dr. Wenk, of Leverkusen, was the chairman on the German side.

Q. Did that activity in the Comité Commercial take much of your time?

A. One can't really say that. The Conseil d'Administration convened approximately three or four times a year beginning with 1942, and on the day preceding the meeting of the Conseil d'Administration there was a meeting of the Comité Technique and another one of the Comité Commercial. By the way, there were not very many commercial questions around that time because production was of necessity limited and sales were more or less channeled in certain directions. As the records of the Comité Commercial show, quite a considerable part of the time was taken up in trying to find outstanding accounts and stores, and stockpiles of the French parent firms in the European countries that Farben could still reach, and in unfreezing these accounts, and seeing to it that the proceeds, with the special permission of the Reich Ministry of Economics, were paid to the parent firms by way of a special clearing arrangement. That was an assistance we granted to the French parent firms. The Comité Commercial would have been able to conduct its proper business only after the return of normal conditions.

Q. Thank you. That is enough. I now turn to something else. The French firms Kuhlmann, Saint-Clair, Saint-Denis (the so-called later parent firms of Francolor) and a number of other French firms belonged to the German-French Dyestuffs Cartel, the tripartite or quadripartite cartel. What firms were concerned in that case? Can you tell me that?

A. The firms of Mulhouse, Mulhouse-Dornach, the Steiner firms, and Durand et Huguenin, were concerned. The last firm was made a part of Kuhlmann before the war broke out. Furthermore, there were two more firms which participated in the cartel as so-called subsidiary firms. They were the firms of Mabboux et Camell and Croix-Wasquehal.

Q. The firms you have just mentioned were not taken into the Franco-entprise. What happened to them?

A. The firms of Steiner, Mabboux et Camell, and Croix-Wasquehal were to be closed down. The three remaining firms I mentioned were located in Alsace. The indictment deals with the firm of Mulhouse; Mulhouse-Dornach was transformed into a joint Swiss-German firm which is not included in the indictment. The plant Durand et Huguenin, as far as I know, had already been closed down when the war broke out, and we learned later that the plant itself had been sold by the chief of the civil administration—that is, by the German occupation authorities in Strasbourg—to a firm which did not produce chemicals.

Q. Mr. Kugler, did you personally conduct negotiations about the individual measures in that regard?

A. One must not imagine that there was a certain negotiation where it was stated quite openly "We are now going to discuss the paralyzation or the shutting-down of these plants," but the shutting-down was treated in the course of general negotiations.

Q. During the cross-examination of the witness Overhoff and also at another passage during your evidence, the prosecution pointed to such shutting-down of plants and to restrictions of production, and it considers these measures prejudicial to the French interests. I particularly refer to the Trial Brief concerning count two on page 42 of the German, and page 40 of the English. Can you say anything about that?

A. I have already discussed the Alsatian firms. In regard to the three French firms, namely, Steiner, Mabboux et Camell and Croix-Wasquehal, one can only speak of injury to French interests if one does not know the actual conditions. The three firms did not produce at all. They were what technical people call "ready-made enterprises." They are firms that repack dyestuffs that have not been produced on their own premises, that dilute dyestuffs, or that prepare certain coloring matter for foodstuffs and then sell them in small quantities. The delivery of dyestuffs, as such, was made through the French parent firms, and the continued operation of these enterprises was, under the altered circumstances, not considered expedient by the French firms. It was considered uneconomical. The decision about Mabboux et Camell and Croix-Wasquehal was very simple because both firms belonged entirely to the Établissements Kuhlmann. The shutting-down of those plants was thus a purely internal arrangement. In the case of the firm of Steiner, I do not know exactly whether those parent firms, or one of the parent firms, had participated in the capital. At any rate, Mr. Frossard took it upon himself, at the time, to discuss with Mr. Steiner a possible conclusion of his trading activity. Whether an arrangement or a settlement was made

I do not know any more. From our point of view the matter was of such unimportance that it was not pursued particularly, or I have forgotten the results, or what happened at the time. Particularly striking in the character of the Steiner problem was the fact that Mr. Steiner concerned himself mainly, as his chief business, with the production of jams and fruit juices, so he was not a typical representative of the wholesale chemical industry.

Q. In order to clarify some points that have not yet been exhausted, I want to turn to something else now. In Prosecution Book 57, page 29 of the German text, the prosecution submitted Document NI-4894, Exhibit 1240*—on page 30 of the English. In the index of book 57, that document is described as proof of the fact that the Military Commander for France confiscated the enterprise Villers St. Paul, of the Établissements Kuhlmann, on 7 August 1940. Apparently the prosecution wants to establish a connection by this document with the later Francolor negotiations. Can you comment on that?

A. The measure was not carried out upon the instigation of Farben. It has no connection with the subsequent Francolor negotiations.

Q. Was this a confiscation at all?

A. In my opinion not. In the German text of the document submitted, the decree or the order is called "Safeguarding," [Sicherstellung] or "Security." In my opinion, this is a regulation which corresponds to the "Off Limits" signs that are, for instance, attached by American military authorities to certain German public buildings, factories, and so on. The purpose of those signs, of course, is to prohibit unauthorized personnel from entering these buildings, and to prevent anybody from taking away material from these premises, and to create order. The text of this document confirms such an assumption, and also the way in which the text has been arranged in this printed form. It is obviously a printed form which the Feldkommandanturen [military administration headquarters] received at the time, with the stamp of the Military Commander, and which they attached wherever they thought it would be necessary.

Q. One little question in that connection, Mr. Kugler. Were you, perhaps, in Villers St. Paul in 1940?

A. I didn't see Villers St. Paul or any other plant which was incorporated in Francolor during the war.

Q. You heard only now about this so-called safeguarding action that we have just mentioned—that is to say, during the course of this trial?

A. Yes, that is right; and I would add that, in the course of subsequent negotiations with the French group, as far as I remember, the entire event was not even mentioned by the French gentlemen. The Frenchmen would certainly have mentioned it if they had considered

*Not reproduced herein.

such a sign as sequestration or confiscation, but I assume they considered that only a very desirable safeguarding or security measure. I can remember from the early times of American occupation that everybody was trying to get one of these "off limits" signs to attach to his house.

Q. Then, according to your description, one cannot speak of any pressure that was to be exerted on Kuhlmann?

A. Certainly not.

Q. In other documents presented by the prosecution, this pressure is mentioned or, at least, there are certain formulations contained therein which permit one to conclude that the intention existed to exert such a pressure. In that connection, I want to refer particularly to Document NI-6839, Exhibit 1241,¹ book 57, on page 31, of the English, and to the exhibit of the prosecution offered during the cross-examination of Dr. ter Meer on 17 February 1948,² which is Document NI-14224, Exhibit 1886. Can you comment on that, please?

A. Such an impression may be created if one takes out individual passages from their contents, and if one does not take into account or does not know certain conditions that prevailed during the time when the one or the other document was drafted, and which were presumed as known to the reader when the documents were drafted.

Q. Dr. Kugler, please explain what you have said a little more exactly.

A. Quite generally, I would say (about this situation that you are asking me about) that the time when the negotiations were to be started with the French group was determined by the German Government. From Exhibit 1241 mentioned, and from various other documents of the prosecution, it can be seen how much the entire affair was in a state of flux in the late summer and early autumn of 1940, and that it was the government that recommended, or ordered outright, a possible postponement of these negotiations.

Q. Can you indicate what reasons caused the German authorities to adopt such an attitude?

A. As far as I could detect from direct conversations with these authorities, or from any other sources, things were like this: First, all questions must be mentioned that had to do with the regulation of traffic between occupied France and non-occupied France. In that connection I mention, starting from the smallest things: passenger traffic and mail; traffic of commodities between the two zones; the question as to whether customs and import regulations were to remain in force or not. Then there were difficulties which arose from the fact that the southeastern tip of France was occupied by Italy, and that a certain coordination of the economic and general policy had to

¹ Reproduced in 2 above.

² Reproduced in 3 above.

be undertaken in Italian-occupied France and in German-occupied France. In short, there were many questions which influenced the normalization of the economy, and what we know today about zonal boundaries was very much felt at the time in the case of the demarcation line—that is, the border between occupied and unoccupied France.

Further ambiguity resulted in the discussions about the fate of the northern French provinces, the Département du Nord and the Département Pas-de-Calais. It was considered at the time that those two Départements [administrative regions] should be made a part of Belgium politically, or at least economically, and that Belgium should administer them. Both of these Départements were important for the procurement of raw materials, and particularly for the delivery of coal to the rest of France, and the decision about the political or economic future of these two Départements was considered by official as well as other, agencies to have a fundamental influence in economic respects also.

I pointed out, to come to another point, the first trip undertaken by Mr. von Schnitzler, and that there was a certain amount of confusion in the new German administrative agencies over future aims, and this was not clarified very quickly. There were very long discussions whether new manufactures were going to be subject to approval or not; whether only the direct war-essential industry was to be reactivated; or whether also other industries serving civilian requirements should be reactivated.

I have already mentioned that the French textile industry was to be shut down, and not very much later, this course was changed abruptly. Interest was shown in having the French textile industry operate again; and in this connection new synthetic fiber plants and projects were planned and partly carried into practice.

Q. Mr. Kugler, that certainly explains somewhat the delay at the beginning of the contact between the two interested parties; but in some documents it is said that in the meantime, until the negotiations were started, a certain influence should be exerted upon the allocation of raw materials to the French dyestuffs industry.

A. My answer to your present question is somewhat longer and will take quite some time and I should like to give it all together. Perhaps you could suggest to the Tribunal that we have a short recess now. I should like to give the answer uninterruptedly.

(Recess)

* * * * *

Q. Mr. Kugler, I repeat: Your statements which you made before the recess in answer to my last question explained the delay of the commencement of the contacts between the two interested parties. In a number of places in the prosecution document however, mention is

made of the fact that in the meantime, up to the time of the commencement of the negotiations, influence was to be exercised on the raw materials distribution to French dyestuffs factories. Can you make some statement about that?

A. Yes, that is correct. Here again you must understand the situation as whole, and you must take into consideration the background. You must not judge the situation from an excerpt from reports.

Let me explain that in detail. In the summer of 1940, reports were already available that French industry—and I am referring to the chemical industry—was endeavoring to put the factories back into operation as quickly as possible and to as large an extent as possible. Prosecution Exhibit 1241 contains a reference to this. It states that one of the leading directors of Kuhlmann, Director Rhein, had said that Kuhlmann would carry on in a big way. Prosecution Document NI-792, Exhibit 1242,* book 57, English page 49, also refers to that matter—it is my letter to Dr. Terhaar of 12 September 1940. Exhibit 1241 also indicates the position and the jurisdiction of the Feldkommandanturen. On the occasion of the visit to the Military Commander of France in Paris at the end of August, it was pointed out that the local Feldkommandanturen had rather wide authority to put the factories back into operation within their local areas, and that they would make any necessary decisions as far as they applied locally, and that, under certain circumstances, general considerations would not play a part.

In this connection, I might further repeat the reference to the information which we received on the occasion of this first trip of Mr. von Schnitzler, according to which he could not assume that the main consumer of dyestuffs, the textiles industry, would start operating. Accordingly, one had to assume at first that there would momentarily be no new demand for dyestuffs in France.

I will add a further point. Information reached us at the time from various export markets that the French firms would appear in export in a manner which must be considered as a serious prejudice to the German foreign currency receipts. This mainly concerned goods which were either exported from unoccupied France, or goods which were delivered from the stocks of French firms in the former export country. Exhibit 1886 of the prosecution, NI-14224*, refers to that matter. I quote: "Indications of disturbances which prejudice German receipts in foreign currency." In the face of what I have just said, the situation in Germany must be considered. The dyestuffs production in Germany was considered nonessential to the war effort and, immediately after the outbreak of the war, was severely regimented and curtailed. The raw materials distribution, benzene, acids, livivium, on the one hand, and coal, on the other, for purposes of

*Reproduced in 2 above.

dyestuffs production, was controlled through the Economic Group and the Reich Ministry of Economics. It was adapted to the throttled needs of the domestic market and to the still more limited export needs.

In other production fields of Farben, matters were somewhat similar.

In view of that situation, one may well understand that it was pointed out at the time that, in contrast to this strict curtailment in Germany and to production control in Germany, France should not work without any planning.

Q. Mr. Kugler, as far as you knew at the time, was there actually such a danger that the general German economic interests would be harmed, and do you know in what way the authorities tried to regulate this state of affairs?

A. There was no interference practically and, as far as the danger is concerned of which you speak, Dr. ter Meer, in the course of his examination with respect to count two, will probably explain that we simply did not see the matter quite correctly. If, in the late summer and fall of 1940, one could have clearly seen how difficult the raw materials situation in France was, how difficult it would be to regulate somewhat the transport difficulties on which the coal supply above all was dependent, one would neither have made any statements about the production plans of French firms on the one hand, nor would have taken seriously the warnings by the military commander; and I am particularly referring to the question of the jurisdiction of the Feldkommandanturen and questions pertaining to permits to be granted.

In retrospect, the situation was that we were unnecessarily cudgeling our brains. The anxiety lest the French factories concerned during a transition period would be able to work under more favorable noncontrolled conditions than we did in Germany, and that, in connection with that, German general economic interests would suffer—as, for instance, the rationing of scarce raw materials and the reduction of foreign exchange—were completely superfluous, as it later turned out.

All these matters settled themselves. To what extent that was true turned out some time later when Farben, after January 1941, after the first private negotiations with the French group, tried to assist the French dyestuffs factories and tried to improve their situation as far as possible with respect to raw materials supply, as compared with the rest of the French industry.

Dr. Ambros made certain indications on this subject while he was examined,¹ and Dr. ter Meer probably will also make some remarks with respect to the coal supply.² He will indicate how difficult and

¹ See extracts from the testimony of defendant Ambros reproduced in 4 above.

² See testimony of defendant ter Meer reproduced in 6 below.

sometimes how unsuccessful such endeavors were, because everything went in the opposite direction.

Q. Mr. Kugler, your statements so far seem to clarify the intentions of Farben, and also throw some light on the economic conditions which prevailed at the time. But I cannot get round the fact that the expression "pressure" was actually used in those documents.

A. I don't know where the word "pressure" was used. But from what I have before me, I think you must distinguish between Exhibit 1241 and the Exhibit 1886. The latter document refers to a conference in Paris at the end of November 1940. That is the document which was put to Dr. ter Meer during cross-examination. The first document is the file note about the journey at the end of August or the beginning of September. I think that the file note referring to the conference of November 1940, that is Exhibit 1886, clarifies considerably this apparent contradiction, which you refer to in your question. I may remind you that it was our intention to offer this Exhibit 1886 as a defense exhibit. That couldn't be done because it was used during cross-examination.

Q. Mr. Kugler, would you please enlarge upon this subject?

A. Let me state the following. Today I am not in a position to state whether the draft which, at the time, was sent to me by Dr. Terhaar (who was the author of the file note on the journey in summer 1940), is the one to which my letter to the author of that note, that is Exhibit 1242, refers. I don't know whether or not on the basis of suggestions by third parties, or on the basis of the author's own ideas on the draft submitted to me, any further additions or changes were made. Possibly such additions and changes were made pertaining to such matters as we have just discussed here, namely, concerning the exercising of some influence. For that reason I should like to ask you to understand my statements up to now on that subject to mean that I assume that Exhibit 1241 is the correct text. If that is so, its contents must be understood in the sense I explained. I am not the author of the travel report; as I said, it was by Dr. Terhaar. In the introduction to the examination pertaining to France, I already stated under what circumstances this travel report was drawn up. Had I written it myself, perhaps I would have stated more clearly and unambiguously when dealing with the dyestuffs field, what actually was, and what was not, wanted.

The word "pressure" probably would not have been used at all. Instead, I would have explained the anxiety that, without any settlement of the raw materials distribution, there would have been great confusion in France, and this quite independently of the question whether negotiations were, or were not carried on with the French. In the case of drafts written by third parties, one does not like to

make corrections, particularly if the author is known to be somewhat sensitive, as it is true in the case before us.

When writing my letter to the author, I confined myself to suggesting, as a supplement, what seemed to me to be important with respect to the production plans of the French group. As Mr. Mann stated during his examination, this is how, in this travel report, a mixture of materially correct statements and some confused and unclear statements came about.

Q. Dr. Kugler, that will do. Now, tell me: Did the author, whom you designated as Mr. Terhaar, distribute this travel report, according to your knowledge?

A. I can't say that now. At any rate, the trip as such was the subject of a discussion during a meeting of the Commercial Committee on 25 September 1940. I refer to Prosecution Exhibit 369, NI-6161.¹ These are the minutes of that conference. I refer to paragraph 3 on page 2 of the German text. Certainly the actual result of this journey was discussed and approved during that Commercial Committee meeting.

Q. I should like to know from you, Dr. Kugler, in what way the file note of November 1940 (Document NI-14224, Exhibit 1886),² clarifies things?

A. I am the author of that file note and I also signed it. Pages 2 and 4 of the German text speak of tactical and material support in two places. The file note also contains the word "pressure," but not in the sense that it was intended to exercise pressure. To clarify that, let me say something about the background of this trip. At the beginning, or at the middle of November 1940, after Farben had urged the authorities to start the conferences, a conflict as to competency arose between the Ministry of Economics and the Armistice Delegation and the Military Commander of France. There was a dispute between these agencies as to whether the first conference was to take place in Paris under the sponsorship of the Military Commander, or in Wiesbaden under the sponsorship of the Armistice Delegation. The decision was made in favor of Wiesbaden. After the Wiesbaden conference, Dr. Terhaar and I were commissioned to go to Paris. We were to approach the Military Commander in France—that is, in particular, Dr. Kolb and Dr. Michel—and report, for one thing, about the result of the Wiesbaden Conference, and further, we were to explain to these gentlemen that Farben neither did nor could exercise any influence with respect to the choice of the location. Any dissatisfaction on the part of the Parisian gentlemen was to be avoided, or if any such dissatisfaction already existed, it was to be removed. The file note in its first paragraph refers to this matter, on page 2 of the German text. I quote:

¹ Reproduced in 2 above.

² *Ibid.*

“Moreover, the prestige of Paris had unfortunately been badly prejudiced through the course of events. In the absence of Dr. Michel, Dr. Kolb had heard from M. Blanchard, via Lieutenant Colonel Neef, that the date had been fixed for 21 November, and had then arranged with Berlin over the telephone about his own part in things, so that it would be possible to ‘save face,’ at least with regard to the French. Both gentlemen recognized, in the course of discussion, that Farben found itself in a somewhat delicate situation in the whole affair and that it was difficult for it to consider the case from any other angle than that of its intention to remain the object of official decisions.”

In order to substantiate what I have said in the beginning, that the file note of November proves that there was no actual pressure intended on the other partner by Farben, as it was alleged by the prosecution, I should like to quote the following from the file note. I shall quote from the first paragraph :

“The question of the place for the first Franco-German dyestuffs conference was taken up again and still seems to hold a degree of importance for the Paris offices, which makes the individual case in question take on fundamental proportions. Dr. Michel volunteered the information that Dr. Burandt has recently left for Berlin, expressly in order to obtain a clarification in the Reich Ministry of Economics as to whether Paris or Wiesbaden is to take precedence. The point of view held in Paris is that, in principle, such negotiations should have their start in Paris, unless the object of the negotiations is to be charged from the outset with political meaning. According to Paris, Wiesbaden would be considered only if such negotiations remained without positive success, and if it were necessary to apply political pressure which, as Herr Michel himself declared, Paris is in a position to exercise only on a limited scale.”

From the second paragraph on page 2 of the German text, one can read the following, and I shall again quote quite briefly :

“Dr. Michel certainly expects further conferences to take place in Paris.”

The Paris agencies tried to get the conference to go to Paris where there was no (or less) possibility of any pressure, according to their own statements. This file note does not spare words; it is rather lengthy. Had we wanted to exercise any pressure, then, in view of the extensive size of this file note, some indication would certainly have been made that it was a pity that one could not continue the conference in Wiesbaden.

Q. Mr. Kugler, I don't think we need to discuss this matter any further. Let me quite briefly touch upon the proportion of the Fran-

color problem within the frame of the French chemical industry. The prosecution, under paragraph 103 of the indictment, states that Kuhlmann, Saint-Clair, and Saint-Denis represent the three most important chemical industries of France. One intermediate question, Dr. Kugler; is Saint-Clair, by itself, considered one of the larger or smaller plants of the dyestuffs industry of France?

A. It is the smallest of the three. The proportion, approximately, is: sixty percent Kuhlmann plants, including Villers St. Paul and Oissel; Saint-Denis, roughly twenty percent; and Saint-Clair, ten percent—or twenty-five percent, Saint-Denis, and fifteen percent, Saint Clair.

Q. Can you make some statements about the proportionate size, and whether these three factories actually represent the most important chemical plants in France?

A. This question is apparently in connection with some points made in the indictment under paragraph 113, according to which Farben acquired control over the chemical industry in France. Dr. ter Meer, during his examination, will, to a certain extent, describe the technical aspects of the chemical industry in France, and I undertook to give a few figures with respect to size. That really anticipates Dr. ter Meer's examination, but I think I may get it in here. This will also serve to clarify some points made under paragraphs 104 and 105, which also deal with the proportionate size.

If one considers the value of a country's industry, or, if one tries to evaluate a branch of one particular industry one is confronted to an increasing extent with the same difficulties which exist when one tries to evaluate one individual enterprise. The difficulties are somewhat larger. One must, at first, try to find certain standards of comparison. One must try to limit the concepts to a certain degree. One can consider chemical industry in the narrow sense, and one can consider it in a broad sense. In other words, borderline fields, as, for instance, electrometallurgy, can be included or can be excluded; but we are really not concerned with such details here.

Perhaps we can only see from the large figures whether the assumptions of the prosecution are correct or not, and a standard for such a general survey can be gleaned from the turnover. The prewar turnover of the French chemical industry, according to official statistics, estimates by technical organizations, et cetera, which are more or less in agreement, amounted to 1.7 billion marks annually. The capital of Francolor, according to the prewar turnover, was estimated as amounting to 800 million French francs, that is 40 million marks. I add here that when estimating these 40 million marks, or 800 million French francs, an alteration of the exchange rate was reckoned.

The conclusion which I want to draw from these figures still holds true, because the rate of the French franc differed before the war

and during the war; the manner in which the altered rate was calculated is stated in Schnitzler Document 54.*

Q. One intermediate question: When discussing this Schnitzler document, you are referring to a document about to be introduced?

A. That's right.

Q. It is a defense document?

A. Yes, it is a defense document which Dr. Siemers will introduce.

These 40,000,000 marks, compared to the 1.7 billion marks entire turnover of the French chemical industry, result in a percentage of 2½. Farben, however, only took over approximately 50 percent of Francolor. That is to say, the 2½ percent now becomes practically 1¼ percent, as against the 100 percent of the indictment.

Q. Mr. Kugler, you have discussed various standards of comparison before. When applying another standard, would you arrive at a similar correction of the statements made by the prosecution?

A. Yes. "The Agence Économique et Financière," that is the most important French economics journal, in 1942 surveyed the intrinsic value of the representative French chemical enterprises. The evaluation starts from stock exchange quotations, and it includes the firms of Pechine [Pechiney], Ugine, Rhône-Poulenc, Air Liquide, St. Gobain, and Kuhlmann. According to it, the total of the intrinsic value of these companies amounts to approximately 25 billion French francs. In this sum, Kuhlmann, the most important of the representative French parent firms of Francolor, has a share of 2 billion French francs. This figure corrects the statements made under paragraph 103 of the indictment.

I shall now turn to another consideration. Within the group of the French parent companies of Francolor, Kuhlmann's proportion of the plants of the companies was 48.8 percent, as against 2.6 percent Saint-Denis and 9.6 percent Saint-Clair. That is, talking in percentages, Kuhlmann had approximately 60 percent; 60 percent of 800 million—that is the capital of Francolor—corresponds to approximately 480 million French francs. In other words, in the intrinsic value of Kuhlmann of two billion French francs, as we arrive at it according to our calculations, the dyestuffs factories absorbed by Francolor amounted to approximately one-fourth, and did not represent, as the prosecution says under paragraph 110 of the indictment, the main assets of Kuhlmann. Beyond that, Farben acquired only approximately 50 percent; thus the one-quarter becomes one-eighth.

One more point added to this play of figures. Under paragraph 113 of the indictment, the prosecution speaks of the acquisition of the chemical industries of France. In addition to the large firms mentioned in the article in the "Agence Économique et Financière," hundreds of medium and smaller factories exist, as well as some large

*Not reproduced herein.

enterprises, as for instance, the larger enterprises of the nitrogen, rubber and rayon industries which are not mentioned in the article, and these too belonged to the chemical industry. On the other hand, one might say that, in the case of Pechine [Pechiney], which is included in the calculation, certain branches of metal production are included; and in the case of St. Gobain, the glass production was included in the calculations; but even if these items are excluded, Francolor does not amount to more than 2½ or 3 percent of the entire chemical industry of France, and Farben's share amounts to not more than 1¼ to 1½ percent.

Q. I think that will suffice. I have two more questions. Did you ever view the entire Francolor transaction with the thought in mind that it might be considered plunder and spoliation?

A. No, my personal judgment of the Francolor transaction was set down in an affidavit which I handed to Mr. Rudolph of the prosecution in March 1947, in Frankfurt. The conclusions contained in that affidavit refer particularly to the commercial part of these transactions, and to the judgment of the administrative organs, also to the automatic calculations of the percentages of the participation. I think that Dr. ter Meer, in the course of his examination, will go into these matters again, and principally, will mention the technical aspects of the Francolor transactions which were not mentioned in my affidavit.

I think that I can confine myself to answering your question with "No."

Q. My last question: The prosecution considers, with respect to this matter of Francolor, that the aim was aggressive war which Farben helped to prepare. What can you say about that?

A. I cannot deny, or I do not deny, that the new order [Neuordnung] of the relationship between the German and French dyestuffs factories came about as a result of the war. Farben did not want this war, neither from an aggressive nor a defensive point of view. I voiced my opinion on that yesterday.* In answer to your question, let me point out one thing: In the Francolor contract, Farben guaranteed to Francolor the prewar business volume to the extent of 7,000 tons of dyestuffs for a duration of 99 years. This guarantee was increased by Farben undertaking the obligation that it would take French products from France into Germany if, for some reason, it should not be possible for Francolor to reach these 7,000 tons in one particular year. During the war, Farben concluded a further contract in the field of dyestuffs which I might mention in that connection. This was a contract with the Prager Verein, of March 1941. It concerns the settlement of Farben's connection with the new dyestuffs factory of Prager Verein in Bohemia. Here, again, Farben

* See the extracts from the testimony of defendant Kugler reproduced earlier in subsection VII O 7d, volume VII, this series.

guaranteed—I think the contract is valid for 9 years—the prewar volume of production, and it even gave a promise of payment which may be evaluated at about 25 percent. In summary, I might state in reply to your question—referring to the examples I have given pertaining to guarantees to Francolor and Prager Verein—in my opinion, no one would act in that way who allegedly wanted to pay the terrible price of an aggressive war for the expansion of his economic power. In the final analysis, economic power means sales and turnover.

DR. VON KRAFFT: Your Honors, this concludes the examination of Dr. Kugler with respect to Francolor, and his examination altogether.

* * * * *

MR. NEWMAN: Speaking of Francolor; first, was it your idea at the time, and did you so express it, that the arrangement to be made with the French in the dyestuffs fields during the occupation would become the pattern for other fields of French industry?

DEFENDANT KUGLER: Mr. Newman, at the end of April or at the beginning of May 1947, when I was interrogated, I already discussed with you whether it had been my idea to obtain the participation. Is that what you are referring to? I do not understand the question.

Q. Just a moment. My question is this: Was it your idea that Farben's plan in the dyestuffs field should become the pattern for other fields of French industry?

A. It's possible, Mr. Newman, but I don't know, whether I was so convinced of the fairness and soundness of the Francolor contract that, at some time in those four or five years, I said in some place—or to someone—that this might well serve as a model. I am not sure now, but I believe that it is not out of the question. I shall even go one step further. I might say I wish it were still a model for Farben—anyway for what is left of it—for this Francolor agreement was so fine.

Q. Well, the prosecution would like to introduce NI-15228, which becomes our Exhibit 2142.* This is an excerpt from a letter signed "von Schnitzler" and "Kugler," to Dr. Kramer of 8 November 1940; and I particularly refer to the last part of this letter; but I have no further questions in this connection.

PRESIDING JUDGE SHAKE: Just a moment. Just a moment, please. First, Counsel, is that Document NI-15228?

MR. NEWMAN: That's right.

PRESIDING JUDGE SHAKE: And it becomes Exhibit—

MR. NEWMAN: 2142.

PRESIDING JUDGE SHAKE: Now, is this in connection with the previous question?

* Reproduced in part in 2 above.

MR. NEWMAN: That's right.

PRESIDING JUDGE SHAKE: Well, just a moment, please.

DEFENDANT KUGLER: May I have the document?

PRESIDING JUDGE SHAKE: Just a moment, please.

DEFENDANT KUGLER: May I have the document?

MR. NEWMAN: You may have it as I have no further question about it.

PRESIDING JUDGE SHAKE: Just one moment, please. Just a moment, please. The Tribunal is holding up things; just keep the document one second.

Now, Counsel, as we understand the testimony and as we understand the document, your Exhibit 2142 simply corroborates what the witness has testified to. If it is admitted in evidence, it becomes a subject of a collateral inquiry. Upon what theory do you conclude that you are entitled to corroborate a witness who has admitted substantially what the document says?

MR. NEWMAN: May I suggest, Mr. President, that I answer this question after I put my next question because this document is important in another connection.

PRESIDING JUDGE SHAKE: Very well. Ask the next question.

MR. NEWMAN: Now, you quoted, Dr. Kugler, from Exhibit 1886. This is your report on the conference you held at Paris at the end of November 1940. You quoted that, according to Dr. Michel, the pressure would be stronger on the French if negotiations would take place at Wiesbaden rather than in Paris. My question is, is it not true that you personally welcomed the fact that Wiesbaden was picked for your first meeting with the French for this very reason—that the pressure on the French would be stronger on this count.

DR. VON KRAFFT: Objection, Mr. President. I think that this question in that form is not proper.

PRESIDING JUDGE SHAKE: That objection is overruled. You may answer the question.

DEFENDANT KUGLER: It is possible that that was written down somewhere. But not in connection with that file note.

MR. NEWMAN: No, my question did not refer—I didn't say that it was written in connection with this file note, Prosecution Exhibit 1886, but my question is whether it is true that you welcomed Wiesbaden as the place of your first meeting with the French because of the fact that at Wiesbaden the German Armistice Delegation took part in the negotiations and so the entire meeting had an official character.

A. I can't say that today. You must submit a document to me in order to refresh my memory.

MR. NEWMAN: Now, Mr. President, in this connection I would like to introduce the exhibit I already numbered.

Dr. Kugler, was your so-called "claim to leadership" in France

limited to the dyestuffs field, or did it embrace the chemical field as a whole?

A. It was confined to the dyestuffs field. If fields other than dyestuffs remained in the Francolor, it was only because Farben, as well as the parent companies, realized that already available installations in the factories, say for plastics or other products, could not be dismantled and placed elsewhere. That is why, in the Francolor, the field of "produits divers" was provided for. The Frenchmen, as it was shown in the contract, did not complain about it at all. They did not say that Farben, in addition to claiming leadership for itself, tried to take control of other things too. You can see that from the fact that the Francolor agreement even has a passage with respect to developments in the future which had nothing to do with the dyestuffs field.

MR. SPRECHER: Mr. President, we really had thought that we could make this cross-examination very short. But the statements which the witness has made do not lend themselves to a very short cross-examination. Now, the simple question which was just addressed to the witness was merely whether or not the claim to leadership was to extend to the dyestuffs field, or if it was to go to the entire chemical field. That can certainly be answered very simply, and I believe it was by his first words. The explanation thereafter was entirely surplusage from our point of view, and our control over the cross-examination is limited unless there is some attempt to be responsive on the part of the witness.

PRESIDING JUDGE SHAKE: The Tribunal will instruct the witness that when he can do so he should answer the question directly and simply with a "yes" or "no". If, however, he cannot answer the question so directly we ask him nevertheless to make his answer as brief as he can in order to comply with the question that is asked.

MR. NEWMAN: Now, I shall introduce in this connection NI-15224 which may go in as our Exhibit 2143.¹ This is an excerpt from von Schnitzler's handwritten letter to defendant Kugler of 13 May 1941, and I refer to the first paragraph of this letter.

Dr. Kugler, you testified this afternoon that it was the German Government rather than Farben itself which did not wish negotiations with the French industrialists to be taken up any earlier, and that it was the government which recommended, or even ordered, the delay in starting negotiations with the French. Now, in this connection, I would like to show you NI-795 which may go in as our Exhibit 2144.² This is a letter by von Schnitzler to Dr. Hess, Chief of the Economic Group Chemical Industry. If you will please turn to the second page and read the following phrase: "The French group, at present, seems to be under the impression that our government has not yet authorized

¹ Reproduced in part in 2 above.

² Reproduced in 2 above.

us to confer with the French industrialists. Should you, therefore, hear of any such remark made by representatives of the French industry, such as Mr. Duchemin, we would be grateful to you if you would just listen to Mr. Duchemin rather than contradict him." And you may read the rest of this letter and then answer whether this refreshes your recollection as to who took the initiative in delaying negotiations.

A. May I include something now. I am confused. A letter was mentioned, a handwritten letter of Mr. von Schnitzler to me. Is that in connection with this matter? I never received it.

Q. I submitted two exhibits which you may take up with your defense counsel. I had no questions to my previous two exhibits. Now my present question refers to the exhibit before you which is von Schnitzler's letter to Dr. Hess.

PRESIDING JUDGE SHAKE: Now, Counsel, the witness has said something to the effect that the letter is not addressed to him. Upon what theory do you assume that his recollection would be refreshed by a letter written by Dr. von Schnitzler to someone named Hess? I think you had better inquire first whether he knows anything about the letter.

MR. NEWMAN: Will you tell us whether you were informed about this letter and the events upon which the letter is based?

A. I cannot remember this letter of Mr. von Schnitzler to Mr. Hess. From a material point of view, after glancing through this letter, I might state that the part which you quoted, in my opinion, does not contradict in any way what has been testified to before. It was not stated whether the agreement between Mr. von Schnitzler and Mr. Hemmen came about without tactical reasons, or whether Mr. von Schnitzler was impressed by some statements of Mr. Hemmen that there were urgent reasons to delay the negotiations.

Q. You answered my question. Before I ask my next question, I shall show you Dr. Kramer's file note of 28 February 1941 which is part of von Schnitzler's Document Book 3, his Document Number 48, page 20 of the German and page 17 of the English text. This document book has not yet been introduced and we shall mark a German mimeographed copy of this document, for identification only, as NI-15242, Prosecution Exhibit 2145.* If you will please turn to the second page, first paragraph of the mimeographed copy before you, where Dr. Kramer describes that Frossard was deeply impressed and depressed by the complete prohibition of exports from the occupied zone in France to the unoccupied zone. Now my question is, was not Farben itself instrumental in strangulating the French export to the unoccupied zone, so that this plight of Frossard's enterprises was a direct consequence of Farben's own efforts to this effect?

*Not reproduced herein.

A. Let me read the document. At the moment I cannot say whether the difficulties which were mentioned by Mr. Frossard here, with respect to the shipment of dyestuffs and intermediate products to unoccupied France, were within the frame of the general directive for shipments to unoccupied France.

Q. Now, I will show you Dr. Kramer's memo of 13 December 1940, Document NI-15232, which will become our Exhibit 2146.* We had just one phrase processed. Will you please read this phrase and tell us whether you remember that the copy of this note was sent to you at the time.

A. That is a note which Dr. Kramer sent from Paris to Frankfurt.

Q. That's right.

A. I probably have read it, and I connect this note directly with what I said during my examination. In November, in the Hotel Majestic—

PRESIDING JUDGE SHAKE: You have answered the question and any explanation that you wish to make with reference to any of these documents which are presented to you, if proper, will probably come in the reexamination of you by your own counsel. The Tribunal will rise now until nine o'clock tomorrow morning.

(Recess)

MR. NEWMAN: Before the recess yesterday we spoke of Dr. Kramer's activities in Paris after the Wiesbaden meeting. In this connection I ask you: Is it not true that you, personally, expressly approved of Dr. Kramer's efforts in restricting the business activity of the French plants before the Francolor agreement?

A. I can answer this neither in the affirmative nor in the negative, if you put this question to me in that general form. I should be grateful to you if you could give me an indication as to how I am supposed to have approved or supported Dr. Kramer's efforts.

Q. By just writing him to the effect that you fully approved of his steps taken in the interim period between Wiesbaden and the beginning of 1939, or rather 1941.

A. During direct examination yesterday I made some detailed statements with respect to the beginning of French production. I stated under what aspects Farben considered the situation in France at the time. I also admitted that—and this is how I expressed it—we were unnecessarily cudgelling our brains in many respects.

Q. My question was just whether you recall that you expressly approved of Kramer's steps in restricting the French plants after Wiesbaden; and I shall introduce, in this connection, NI—

PRESIDING JUDGE SHAKE: Just a moment. Now, let us find out what

* Reproduced in part in 2 above.

the witness says about it. Now, do you mean, Counsel, that by letter or by written statement, he expressly approved the matter?

MR. NEWMAN: That's right; and the answer of the defendant was not clearly affirmed.

PRESIDING JUDGE SHAKE: Very well. Now, let us see if we can get it clear and thus perhaps save some time.

Q. Do you recall, Mr. Witness, whether you did or did not expressly approve the matter in some written document, the matter about which counsel has asked you?

A. In the general way in which the question is put to me by the prosecutor, I really cannot remember.

Q. Very well; that's an answer.

PRESIDING JUDGE SHAKE: Now, you may introduce your document.

MR. NEWMAN: Now, I introduce Document NI-15238, which will become our Exhibit 2147, which is your letter to Dr. Kramer.*

PRESIDING JUDGE SHAKE: Now, Counsel, there really is no necessity to pursue the matter further. You have the answer of the witness that he does not remember. If the document shows that he did, it speaks for itself, and that's the close of the issue on that score, unless there is redirect examination.

MR. NEWMAN: Very well, Mr. President, I just wanted to identify the document; I have no further questions on this.

PRESIDING JUDGE SHAKE: Very well.

MR. NEWMAN: In your direct examination yesterday you stated that no actual pressure was exercised on the other party, and that Farben did not intend any such pressure. Now, is it not true that Farben agreed on using pressure, even against the French collaborationist government in Vichy, in order to procure its consent for a Farben majority participation in Francolor?

PRESIDING JUDGE SHAKE: Now, Counsel, if you can make your question a little more direct. You say, "if you didn't agree." [sic] You do not say whether or not you refer to some oral conversation, to some written document, or in fact, to what he may not have agreed. If you put the question direct to him we will permit you to have an answer, and then you can follow your own course with reference to supplemental proof.

MR. NEWMAN: Is it not true that Dr. Kramer advised you, in March 1941, that the Vichy government was opposed to Farben's 51 percent participation in Francolor, and that, therefore, Kramer felt it necessary, before reopening negotiations, to put the French Government under pressure, and that he so advised you?

A. I knew that the Vichy government was opposed to 51 percent.

PRESIDING JUDGE SHAKE: The question is whether or not you were advised by the party named in the question to that effect.

*Reproduced in part in 2 above.

A. That I don't remember.

MR. NEWMAN: Then, I introduce a file note on a telephone conversation with Dr. Kramer, initialed "Dr. Kuepper," of 6 March 1941, which was taken from your Griesheim files, NI-15222, which may go in as our Exhibit 2148.¹

Now I am turning to the Preamble of the Francolor Convention (the Francolor Convention is our Exhibit 1255, Document NI-6845,² in our Document Book 58, English Page 35, which is Page 41 of the German). You were, at the time, guided by this Preamble. The French side wished to make clear that it had entered into the Francolor agreement under pressure.

A. We did not understand this Preamble in that way. The Preamble was drafted by the Frenchmen. We don't consider this Preamble to mean that the contract was concluded under pressure. We could not do that because, for our part, we never had the feeling that we exercised the pressure alleged by the prosecution. On the other hand, we found it quite understandable that the Frenchmen (with respect to a contract which was to last for 99 years and which had been concluded under the pressure of the conditions, as it were) wanted to set down the background and preliminary history of this contract that was to last for 100 years. During one of your interrogations, in May, or at the end of April, I stated that we did not like the Preamble very much, but, on the other hand, we could understand the feelings expressed by the Frenchmen, and we, therefore, agreed to the Preamble in the way it was phrased. Had we exercised pressure beforehand, and had we considered that contract as having been drafted under pressure, then we probably would have been opposed to having the unfair attitude confirmed in writing and signed by us.

Q. Now, did you or your representative in Paris consider this Preamble as a means for the French to avoid or cancel the Francolor Convention when circumstances changed?

A. I can't remember any such consideration at the moment.

Q. Was it not Farben's plan to apply to Dr. Michel of the German Military Government in France, and to ask him to have the Preamble stricken from the draft of the Francolor Conventions on the pretense that the German Government considered such Preamble undesirable?

A. I can't remember that particular event, but I do think that it is possible that this matter was discussed with the government representatives in those days. In signing this Preamble, we assumed a certain—let us say—moral responsibility towards the government.

MR. NEWMAN. As to the last three questions, I introduce NI-15219. This is Dr. Kuepper's memorandum (addressed, among others, to Defendant Kugler), of 13 June 1941, which will become our Exhibit

¹ Reproduced in 2 above.

² *Ibid.*

2149;¹ and also NI-15218 (again Dr. Kuepper's memorandum to von Schnitzler, ter Meer, Kugler, and others), of 1 July 1941, which will become our Exhibit 2150.² In the last exhibit I particularly refer to the second paragraph.

* * * * *

REDIRECT EXAMINATION

DR VON KRAFFT: Mr. Kugler, do you have Document NI-15228, Exhibit 2142,³ which Mr. Newman put to you during cross-examination yesterday?

DEFENDANT KUGLER: Yes.

Q. Please look at the first paragraph, especially the passage reading:

"It is quite obvious that our tactical position towards the French will be far stronger if the first fundamental discussion takes place in Germany, and more particularly, at the site of the Armistice Delegation; and if our program, as outlined, is presented, so to say, from official quarters."

If I understood the cross-examination correctly yesterday, the prosecution sees in this letter, which you signed, a contradiction to your testimony. Would you please comment on this?

A. The paragraph preceding in the letter to Dr. Kramer—this paragraph is not contained in the document submitted by the prosecution.

Q. But you have seen the original, and read the full text?

A. Yes. In the preceding paragraph, mention is made that the official quarters suggested that, from the French side, a member of the French Armistice Delegation was also to be present. This was a new situation, as far as Farben was concerned. I believe that I am correct in interpreting the considerations at the time as follows. Farben feared that the parity, with respect to both governments, would not be observed if the German side sent only executive agencies to participate in the conference, namely from the office of the Military Commander in Paris; whereas on the French side, there would be an official representative of the Vichy government who was also a member of the Armistice Delegation. It is in consideration of these aspects, that according to my recollection and in my opinion, the first paragraph of the document submitted should be read and understood.

After 8 November 1940—that is the date of this letter addressed to Kramer—the dispute (between Paris, Wiesbaden, and Berlin) as to jurisdiction actually started. We considered that this dispute was extremely unpleasant and awkward because, as it is later indicated, we were the object of this dispute. Furthermore, after the Wiesbaden Conference, on the 21st, which was the official conference in the pres-

¹ Reproduced in part in 2 above.

² *Ibid.*

³ *Ibid.*

ence of the government representatives, the negotiations were carried on in an atmosphere and tone which were not very pleasing to us. Thereupon, we gladly made use of the opportunity to continue the negotiations in Paris. Paris told us, as Exhibit 1886 shows, that no pressure was to be exerted. We actually did not wish to exert any pressure. We, therefore, gladly agreed to have the further conferences take place in Paris. This brings me to what I have said in direct examination.

Q. I believe that will suffice. Mr. Kugler, I have another question about this letter. Please look at the third sentence of the 2d paragraph of the excerpt which reads, and I quote :

“We also feel we may assume that the gentlemen will have complete understanding for our complying at once with a wish expressed by the Armistice Delegation, this wish presumably being based on the fact that similar negotiations concerning industries of direct military importance have already been conducted in Wiesbaden, and that the settlement in the dyestuffs field is to serve, to a certain extent, as a pattern for other industrial fields.”

Now I should like to ask you whether, according to your recollection of the events at the time, the idea that Farben wanted to consider its settlement a model came from Farben or from the government authorities?

A. The phrase you just read shows very clearly that we are repeating the opinion of Mr. Hemmen in that letter. Whether we understood Mr. Hemmen correctly at the time, I do not know. Perhaps we misunderstood him. Perhaps however, we understood him correctly. Other gentlemen in Berlin belonging to the responsible agencies there, or in Paris, were of a different opinion. The fact that there was no clear policy in the various governmental agencies, at the time, is shown by the conference in Paris which I had 20 days after this letter—on 28 or 29 November 1940. It is also shown by the minutes already mentioned, Document NI-14224, Prosecution Exhibit 1886.* I should like to quote the first paragraph dealing with the question of “model,” where the opinion of the Parisian gentlemen is quoted as follows:

“The situation was such that the proposals which were planned for its settlement could in no way be considered by the French as prejudicial to a third party.”

This refers to our French proposals. The emphasis of this point of view seems to be all the more necessary since, at the Hotel Majestic, there was obviously a certain inclination in favor of such qualified minorities and joint sales corporations, and as the agreement with Schieber-Usines du Rhône (30 percent participation) was considered a model in that respect.

*Reproduced in 2 above.

“Conversely, it is interesting in this connection that Henschel, a locomotive factory, by way of private-economic agreements, has obtained the majority of the French locomotive factory, Somua.”

Q. To complete the record, Mr. Kugler, you have now quoted from Document NI-14224, Exhibit 1886.

A. I apologize. It becomes apparent from my quotation that there was no uniform opinion at the time, and that 20 days later another governmental agency was again talking of a pattern. That we, in our French proposal, did not represent a model and, above all, did not wish to become a model, is proved by another document of the prosecution, NI-6950, Exhibit 1253,¹ Book 58. These are minutes of the conference at the Hotel Majestic in the presence of the Military Commander of France and the French Government. During this conference, the French Government gave its approval to the Francolor contract, in particular to the 51 percent. On Page 5 of the German version of this document, under III, it is stated, and I quote :

“The German partner, in view of the present agreement, will not try to demand a majority participation in other French industries, since this settlement, in view of the historical development”

—this refers to the historical development of the Farben industry—

“and in view of the given technical and commercial facts, represents a special case.”

Q. I believe we can leave this document now. Please look at Prosecution Document NI-15224, Exhibit 2143.² This is a letter from Dr. von Schnitzler to you, dated 13 May 1941. In the first paragraph of this letter, Mr. von Schnitzler points out that the French later “became afraid of their own courage and would not swallow the claim for leadership in the field of chemistry and in other fields.” And he says that he is not surprised about that.

First of all, Mr. Kugler, do you know how this letter came to be written?

A. Herr von Schnitzler was in Kissingen at that time, where he was on vacation. I, in my capacity as the head of the Directorate Department, was in charge of preparing the conference in Paris, and had to contact all the other agencies concerned. I submitted to Mr. von Schnitzler a situation report by letter, and in that connection, I quoted the attitude expressed by the French side. Herr von Schnitzler refers to these preparations in his reply.

Q. Mr. Kugler, the prosecution, if I remember correctly, put this letter to you yesterday after you had testified that Farben's claim to leadership referred only to the dyestuffs field. Now, if you read the first paragraph of this letter, doesn't there seem to be some contradic-

¹ Not reproduced herein.

² Reproduced in part in 2 above.

tion to your testimony; and can you give us more information about this?

A. I certainly do admit that in reading this letter one may easily gain the impression, and perhaps even must gain the impression, that the situation with respect to this claim to leadership was somewhat different. The impression, however, is erroneous, and I shall prove it.

On 21 November 1940, there was the conference with the government representatives at Wiesbaden; on 22 November 1940, there was the first private economy conference at Wiesbaden. About this conference an internal file memorandum was drawn up at the time. This file memorandum was introduced by the prosecution as their Document NI-6838, Exhibit 1247.¹ I quote from this exhibit, page 110 of the German version, the last paragraph, continued on the next page:

“After it had been once more expressly clarified that the claim of the German dyestuffs industry to a leadership position in collaboration with the French dyestuffs industry had been confined exclusively to dyestuffs, to their organic intermediates, and to dyestuffs’ auxiliary products—not to the other production fields of the participating French enterprises—these four principles are being explained as follows, in the further course of the negotiations.”

Then follow statements with respect to participation in production, et cetera. The policy, which is expressed in this instance, had not been abolished at any time. Then, how does this apparent contradiction arise?

With regard to Saint-Denis and Saint-Clair, we knew positively from our former collaboration that they were pure dyestuffs factories. In the case of the two firms belonging to the Établissements Kuhlmann—Oissel and Villers St. Paul—we had experienced (before the war, in the course of our collaboration with the French) that Kuhlmann, with respect to these two firms, in addition to pure dyestuffs production, had also embarked upon certain other fields of production—plastics, lacquers, et cetera. The exact extent was unknown to us, nor did we know whether and how it would be possible to find, within the scope of the combination provided by Francolor, a limitation with respect to those fields of production not within the category of dyestuffs. This question had already concerned us prior to the Wiesbaden conference. Evidence is found in the document of the prosecution. In book 57, the prosecution has included NI-5810, but did not properly offer it as an exhibit.² We have here an internal file memorandum of 31 October 1940. In this file memorandum, a number of questions are contained which are connected with the intended project concerning France. It was to serve as the basis for further discus-

¹ Not reproduced herein.

² Document NI-5810 was actually in evidence as Prosecution Exhibit 1855. It is not reproduced herein.

sions and as a file record for discussions which had already taken place. On page 1 of that document, German version, under paragraph 2a, the following is stated, and I quote:

“The production factories of Établissements Kuhlmann of dyestuffs, organic intermediates, by-products, and textile auxiliaries.” That was the title; the text goes on to state—

“plastics and synthetics will remain outside the dyestuffs combination.”

Then there is a question noted:

“In the plants Villers and Oissel, is production arranged in such a way that it could be separated from the rest?”

(Recess)

DR. VON KRAFFT: Mr. President, may I first correct a mistake which my client made before the recess when he was quoting from a document contained in Book 57. This is Document NI-5810. He stated that this document was not in evidence. It was put into evidence at the time the witness Kuepper was heard on 29 January 1948, and bears Prosecution Exhibit No. 1855.

Now, Dr. Kugler, you have quoted from the said document and you have stated that Farben, before the Wiesbaden conference of November 1940, had considered what settlement was to be made with respect to products which were not dyestuffs, but which were produced in the Kuhlmann factories. Is there anything you have to explain in that regard?

DEFENDANT KUGLER. In order to clarify this matter, let me state the following: When, in the beginning of 1941, one sat down at the conference table with the French, one learned what products were produced, and approximately to what extent, at St. Villers and Oissel; that is, products which were not dyestuffs. We and the French were confronted with the question of what was to happen to that production, because it did not come under the so-called “leadership claim.” There were various possibilities for settlement in that regard. Theoretically, there could have been a dismantling of the installations and their transfer to a plant of Établissements Kuhlmann by forming a special company. All of this seemed to us, as well as to the French, a rather complicated and uneconomic step. In the discussion, it was also considered that these various productions were partly based on dyestuffs intermediates which were produced at these two plants. That is how it was finally arranged, and I think that was done during the April meeting, that these products should be left where they were. We said: Let us leave these products where they are. They are in a factory to which the so-called “leadership claim” applies, and if they are left there, then the French will have the advantage that all

the agreements with respect to technical assistance, know-how, and so forth, would apply equally to all these products even though they are not dyestuffs. At that time, in April, the French were in full agreement, as we thought. This is what Dr. von Schnitzler uses as the starting point of his statement in his letter. The fact that the French were in agreement can be seen from the way Dr. von Schnitzler's letter is phrased. He says that the French were afraid of their own courage. If one loses one's courage, one must have had some at first. The French realized that it would be the most reasonable solution for both parties to continue producing the products where they had been produced up to now. The reasons why the French changed their opinion afterwards can be explained by the following. This reason is characteristic of the value of Farben's technical assistance. The consideration of the parent companies was this—if Francolor, with the technical assistance of Farben, works in this field and achieves a certain development, as it were, then it may happen under certain circumstances that the subsidiary company, that is Francolor, would fare better in the long run than the parent companies of Kuhlmann, Saint-Clair and Saint-Denis. During the next meetings we continued to discuss that subject and a solution was found which consisted of the following: The products remained in the factories to show that they did not fall within the category of dyestuffs, but represented something else; and the sale of these products was not handled by Francolor, but the parent companies became Francolor's agents for these products. It was furthermore agreed that the parent companies were entitled, at all times, to produce these products at their own factories. If they did so, the only consequence would be that they could not simultaneously remain the agents of Francolor, because then the parent companies would in a certain sense, become the competitors of Francolor. This settlement becomes apparent from Article 18 of the so-called Convention. That is Exhibit 1255, Document NI-6845.*

JUDGE MORRIS: Just a moment. May I break in here. It occurs to me that we are getting quite away beyond proper redirect examination. The avenue is not open on redirect to take up the main defense again and go far into further details. Now I have noticed the witness has been arguing his case much more than he has been testifying, the last few minutes. May I suggest, to both counsel and witness, that you can find the questions and the answers to those things that are proper on redirect examination—that is, to make brief explanations of any of the documents that have been introduced in evidence on the cross-examination, so as not to leave a false impression, from the defendant's standpoint, of the documents that have been introduced; or if the defendant has, on cross-examination, made a state-

*Reproduced in part in 2 above.

ment that may possibly be misconstrued, he is entitled to explain it sufficiently so as to bring it before the Tribunal in the proper light. But certainly redirect examination does not entitle the witness to go into lengthy discussions of matters that he testified to upon direct examination, and particularly, it does not entitle him to argue his case. In other words, the statement of fact is one thing, but to go back into other documents and build up an argument is something that is entirely improper, and I suggest we confine the examination and responses from now on a little more within the proper limits of redirect examination.

DR. VON KRAFFT: Judge Morris, it is my opinion that Mr. Kugler has sufficiently clarified the contradictions which I have seen in the documents. I have only one more question, and in the future I shall abide by the suggestions of the Tribunal.

PRESIDING JUDGE SHAKE: Go ahead.

DR. VON KRAFFT: Mr. Kugler, you have before you the letter which Dr. von Schnitzler wrote to you on 13 May. In the course of this letter, the estimate is mentioned, and Dr. Schnitzler discusses a confusion of figures which the French submitted with respect to the value of the plant. Can you briefly state what Dr. Schnitzler actually meant? Can you tell me how the estimate was actually made?

A. Originally it had been the intention of both parties to evaluate the individual plants which were to be merged with Francolor, by estimating the value of the individual inventories. For this purpose, experts had been appointed who were to inspect the plants. Furthermore, the French had submitted a number of figures upon which these estimates were to be based. This material helped very little and that is probably what Mr. von Schnitzler meant when he made his remark. At the next meeting, however, the method of individual estimates was dropped, and it was decided that the entire object be evaluated as a going concern according to the French turnover figures, as had been done in the case of Aussig-Falkenau.

DR. VON KRAFFT: Mr. President, I have no further questions.

DR. SIEMERS (counsel for defendant von Schnitzler): Mr. President, with respect to a number of other documents which have been submitted during cross-examination, I should like to question Dr. Kugler, as Mr. Henze has kindly said he would put his questions later, and my questions concern the Francolor part.

Dr. Kugler, would you please look at Exhibit 2147, Document NI-15238;¹ and then Exhibit 2148, Document NI-15222.² The prosecution has put to you and quoted the following, from NI-15222, Exhibit 2148:

¹ Reproduced in part in 2 above.

² *Ibid.*

“Under the circumstances, Dr. Kramer does not consider it expedient to conduct the contemplated negotiations. He feels it is necessary first to put the French agencies under pressure before taking up further discussions.”

For what date were these negotiations intended?

A. For the days after 10 March.

Q. When did the negotiations actually take place?

A. As is shown by Prosecution Exhibit 1253, they took place from 10 to 12 March.

Q. In other words, Farben did not follow Dr. Kramer's suggestion?

A. Farben did not follow his suggestion. As it becomes apparent from the last paragraph of Exhibit 2147, Farben wanted to continue the negotiations as quickly as possible. They did not consider Dr. Kramer's suggestion, and they kept the date.

Q. I should now like to ask you to look at the two other documents, Exhibit 2149, NI-15219¹ and Exhibit 2150, NI-15218.² Your Honors, first of all let me object to the presentation of these two exhibits in this abbreviated form. I should be grateful to the prosecution if they could submit these documents in their full extent. Exhibit 2149 has ten pages and Exhibit 2150 has eight pages. As it is shown by the document, one paragraph taken out of its context gives rise to a completely erroneous impression.

PRESIDING JUDGE SHAKE: To be consistent with our rulings in the past, that objection must be overruled. If the prosecution has possession of the balance of the document, counsel for the defense is entitled to have access to it. But that, under our ruling, does not make it necessary for the prosecution to burden the record here with more of the document than it thinks is proper for its own purposes. Counsel for the prosecution will advise you, I am sure, whether or not they have the balance of the document, and if they do, you are entitled to see it.

MR. SPRECHER: It's in the courtroom and in the Secretary's files and, as the witness, Dr. Kugler, has indicated, he has seen the full files.

PRESIDING JUDGE SHAKE: Very well. Then the objection is overruled with that information.

DR. SIEMERS: Dr. Kugler, in Exhibit 2149, Mr. Loncle discusses the Preamble of the Francolor contract. He has misgivings about the Preamble because it might be interpreted as pressure. He says, and I quote: “The Preamble, as it now stands, might in any case prove of great disadvantage to us later.” He suggests a different version. Who was the responsible lawyer of Farben who dealt with these legal questions?

A. That was Dr. Kuepper.

¹ Reproduced in part in 2 above.

² *Ibid.*

Q. Did Dr. Kuepper express any opinion with respect to Mr. Loncle's statement?

A. Yes.

Q. Did you personally discuss this with him?

A. Yes.

Q. Do you remember his written statement which is contained in Exhibit 2150?

A. I received this document after cross-examination this morning. I read it and I remember the paper very well.

Q. According to this document, and according to your personal conversation, did Dr. Kuepper approve of M. Loncle's opinion, or do you remember any statement to the contrary?

PRESIDING JUDGE SHAKE: We well remember that Dr. Kuepper was a witness here and testified quite fully with respect to that very point; that the Preamble was prescribed by governmental authorities and that it did not represent the views of Farben. That's all in the record here. This is highly repetitious. We well remember the details of Dr. Kuepper on the witness stand telling that whole story. Now, no good point would be accomplished by just burdening this record with repetition of that when the best source of what Dr. Kuepper had to say about it is his own testimony.

DR. SIEMERS: I beg your pardon, Your Honor. I wouldn't have brought up this matter at all if the prosecution hadn't submitted the document.

I therefore want to ask you, Dr. Kugler, only whether Dr. Kuepper told you anything about it? What was your opinion about the complete form of this Preamble?

A. After I have been able to refresh my memory by reading Exhibit 2150,* I can state the following. This document shows the actual position of Farben. It further proves basically what I said during cross-examination, before knowing the document. I should like to refer to the last paragraph of the Exhibit 2150 where Dr. Kuepper says that the misgivings of M. Loncle are not very serious and important. He furthermore says that the background and history of the negotiations does not only become apparent from the Preamble, but can be proved by the statements of the Frenchmen themselves. Dr. Kuepper concludes his opinion by saying—and this opinion was approved by von Schnitzler, ter Meer, Waibel and all the other addressees—

“Should it be impossible, therefore, to have the ‘Exposé’ [Preamble] struck out, we can still accommodate ourselves to the situation legally.”

Q. Dr. Kugler, did the imports of dyestuffs from Switzerland play any part in the course of the negotiations?

*Reproduced in part in 2 above.

A. Yes; in many ways.

Q. When the documents mention negotiations about the demarcation line between the occupied and unoccupied territory of France, does that merely have a political significance or also an economic significance?

A. It has an economic significance to a very considerable degree. I might state that the economic significance was even more important than the political one.

Q. And in what respect, from an economic point of view?

A. With respect to the entire traffic of goods; and with respect to the economy in the occupied territory on the one hand, and the unoccupied territory on the other.

Q. This export has already been discussed. Did Francolor, or did these plants of Francolor located in the occupied territory when the contract was concluded, possess any stocks of raw materials of dyestuffs?

A. Yes, considerable stocks.

Q. Was it of interest to Farben economically that, in case a contract was concluded, Francolor should have stocks of dyestuffs?

A. One might well say that.

DR. SIEMERS: I have no further questions.

* * * * *

PRESIDING JUDGE SHAKE: Anything further from defense? Anything from the prosecution?

MR. NEWMAN: I have no question in re-cross. I gave to the defendant and defense counsel one document, before the luncheon recess, which I would now like to introduce. This is NI-15220, and it may go in as Prosecution Exhibit 2153.* This is the Defendant Kugler's letter to Defendant von Schnitzler, of 12 May 1941. It is being introduced with reference to what this defendant testified on, in redirect, in connection with our Exhibit 2143 which was introduced yesterday. I particularly refer to page 2 of both the English and the German mimeographed copies, item Number 6 of the document.

PRESIDING JUDGE SHAKE: Just a moment, Dr. Newman. That is Document 14220?

MR. NEWMAN: 15220.

PRESIDING JUDGE SHAKE: And it is your Exhibit 2153.

MR. NEWMAN: Exhibit 2153.

PRESIDING JUDGE SHAKE: Very well.

DR. VON KRAFFT: Your Honor, it is true that Mr. Newman informally handed this document to me. I do want to raise the question, however, whether it is admissible to introduce this document now, after the examination has been concluded. For that reason I should like to object to the introduction of that document.

*Reproduced in part in 2 above.

PRESIDING JUDGE SHAKE: Well, the rules that cover matters of that kind are not invariable. If the defense counsel have not been taken by surprise and have had the document, as the prosecution has indicated, in advance, and had notice that the prosecution intended to offer the document, no harm is done the defense, unless it is a fact that they may wish to ask the defendant something about it.

Your objection is overruled. But if, within the rules of direct or redirect examination, you want to interrogate the defendant about it, do it very briefly; we will permit you to do it.

Is there anything further you want to make inquiry about?

DR. VON KRAFFT: In that case, I should like to afford Mr. Kugler an opportunity to state his position with respect to this document, and with respect to the sentence just mentioned by Mr. Newman.

PRESIDING JUDGE SHAKE: If the defendant has something to say about it, and it would not take too much time to do it, we will afford you that opportunity.

DEFENDANT KUGLER: I have already read that document. The sentence which was referred to when the document was introduced, considered in the light of my statements during redirect examination, gives no occasion for any further explanations. From a factual point of view, it covers exactly what I have already testified, about the way the stipulations concerning future developments in this contract came about. I would like to add this: This letter as a whole is an excellent proof that one cannot state that Farben prepared drafts of the contracts and submitted them to the Frenchmen for their signature, but that, on the contrary, there were discussions and conferences lasting for months, and in that way the structure of the contract was worked out.

DR. VON KRAFFT: Your Honors, I have no further questions.

6. TESTIMONY OF DEFENDANT TER MEER (SECOND PART)

EXTRACTS FROM THE TESTIMONY OF DEFENDANT TER MEER*

DIRECT EXAMINATION

* * * * *

DR. BERNDT (counsel for defendant ter Meer): With Your Honors' permission, I shall now examine Dr. ter Meer about the Francolor questions.

Dr. ter Meer, from your *curriculum vitae* that you have given us here we know that from 1910 to 1913 you lived in France. May I ask you whether, from that period and from a later time, you knew—or you know—the structure of the chemical industry of France?

DEFENDANT TER MEER: Yes.

*Further extracts are reproduced in subsections C, 6 D 3 above; in subsections E 4, IX F 2 below, and earlier in sections VII C 5b, E 3, G 3, H 4b, I 7c, J 4, K 3a, L 3d, M 3, and O 7a in volume VII, this series.

Q. In connection with the Francolor transaction, the indictment repeatedly speaks about the chemical industry of France. Furthermore, the three firms Kuhlmann, Saint-Denis, and Saint-Clair-du-Rhône are mentioned as the three chief firms of the French chemical industry. Is the latter, in particular, correct?

A. Both statements are incorrect. France and England are countries where industrial production of chemicals started first. That was at the beginning of the 19th century. In France, therefore, there was a very extensive chemical industry. It produced practically all products; heavy chemicals, nitrogen, fertilizers, phosphates, light metals, powders and explosives, rubber goods, rayon, pharmaceuticals, photographic articles, dyestuffs and their intermediates. Next to this large industry, there were also small and medium industries numbering many hundreds — soaps, paints, cosmetics, perfumes, et cetera. In regard to the three firms you mentioned, it is true that Kuhlmann is one of the largest chemical concerns of France; but the production of Kuhlmann, which was much larger in volume in the field of acids, heavy chemicals, nitrogen, glue, and many others, was not touched by the Francolor transaction. That production remained the independent property of the Kuhlmann firm. Kuhlmann only yielded their dyestuffs and intermediate production to Francolor. In order to show that there are still a large number of large chemical enterprises in France, I would merely mention the world-renowned firms of St. Gobain, Pechiney [Pechine], Electrochimie, Rhône-Poulenc, and Air Liquide, the large rayon plants of Gillet, and some others. About the other Kuhlmann dyestuffs factories that you have mentioned, namely, Saint-Denis and Saint-Clair-du-Rhône, I must say that they are factories of a medium size. The dyestuffs business taken out of Kuhlmann, together with some smaller chemical dyestuffs factories producing other chemical products, was consolidated in the Francolor, as you know. I estimate the peacetime turnover of this Francolor production—I repeat, peacetime—was approximately 3 percent of the turnover of the entire chemical industry of France.

Q. Before the war broke out—that is, before 1939—were there already relations between Farben and French chemical concerns?

A. Yes. It has been repeatedly pointed out that, in 1927 and 1929, a dyestuffs cartel was founded between Farben, the French dyestuffs industry, and the Swiss dyestuffs factories. In 1932, the English firm I. C. I. entered into this cartel agreement as well. Since 1919, there was a license agreement between Farben and the firm owned by the French State, namely, the nitrogen factory Omnia-Toulouse, which was extended in the 1930's. In the same field (nitrogen) there were license agreements of Farben with Kuhlmann Mines de Lens. Since the beginning of the 1930's, there were license agreements in the field of magnesium between Farben, Pechiney, and Electrochimie, and with

the St. Gobain group, one of the most notable French enterprises, with which I conducted negotiations in 1938 about large-scale cooperation in the chemical field negotiations to which Dr. Wurster had already made reference during his examination. Next to that, of course, there were a number of license agreements with Kuhlmann, with Rhône-Poulenc, and other firms. And then there were a number of sales and price conventions.

Q. Did the French patent law play any part in these negotiations?

A. Yes, that is so. The French patent law provides that a patent must be used in order to be valid; if a holder of a patent did not make use of his French patent, then the French Government could give a forced license to other French firms if an application was made to that effect. That, of course, made it necessary for the patent holder to utilize his discoveries in France itself, or to conclude, himself, a license agreement with other French firms. Because of this situation, which was caused by the French patent legislation, in 1938 and 1939, shortly before the war, Farben intended to construct its own plant in France in order to start certain productions that were protected by patents. This plan was prevented by the outbreak of the war. In 1941, it was finally abandoned in favor of the Francolor, or the parent firms of Francolor, for we entered into an obligation either to permit Francolor or one of its parent firms to carry out the intended productions.

Q. What was the status of the chemical industry of France in the prewar years?

A. The French chemical industry, as far as size and significance was concerned, lagged behind the corresponding industries of the United States, Germany, and England. This was partly due to the particularly unfavorably economic situation in France during the 1930's; but the French chemical industry was technically backwards in some fields; therefore, the French chemical firms endeavored to bring about closer collaboration with the German chemical industry.

Q. What was the attitude of the French chemical industry to the collaboration that you have just mentioned, after the armistice had been concluded?

A. I can't answer that question generally, but, from talks with leading persons of the French chemical industry, I know that intensified interest in such a collaboration existed and that that interest was supported by the French Government. I don't mean this in the political sense, but for purely commercial and technical considerations. Thus, for instance, in the winter of 1941, a French commission visited German chemical plants upon invitation of the Economic Group Chemical Industry. As far as I remember, the already-mentioned Minister, Mr. Bichelonne, participated in this trip; he was then the French Minister and State Secretary for Industrial Production. I

made his acquaintance in Paris myself. He was an extremely capable and well-informed man. Then there was Mr. Painvin, the chief of a French organization which I might compare to the German Economic Group Chemical Industry; then, the repeatedly mentioned Mr. Frossard, and possibly other members as well, participated in this trip. I should further direct your attention to the negotiations that started in 1941-1942, upon the instigation of the French Government, about the construction of a large buna plant in southern France, which dragged on until 1943. They were then, however, abandoned, in view of the economic situation, because, in view of that situation, the construction of such a large plant became impossible in France.

Q. We now want to turn to the French dyestuffs industry. Can you describe to me its development briefly?

A. Yes. The French dyestuffs industry is very old. It goes back to the 1850's. In the subsequent decades, and particularly since the 1880's, it was surpassed by the German dyestuffs industry. A high French protective tariff on dyestuffs caused the foundation of many branch factories of foreign firms in France before the First World War; and in 1914, there were eight of them. Two of them belonged to Swiss firms, and six to German firms. The only significant French dyestuffs factory produced only 10 percent then of the French consumption.

Q. What happened to the German branch firms in France during the First World War and after it?

A. All of them were confiscated with all their patents, trade-marks, and all their technical improvements. From their potential, the two new French dyestuffs factories, Saint-Clair-du-Rhône and the more important Compagnie Nationale des Matières Colorantes, with the plant at Villers-St. Paul, were created. But that was not all. Because of the occupation of the Rhineland, the plants at Ludwigshafen, Leverkusen, Uerdingen, and Hoechst were in the occupied zone. Uninformed chemists of the International Allied Control Commission tried to find out everything about our processes. In order to terminate these conditions, at least in Ludwigshafen and Hoechst, Farben concluded an agreement with the aforementioned Compagnie Nationale, in 1920, which was to last for 45 years. We granted extensive technical assistance in the field of dyestuffs and intermediates against a cash payment of 16.6 million French francs (which was about 5.5 million gold marks) and against one-half of the net profits of the Compagnie Nationale, to be surrendered until 1965. The cash amount was paid. During 1921-1922, Dr. Burgdorf, one of our dyestuffs technicians, went to the dyestuffs plant at Villers-St. Paul, and he gave them all of our technical knowledge in the dyestuffs field. During the first years, the firm did not operate at a net profit. This contract, which we called the "Gallus contract," was unilaterally revoked in 1923 by

the French when they occupied the Ruhr, after the Compagnie Nationale had passed to the ownership of the Kuhlmann firm. We always considered that a violation of a lawful contract, but we could not get a hearing before the French courts at the time.

Q. You mentioned the name of Frossard. That gentleman also participated in the Francolor negotiations where he played an important part. As far as you are able, please describe his personality to us.

A. I have known Mr. Joseph Frossard closely from the beginning of the 1930's, and, until the outbreak of the war, I had very much to do with him, since he was the leading technical man of the Kuhlmann dyestuffs plant, and since he always participated in the cartel meetings. Frossard is an Alsatian by birth, and he was given his training in the well-known Mulhouse Chemical School. Before the First World War, he worked—together with Thesmar, the later director of Saint-Denis, and his brother Louis Frossard—in the large textile printing plants in Moscow for years. Therefore, he knew the dyestuffs field from the scientific, technical, and application sides. He was internationally recognized, and he was given the Doctor's degree "honoris causa" by a Swiss university. Frossard was certainly the most important promoter of the French dyestuffs industry after the First World War. He and his associates constructed the two plants, Villers-St. Paul and Oissel. In that connection, the know-how transferred to them in the dyestuffs and intermediate field by Farben, in 1920 through the "Gallus contract," was of assistance to them. Frossard lived for his profession entirely; he lived very modestly and hardly knew anything apart from his work. I consider him one of the most experienced and capable of the French chemical industrialists.

Q. From documents, and particularly from those that have been submitted this morning, we know that on his own, shortly after the armistice was concluded, Frossard undertook to establish connections with Farben. Are you of the opinion that any political motives were decisive for this action?

A. As far as I know Frossard, I believe that economic considerations were decisive. Frossard thought of his plants, of his chemists, and of his workers. The French dyestuffs industry, because of the conditions created by the war, had lost important sales territories. Their plants were not working full time, and, under the conditions prevailing in France, there was not enough coal or raw materials, the traffic routes had been destroyed, the demarcation line between occupied and unoccupied France prevented traffic and communications with the southern French sales market; and I think these were sufficient reasons for Frossard to worry about the future.

Q. We now want to turn to the Francolor agreement itself. What were the ideas of Farben about the Francolor contract?

A. The ideas of Farben were based on and directed towards the reestablishment of international collaboration in the dyestuffs field after the end of the war. We knew that, as a result of the war, serious difficulties would be created. For instance, we expected serious losses in various export fields. Since the situation of the French dyestuffs industry had already become difficult during the last pre-war years, we wanted to clear up and stabilize our relations to the interest of both parties; collisions of interests—as they had crept up in the past, and particularly during the 1930's—were to be avoided in the future. The prerequisite for this was the consolidation of the French dyestuffs producers in one firm and the rationalization of their production. That could only be done with the technical assistance of Farben. Farben, however, would be ready to grant such an extensive technical assistance only if they could exert a certain influence upon the new firm by participating in their capital. Those, in general outline, were the ideas.

Q. Did the Francolor contract bring any notable advantages to the French?

A. That was the case very decidedly. First of all, Francolor was guaranteed the volume of the dyestuffs production of the prewar years, when normal relations would once more be established. In other words, Farben undertook the risk of bearing a loss in sales, which the French might have to expect, and probably would have had to expect. Farben obligated itself to buy French products, insofar as France could not sell them to her colonies and protectorates and to the countries which were conceded to France as export countries. The 7,000 tons of dyestuffs provided for in the Francolor agreement, without indigo and sulfur black, constituted the prewar share of the French industry, which we thus assured them. Apart from that, Farben undertook to give practically unrestricted technical assistance in the dyestuffs and intermediate fields, and in the field of the so-called auxiliary products for dyestuffs, in the broadest sense of the word. This assistance was given without any compensation in the case of nonpatented processes. In the case of patented processes, a license was provided for, for about one-half of the customary license fee. These concessions had the practical result that Farben, which sold important products to France before the war, was ready to withdraw in favor of Francolor from the French market for the products mentioned.

Q. Wasn't it also intended to bring about collaboration in new fields?

A. Yes. This point is of particular importance. It was my personal plan that the French dyestuffs plants be modernized and rationalized, as we did ourselves in the years after the merger of Farben in Germany. I have already described that in detail during my first

examination. If a corresponding procedure had been carried out in France, it would have been unavoidable, just as it was with us, that smaller plants would have had to be shut down in favor of larger plants, but new production was to be started in the plants that were thus shut down. For this purpose, we considered making available, to the greatest extent possible, experience and processes for the production of new organic chemical products outside the dyestuffs field. It was left to the decision of the Verwaltungsrat of Francolor as to whether these new products would be produced in the Francolor plants themselves or in one of the parent firm plants. For such a resolution, a two-thirds majority vote was necessary in the Verwaltungsrat, so that it was impossible to out-vote the French Verwaltungsrat members. Practically, this arrangement resulted in the parent firms or Francolor, so to speak, having priority on new processes of Farben in the field of organic chemistry.

Q. What I have been able to understand from your statements is that Farben granted very extensive concessions in these cases. Could you perhaps give me the value of these concessions? Perhaps you can express them in values of French francs.

A. Dr. Berndt, it isn't possible to figure out an exact amount for these concessions, but I think one can establish a comparative amount.

MR. SPRECHER: Mr. President, I've listened to this line of questioning, and, on several occasions, with a great amount of trepidation as to what possible bearing it has. Now, here, when armies are still in the field and in the middle of a war, things are done which we think clearly under law can not be done. By a special arrangement, Farben gets 51 percent of the total of this firm, and there is a certain interest for Farben in seeing that that firm makes some money under these circumstances. What relevancy has that?—Point No. 1.

Point No. 2: From the French point of view, when their allies were still fighting, when French Armies themselves were still in the field, what possible value can some of these arrangements, made between certain Frenchmen and certain Germans, mean, so far as value is concerned? It has no relation to value in any ordinary sense of the word. What value it actually had we now know, but—I mean, even at the time—what could it have meant?

We object on the grounds that we don't see the pertinency of this inquiry.

PRESIDING JUDGE SHAKE: The objection is overruled.

DEFENDANT TER MEER: I said before that it is not possible, of course, to make an exact calculation and that one can only speak about a comparative amount. Since, in former years, during the rationalization of the Farben plants, I worked for Farben and undertook similar work in America with General Aniline, and in Italy and in Spain, I may claim for myself that I have at least a possibility of

evaluating and giving judgment on this question. On the basis of my experience, I would say that this rationalization in the dyestuffs field, taking into account the status of the plants I saw in 1940, would certainly have brought about an increase in profits of approximately ten percent. That is a very conservative estimate because the increase in profits following the rationalization of German plants was much higher. But I don't want to compute a higher figure because the French perhaps had to undertake certain investments, and that therefore one must not take the entire profits into account. A ten percent increase of profit in the case of 800 million turnover would make 80 million francs to be capitalized. One should not convert it into capital in the customary manner, but I think it would be better if one capitalized it over a period of 5 years. And then these profits would be five times eighty which is 400,000,000 francs which, I am convinced, would have come to the French after this rationalization in the period of a few years.

DR. BERNDT: The prosecution charges you and your codefendants, that you undertook plunder and spoliation in the case of Francolor. What do you say about that?

A. I think an act of spoliation and plunder would have looked different from the contract that we concluded with the French.

Q. At the beginning, the French firms were not susceptible to the suggestions of Farben at all. At least one can understand that from the conferences in Wiesbaden and from the first negotiations in Paris.

A. Anyone who has experience in complicated negotiations knows that such complicated contracts do not come about overnight. A large number of complicated questions of a legal, commercial, and technical nature have to be clarified in such contracts—and particularly, when one is concerned, as here, with a completely new concept, it is clear that the partners to the contract must first establish common ground for concluding the contract. Moreover, Farben, in the beginning, did not have a clear idea what the contract would look like in detail. That was seen only during the conferences which, as is known, took quite a long time. In that connection, we accepted quite a few desires and requests of the French—for instance, the contractual definitions of the "*produits divers*" and the new organic products.

Q. Do you have any definite indication for the fact that the French concluded this contract voluntarily and for considerations of a business nature?

A. Yes. I was always of that opinion, and I am still today of that opinion. If that had not been the case, I would never have given my approval to the signing of this contract. Contracts of such a nature, which bind partners of two countries for collaboration, must be concluded to the satisfaction of both parties. On both sides, there must be the will for ready collaboration. The collaboration that started

already before the contract was concluded was completely harmonious and was conducted in the most friendly form. But other factors also indicate that the French were satisfied with this contract. Thus, for instance, it is a fact that there were no negotiations at all about the purchasing price for the plants, in the amount of 800 million. The purchasing price was computed according to various methods and the figure arrived at in this manner was considered fair by both parties and accepted as such. When the Farben shares were evaluated, we met the French half way. That can be seen from the documents which Dr. Siemers presented this morning. The fact that the French were satisfied with the acquisition of Farben shares, and that they considered the participation in the German I. G. Farben as in their own interest, can be seen quite clearly from the fact that when Farben floated new shares in 1942 they were quite ready to acquire the new shares, and did not sell their right of acquiring these shares which they could have done.

Q. I want to interrupt you in this case. The French would have received a large block of Farben shares in the course of this event?

A. After the capital was adjusted and new shares were floated, the French had, in their hands, a block of shares of approximately 20,000,000 reichsmarks. As far as I know, there was only one more block of Farben shares almost as large as that, and that was owned by the firm Solvay, Brussels, the well-known soda factory.

Q. Then one of the consequences of the Francolor contract would be that Francolor became the second largest shareholder of Farben.

A. Yes, the largest or second largest.

Q. Thank you very much. You wanted to give me another proof.

A. Another proof is the fact that Mr. Duchemin, in January 1941, made the suggestion that he be appointed to the Aufsichtsrat of Farben. And I consider that a recognition of an acceptance of the idea of Franco-German collaboration, and the integration of both groups, France and Germany, which was later actually brought about by the Francolor agreement.

Q. Did Mr. Duchemin become a member of the Aufsichtsrat of Farben?

A. No. At that time we could not express an opinion about it because government regulations prohibited any foreigners being taken into the Aufsichtsrat of a German stock corporation during the war.

Q. Can you tell me of anything else that would corroborate your opinion that the French concluded the contract voluntarily.

A. Yes, I want to draw your attention to an event in 1941. During the negotiations in Paris, on 21 to 24 July 1941, Mr. Bichelonne, the previously mentioned Minister and State Secretary for Industrial Production, asked me for a conference. The Minister informed me that he had an objection by the French chemical industry about the

Francolor contract because they feared that as a result of the collaboration of Francolor and the French parent firms with Farben, all inventions by Farben would be given to this one group, and the remaining French industry did not want and could not tolerate this. For reasons of time, I do not want to go into the very lengthy conversation I had with Minister Bichelonne at the time. I succeeded in calming him about our ideas, and on that occasion, I also promised to start negotiations immediately with a group formed by Rhône-Poulenc and Electrochimie, about the licensing of the buna process. I also promised him that I would talk to the chief of the important firm of St. Gobain, and would also promise him that the collaboration begun before the war would be continued as soon as conditions permitted. Mr. Bichelonne then withdrew his objections, but he demanded that Farben and the three French parent firms should state in writing that it was not their intention to exclude other French chemical firms from their production. I then reported to the French gentlemen about this, and my report caused visible consternation among them. My colleagues and I saw very clearly that the French people apparently felt that this very agreeable and pleasant contract with Farben might, at the last minute, be brought to naught. The suggestion that I made was dictated, signed, and thus we got around that cliff. That letter has been offered as Document ter Meer 73, in book 3 of my document books, ter Meer Defense Exhibit 248.*

* * * * *

DR. BERNDT: Doctor, let us go on to production in Francolor. This morning you said that before the contract was concluded, practical cooperation had already existed between Farben and Francolor. What did you mean by that?

DEFENDANT TER MEER: In the spring of 1941—if I remember correctly, in March—I made Dr. Wenk, one of my best dyestuffs experts, available, in order to work with the experts of Francolor—what was later Francolor—and to investigate how we could better employ these factories.

The first practical suggestion was doubtless an order given by Germany to the French factories for products which they were producing—that is, dyestuffs. I won't go into this in any more detail, for Dr. Siemers introduced some documents this morning. In July 1941, we got the approval of the Reich Office for Chemistry to purchase a large supply of dyestuffs from Francolor, and in June the first order was given by Farben.

Q. In the cross-examination of Dr. Ambros, we heard some things about transfer of direct and indirect Wehrmacht orders from Germany to French factories. Were these French factories primarily reconverted to such Wehrmacht production?

*Not reproduced herein.

A. No, certainly not. The Francolor factories remained dyestuffs factories principally, even during the war. In the years 1941, 1942, 1943, the dyestuffs production amounted to 4,700, 4,500, and 3,900 tons, respectively. The corresponding figures for the textile auxiliaries which fall into the dyestuffs field are 300, 400, and 2,000 [tons], and for organic intermediates, the largest part of which served the production of dyestuffs and textiles auxiliaries, 17,000, 18,000, and 22,000 [tons]. The finished dyestuffs remained in France—that is, 95 percent of them remained in France—or in the export countries of Francolor. This is shown by an affidavit of Dr. Loehr which was introduced this morning. In the same affidavit, it is shown that Farben increasingly supplied Francolor with high grade intermediates in order to promote its dyestuffs production. Full capacity with dyestuffs could not be achieved, it is true, since all raw materials, acids, alkalis, chlorine, benzol, and naphthalene were rationed according to German regulations; but in Germany too, there was no full capacity in the dyestuffs field any longer.

I believe that anyone familiar with the circumstances must be astonished that it was possible to continue Francolor's dyestuffs production at such a relatively high level.

Q. This morning you said that Farben wanted to assign new products to Francolor. Can you give me any further information about that?

A. This was a special task of the Comité Technique [Technical Committee] which was set up in Francolor. This committee consisted of 3 French and 3 German technical experts, and met under the chairmanship of Mr. Frossard. I also asked Dr. Ambros to attend these meetings on occasion, and I myself was there a few times. Dr. Wenk has given an affidavit about this technical collaboration. That is Document ter Meer 72, in book 3, ter Meer Defense Exhibit 247.* I shall not go into detail here. I should merely like to emphasize that, just as the German gentlemen mentioned went to France and inspected the factories and attended conferences and gave advice, a relatively large number of other experts in our dyestuffs field and other plants went to France; and on the other hand, technical commissions and individuals from Francolor went to see our German factories and sometimes spent days there consulting with the experts. In this field of the various organic products, there was considerable success also in increasing production. Thus the production of synthetic tanning agents rose from 200 tons in 1941 to approximately 1,000 tons in 1943. The chemicals for rubber goods factories increased from 200 to 1,000 tons. Plastics, artificial resins, adhesives, et cetera, increased from 300 to 4,200 tons. In this sector alone, it was possible to almost double the former peacetime production of the Francolor factories.

*Not reproduced herein.

Q. What about the so-called Wehrmacht requirements?

A. In the long run it was simply impossible, in view of the existing restrictions—those valid in Germany applied also in France—to produce only dyestuffs, textiles, auxiliaries and similar purely peacetime products in the Francolor factories. Consequently, in 1942, negotiations began, about which Dr. Ambros was cross-examined. A program for so-called direct and indirect Wehrmacht requirements had to be set up. Actually, this in no case meant gunpowder, explosives, or poison gas. What was produced was powder stabilizer such as Centralite, diphenylamine, and also mononitronaphthalene, a fully harmless preliminary product. All of these were sent to Germany for further processing. It never occurred to us to expect our French colleagues to produce military products, powder, explosives, or poison gas. I am not just saying that. I can prove what we did in this regard. At the inspection of the Saint-Clair-du-Rhône factories in 1942, Dr. Ambros and I were shown a modern plant built by the French for the production of explosives. This plant was not operating. Of course, we could have reported that to the Military authorities and we could have suggested that explosives be produced there. We did not do so, deliberately. It never occurred to us, because we could never have expected our French friends to do that.

The extent of production of the so-called direct Wehrmacht supplies, Centralite, diphenylamine, et cetera, was very slight. I can therefore fully confirm for myself what Dr. Ambros said; that this was a sort of window dressing. By this measure, we obtained for the Francolor factories a certain justification for their existence, or the appearance that it was necessary to continue the production during wartime. If that had not been done, the Francolor plant might have been closed down and the workers would have been sent over to Germany. This was prevented by the steps which we took, and as for the indirect Wehrmacht requirements, these were purely peacetime products such as in part had already been produced in peacetime by Francolor factories. Vulcanization accelerators and other chemicals for the rubber industry, also gum lac, plastics, adhesives, et cetera. Here, again, there is a play on words, because after all, every peacetime product becomes an indirect Wehrmacht requirement—even dyestuffs.

Q. What proportion of Francolor's production went to Germany?

A. By far the majority of Francolor's production remained in France. Among the documents—the affidavits which are to be introduced which have not been mimeographed yet—there is one by Dr. Loehr confirming the figures that I have just given about dyestuffs production and some other types of products in the years 1941 to 1943. According to this affidavit of Dr. Loehr (who made a report in 1945 to the American authorities about this), in 1942, 13 percent and, in

1943, 18 percent of the total production went to Germany. Eighty-seven, or eighty-two percent of Francolor's production, therefore, remained in France, Belgium, Spain, and Portugal. The so-called direct Wehrmacht requirements going to Germany amounted, in 1942, to less than 5 percent of the total production of Francolor. This, as I say, did not include one kilogram of gunpowder, explosives, or poison gas.

(Recess)

DR. BERNDT: Dr. ter Meer, may I ask you whether you made available chemical machinery to the plants of the Francolor?

DEFENDANT TER MEER: Yes; For instance, to the factory at Villers-St. Paul, we made available a very modern aggregate for the production of formaldehyde, which is a preliminary product for synthetics. This has been shown by Ambros Defense Exhibit 173,¹ in book 8A. Apart from that, we supplied to the Francolor plants important spare parts which were no longer available in France, and special parts from the synthetic Vinidur [piping material]. That is shown by the Wenk affidavit, Document ter Meer 72, Defense Exhibit 247, in book 3.

Q. You know that on 22 April 1947 you made an affidavit, which you handed to the prosecution, which dealt particularly with the preliminary history of the Francolor agreement. This is Prosecution Exhibit 1257,¹ which is to be found in book 58, on page 123 of the English, and page 124 of the German. I know your many other affidavits. If I now compare this affidavit with the others that you have made, I notice that this affidavit about Francolor is made in a very vague form, I would call it. For that reason, I want to ask you whether you have any remarks to make about that affidavit.

A. Yes, The affidavit was dictated by Mr. Newman,² and after I made a few corrections, I finally signed it. It was to be supplemented by another affidavit about the Francolor agreement, but such an affidavit was never made because the draft, which again was dictated by Mr. Newman, did not express my opinion the way I wanted. As a result, I then drew up my own report, which went in as my Document 71, ter Meer Defense Exhibit 246, in book 3. About Prosecution Exhibit 1257, I must first say this, that the preliminary history of the Francolor agreement is not known to me from my own recollection at all. That is because, in the first conferences in 1940, I was only participating on the fringe, so to speak. I did participate in a few meetings of the Commercial Committee and of the Dyestuffs Committee, and Mr. von Schnitzler probably informed me about it generally. But I didn't participate in the preliminary conference with the Armistice Commission, or, if at all, then only once, as far as I remember, when people from the Armistice Commission in Wiesbaden visited our

¹ Not reproduced herein.

² One of the prosecution counsel.

Hoechst plant, and when they subsequently ate lunch in our casino at Grueneburgplatz in Frankfurt. In 1940, I was not in Paris a single time, and I did not discuss this affair with the Berlin government agencies either. In the beginning, the initiative was all taken by the commercial people. That is the reason why, in this affidavit, I always used such expressions as "I would assume," or "according to my feeling, I would say"; or I said, "I believe I remember," or I said "I can't remember details," and so on; and these have been correctly stated by Mr. Newman. As you know, that is not my way, as a rule.

Q. Do you want to correct that affidavit in any way?

A. No. The affidavit isn't incorrect, as such. For the reasons I have mentioned, it has just been made out in a very vague form. It contains some distorted expression, for instance, where it says "the negotiations with the French became gradually more friendly." The expression that I chose, and, again, as I say today, is, "the negotiations with the French became very friendly." In my opinion one should more or less disregard this affidavit. I merely want to point out two things;

The definition of the claim for leadership that is rendered in my affidavit is incorrect; I was not able to survey that properly at the time, for I had no documents. I said "The claim for leadership is probably what was later realized in the Francolor agreement." That is incorrect, because the claim for leadership, as it was presented during the meeting in Wiesbaden, confined itself quite clearly to dyestuffs intermediates and textile auxiliaries. The Francolor agreement later was more extensive.

Secondly, I want to clarify, on page 1 of my affidavit, Prosecution Exhibit 1257, the memorandum mentioned at the end of the second long paragraph—an internal report of Dr. Kugler—was a report about the development of dyestuffs production in France up to the so-called "Gallus contract," and up to the time when Farben suffered this injustice, in our opinion. It isn't the report about Kugler's and Terhaar's conferences in Paris, which was shown to me in cross-examination as Prosecution Exhibit 1886.*

Q. From what period on did you concern yourself with the Francolor affair more intensively?

A. I would say that was the case from October 1940 on, when, in order to prepare for the imminent conference in Wiesbaden, we had internal consultations. Thus, I definitely participated in the meeting in Frankfurt, about which Mr. Kuepper testified as a witness when he referred to Prosecution Exhibit 1855 [NI-5810], in book 57, and was examined about it during cross-examination. That is the meeting about which the same witness testified that, at the beginning, I was strongly opposed to this 51 percent participation. When, in the

*Reproduced in 2 above.

Wiesbaden conference (on the second day of the conference), in the absence of the government representatives, the state of affairs became more clear, I commissioned my associate, Dr. Loehr, to work out the technical aspect of the contract. Dr. Loehr describes that in his affidavit, Document ter Meer 96, ter Meer Defense Exhibit 275, in book 14. He suggested to me at the time, that, as a model for technical collaboration with Francolor, the contract should be taken as a basis which we concluded in 1938 with the I. C. I. about the joint construction of a dyestuffs plant in England. We founded there the Trafford Chemical Company together with I. C. I. The problems were very similar in both cases, Francolor and Trafford, because in both cases transmittal and transfer of our valuable know-how in the dyestuffs field was provided for, as well as collaboration in other chemical production fields. In connection with the Wiesbaden conferences, I then participated in the meeting in Paris and worked on the points of the contract which came under the technical section.

Q. Did you issue instructions at any time, either in 1940 or at a later time, to put the French firms under pressure so that they would be more ready for negotiations, or did you take any measures to that effect?

A. No. By no means. On the contrary, I claim that here I acted very correctly, and in a fair business manner, just as I did in all other negotiations.

Q. On the first day of the Wiesbaden conferences you were present. According to your own testimony, during that conference, Minister Hemmen took a very decided point of view, and that made a corresponding impression upon the French gentlemen. What was your personal reaction to this first Wiesbaden negotiations?

A. Dr. Berndt, we did not know what tone Mr. Hemmen would adopt in that conference, and I can certainly say for myself, and also for the other gentlemen of Farben, that we were very unpleasantly surprised at the harshness of his tone. We were very glad when we could negotiate on the next day, in the absence of the government representatives, and discuss private industrial matters.

Q. Later the negotiations took place in Paris. What was the character of those conferences which were conducted in Paris?

A. In my recollection, in January of 1941, the atmosphere of the negotiations was completely correct and normal. As is customary between business people, the negotiations were conducted in a very free and easy manner; everybody expressed his opinion, and in the further course of the negotiations, an extremely friendly atmosphere prevailed. Everyone represented his own interests, of course, but in a very friendly manner. There was an invitation by the French gentlemen after every conference in Paris to take part in a joint lunch, when we again talked to each other in the most friendly manner.

Q. Then, the Francolor contract could not be called "a Farben dictate"?

A. Certainly not. At no time was there ever any prearranged or ready-made plan, which we wanted to push through under all circumstances. That was made very clear in the cross-examination of Dr. Kugler when the prosecution offered a few documents which show that, during these negotiations in June, new points were brought up all the time from one side or the other. All of the contract (as is customary in such negotiations, and as was done in the case of many other negotiations with other large foreign concerns) was discussed between important people on both sides, paragraph by paragraph. Everybody expressed his opinion. Sometimes one side had to concede a point; sometimes the other side conceded; and thus, finally, the finished version was arrived at.

Q. Another question now: The prosecution offered a few reports from 1940, from which they want to read into certain statements that pressure was to be exerted upon the French partners in the negotiations. How do you look at those reports?

A. I have already stated before that I did not issue any regulations or instructions for the exertion of any pressure. If we had wanted to exert effective pressure upon the French, we would only have had to think of the years 1919 and 1923, when gentlemen from those firms appeared in French uniform in our German plants, studied our processes, confiscated our stockpiles, et cetera. It would have been very simple to send dyestuffs experts from Farben, also in uniform, into the French plants at a time when France was occupied, to look around for stockpiles, machinery, et cetera. I believe that would have been a very effective pressure upon those persons, who, in 1919 and 1923, undertook such measures in German plants.

Dr. Berndt, I can tell you that I didn't even think about anything like that. None of my dyestuffs experts visited any one of these plants of Francolor before 25 March 1941—yes, 25 March. And this first contact of the technical people from Germany with the people from the Francolor plants took place upon prior arrangement with the French. These were the conferences when the shipments of French dyestuffs to Germany, to keep the French factories working, were discussed, and when the evaluation of the plants was started in view of the contract to be concluded. For the rest, during my cross-examination, I already stated that I am not of the opinion that the references from various passages from the reports about pressure, and so forth, had any significance. The significant thing in my opinion was the entire situation, as it presented itself in France after the entry of German troops. Since I have lived in northern France for 3 years and know conditions extremely well, and since I know the country, its people, and its language very well, I may perhaps be

permitted to say something that I know very well. Let's take, for instance, the coal situation. In peacetime, France never had enough coal, not even today. France always had to import coal from England; and in the western cities on the coast, and those situated along the river Seine, and also in Paris, some British coal was always used. France always imported German coke because the French coal mines did not produce enough to cover the French requirements. Because of the advance of the German Armies, or, to put it better, because of the withdrawal of the French Armies, the entire traffic lines of northern France had been destroyed, and the coal mines in northern France which furnished coal to Paris had also been destroyed; or rather they had been inundated—flooded. There was too much water in the mines, and they had to be pumped out for many months before they could be put back into operation. That took very long. When, in January of 1941, I came to Paris, the majority of plants were still closed down. Apart from the hotels, offices, and restaurants used by the German agencies, not a single house in Paris was heated; I imagine it was just the same in Germany in the winter of 1945 to 1946.

I remember very well a conversation which I had—I think it was in the spring of 1941—with the Referent for chemical industry in the German military administration in Paris, Dr. Kolb. M. Frossard had asked me to go there with him and intervene for an increased coal allocation for his Villers-St. Paul plant. Dr. Kolb had called in the official responsible for coal allocation from the military administration, and that gentlemen listened to the vivid complaints that M. Frossard presented, and which I supported, and he then presented to us his coal distribution plan. With the aid of this plan, he showed that the Villers-St. Paul plant had been allocated the amount of coal every month to which it was entitled; however, it had not been delivered regularly because of the prevailing circumstances, and this official responsible for coal distribution explained to us very abruptly that he wouldn't give us a single ton of coal in addition because he just hadn't any more. We had to leave without accomplishing our purpose. As far as I remember, the plant Villers-St. Paul was not shut down in the winter of 1941/1942. The plant Saint-Denis, it is true, was shut down because it was in Paris itself, and was therefore worse off than Villers-St. Paul which is situated north of Paris.

Q. Very well. In order to establish complete clarity about the Francolor contract I want to ask you the following question. Are you of the opinion that the contract would have been concluded even if the government agencies had not intervened in any way and if the negotiations had been concluded on a purely private industrial basis?

A. Yes, I am of that opinion. I have already mentioned that the situation of the French dyestuffs industry before the beginning of the war was very difficult. The events of the war and the political

consequences thereof caused the French to suffer losses in sales. One has only to think of the loss of Lorraine and northern France; large textile areas which all need dyestuffs. Added to that there would have come about losses in export. Nobody could know at the time how the war would end. I am firmly convinced that these reasons and many others would have motivated the French gentlemen to seek an agreement with Farben in some way or other. What I cannot say, of course, is whether the contract then would have been quite the same; but it would have been along the same general lines. I want to confirm my opinion by mentioning that the Francolor contract was by no means unusual. The "Gallus contract" concluded in 1921, which assured us participation of one-half of the profits for a period of 25 years, pointed along the same way. In Italy there were two large dyestuffs plants. In both of them, we, together with the well-known Italian firm of Montecatini, were the owners. In one of them, the Montecatini concern had 51 percent and we 49 percent; and in the other we had 51 percent and Montecatini 49 percent. This arrangement was made in Italy upon instructions of the government, after the collapse of the large Italian dyestuffs plants. The government said to the Montecatini company: "We'll permit you to take over this firm only if you get together with the one people in the world who understand something about the dyestuffs business, and that is the Germans."

Q. You also had certain participations in England and America. How about them?

A. The Trafford Park agreement, which has been repeatedly mentioned, provided for a Farben participation of 49 percent; the ICI had 51 percent. In Spain there was a similar arrangement; a smaller enterprise, however, and finally, there was the same thing in America at the time. I believe I have already stated that the Graselli Dyestuffs Corporation originally had belonged 100 percent to the Graselli Chemical Corporation, and that Farben was offered a participation of 50 percent, because Farben, in turn, had entered into an obligation to turn over its know-how in the dyestuffs field to the Americans.

Q. You and your codefendants are charged in the indictment with various things which I want to go through with you. The first charge; you had Aryanized plants.

A. I don't know what point the prosecution wants to make by referring to this so-called Aryanization in the Francolor question. I am perfectly ignorant of the fact whether or not there were any non-Aryan workers or employees in the Francolor plants. If it had been the case, we certainly wouldn't have worried about it. I don't know, either, that German Government agencies undertook any steps about this affair.

Q. Another charge is that you had brought French expert workers to Germany.

A. Dr. Ambros has already made detailed statements about that. I refer to his documents offered by him in book 8 A, Ambros Defense Exhibit 181 through 190.* It was the French themselves who asked us to transfer employees and workers from their plants to Farben plants. In the beginning, these were voluntary workers under the so-called relève [relief]. That is to say, young French workers went to Germany voluntarily in order to liberate married French prisoners of war. Later on, all of French industry, on the basis of arrangements between the two governments, had to make manpower available in a certain proportion, and that also applied to Francolor. They had to supply a comparatively small number of people, and M. Frossard attached importance in having these people come to us.

Q. Thirdly, it is contended that you had special machinery dismantled in France and brought to Germany.

A. That was never done.

Q. Then you are further charged with having transformed the French factories into armaments plants.

A. I have already made very detailed statements about that charge. There can be no discussion about having transformed the Francolor plants into armaments plants.

Q. In the Trial Brief it is stated that the Nazi government had confiscated the dyestuffs plant Villers-St. Paul. Is that correct at all?

A. You are thinking of Document NI-4894, Prosecution Exhibit 1240* in book 57?

Q. Yes.

A. Dr. Kugler already made statements about that yesterday when he said that that had to do with a sort of "off limits" sign. I heard about this affair for the first time through the presentations of the documents of the prosecution and, of course, am not competent to say what this Exhibit 1240 means. At any rate, one thing is clear—Farben had nothing to do with it at all. The fact that such "off limits" were used by the German military administration I know from my later activity in Italy, when all so-called protected enterprises bore these "off limits" signs in order to be protected against confiscation by troop units that moved through these towns.

* * * * *

DR. SIEMERS (counsel for defendant von Schnitzler): Dr. ter Meer, in your examination you stated that you participated in all the negotiations conducted between Farben and the French gentlemen until the Francolor agreement was concluded. Did you participate in most cases, or always, in the negotiations conducted between Farben and the French people before the war, or between Farben and other foreign people, for instance, Swiss, or people from I. C. I.?

*Not reproduced herein.

A. Do you mean the negotiations of the so-called dyestuffs cartel? Yes, I did participate in these negotiations from approximately 1933. These negotiations took place every 3 months, and for the most part a large number of people participated from each group; for instance, from Farben six to ten people, frequently, according to the number of points on the agenda. The subject of those negotiations, of course, was commercial, but since technical things were also touched upon occasionally, each group brought along one technical expert—and thus I represented Farben in most of the cartel meetings.

Q. According to the trial so far, I assume that Mr. von Schnitzler participated in all of these negotiations before the war and also during the war. Is my assumption correct?

A. Before the war, Mr. von Schnitzler did participate in all cartel meetings, as far as I know, unless he was prevented from doing so due to illness, which I can't remember. He was the spokesman for Farben. In regard to the negotiations after war had broken out—the negotiations with the French—here again, Mr. von Schnitzler was the spokesman and participated in practically all of the negotiations, apart from the negotiations in July 1941, when he was sick and when I deputized for him.

Q. Was there any difference in the personal tone and form of the negotiations that were conducted with the French before the war and during the war?

A. Apart from the first day of the meeting in Wiesbaden, which was conducted very formally and when we did not shake hands with the other partners because the government representatives did not do so either, the tone, apart from this, was friendly and just the same as it had been before the war. I would say that from the early summer of 1941 on, it became more friendly than before the war, for then we had had a certain number of serious disputes with the French. After we had arrived—in the case of the Francolor contract—at a point where both partners knew what the contract would look like, a sentiment of friendliness made itself felt between the two groups which, in my opinion, exceeded the friendliness that had existed before the war. At any rate, that was absolutely so in my case.

It is difficult, of course, to express the sentiment of other persons, but it is my feeling that this was also true of Mr. von Schnitzler and the French gentlemen.

Q. Was the type of negotiations similar to the type of negotiations conducted previously with the Swiss, British, or Americans?

A. Yes, of course, we did our business with the French in the same pleasant and frank manner as we did with the Swiss, English, and Americans before.

Q. The commercial negotiations, as you have correctly stated, were conducted and led by Mr. von Schnitzler. Since you were present in

your capacity as a technical man, you can perhaps best form a judgment about the form and manner in which Mr. von Schnitzler conducted such international conferences personally. In view of the fact that Mr. von Schnitzler did not take the witness stand, I would be grateful to you, in this connection, you would also give a brief picture of Mr. von Schnitzler himself, particularly because you were his closest collaborator for many years.

A. The witness, Dr. Kuepper, during his examination on 28 January 1948, described Dr. von Schnitzler in such a detailed manner—about his activity in Farben, about his merit for bringing about and maintaining the European dyestuffs business—that he was subject to an objection, and for reasons of saving time I do not want to repeat all of that again. But I want to state expressly that a few days ago I carefully read the statements, that extended over many pages, about the manner in which Mr. von Schnitzler used to conduct his negotiations and how he was judged by the other partners in the negotiations and I can confirm them as being my opinion in all points.

These statements of Dr. Kuepper are on the record on pages 5984 to 5991 of the English transcript and on pages 6039 to 6048 of the German transcript. I may add from my personal recollection that, to the best of my knowledge, I was together with Mr. von Schnitzler in the United States three times. These were the negotiations in 1930 through 1933 with the newly founded American dyestuffs plant, when Mr. von Schnitzler in his very apt manner was able to start friendly relations. From later visits to these firms, I know and can confirm that the du Pont and National Aniline people and the Dow Chemical people liked to see Mr. von Schnitzler and welcomed very much his proposals for removing a number of collisions of interest that had occurred, especially in the Far East, to the best interests of all people concerned.

Since the French problem is under discussion here, I want to add a few things to this point in particular, since, from many conversations with Mr. von Schnitzler, I know his opinion very well. Already in 1927, Mr. von Schnitzler, on behalf of the German Government, participated in the negotiations over the Franco-German trade agreement. That was at the time of the Stresemann government, when, for the first time after the war and after the invasion of the Ruhr, an approach between Germany and France was being brought about. We German industrialists know very well the significance of economic collaboration between Germany and France. The mutual interests of the steel industry, of German coke shipped to France, and French ore being brought to Germany; the mutual interests of the chemical industry, the potash industry, and the textile industry, were all very well known to us. It was in keeping with this spirit that Mr. Schnitzler judged matters in 1941 and 1942. He also hoped, at the time, that a moderate peace treaty between Germany and France would intensify

the economic collaboration of both countries. That was the expectation and the hope of many people in Germany as well as in France at the time. And that was also the concept of the authoritative persons in the German military administration in France; thus, for instance, the chief of the Economic Department, Ministerialdirektor Michel, who is mentioned now and again in the documents. We looked on very disappointed and unhappy, when the then political leadership in Berlin missed their last chance in that connection, and still, today, it is my opinion that a magnanimous peace treaty with France with the immediate release of all prisoners of war around the turn of 1940 to 1941 would have saved much suffering for Europe.

* * * * *

Q. I now come back to the negotiations between Mr. von Schnitzler and the French gentlemen until Francolor was founded. The prosecution contends that Mr. von Schnitzler (or Farben) conducted these negotiations with the intention of delaying matters; that is, they procrastinated in order to achieve a more favorable result. Is that correct?

A. Dr. Siemers, as I have already stated, from the beginning of the Wiesbaden negotiations, I took part in all the conferences. Therefore, I have a clear judgment about it. There can be no talk of these negotiations being handled in a procrastinating manner in any way. Let us take the first negotiations in January of 1941, that is, the first after Wiesbaden. The date for this conference was suggested to us by Mr. Duchemin. Then came the negotiations in March, and subsequently, as far as I remember, in April, June, July, and so on. To the best of my recollection, the recesses granted were only given because it was necessary to study material or to give the lawyers in France or our lawyers a chance to study their problems, or, in individual cases, in order to get approval or wait for the attitude expressed by the government.

And without any unnecessary interruption, we kept on negotiating without any tendency to procrastination. Quite apart from that, it would have been senseless to delay because, beginning with the spring of 1941, we already began to collaborate with the French as though the contract had already been concluded. You need only think of the transmittal of the dyestuffs orders.

Q. Who drafted the agreement with Francolor?

A. There are two contracts contained in the French contract, and therefore a division of work was undertaken. Farben undertook to work on the so-called St. Gobain contract. That is the contract between Farben and the three Farben parent firms. The much more extensive and basic corporation contract was drafted by the lawyers of Kuhlmann and the firm of St. Gobain under the advice of Maitre

Deguchy, a special expert. Both drafts were the subject of discussion during our joint meetings.

Q. As Dr. Kuepper has already told us, Farben originally only wanted a participation of 51 percent. Dr. Kuepper showed how this came about that for legal reasons, a 51 percent participation was demanded—I am informed that the first sentence was translated “51 percent.” It should be “50.” May I perhaps repeat the question?

As Dr. Kuepper told us, Farben originally wanted a 50 percent participation only. Dr. Kuepper gave the legal reasons why, at a later time, a 51 percent participation was demanded. As he said, that was done in order to bring about the intended parity between the two groups. May I ask you to tell us what your opinion is of this, and what reasons were decisive for Farben’s demand to participate to the extent of 51 percent?

A. About the question whether 50 percent or 51 percent very much has been said—internally, that is within Farben, and also by the French people and the French lawyers. As a matter of principle, I would say first that Farben did not intend to acquire the major share in the new enterprise or to dominate it in any way. I may confirm that in detail. If a firm at home or abroad has a participation in any firm of more than 50 percent, then it is the usual consequence of such a majority participation that that firm also undertakes the business management of that other firm concerned, or that at least they dominate the other firm.

Let’s take an example. The German Opelwerke, the largest German automobile plant, was controlled through a majority participation by General Motors, and the business management in Germany was American. I personally knew the American gentlemen in charge of the business of the Opel plant in Ruesselsheim. That is the usual form. But in the case of Francolor that was not done. It is true that Farben had a 51 percent share, but they did not dominate the business management. In the case of a French corporation, the business management is handled by the Conseil d’Administration. The Conseil d’Administration elects, from among its own ranks, the president, who is solely in charge of the entire business management of the enterprise. The Convention of Francolor provided first, that an equal number of members in the Verwaltungsrat be appointed by the French and German groups, whereby at least the members appointed by the French should be of French nationality. Secondly, that the president always had to be of French nationality, and should be a member of the French group in the Verwaltungsrat.

MR. SPRECHER: I am sure this examination has been planned very carefully by Dr. Siemers and Dr. ter Meer, but it seems to me that it has now reached certainly the point of pure argumentation, where questions which are certainly not new here are merely being phrased

by the defendant in terms of extractions from the basic Francolor Convention, and compared to a number of other things which is beautiful brief material, but it seems to me it hasn't anything to do with the taking of evidence.

PRESIDING JUDGE SHAKE: The Tribunal is very much impressed that a lot of this testimony has been highly repetitious. We have gone over this territory so many times that I think counsel can well pass on to something that has some semblance of novelty about it. We have heard this story several times now, and I do not think anything would be gained by repeating it. We understand all, I think, that has been said about the reasons for the stock division as between the 50 and the 51 percent.

The time is yours, gentlemen, but I think you could put it to a better use.

DR. SIEMERS: I am very glad to hear that the prosecution has finally now understood this point, which unfortunately they did not understand in the previous month. Therefore, we can comply with the request of the Tribunal and abbreviate this.

May I merely ask you, Dr. ter Meer, to tell me what one could actually carry through with these 51 percent; one could not appoint a Verwaltungsrat member, one could not appoint a new president. What could one do, actually, with this 51 percent?

A. First one must emphasize again that those 51 percent did not have any effect upon the business management bodies of those enterprises. That was 50-50, 4 to 4 and the predominant or preponderant weight was the French president, who had the decisive vote according to the French law.

With this 51 percent of share participation, Farben could only be heard in the general stockholders' meeting, a body which has nothing to do with the business management. There they could remove the president. This form, at the suggestion of the French lawyers in close contact with Farben, was chosen at the time in order to create a counterweight against the preponderant weight of the president within the scope of the business management. It was not possible, according to French law, to elect a second business manager, a vice chairman, or something like that. That was expressly prohibited by law. Therefore Farben had to have some measure in order to act if the French president, for instance, violated the existing contract, and thus, Farban insisted on these 51 percent. They actually only were to keep a balance, as Dr. Kuepper expressed it. In my opinion, it was a safety valve, but which it was best not to use, and which reasonable people on both sides would never have used. That is the way I looked at it.

Q. During the common work within Francolor, did any differences of opinion appear with the business management, with the president,

which caused this so-called safety valve to be used, or which caused one to consider as to whether or not one should now make use of the safety valve?

A. No, it was never used, and it was never discussed. There were no differences.

Q. Dr. ter Meer, after the contract was concluded in November 1941, did you again speak to the French gentlemen, and if so when did you last speak to them?

A. I probably attended regularly the meetings of the Conseil d'Administration in Paris, and these meetings were conducted probably three or four times a year. I cannot state that exactly now. The last meeting in which I may have participated, was the summer meeting in 1943—June 1943—shortly before I went to Italy. Then I no longer attended.

Q. What was the tone and the nature of negotiations in those conferences where common work was done within Francolor?

A. I can only describe it in the way we say in German—"of one heart and soul." The negotiations in the Conseil d'Administration were of an absolutely friendly nature. There were no conflicts of interests; and the same also applies to the meetings of the Comité Technique, in which I repeatedly participated. I can only say that this contract covered the interests of both partners in such an excellent way that no differences of opinion ever crept up.

Q. You say the contract met the interests of both partners in a very excellent way; in that connection I have the one last question. Did the French or any one of the French gentlemen, at any time express their particular gratification or say anything to you or to Mr. von Schnitzler about the common work, the common interests of the Francolor contract—not only by their attitude, but actually expressed in words?

A. Yes, that happened once in a very definite and tangible manner. That was during a luncheon which the French gentlemen gave after the signing of the contract, probably in the second half of November. It was the customary circle of the French gentlemen that was present, and from our side, again, the people who were represented on the Conseil d'Administration, and a few other people who had participated in the negotiations; a group of approximately 12 or 15 persons. At the time, Mr. Frossard got up and made a speech which, in my opinion, exceeded the form of mere politeness, for he was visibly touched and strongly impressed personally. He said then that he wanted to express his personal gratitude for the fine confidence and trust that was placed in him by appointing him president of this new firm. On that occasion, he also said that the contract, in his opinion, could be called ideal, since it met the interests of both partners in such an excellent manner.

Dr. SIEMERS: Thank you very much. I have no further questions.

JUDGE MORRIS: Dr. ter Meer, would you tell me how many plants were involved in the Rhône-Poulenc concern? Were there more than one?

DEFENDANT TER MEER: The firm of Rhône-Poulenc had its main chemical plant near Lyons. In addition to that, there were a number of other plants; a large synthetic silk factory, for example. I do not know whether it had any additional factories, because I never visited them. The main plant for pharmaceutical and chemical products was at Lyons, and I inspected that one once.

Q. And that, of course, was in the part of France that was not taken over by the Germany Army; is that correct?

A. These two factories I mentioned were located in the unoccupied territory of France.

Q. Now as to the Francolor situation, how many plant or physical properties were involved in the contracts which you negotiated—the two contracts that you mentioned?

A. We are mainly concerned with four large plants. These were the two plants belonging to the Kuhlmann firm, the Oissel and Villers-St. Paul factories. These two factories, at the same time, were the most important ones. Then there was the Saint-Denis factory, which belonged partly to the Kuhlmann firm and partly to the gentlemen of Saint-Clair-du-Rhône. I do not know exactly how the shares were distributed. As far as the other smaller factories included in the Francolor contract are concerned, two of them were owned by the Kuhlmann firm, and they were the factory of Croix-Wasquehal, a textile enterprise to which a small dyestuffs factory was affiliated, and the factory of Mabboux et Camell, in Lyons; the latter was quite insignificant from a production point of view. It was more a sales firm. Then there was the Steiner firm at Vernon, which was an old, small, French factory which had always produced some dyestuffs and, in additions, some other products.

Q. Were these plants in the territory occupied by the German Army?

A. The factory of Mabboux et Camell at Lyons was also located in the unoccupied territory. I should like to distinguish clearly between the four main points dealt with in the Francolor Convention and the smaller factories. The smaller factories, like Mabboux et Camell in Lyons were very insignificant as far as dyestuffs were concerned. They were really sales firm.

Q. Were the larger located in the occupied territory?

A. Three of them were located in the occupied territory/Oissel, Viller's-St. Paul and Saint-Denis. The fourth and smallest, Saint-Clair-du-Rhône, was in the unoccupied territory.

JUDGE MORRIS: Thank you. That's all.

PRESIDING JUDGE SHAKE: Are there any other questions by

defense counsel before we proceed with the cross-examination of the defendant?

Apparently not, so you may cross-examine, Mr. Prosecutor.

CROSS-EXAMINATION

MR. SPRECHER: Mr. President, just so that we can make our plans and defense counsel can also act accordingly and perhaps to help you in supervising the situation, I can state that we will have no questions on Poland; and that I will have, depending on the nature of the defendant's answers, approximately 13 or 14 questions concerning Francolor; and, Mr. President, if there is the slightest doubt at any time that these questions are not helpful, we would be very glad to hear about it immediately, because we don't press very much of this at this time.

* * * * *

Q. Now, Dr. ter Meer, you testified at some length on direct examination concerning the nature of the negotiations between leading officials of I. G. Farben and the officials of the French mother-firms of Francolor. Among other things, you testified concerning Minister Hemmen's conduct at the first meeting of 21 November 1940. Now I would like to show you our NI-790, which will become Prosecution Exhibit 2193.* This is a letter which was found in the files of Defendant Schnitzler; it is addressed to Defendant Schmitz, and it is dated the very day on which that meeting was held. Would you please read the first paragraph?

DEFENDANT TER MEER: Yes. I have read it.

Q. Did Dr. von Schnitzler send you a copy of that letter at the time?

A. I don't know. I cannot say.

Q. Does the first paragraph, which Defendant Schnitzler wrote there, strike you as reflecting his opinion at the time, or was this possibly some window dressing for Dr. Schmitz?

PRESIDING JUDGE SHAKE: Mr. Prosecutor, that is rather calling for the reading of the mind of the—

MR. SPRECHER: I beg your pardon. I agree that it was an unfortunate question.

Dr. ter Meer, does the opinion as stated in the first paragraph differ from what Defendant von Schnitzler told you at the time as to the opinion he held of Hemmen's conduct of the first meeting?

A. Mr. Prosecutor, if I said in my testimony that we leading men of Farben were rather unpleasantly moved by the manner which Hemmen adopted, that is based on a very positive recollection of a conversation on our way back from Wiesbaden to Frankfurt by car. In my opinion, this conversation could have taken place only between Mr. Schnitzler and myself, for Mr. Waibel lived in Wiesbaden and probably stayed there for the night. We two were displeased about

*Reproduced in part in 2 above.

the rather pronounced way Mr. Hemmen spoke. That is my recollection.

Q. Now I'd like to refer to the meeting on the next day. That is on 22 November 1940. Is it not a fact, Doctor, that Duchemin vigorously contended that the proposals made by Dr. von Schnitzler for Farben at the end of that first meeting were in the nature of a dictate to the French? "Diktat" is the German word used.

A. I believe I can recollect that expression having been used. I should have to check it. It is possible.

Q. Well, perhaps I can help you. I will show you NI-15240, which will become Prosecution Exhibit 2194.¹ This is a very short extract from Duchemin's book "History of a Negotiation," from which Dr. Siemers has already introduced a short excerpt in Document Schnitzler 45, Schnitzler Defense Exhibit 49,² pages 1 and 2 of Schnitzler Document Book 3. Does that short excerpt refresh your recollection?

A. I can't really say whether that expression was used; but as I said before, it's quite possible. I have only the material which our own men produced concerning the meeting. Whether that word is used there, I don't know at the moment. I'd have to look it up.

Q. Don't you have any recollection of Duchemin stating that he thought Farben was trying to impose an alliance upon the French?

A. The French didn't agree with our proposals on the very first day; that is quite correct.

Q. Now, Doctor, isn't it true that the Farben file memo of the meeting of 22 November 1940—that is the second meeting, when only the French and German chemical representatives were present—isn't it true that Farben's file memo, official file memo, on that conference was sent to all Vorstand members?

A. I can't see it from this copy submitted by the prosecution. I remember, though, having read somewhere in the documents that the memorandum about Farben's claim to leadership was circulated in the Vorstand.

Q. Well, in order to refresh your recollection more clearly about the basic file memo, I show you NI-15225, which will become our Exhibit 2195.² This is a letter from Defendant von Schnitzler and the deceased Vorstand member, Laibel, to all members of the Vorstand, dated 28 November 1940.

A. Yes, that is correct.

Q. Now, I have one more question about Minister Hemmen and Farben, in connection with your testimony concerning the alleged give and take between Farben and the leaders on the French dyestuffs.

¹ Reproduced in part in 2 above.

² Not reproduced herein.

industry. Now, after the French and the Farben leaders had come to an agreement concerning the basic provisions of the Francolor agreement, isn't it a fact that Minister Hemmen was informed by Farben that "The result of the negotiations with the French dyestuffs industry has fully met our demands." That, or that in substance.

A. I can answer the question neither in the affirmative nor in the negative. I just don't know, Mr. Sprecher.

Q. Well, do you recall that Hemmen was informed by anyone from Farben that, without the outstanding help and advice of the Reich agencies in Wiesbaden and in Paris, Farben's demands would never have been met by the French?

A. I don't know whether any such document exists. I really can't tell you from memory.

Q. To assist your recollection I will show you NI-15227, which will become Prosecution Exhibit 2196.¹ This is a letter from Defendant von Schnitzler to Minister Hemmen, dated 17 March 1941—which was fairly well along in the negotiations—and I ask you to look at the second paragraph.

A. Yes, Mr. von Schnitzler wrote that.

Q. Now, you have confirmed certain testimony which the defendant Ambros made, as I understood it, and which was to the effect that representations made to the Reich authorities with respect to the military importance of Francolor production were window dressing of some kind or other. Now, in that connection, we want to introduce an internal Farben memorandum from Borgwardt to Defendant Kugler and Dr. Eckert, who has been mentioned in your testimony. This is our NI-15233, which will become Prosecution Exhibit 2197.² This is a very short little memo. Please read it.

A. This letter says only—

Q. Just a moment, Doctor. I haven't asked you my question. I just wanted to be sure you read the letter. Now, is there any window dressing about that?

A. No, that is no window dressing. That is quite in accordance with what Dr. Ambros and I testified on that question, that Centralite, diphenylamine, and alpha-mononitronaphthalene were delivered. These products were considered direct Wehrmacht needs, although they actually are not explosives but can only be processed into explosives. Dinitrochlorobenzene was not delivered, as far as I remember; at least not in large quantities. Alkydal is merely paint. It is not a Wehrmacht product. I see no contradiction between my or Dr. Ambros's testimony and this report here.

Q. Now, along this same line—and this is my last document to you—I want to show you NI-15259, which will become Prosecution Exhibit

¹ Reproduced in 2 above.

² *Ibid.*

2198.* These are the minutes of the technical committee of Francolor—of Francolor, not of Farben—on 5 October 1942, which you and the defendant Ambros attended. The defendant Kugler's initials are at the top. The first heading is "Position with Regard to Transfer of Manufacturers." My first question deals with the second paragraph, Doctor. "As coal deliveries became more and more uncertain, they have to adapt themselves to the situation; that is to say, to the needs of the Wehrmacht." Did that also mean, in fact, that Francolor production had to adapt itself to the needs of the Wehrmacht?

A. Yes, that is exactly what Dr. Ambros and I have testified. These purely dyestuff factories, to a certain degree, had to be adapted to the needs of the Wehrmacht; and in the following sentence it is stated, "Mononitronaphthalene, diphenylamine,"—I don't believe that was delivered—"for the needs of the Wehrmacht." And then come the other products: "phenylbetanaphthylamine, accelerators"—these are vulcanization accelerators—"Kaurit glue, monochloroacetic acid, glycerophthalic resins, acids from phenol and formaldehyde"—that is a mistake, it should read "synthetics" here—"and phenol for civilian needs." It was a fact that a few products of significance to the military economy were named first, but the main production was not actually used for those purposes, which is clearly proved by the figures I have already given.

Q. Doctor, in connection with Judge Morris's question, it occurs to me that perhaps the very last paragraph of this document might be of some interest. That is the heading under "Factory in Rieme." Am I correct, Doctor, in stating that that factory at Rieme was one of the French dyestuffs factories which was closed down during the German occupation, pursuant to Article 22 of the Francolor Convention?

A. May I ask you on what page that is?

Q. That is on the last page, the very last paragraph. I'm sorry. Under the heading, "Factory in Rieme."

A. As far as I remember, the factory in Rieme was a Belgian factory, not a French factory. This very small factory was closed by the French and the installations were sold by the owners to Farben, but I would have to confirm that.

Q. Well, will you look at the last sentence, where it says the offer will be submitted again to Kuhlmann. Doesn't that indicate that it was a Kuhlmann concern?

A. The factory in Rieme?

Q. Yes.

A. Yes, Kuhlmann.

Q. I don't understand your connection to the Belgian factory then.

A. Kuhlmann had a small dyestuffs factory in Belgium.

Q. I see.

*Not reproduced herein.

A. And this factory ceased production, and the installations and all usable equipment was sold to Farben, because of their friendly relations. I think this refers to that fact, but I would have to ascertain it.

Q. Did Farben bear the cost of dismantling that plant?

A. According to the version here, yes. It says here, "The equipment was sold for 60,000 reichsmarks, and Farben undertook the dismantling."

Q. Just to be certain I have your position, is this one of the factories which was mentioned in Article 22 of the Francolor Convention, which mentioned those factories which were to be closed down?

A. I don't believe that the factory in Rieme was named in this article of the Convention. Other factories are mentioned there, I don't remember this name. I must ascertain whether Rieme was actually the name of the factory in Belgium. I don't remember it now.

* * * * *

DR. BERNDT: Your Honors, I believe that I am justified in requesting that Dr. ter Meer be given a chance to speak on those documents which have just been submitted. Among them there is a document which extends to eight pages and which is on very thin paper and hardly legible. There are letters among them, as for instance the last one, Exhibit 2198, extending to eight pages, and very difficult to read on thin paper. There are letters which bear no signature, neither in the original which was handed to the Secretary General, nor in the copies which were distributed to us. I don't think that the prosecution will object if I put these questions to Dr. ter Meer after having discussed the documents with him during a short recess.

PRESIDING JUDGE SHAKE: The Tribunal is not impressed with the thought that there is much that ought to require any considerable delay in order that you might conduct your redirect examination. The witness' answers have been, in the main, very clear and positive. However, the documents, some of them, are lengthy, and you are entitled to a reasonable opportunity to familiarize yourself with them, and Dr. ter Meer is certainly entitled to time to know the contents of the documents. By that I mean to suggest, Dr. Berndt, perhaps this afternoon—sometime after the noon lunch—could you take the matter up then, do you think, and dispose it? We will give you that time over the noon hour that Dr. ter Meer can read the documents, and we would like, if you can, to close this matter up today—sometime during the day. Will that be agreeable with you?

DR. BERNDT: Yes, Your Honor.

PRESIDING JUDGE SHAKE: You may step aside then, Dr. ter Meer. Just a moment. Perhaps Dr. Siemers wants to ask you a question. I am not sure. Did you have anything further with Dr. ter Meer, Dr. Siemers, at this time?

DR. SIEMERS: Your Honors, I should like to object to the intro-

duction of two documents. Since Dr. ter Meer may perhaps add something to these documents, I should like to ask that Dr. ter Meer remain in the witness stand. It will then be seen whether I have to question him.

PRESIDING JUDGE SHAKE: Very well.

DR. SIEMERS: I object to the introduction of Document NI-790, Exhibit 2193,¹ and I ask that it be stricken. If I understood Mr. Sprecher correctly, he stated that this was a letter by Dr. von Schnitzler to Dr. Schmitz. I have the so-called original before me, which is a photostat bearing no signature and no initials.

PRESIDING JUDGE SHAKE: Well, that objection is sustained, unless the Prosecution asks for the privilege of supplementing its evidence as to the competency.

MR. SPRECHER: Mr. President, it will be very simple to do. I think the certificate shows that this document was taken from I. G. Farben Griesheim Control Office files. We will add to that a certificate to show that this came from File Number 17 of Defendant Schnitzler's personal files.

PRESIDING JUDGE SHAKE: Mr. Prosecutor, does the statement you just made with reference to the source of this document appear in your certificate that is now on file?

MR. SPRECHER: It would appear that it came from the Griesheim Document Center but the SEA [Staff Evidence Analysis], of which the defendants have long since had copies since this is Document NI-790,² shows that this document was taken from Schnitzler personal file No. 17; and Mr. Hauptmann, whose name appears above and who wrote this analysis, is available to make a personal certification if necessary.

PRESIDING JUDGE SHAKE: The trouble is the assumption on the part of prosecution that this was a letter written by Defendant von Schnitzler. There is nothing in the document to so indicate, and conceding that it is sufficiently established that it is a part of the Farben files, nevertheless it is somewhat of an assumption to assume that Dr. von Schnitzler wrote the letter. Now, we do recall that the prosecutor so stated when he offered it, and he asked Dr. ter Meer some questions assuming that von Schnitzler had written the letter. Now, that part of it is quite questionable. If it is pertinent to any inquiry, there perhaps is a sufficient showing that it is a Farben document because of the source from which it came. That is the trouble we are in.

¹ Reproduced in part in 2 above.

² The Tribunal, by a written order reproduced in section XIII L 8, volume XV, this series had directed the prosecution to make available to the defense the preliminary parts of each Staff Evidence Analysis (SEA) which the prosecution had made of documents originating in Farben files. The object of this procedure was to permit the defense to have access to any documents, or copies of Farben documents, which the prosecution had discovered and registered in its files and which the prosecution had not offered or did not intend to use upon cross-examination.

MR. SPRECHER: Mr. President, since Dr. von Schnitzler has not taken the stand, naturally we can't put the exact question to him. I didn't think there would be any question about it, given the circumstances or even the nature of the words, because I know quite a bit about Dr. von Schnitzler's letters. I didn't ask the question exactly of Defendant ter Meer, but I think you understood from his answers that he immediately assumed that it was.

PRESIDING JUDGE SHAKE: Well, in your question you assumed it, and perhaps it was justified in him in assuming that you were correct.

MR. SPRECHER: Well, it does seem to us that we have at least established it sufficiently so that this is evidence of probative value dealing with someone, who can address the defendant Schmitz at the end with "Ihr"—which is rather familiar in the German language—who did write to the defendant Schmitz on that same day from Frankfurt and indicated what the view was as to how Farben was reacting—how these officials were reacting—to Hemmen.

PRESIDING JUDGE SHAKE: Well, the objection to the document will be overruled upon the theory that there is a sufficient showing that this was a document in Farben files. All references in the interrogation and answer, assuming that it was a letter written by Dr. von Schnitzler, are ordered stricken unless there is some showing, direct or circumstantial, that fastens the authorship of the letter on the defendant von Schnitzler.

DR. SIEMERS: Your Honors, beyond that, would you please state that it has not been proven that the letter was sent off, and—

PRESIDING JUDGE SHAKE: I think I said that it was admitted upon the showing that it was a document found in Farben files. Now, for whatever that is worth, that is established. The Tribunal will not assume that it was mailed or dispatched, nor will the Tribunal assume who wrote it, unless there is a further showing. It's just a paper found in Farben files, and, under the rulings that we have made during the course of this trial, we will overrule the objection, but we will not assume from the statements made in the interrogation that it was written by the defendant von Schnitzler, unless during the course of the trial, yet, there is some showing to that effect.

DR. SIEMERS: I would be grateful to Mr. Sprecher if he would submit a new certification.* I think that the certification in this form is not fair, because it is expressly certified that this was a letter by Mr. von Schnitzler. It says, "Letter from Schnitzler" in the official certification.

PRESIDING JUDGE SHAKE: That is not in evidence before the Tribunal, and the Tribunal is unconcerned with the matter of certification,

*Later the prosecution offered in evidence affidavits by three investigators (Prosecution Exhibits 2252, 2253, and 2254) tracing the history of this document from the time of its discovery in Farben files in Frankfurt until it was offered in evidence. The affidavits are not reproduced herein.

except insofar as it may throw light on the authenticity and admissibility of the document. Neither your client nor any of the other defendants is bound by the conclusions in the certificate that the letter was written by some individual.

MR. SPRECHER: Mr. President, no one is in a better position than Dr. Siemers and some of the lawyers in this room to find out the truth, if they are interested in it. We can tell exactly where this file came from.

PRESIDING JUDGE SHAKE: Mr. Prosecutor, may I just remind you it's a good thing there is not a jury here. Your remarks might be very serious by indirectly commenting on a subject which is not proper to discuss, and that is the refusal or failure of a defendant to testify. There is nothing before the Tribunal. Gentlemen, we have ruled on that. Go on to the next matter here.

DR. SIEMERS: My second objection, Your Honors, is directed to Document NI-15227, Prosecution Exhibit 2196.* I have here the so-called original, which was filed with the Secretary General, a photostat copy. This photostat copy rather conspicuously bears the heading, and I quote: "Copy of a letter to Minister Dr. Hemmen of 17 March 1941."

It can be seen from that quotation that this is not a photostat copy of the original or a carbon copy. Even more conspicuous is the fact that on this photostat copy, under the typewritten words "signed—signature," there is a handwritten note in the English language, "Signed, v. Schnitzler." There is no typewritten signature; there is no initial; but in the English text there is written "Signed, von Schnitzler."

I think that I am justified in objecting for these reasons.

MR. NEWMAN: May I shortly tell the Court this: The word in the original copy "sign" is manifestly not the English word "signed," because it would then be not explainable why the "ed" is missing. But in German you have a similar word "signiert," and this word "signiert," which means "subscribed by," is, in the normal way, abbreviated as we find it here—"sign (period)."

PRESIDING JUDGE SHAKE: Let the Tribunal see the original exhibit and the accompanying certificate, please.

MR. SPRECHER: Your Honors, that came from Kugler's original files in Room No. 5 at Griesheim Document Center, and we will furnish a further certificate to that effect; and we know exactly who found it and when.

PRESIDING JUDGE SHAKE: Now, there does appear to be some discrepancy between the English translation and the original document—with reference to what is urged on behalf of the prosecution as relates to the signature. We shall correct our English version of the document to conform to the original document on file; and you gentlemen

*Reproduced in 2 above.

may argue the significance of the document at the proper time. With that correction the objection is overruled.

DR. SIEMERS: May I put one more question to Dr. ter Meer?

PRESIDING JUDGE SHAKE: Yes.

REDIRECT EXAMINATION

DR. SIEMERS: Dr. ter Meer, you have just listened to this debate. According to your recollection, was it customary in Farben's correspondence to make a remark under a letter, "Signed, von Schnitzler," or "signiert, von Schnitzler," to use the letters "sign"? Do you have the document before you?

DEFENDANT TER MEER: The use of the abbreviation "sign," as far as I know, is quite unusual in German. The abbreviation mostly used for "signature" is "gez." [for "gezeichnet"—signed]. I can't say that the expression "signieren" actually means "sign". Usually "signieren" means something else. I would never myself, use the abbreviation "sign" instead of "gez." because it isn't customary and not intelligible to most readers. In my opinion, this is an abbreviation of the English word "signed." How it got there I don't know.

Q. Dr. ter Meer, do you remember having seen letters or copies of letters in Farben correspondence which bear the note as in this case "signed (signature)" (Gezeichnet, Unterschrift) on one line, and then another note "sign (period)" and then the name?

A. No, that is never done by us.

Q. Thank you; I have no further questions.

PRESIDING JUDGE SHAKE: Anything further from the defense counsel, with the reservation that Dr. Berndt made? Apparently not. Anything from the prosecution?

MR. SPRECHER: We will see that the actual original carbon copy is brought to Your Honors, since Dr. Siemers has raised this issue. We are always pleased to do that.

RECROSS-EXAMINATION

MR. SPRECHER: Now, Dr. ter Meer, referring to Prosecution Exhibit 2196, which is the document addressed to Minister Hemmen, do you recall ever having seen that document at any time before 1945?

DEFENDANT TER MEER: You mean NI-15227?

Q. That's right.

A. No, I don't remember having seen this letter here.

Q. Can you tell anything, from looking at the letter, as to who wrote it?

A. This letter could, of course, have been written only by someone who knew Mr. Hemmen well. It refers to a conversation at the Potsdamer Bahnhof. People would only converse at the Potsdamer Bahnhof if they had met before and if they met there accidentally again.

DR. SIEMERS: Your Honors, I object to this type of questioning. This merely asks for an opinion; it doesn't ask for facts to which the witness can testify.

PRESIDING JUDGE SHAKE: The objection is sustained.

MR. SPRECHER: Now, with respect to Prosecution Exhibit 2193, that is Document NI-790* I ask you simply whether or not there is anything about that copy of what purports to be a letter, that indicates to you who drafted or sent that letter.

DR. SIEMERS: I object for the same reason. The document speaks for itself. Mr. Sprecher can argue from the document just as well as I can.

MR. SPRECHER: Mr. President, I think I have a perfect right to ask him whether or not he, a Vorstand member for more than 20 years, and a colleague of Defendant von Schnitzler, knows who would have written such a letter ending with the familiar word "Your" at the end.

PRESIDING JUDGE SHAKE: Well, so far as the contents of the letter are concerned, they speak for themselves; and what they show is a subject of argument and perhaps differences of opinion among counsel. If there is anything peculiar or characteristic about the letter from which the witness can deduce or express an opinion as to who wrote it, he may do so. We don't care to have him discuss the contents, because we can read that, but if there is something we cannot see — there may be some marks, some indications, some peculiarity about the letter, from which he can form an opinion as to who wrote the letter — he can tell us. The objection is overruled.

DEFENDANT TER MEER: From the contents of this letter it become apparent to anyone who knows the situation that it originates from Herr von Schnitzler.

MR. SPRECHER: Thank you very much.

REDIRECT EXAMINATION

DR. SIEMERS: Dr. ter Meer, do you know whether this letter was sent off?

DEFENDANT TER MEER: No, I know nothing about that. It is my personal impression that I actually never saw the letter. Of course, today I can't say that with certainty. At any rate, I don't remember the letter, and I can't say whether it was sent off or not.

Q. Are copies of letters initialed in Farben offices? Is it the practice to type the name?

A. You mean on the copies?

Q. Yes.

A. As far as I know that was a customary procedure. There were various methods by which to do that. Many men put their own initials right on the copies, in other cases there was a stamp which

*Reproduced in 2 above.

was put on the copies, and sometimes the name was typed. As far as the departments which worked with me are concerned, I always demanded that copies of letters which had some essential contents should bear the initials of the sender. I'm not referring to insignificant matters. I don't know how Mr. Schnitzler's office handled these matters.

Q. Since you are giving your opinion, could this perhaps be a draft, since it doesn't bear a signature—that is, a draft which was not sent off?

PRESIDING JUDGE SHAKE: Well, perhaps the judgment of counsel or even of the Tribunal may be as good as that of the witness on that score. Unless he knows that it was a draft and not an original, he couldn't throw any light on that subject. If he does know, he can tell us, but if he's just deducing from a copy, we can do that the same as the witness.

DEFENDANT TER MEER: Naturally I can't make any statement about that. I don't remember the letter—

DR. SIEMERS: No further questions.

PRESIDING JUDGE SHAKE: Now, apart from the reservation made by Dr. Berndt, to interrogate the defendant perhaps a little further after the noon recess, are there any other questions to be asked of Dr. ter Meer by defense counsel or by the prosecution? Apparently not. Then, with that reservation, Dr. ter Meer, you may step aside.

* * * * *

[The examination below took place later in the day when defendant ter Meer was recalled to the witness stand.]

DR. BERNDT: Dr. ter Meer, I have a few short questions about those documents which were submitted to you during cross-examination by Mr. Sprecher on 17 February 1948. You were first shown Exhibit 1883, Document NI-14175.* Mr. Sprecher asked you in that connection whether you personally had not taken steps against the desire of the French which was directed towards acquiring financial participations outside France. At the time you wrote on the margin of a letter which transmitted this desire of the French, in your own handwriting, the word "no." What have you to say about that?

DEFENDANT TER MEER: That affair is very simple and clear. Article 11 of the Francolor agreement provides that the parent firms bound themselves neither at home nor abroad to found any competitive enterprise in the dyestuffs field or to promote such enterprises. This obligation does not restrict the freedom of the three parent firms, in any other field, to construct or to participate in as many factories as they want at home or abroad, and as they desire.

The clause proposed by the lawyer of the Kuhlmann firm at the time was quite superfluous in the Francolor agreement, and therefore

*Reproduced in 2 above.

I wrote "No" in the margin at the time in order not to permit any unclarity to arise as to the obligation in the dyestuffs field. The matter is completely insignificant, in other words.

Q. You were further shown Exhibit 1884, NI-14176,¹ and you were asked in connection therewith whether it was correct that the entire question of confining the powers of the president of Francolor by Farben had already been decided upon on 25 April 1941—that is, decided upon through a one-sided decision of Farben. Would you say anything in that connection?

A. That question must be answered in the negative. That was one of the numerous drafts that were prepared in the course of the negotiations by one party or by the other. There can be no question of a decision of Farben, and there was no decision. The best evidence for the fact that this decision was not a decision can be seen from the fact that the final Articles of Association, as signed in November 1941, contain different figures from those in the draft that I corrected. That can be shown by a comparison with Prosecution Exhibit 1256, Document NI-6886¹ in book 58, on page 65 German, English page 59 and following. That is the long exhibit about the Articles of Association. That is with particular reference to Article 28. In other words, the submission of the prosecution was incorrect.

Q. You were also shown Exhibit 1885, NI-6957.² That is a lengthy document and you only glanced at it fleetingly at the time. Would you now, after a more detailed study, add anything to your statement made at the time?

A. Since I have now closely read the document, and studied the signature, the date, and so on, I can now see that this document was prepared by a very young employee of the Management Department Chemicals, a certain Mr. Ohliger. This is not a document that I drafted, nor one for which I gave any instructions. I also may add that I made my own file note about the same meeting, bearing the date of 23 June, and the things that the prosecution charge to me are not contained in it. Neither at a time when the Francolor transaction was not yet completed, did I speak of that as a subsidiary company, nor did I use the expression "for the entire sphere of the contract," when these statements only referred to a limited part of the contract, a fact that I immediately and spontaneously mentioned during cross-examination. I am sorry that Mr. Ohliger has prolonged the cross-examination by expressing himself wrongly. That is all there is to this matter.

Q. Would you please explain Exhibit 1886, NI-14224?³ Have you

¹ Not reproduced herein.

² Reproduced in 2 above.

³ *Ibid.*

any statements to make in that connection? It is Mr. Kugler's report about the trip to Paris at the end of November 1940.

A. No, I believe I have gone into great length about this thing already.

Q. You were also submitted Exhibit 1887, NI-4845.¹ That document contains the minutes of a meeting of the larger Dyestuffs Committee, of 20 October 1942. In connection with that exhibit, you answered the question of the prosecutor in the affirmative, that the production program in France was directly and unequivocally connected with the war production program in Germany. Doesn't this answer in the affirmative somehow contradict the statements which you have now made about Francolor's production?

A. I am not of that opinion. When shifting certain productions to France, to a very moderate extent we recommended that certain so-called Army requirements be produced in the Francolor plants, and the French management carried out this suggestion; and again these same products, Centralite and diphenylamine and mononitronaphthalene are concerned. These were not finished explosives nor finished poison gas, and not finished powder. But they had been produced, and they were called at the time immediate Army requirements; and even if it were only a few percent of the entire production, I had to answer the question of the prosecution in the affirmative.

The fact that this production was carried on on a very small scale—and that in no case powder, explosives, or poison gas were involved—I knew as well on that day when I was cross-examined as I know it today, but I was not asked about it at the time.

Q. I now want to ask you a few brief questions about those documents which were submitted to you this morning on cross-examination. Would you please take up Document NI-790. This is Exhibit 2193.² This is a letter dated 21 November 1940. Have you this letter before you?

A. Yes.

Q. You remember that yesterday, or on Friday, you told us that you and your other colleagues were not enthusiastic and did not agree with the manner in which Minister Hemmen met the French in Wiesbaden? When I now look at this letter, from the words in the first paragraph of this letter, I have to see a certain recognition by the author of this letter about the conduct of Minister Hemmen. Does that not somehow contradict your statement?

A. I cannot agree to that. I don't think so. I think that letter was written, as shown by a number of dates in the third paragraph, at the time when Mr. Solvay, of the well-known Belgian firm in Berlin, was to visit us. Since the author of this letter has just come from the

¹ *Ibid.*

² Reproduced in part in 2 above.

Wiesbaden meeting, he made a short remark about it, and because of the brevity of this remark, when commenting on the manner in which Hemmen conducted himself during the meeting, he did not go into details, or at least he only described one side of Mr. Hemmen's conduct. The fact that we thought Mr. Hemmen's conduct was a little too energetic and too purposeful, is in no way refuted by the remark of this author.

Q. Would you then please take up NI-15227, a document which was given Exhibit Number 2196.¹ This again is a letter to Minister Hemmen. Do you want to say anything generally about this letter?

A. When I thought about the underlying reason why this letter was written, I remembered that there were certain differences of opinion between the Wiesbaden Armistice authorities and the Economic Department of the Paris Military Administration around the turn of the year, and this seems to be the starting point for this letter. That, by the way, was the result of a chance discussion that I had on the Potsdam railroad station platform, as I told you already before.

This letter is addressed to Minister Hemmen himself and it speaks about the sincere conviction that something had been achieved which would otherwise never have been achieved; so I wonder whether this is not an excessively polite manner of speaking only, but I do not know that, because I was not the author of that letter. If the author of this letter was of the opinion he expressed, then that would be contrary to my expressed conviction that the Francolor contract would also have been concluded even if the two governments had not taken an interest in it primarily. But that does not dissuade me in any way from my own conviction. I am still convinced today that the factual foundations that were existent at the time would have caused the French to seek some sort of agreement with us anyhow, even without the intervention of the Wiesbaden Armistice Commission, and I have already said this before.

Q. Then Exhibit 2197, which is Document NI-15233.² I have only one brief question in that connection. This exhibit speaks about deliveries to the Wehrmacht; I am only interested in one thing. In what proportion were they to the over-all production of Francolor?

A. For 1942 (a year for which I have figures available from the known report of Dr. Loehr, about which I made statements on Friday), it can be seen that the proportion of these so-called Army deliveries—the direct Army deliveries—amounted to 5 percent of the entire production of that year. They are the repeatedly-mentioned Centralite, diphenylamine, and mononitronaphthalene.

(Recess)

THE MARSHAL: The Tribunal is again in session.

¹ Reproduced in 2 above.

² *Ibid.*

DR. BERNDT: Dr. ter Meer, may I ask you to look at the Document NI-15229, Exhibit 2198.* Have you got that before you? Now turn to page 2. This refers to equipment which was delivered from Ludwigshafen to Francolor. What do you know about that? What is formol, incidentally?

A. We are concerned with the same equipment I mentioned during my testimony Friday afternoon. It is a modern apparatus for the production of an intermediate for plastics, formol or formaldehyde. This apparatus was delivered from Ludwigshafen to the Villers-St. Paul factory in order to increase the production of plastics there to a considerable extent.

Q. Would you now please turn to pages five and six of that document. It is mentioned there what has been given to the French. The first sentence says that these are textile auxiliaries, the production of which was planned to a great extent in Villers-St. Paul. Would you please say something about that?

A. The statements on page 5, 6, and 7 prove what I testified to on Friday afternoon with respect to the expansion of the Francolor production, in particular in the field of textile auxiliaries.

Q. There is nothing you have to add?

A. I think it is superfluous to go into details.

Q. There now remains the last page—page nine. Mention is made of one hundred French workers who were sent into the Farben plant of Ludwigshafen. Is there anything you can mention about that matter?

A. This, too, is a confirmation of the testimony I made on Friday afternoon about the making available of a certain number of workers to Farben from the Francolor plants. Friday afternoon I forgot to indicate a number of figures which will be contained in the affidavit which you will submit for [from] Dr. Loehr. There it gives you the figures of the workers for the four factories united under Francolor for 1938—that is before the outbreak of the war—and from 1941 to 1944. In 1938 the number of workers amounted to 4,248. Through being called to the colors, most of them became prisoners of war in Germany, and in 1941 this figure went down to 3,484. And in the following years, 1942, there were 3,343; 1943, exactly 3,000; and in 1944 there were 3,100. This shows that, between 1941 and 1944, the variations amounted to something within 10 percent. If one compares this situation with the labor situation in Germany, it is shown how extremely well off the French were in that connection, and how they were able to survive the war years with respect to labor questions.

Q. Now, the last question on this document. Mr. Sprecher asked this morning about the Belgian factory Rieme. Is there anything you can add to that matter?

*Not reproduced herein.

A. Yes. I wanted to ascertain whether we are actually concerned here with the factory located in Belgium, Rieme-Ertvelde, and I find this is the case. It was a very small dyestuffs factory which the French were running in Belgium and which, before the outbreak of the war had already ceased operation in agreement with the dyestuffs cartel. Francolor naturally was not interested in that factory and the former owners, Kuhlmann, made an agreement with us to the effect that Farben could buy the equipment of the plant for an amount which was fixed at 60,000 reichsmarks. The costs of dismantling were to be borne by Farben. This is contained in the minutes of the Technical Commission.

Q. Dr. ter Meer, this brings me to the end of your examination. Is there anything you yourself want to state?

A. No.

Q. Then let me state one thing, with your agreement. I could not ask you about all the points in the speeches of the prosecution, in the indictment, in documents, or in the Trial Brief, in which your name is mentioned. I could not examine you on all these points at the time. But I can state, and you will agree with me, that with respect to all counts in which you are charged with a punishable act, and in connection with which you have made no express statements, you reject any charge of having committed any illegal actions.

A. Yes.

Q. Your Honors, this brings me to the end of Dr. ter Meer's examination.

PRESIDING JUDGE SHAKE: Any further questions of this defendant?

DR. SIEMERS (counsel for defendant von Schnitzler): One question, Your Honor.

Dr. ter Meer, in the meantime I have handed to you Exhibit 2196, NI-15227.* I gave you the original photostat of that document. When Dr. Berndt examined you before, you had only the excerpt before you which was submitted by the prosecution. Excerpts are often somewhat misleading, and now that you have seen the entire document, would you be good enough to say whatever you can now state why a letter was written to Minister Hemmen on the basis of this conversation at the Potsdamer Bahnhof.

MR. SPRECHER: I am not making an objection, but I have here, fortunately, the actual original document which was brought from Frankfurt, and I would like to ask that the witness see it rather than the photostatic copy, in view of the representations that have been made.

PRESIDING JUDGE SHAKE: Let's keep our record straight. Now, are you going to ask that that original be made an exhibit instead of the copy in the files?

*Reproduced in 2 above.

MR. SPRECHER: Mr. President, because it is ultimately the property of the Control Office and has only remained here pending processing, I am not certain that I can do that, but I will try to see if I can.

PRESIDING JUDGE SHAKE: Would you be safe in asking that it be made as an exhibit in lieu of the copy that is in the record? Then you can file a motion to withdraw it later and substitute the copy.

MR. SPRECHER: Yes, I think in this case we could convince the Control Office that that was important.

PRESIDING JUDGE SHAKE: Very well.

MR. SPRECHER: Let's—

PRESIDING JUDGE SHAKE: Then the record may show that, subject to being withdrawn later if the Court deems it proper, the original of the document is now substituted for the copy in the file of the Secretary General.

DR. SIEMERS: Let me state—

PRESIDING JUDGE SHAKE: Now do you wish, Dr. Siemers, to pass up the original document to the defendant before you question him about it?

DR. SIEMERS: The photostatic copy is in agreement with that original, but certainly I can give Dr. ter Meer the original and we will arrive at the same result.

PRESIDING JUDGE SHAKE: I think you had better do that because after all it is now the exhibit. It is the better evidence anyway.

DR. SIEMERS: Let me just state, Your Honors, that my objection this morning was directed against the probative value of that document, and I still stand by my objection. This so-called original, too, has the strange note at the end, "Signed" or "Signature"—"Sign. v. Schnitzler"—or, as Mr. Sprecher says, "Signed, Schnitzler." In other words, it doesn't help us.

PRESIDING JUDGE SHAKE: Well, that is a debatable question. So go ahead and ask your question now.

DR. SIEMERS: Dr. ter Meer, would you be good enough to tell me whether the question which was put to you by Dr. Berndt as to how this letter was drawn up—are you now able to answer that question in greater detail having read the original of the letter?

A. Yes. From the excerpts which I had read previously, I could only more or less guess what its contents were. I gathered that a certain friction existed between Wiesbaden and the German administrative offices in Paris. If, however, one reads the third and fourth paragraphs, one finds that this actually means that the author of the letter informs Minister Hemmen how it came about that certain conferences were conducted in Paris which Hemmen would have preferred to conduct in Wiesbaden. This explanation in the third and fourth paragraphs assumes the form of almost an apology. This supports my view even more that these remarks concerning "sincere

conviction," in the second paragraph of the letter, are a form of politeness, because actually this is a letter of apology.

MR. SPRECHER: Dr. ter Meer was speaking rather rapidly and I didn't hear part of the translation come through. May I ask him to repeat that last bit?

PRESIDING JUDGE SHAKE: Can you repeat your answer, Dr. ter Meer.

A. The whole answer?

PRESIDING JUDGE SHAKE: Very well.

A. Before, I was only able to read the excerpt from the letter, and I could only guess that we are here concerned with friction between the Wiesbaden Armistice Delegation and the Economic Military Administration in Paris. After, however, having read the letter in its entirety, I can see that this refers to a very clear misunderstanding, even a type of reprimand which apparently was made to the author of the letter, to the effect that certain conferences were conducted in Paris whereas Minister Hemmen would have preferred them to be conducted in Wiesbaden. For that reason, this letter clearly bears the character of an apology on the basis of the third and fourth paragraphs, or at least is an apologetic explanation. This supports the view which I have already voiced on the basis of the excerpt, that the words "sincere conviction" are merely a polite form and since this is a letter of apology, this formula was particularly emphasized.

Q. Dr. ter Meer, the part of the letter which was not mimeographed by the prosecution—does it show upon whose instigation the conference with the Paris government officials took place which Hemmen obviously objected to.

A. Yes. It is stated under paragraph 3 that Mr. Duchemin expressed the wish that the Farben gentlemen would get together with him, his colleagues, and the French Government representatives. Whereupon the author of the letter stated that he could only agree to that course if the representatives of his own government were also present. It seems that Mr. Duchemin then approached the French Ministers who, in turn, visited the economic offices of the German Military Government in Paris; and then, upon French request, as it stated here, there was a concluding conference in Paris in the presence of representatives of both governments.

Q. One last question. Did Minister Hemmen participate in one of the later conferences in Paris? I am referring to conferences which you, too, attended.

A. I did not participate in a single Paris conference.

DR. SIEMERS: Thank you very much. No further questions.

MR. SPRECHER. We have no further examination; but, in view of the testimony that has just come out now, I think it would only be fair if we translated in full the rest of this letter and submitted it to Your Honors and I suspect Dr. Siemers won't object to that.

PRESIDING JUDGE SHAKE: Very well. That may be done.

MR. SPRECHER: I refer to Prosecution's Exhibit 2196, NI-15227.*

MR. SIEMERS: Thank you.

PRESIDING JUDGE SHAKE: Is that all, Dr. Siemers?

DR. SIEMERS: Yes, that is all.

PRESIDING JUDGE SHAKE: Any further interrogation of this defendant by counsel for the defense? Then you are excused, Dr. ter Meer.

* * * * *

E. Russia

1. INTRODUCTION

Paragraphs 114 through 118 of count two of the indictment contain the specifications with respect to "Farben in Russia." All of the defendants were acquitted of these charges in the judgment of the Tribunal (sec. XIII). The first materials reproduced below on this topic are a number of contemporaneous documents dated between 28 June 1941 and 11 August 1942 (2 below). While the prosecution was offering its documents in support of these charges, the defense objected to the relevance of those documents dealing with synthetic rubber plants in Russia on the ground that the documents at the most showed preliminary planning and did not show any accomplished acts. After hearing argument on that motion, the Tribunal ruled that the documents were at least relevant under count five (common plan or conspiracy to commit crimes against peace), and accordingly, the Tribunal admitted the exhibits in question in evidence. The argument and the interlocutory ruling of the Tribunal are reproduced in 3 below. The next materials reproduced herein are testimony of, or affidavits by, five defendants (4 below). These materials include testimony of the defendant Ambros; an affidavit and testimony of the defendant ter Meer; testimony of the defendant Haefliger; extracts from an affidavit and the testimony of the defendant Ilgner; and testimony of the defendant Mann.

*The full translation of the document is reproduced in 2 above.

2. CONTEMPORANEOUS DOCUMENTS

TRANSLATION OF DOCUMENT NI-4446
PROSECUTION EXHIBIT 1178

LETTER FROM DEFENDANT AMBROS TO DEFENDANT KRAUCH, 28
JUNE 1941, CONCERNING RUSSIAN SYNTHETIC RUBBER PLANTS

Dr. Otto Ambros

I. G. Farbenindustrie, Aktiengesellschaft

Ludwigshafen/Rhine 28 June 1941/Si

Professor Dr. Krauch

Office for Economic Development

Berlin W9, Saarlandstr. 128

Dear Professor,

Pursuant to my letter of 27 June, I am sending you enclosed *a list of the gentlemen* who are suitable for an assignment in Russia, to take over plants there for the production of synthetic rubber.

In that connection, it seems important to me that our suggestions for assigning the gentlemen who are mentioned to the individual works be also considered, because we are giving these men special technical training, and they were selected because technical experts—such as Dr. Wolfram for the chloroprene plant in Erivan, for example—are in possession of most valuable experience.

In his telephone conversation, Dr. Eckell stressed especially the importance of exploiting the Russian plants for additional production. This can be done by our adaptation of these plants, which, according to our knowledge, generally manufacture sodium polymerizates, to our sodium polymerizate process, that is to buna 85 and to the softening agent, buna 32.

Thereby we shall be assisting our Schkopau works which, at this time, already have to produce almost 200 tons of sodium polymerizates.

We also shall make it our first concern to produce sodium polymerizates suitable for technical uses. For this reason Dr. *Ebert*, who is the best expert in that field, will be the first one to be made available for the project in Russia. Dr. Ebert will report for work at the competent military area headquarters, Dresden, within the next few days.

In order to permit a conclusive decision on the putting into operation of the individual plants and, particularly, in order to assure their synchronization, it seems proper to me that, in addition to the technical experts mentioned in the individual plants, it should also be made possible for a small commission to pay a quick visit to the most important and most suitable plants.

I therefore propose that at the proper time I make a few days'

trip to Russia, together with Dr. Wulff and Mr. Biedenkopf, in order to confer with the various technical experts and to make an immediate decision as regards the allocation of the individual plants. I therefore ask that a travel permit be prepared for the three of us. I am giving pertinent data in enclosure 2.

I trust that these preparations will guarantee the Russian buna industry being placed in our service quickly.

I remain, with Heil Hitler!

Yours sincerely,
Signed: DR. AMBROS

2 Enclosures

Enclosure 1

*Technical Experts for the Russian SK-Plants**

- SK 1 in Jaroslav Dr. Georg *Ebert*
Born: 11 December 1887, in Schneeberg
(Saxony)
Domicile: 30 Ostmarkstr., Ludwigshafen
Recruiting district headquarters: Ludwigshafen
Military rank: Lieutenant
Available for duty [z. V.]
Previous activity: chemist and manager of
Caoutchouc Department, Ludwigshafen
- SK 2 in Voronezh Dr. Freiherr Guido von *Rosenberg*
Born: 21 October 1899 in Hochzehren
(District Marienwerder, East Prussia)
Domicile: 17 Friedrichsplatz, Mannheim
Recruiting district headquarters: Ludwigshafen
Military rank: Lieutenant, reserve forces,
retired
Previous activity: chemist and manager of
Department of Applied Technique, Ludwigshafen
- SK 3 in Jefremov Dr. Werner *Wolff*
Born: 20 March 1904, in Hannover
Domicile: 25 Leopoldstrasse
Ludwigshafen
Recruiting district headquarters: Ludwigshafen
Military rank:—
Previous activity: chemist; in scientific and
experimental laboratory, Ludwigshafen

*"SK" stands for Synthesekautschuk (synthetic rubber).

- SK 4 in Sovprene* works in Erivan Dr. Arthur *Wolfram*
 Born: 10 January 1894
 Domicile: 1 Werterbachstrasse, Frankfurt-Roedelheim
 Recruiting district headquarters: Frankfurt II
 Military rank: Lieutenant, reserve forces, retired
 Previous activity: chemist, chloroprene (Sovprene) experimental station at Hoechst; management of the department
- SK 5 in Ssungait, near Baku Dr. Hajo *Eilers*
 Born: 10 November 1906 in Petersburg
 Domicile: 21 Leverkusenstr. Schkopau
 Recruiting district headquarters:
 Military rank: Private (indispensable-[U. K.])
 Previous activity: chemist in the buna production; works' manager in the buna Schkopau plant
- SK 6 in Kasan Dr. Hans *Kehlen*
 Born: 7 July 1902 in Rheydt
 Domicile: Schkopau, 2 Piesteritzstrasse
 Recruiting district headquarters—
 Military rank:—(indispensable status [U. K.])
 Previous activity: chemist in buna production; works' manager in buna Schkopau plant

Enclosure 2

Director Dr. Otto Ambros
 Born: 19 May 1901 in Weiden (Lower Bavaria)
 Domicile: 12 Woehlerstr., Ludwigshafen
 Recruiting district headquarters:
 Military rank:
 Previous activity: Chemist in charge of the management of the buna works

Director Dr. Carl Wulff
 Born: 8 April 1901 in Flensburg
 Domicile: Schkopau/via Merseburg—Buna Werke G. m. b. H.
 Recruiting district headquarters: Merseburg
 Military rank:

*Synthetic rubber developed by the Russians.

Previous activity: chemist and manager of the Schkopau buna plant
Director Wilhelm Biedenkopf
Born: 9 June 1900 in Chemnitz
Domicile: Schkopau/via Merseburg—Buna Werke G. m. b. H.
Recruiting district headquarters: Merseburg
Military rank:
Previous activity: chief engineer of Schkopau buna works

**TRANSLATION OF DOCUMENT AMBROS 139
AMBROS DEFENSE EXHIBIT 207**

**INVITATION OF THE REICH MINISTER OF ECONOMICS, 30 JUNE 1941,
TO A MEETING CONCERNING RUSSIAN CHEMICAL PLANTS**

Copy

The Reich Minister of Economics
II Chemistry 8528/41

Berlin W 8, 30 June 1941
Behrenstr. 43

Special Delivery

To:

- | | |
|--|--|
| <i>a.</i> Director Dr. Bueteffisch
Vorstand member of
I. G. Fabenindustrie A. G.
Berlin NW 7
Unter den Linden 82 | <i>f.</i> Director General Clemm
Deutsche Solvay Werke
Bernburg/Anhalt |
| <i>b.</i> Director Dr. Wurster
Vorstand member of
I. G. Farbenindustrie A. G.
Ludwigshafen on Rhine | <i>g.</i> Director Dr. Schlosser
Deutsche Gold—u. Silber-
scheide-Anstalt
Berlin W 8
Hinter der Katholischen
Kirche 1 |
| <i>c.</i> Director Dr. Ambros
Vorstand Member of
I. G. Farbenindustrie A. G.
Ludwigshafen on Rhine | <i>h.</i> Director General Feise
Kali-Chemie
Niederschoenweide near
Berlin
Berlinerstr. 1/4 |
| <i>d.</i> Director Dr. Ilgner
Vorstand member of
I. G. Farbenindustrie A. G.
Berlin NW 7
Unter den Linden 82 | <i>i.</i> Director Dr. Mueller
Ruetgers-Werke A. G.
Berlin
Luetzow Str. 33/36 |
| <i>e.</i> Director Dr. Oster
Stickstoff-Syndikat
[Nitrogen Syndicate]
Berlin NW 7
Neust. Kirchstr. 9/10 | <i>k.</i> Director Dr. Hess
Dr. Alexander Wacker, Ge-
sellschaft fuer Electro-
chemische Industrie m. b.
H. Munich
Prinzregentenstr. 20 |

- l. Ministerialdirektor Dr. Oelscher
Vereinigte Industrieunternehmungen A. G.
Berlin W 8
Franzoesischestr. 53/56
- m. Geheimrat Dr. Jungel
Chemische Fabrik
von Heyden A. G.
Berlin W 35
Am Karlsbad 26 a
- n. Dr. C. Ungewitter
Economic Group Chemical
Industry
Berlin W 35
Sigismundstr. 6

Subject: Personnel to fill administrative and managerial posts in the occupied Russian territories

The building up of an efficient administration and the maintenance of a number of chemical industry plants in the occupied Russian territories, vital to the Russian area and to the economy of Greater Germany, is one of the most important tasks which at present confront us. It will only be possible to accomplish these tasks if the German chemical industry releases as many as possible of its available personnel.

As things stand, the demands which have been made and which will still have to be made are considerable. Apart from the staff so far employed, people are needed who have been trained in administration and commerce, technical and factory personnel (engineers, chemists) as well as an appropriate number of senior foremen, foremen, and so forth, numbering about 100. I regard it as absolutely necessary that these demands which are now being made on the German chemical industry, and the possibilities of meeting these demands, should be discussed in detail among the responsible plant leaders. I have convoked such a conference for Tuesday, 8 July 1941 at 11 a. m. in conference room No. 11, 5th floor in the building of the Reich Ministry of Economics, Berlin, W-8, Behrenstr. 43. I request you, if at all possible, to attend this conference personally. In case you are prevented from doing so, you must send an authorized deputy without fail.

BY ORDER

Signed: DR. MULERT
Certified by:
[Signature] DESSIN
Office Clerk

Rubber Stamp of the Reich Ministry of Economics

TRANSLATION OF DOCUMENT NI-4969
PROSECUTION EXHIBIT 1179

FIRST CIRCULAR LETTER OF DEFENDANT AMBROS, 1 JULY 1941, TO
THE MEMBERS OF FARBEN'S BUNA COMMISSION RUSSIA

Copy/S

I. G. Farbenindustrie Aktiengesellschaft, Ludwigshafen/Rhine
Management

1 July 1941 Dr. A/Si

Circular Letter No. 1 to the Members of the Buna Commission Russia

In order to assist you in your tasks in Russia, we shall endeavor to communicate to you (to the greatest extent possible, by way of circular letters from the buna office, Ludwigshafen), all our experiences and knowledge which might be useful to you. I am starting with my letter of today's date and would like to repeat that for your work we have opened up an account here under number Ludwigshafen 64149, against which you may charge all your expenses for travel, subsistence, and replenishing of your wardrobe. Consequently, what you need for living is, for the time being, paid from your account for expenses incurred, and your salary will be remitted to your families. I have also requested that the families of all of you be informed that we shall be at their disposal, as a matter of course, at any time, for inquiries or assistance during your absence. For these matters, I myself, or my office, or Major Pfeiffer, will be available.

During the next few days, I hope to find out further details in Berlin as to the date of your departure. Until then I ask you to familiarize yourself with the Russian language. Take lessons wherever you can and, above all, obtain information at the Schkopau buna plant. Dr. Otto Dorrer will be at your disposal there and will acquaint you with all the technical problems of buna production.

It is intended that when your assignment for Russia comes about, a commission consisting of Wulff, Biedenkopf, and myself will go to Russia, there to decide with you the question of using Russian plants for the production of certain types of buna (or their primary products) in order to utilize also the Russian production for our purposes as soon as possible. Therefore, it will be your primary task to examine this possibility from the technical angle and to inform me of your opinion as to how to carry this plan into effect.

It is within the same scope that you will also endeavor to make a survey of stocks of buna and natural rubber and, perhaps, also of finished goods.

To the extent that you cannot take care of it yourself, we shall

continue our endeavor to establish contact with you for the exchange of experience and for mutual assistance.

Last, to permit all these ideas to be realized, I ask you to keep in closest touch with us and always to inform us at the earliest possible moment about your respective stations and changes of address.

Signed: AMBROS

Copies to:

Dr. Georg Ebert
Dr. Rosenberg
Dr. Wolff
Dr. Wolfram
Dr. Eilers
Dr. Kehlen
Major Pfeiffer
Dr. O. Dorrer
Dr. Mach

**TRANSLATION OF EXTRACT OF DOCUMENT NI-1334
PROSECUTION EXHIBIT 1176**

EXTRACT FROM THE MINUTES OF A CONFERENCE OF FARBEN OFFICIALS IN BERLIN, 7 JULY 1941, CONCERNING DEVELOPMENTS IN RUSSIA

Mail Conference Minutes No. 254

7 July 1941
deH/Due/Fro

Present: Ilgner (chairman), Krueger, Frank-Fahle, Reithinger
Passarge, Helfert, Kersten, Terhaar, Gierlichs, Jacobsen
Saxer, Mueller/WIPO, von der Heyde, Bachem, Henze,
de Haas
Schoene, G. Schiller (as guest).

Before beginning with the agenda, Ilgner mentions in remembrance the two employees, Heinz Henschel and Richard Trieb, who were killed in action.

I. WIPO

1. Russia

Ilgner reports in detail on the Russian conference which took place at the Reich Ministry of Economics. In this connection, the nominations for appointments in Russia are discussed in detail, and Messrs. Schiller, Kersten, and von der Heyde are instructed to draft a list. Frank-Fahle undertakes to discuss various persons mentioned in the list of nominations with the representatives of the sales organizations

on the occasion of a K. A. [Commercial Committee] meeting in Frankfurt.

In this connection, Ilgner decides that all questions relating to Russia shall be dealt with by G. Schiller/Igerussko as far as they concern work, and by the WIPO Department Russia's Terhaar (Hellbusch), as far as they are related to organization.

Ilgner instructs Gierlichs to work out—in cooperation with the WIPO Department Russia, the Office of the Commercial Committee, VOWI, and Dihlmann (Continentale)—suggestions for the reorganization of Russian enterprises under German leadership (on the pattern of Aussig/Falkenau).¹

* * * * *

**PARTIAL TRANSLATION OF DOCUMENT NI-8077
PROSECUTION EXHIBIT 1177**

**EXTRACTS FROM THE MINUTES OF THE MEETING OF FARBEN'S
MANAGING BOARD, 10 JULY 1941, CONCERNING THE OPERATION
OF THE CHEMICAL INDUSTRY IN RUSSIA**

Copy

Minutes of the 26th Meeting of the Vorstand, 10 July 1941, at 0930
Hours in Frankfurt/Main, Grueneburgplatz

All the members of the Vorstand are present with the exception of Messrs. Brueggemann, Weber-Andrae; Buergin, Jacobi, ter Meer (came in the afternoon); in addition, Dencker was present in the morning.

* * * * *

After this, Ilgner reports on two meetings at the Reich Ministry of Economics² at which Oster, Bueteffisch, Ambros, and he, himself, had taken part. The matter primarily dealt with was the enumeration of associates now drafted for service in the Wehrmacht who appear suitable to take part (in a technical or administrative capacity) in the work of keeping the chemical industry going in the former Soviet Union. The different plants are to be taken care of as far as possible by the competent syndicates (nitrogen, soda); Farben will be appointed as trustee for rubber; for mineral oil it will be the Kontinentale [Oel A. G.]; for detergents, a small consortium of interested firms; while for the remainder of the chemical industry, the following eight firms are to take over jointly the duties of trusteeship: Farben,

¹ Farben's conduct with respect to the Aussig and Falkenau plants in the Sudeten part of Czechoslovakia was the subject of the charges concerning spoliation in Czechoslovakia (pars. 92 through 96 of the indictment; see also sec. VII N 3, vol. VII, this series, and subsec. B above).

² One of these meetings is discussed in Document Ambros 139, Ambros Defense Exhibit 207, reproduced above.

Kali-Chemie, Wacker-Chemie, Ruetgers, Degussa, Schering, Heyden, Fahlberg-List. In the beginning the owner of the chemical enterprises will be the Reich, for whose account and at whose risk the plants will be operated; the financing of them will also be undertaken by the Reich. Farben has received the order that, all together with Kali-Chemie, the Deutsche Solvay-Werke, and the Stickstoff Syndikat, it is to work out a charter for Chemie Ost G. m. b. H. analogous to the Stickstoff Ost G. m. b. H., Alkali Ost G. m. b. H., Kautschuk Ost G. m. b. H., and Waschmittel Ost G. m. b. H. In the case of the Chemie Ost G. m. b. H., it is proposed to form an advisory council [Beirat], composed of representatives of the firms involved, under the presidency of the Reich Ministry of Economics; the business management will be in the hands of Dr. Ungewitter and two other business managers to be nominated by the chemical firms; Dr. Ungewitter suggests Dr. W. Passarge for this as a contact man, and a representative of Degussa as administrator. In principle, Farben declares it is ready to give assistance.

* * * * *

**PARTIAL TRANSLATION OF DOCUMENT NI-6737
PROSECUTION EXHIBIT NO. 1180**

**SECOND CIRCULAR LETTER OF DEFENDANT AMBROS, 14 JULY 1941,
TO THE MEMBERS OF FARBEN'S BUNA COMMISSION RUSSIA**

**I. G. FARBENINDUSTRIE AKTIENGESELLSCHAFT,
LUDWIGSHAFEN/RHINE**

Management

14 July 1941

SECRET

Circular Letter No. 2 to the members of the Buna Commission Russia

With this circular, I enclose, in the first place, a further report on the situation in Russia and on the work of the rubber factories there. Dr. Dorrer has compiled the data. We shall receive further material during the next few days. I hope that the reports will reach you safely, since after all, they represent confidential material.

In the meantime a discussion was held in the Reich Ministry of Economics in Berlin for the purpose of regulating cooperation be-

tween the occupation authorities and the German technicians. This is easiest in our own synthetic rubber field, since Farben is the sole enterprise possessing the necessary technical knowledge to survey the entire field and is, therefore, competent to manage this line of production.

It is intended to organize a new corporation which will be registered in Berlin under the name of Russka-Betriebs G. m. b. H., which corporation is to be controlled by Farben. This corporation will be put in charge of operating the various Russian plants, making the necessary decisions, and above all, providing the funds.

If you should take over any plant in the course of the next few days, please inform us as soon as possible of the technical condition of the plants concerned, so that we may immediately prepare for the work necessary to get the plants running again.

I recently tried once more to have you released for the purpose of continuing your training in Schkopau. This, however, was not possible, because the progress made by the military forces is apparently so favorable that you must already be in the vicinity of the troops.

Since Dr. von Rosenberg has been told the meaning of the code words SK-1 through SK-6 * through a special message and, presumably, has also informed Herr Wolff and Herr Zohner, I can now notify you once more of your intended positions.

Herr von Rosenberg will temporarily take over SK-1. He will be relieved by Dr. Ebert who will take over for good. Rosenberg will then take over SK-2.

Dr. Wolff will temporarily and definitely take over SK-3.

Zohner will remain in charge of SK-4 until the expert, Dr. Kehlen, takes over production.

SK-5 will be temporarily managed by Dr. Stryck and SK-6 by Dr. Lederle. Permanent plant managers will be Dr. Eilers for SK-5 and Dr. Wolfram for SK-6.

The date on which the changes will take place depends on the condition in which you find the manufacturing plants. As soon as news arrives that production can be resumed, the gentlemen designated for the permanent management will follow.

In closing I may ask you to keep close contact with us so that we can support you in every respect.

Signed: AMBROS (in travel status)

Enclosure

Copies to: Ebert, v. Rosenberg, Wolff; Wolfram, Eilers, Kehlen, Dorrer, Zohner, Mach.

*The code words SK-1 through SK-6 designate particular Russian Synthetic rubber plants. See enclosure 1 to Document NI-4446, Prosecution Exhibit 1178, the first document reproduced in this subsection.

TRANSLATION OF DOCUMENT NI-4962
PROSECUTION EXHIBIT 1190

MEMORANDUM OF THE LEGAL DEPARTMENT OF FARBEN'S BERLIN
NORTHWEST 7 ORGANIZATION, 23 JULY 1941, CONCERNING DIS-
CUSSION WITH THE REICH MINISTRY OF ECONOMICS ON THE
ADMINISTRATION OF ECONOMY IN THE OCCUPIED EASTERN
TERRITORIES

I. G. Farbenindustrie Aktiengesellschaft
Legal Department
Berlin NW 7

Strictly confidential!

[To]:

Director Dr. von Knieriem, Ludwigshafen	Kommerzienrat Waibel, Frankfurt	
Director Dr. von Schnitzler, Frankfurt	Director Dr. Krueger	
Director Haefliger, Frankfurt	Director Dr. Frank-Fahle	
Director Dr. Ilgner, Berlin NW 7	Dr. Kersten	} Berlin NW 7
Consul General Mann, Lever- kusen	Dr. Terhaar	
Kommerzialrat Otto, Berlin SO 36	Dr. Passarge	

23 July 1941

Chemie Ostland G. m. b. H.

We are transmitting to you enclosed a new statute draft, as it resulted from today's discussion at the Reich Ministry of Economics. The subject of this conference was a draft worked out by the Reich Ministry of Economics in conjunction with the Economic Group Chemical Industry, which did not yet take into consideration our drafts of 18 July 1941—transmitted to you with a letter of the same date—but deviated essentially from them. Also used were proposals of the Stickstoff Syndikat [Nitrogen Syndicate] which, in turn, had partially made use of our proposals of 18 July 1941. The draft in its present version is to be transmitted to the Goering Staff and is to apply to all limited liability companies of this kind in the field of chemistry.

Regarding article 1, it should be noted that Reich Marshal Goering is to be authorized by way of decree to regulate the administration of the economy of the Occupied Eastern Territories. On the basis of this decree, the Reich Marshal is to promulgate an ordinance which prescribes the establishment of the various limited liability companies

in view for the field of chemistry. This is the ordinance to which article 1 refers.

In article 2, the Ministry does not wish any further statutory limitation of the purposes of the company, so as not to have added obstacles (by reason of its own charter) in the contest for the direction and control of the chemical plants which the Reich Commissioners and other state administration agencies are quite likely to demand for themselves. The Ministry is willing, however, (upon request) to confirm to us in writing which individual tasks are first being considered (refer to art. 2, par. 1, of our draft of 18 July 1941); and that further tasks will be assigned to the limited liability company only after having come to an understanding with us. We believe that thereby our interests would be sufficiently protected. According to a communication of the Ministry, the other participating firms have expressed no similar apprehensions or wishes.

We call attention to article 8, paragraph 1, according to which the administrative council [Verwaltungsrat] reveals a far greater preponderance of the Ministry and the Economic Group than our draft provides. The Ministry wanted to keep to this absolutely. We only succeeded in having the stipulation incorporated that the other members (apart from the representatives of the Reich Ministry of Economics and the Economic Group Chemistry) be proposed by the companies. The Ministry is also of the opinion that the chief of the Economic Group Chemistry is an industrialist and, therefore, should be considered as belonging at least quite as much to the participating enterprises as to the Economic Group.

The Ministry does not intend to conclude a special agreement on Chemie Ostland G. m. b. H. The basic ideas put down in our draft are for the greater part self-evident prerequisites which, to a far-reaching degree, would anyhow be brought out in the letter of the Ministry to the Goering staff, so that no doubt could ever arise on this subject. It is correct that, comparing the agreement according to our draft of 18 July 1941 and the present wording of the draft of the statute, one would be concerned in the main with clarifications only. It would be desirable, of course, that these basic thoughts in the matter be laid down in a document which is not merely an internal Ministerial document; it would then become binding, above all, upon the Ministry and the participating enterprises. For the time being, however, the Ministry insists on its point of view that such an agreement is not necessary.

Legal Department

Enclosure

Copy to Director Dr. Sander, Stickstoff-Syndikat

TRANSLATION OF DOCUMENT NI-4961
PROSECUTION EXHIBIT NO. 1561

LETTER FROM DEFENDANT VON SCHNITZLER TO DR. UNGEWITTER,
MANAGER OF THE ECONOMIC GROUP CHEMICAL INDUSTRY, 8
AUGUST 1941

Dr. G. v. Schnitzler

Frankfurt Main, 8 August 1941
Grueneburgplatz

To Dr. Claus Ungewitter
Berlin W 35, Sigismundstrasse 6

Subject: Chemie Ostland G. m. b. H.

Dear Dr. Ungewitter,

I would like to take the liberty of referring again to our short conversation of last Monday about the Chemie Ostland G. m. b. H.

In the meantime Dr. Silcher, of our Berlin Legal Department, has informed us of the draft of the Article of Partnership drawn up by the Reich Ministry of Economics, and has advised us further that, in article 2, the Ministry does not want any more extensive statutory limitation of the purposes of the company. This is in order not to be hampered by the company's own charter, in addition to other things, in the expected fight for the control of the chemical plants, which will presumably be claimed to a large degree by the Reich Commissioners and other state administrative offices. However, the Ministry is prepared to confirm in writing, if we wish it, what individual tasks are considered first (see art. 2, par. 1 of our draft of 18 July 1941), and that the transfer of further tasks to the G. m. b. H. will only take place after an understanding with us. We believe that by this, our interests would be taken into consideration sufficiently. The other firms concerned have, according to a communication from the Ministry, not expressed any similar doubt or requests.

In article 8, the Ministry deliberately emphasized very strongly the official character of the G. m. b. H. when dealing with the composition of the Verwaltungsrat. This attitude is, after all, identical with the conception which you and we upheld on the occasion of the discussions on Wednesday (16 July), at the Reich Ministry of Economics. The new enterprise is not supposed to carry on business itself, but to be the liaison office, under the Economic Group, which shall help with words and deeds to start the plants which are to be managed in the future. That a great number of difficult problems will arise very soon on this point is probably demonstrated best by the memorandum of Dr. Oster on a discussion with Ministerial-dirigent Dr. Mulert. I enclose a copy of it, though you most likely have one already. As I told you recently, I would like, in my capac-

ity as deputy chairman of the Economic Group Chemical Industry and as chairman of the Commercial Committee of I. G. Farben, to be elected to the Administrative Council of Chemie Ostland G. m. b. H. As I have the agreement on this question of those of my colleagues concerned, I would appreciate it if you would kindly convey this request to the Minister of Economics as soon as matters have developed sufficiently (see art. 8, par. 1).

With kind regards, and Heil Hitler

Yours very truly

**TRANSLATION OF DOCUMENT NI-14530
PROSECUTION EXHIBIT 1996**

**CONFIDENTIAL LETTER FROM DEFENDANT HAEFLIGER TO DIRECTOR
ZIEGLER OF FARBEN'S BITTERFELD PLANT, 29 JULY 1941, DISCUSS-
ING PLANS FOR THE ADMINISTRATION OF RUSSIAN LIGHT METAL
FACTORIES**

P. Haeffliger

Member of Vorstand of I. G.

Farbenindustrie A. G.

Berlin-Halensee

Kurfuerstendamm 142/143

29 July 1941

Strictly confidential

Director Ziegler

Bitterfeld

Subject: Russia

As you perhaps know, the Reich Ministry of Economics plans to set up a "Chemie Ostland G. m. b. H." for the trustee administration of the chemical industry of the Occupied Eastern Territories. The members of this corporation will be drawn from the Wigru Chemie [Wirtschaftsgruppe Chemie—Economic Group Chemistry] and a number of German chemical firms. For nitrogen, oil, and buna, separate trustee corporations will be created. I have made inquiries as to what is planned in this respect in the light metal field. Up to now, investigations have shown that, although discussions are pending for the amalgamation of light metal interests in Russia in a special corporation similar to that of the Ostland G. m. b. H., the Reich Ministry of Economics, however, does not support this idea, owing to the partly opposing interests of those involved, such as the Vereinigte Aluminum Werke and Koppenberg. In order to render the Russian light metal capacities useful as soon as possible, the Reich Ministry of Economics is thinking of putting the trustees administration and the further operation of the Russian plants into the hands of group of German interested parties who were designated from the start, with

a possible dividing up according to regions. For the rest, Professor Krauch's office is in charge of this group of questions in particular.

Heil Hitler!

[Signed] HAEFLIGER

**TRANSLATION OF DOCUMENT NI-14529
PROSECUTION EXHIBIT 1997**

**CONFIDENTIAL LETTER FROM DEFENDANT HAEFLIGER'S OFFICE TO
DIRECTOR ZIEGLER 9 AUGUST 1941, CONCERNING ADMINISTRATION
OF RUSSIAN LIGHT METAL PLANTS**

I. G. FARBENINDUSTRIE AKTIENGESELLSCHAFT

Haefliger Office

Berlin-Halensee

Kurfuerstendamm 142/43

9 August 1941

Strictly confidential

Director Ziegler

I. G. Farbenindustrie Aktiengesellschaft
Bitterfeld

Subject: Russia

Following up the strictly confidential memorandum of the 29th of last month (which was sent you by Director Haefliger),* we give you below a supplementary report from the SIPO dated the 6th instant, which runs as follows:

"Information received again at the Reich Ministry of Economics confirms the train of ideas which was already communicated in our memorandum of the 24th instant [sic], according to which it is improbable that one can reckon with German light metal interests being amalgamated in a special holding company. On the contrary, the Russian factories in question are to be transferred to German light metal manufacturers, to be administered by them on a trustee basis. Independent of this, however, individual parties interested seem to have come to an agreement already among themselves with respect to their future tasks.

"Furthermore, a similar settlement is also planned for the control of Russian light metal plants engaged in further processing, although, in the opinion of the Reich Ministry of Economics, things are still fairly confused here, chiefly for the reason that the information at hand on the light metal rolling mills, forges, and plants for semifinished products is incomplete, and, moreover, the further

*Reproduced immediately above.

processing of light metals in Russia is said to be frequently combined with the further processing of iron and steel.

“Apart from this, the Reich Ministry of Economics takes the point of view that it will not be possible to discuss matters in a more concrete way until military operations are further advanced.”

Haefliger Office
[Signature] illegible

**TRANSLATION OF DOCUMENT NI-14531
PROSECUTION EXHIBIT 1998**

**CONFIDENTIAL LETTER FROM DIRECTOR ZIEGLER TO DEFENDANT
HAEFLIGER, WITH COPY TO DEFENDANT BUERGIN, 8 AUGUST
1941, CONCERNING THE ADMINISTRATION OF THE RUSSIAN LIGHT
METAL PLANTS**

W. H. O. Ziegler

Bitterfield, 8 August 1941
ZL/Poe

Confidential

Director P. Haefliger
Berlin-Halensee 1
Kurfuerstendamm 142/143

Subject: Russia

I see from your letter 29 July that, according to the communications you have received, the Reich Ministry of Economics and Krauch's office are to be put in charge of preparations for the trustee administration and further operation of Russian plants. In the occupied western and southeastern territories, in every case concerning light metals, this was done by the Reich Air Ministry. Immediately after the beginning of the hostilities with Russia, therefore, we conferred with the Reich Air Ministry but could not get them to give an opinion. It was declared in general that, as far as one could see, there was no question of any reconstruction of the Russian light metal plants since labor conditions and the supplying of raw materials, *et cetera* would probably be too difficult from the point of view of transportation. For the latter reason, also, it would probably only be possible to make full use of the plants for semifinished products after a certain period of time. At all events we have filed our claims as a precautionary measure and have thereby confirmed that we expect a certain recognition for the extraordinarily troublesome negotiations with the Russians at the end of last year and the beginning of this.

Our interest here is concentrated on the light metal plants for semifinished products. Since Hannover and Dueren have already received pertinent allocations in the West, we believe that it is our turn now.

Among ourselves we feel that we should probably prefer full exploitation [Ausschlachtung] trusteeship. As regards the metal foundries, there is nothing in Russia for the Metallgesellschaft except a small experimental plant. The aluminum foundries, on the other hand, will probably fall to the Vereinigte Aluminum Werke or the Hansa; and in view of the fact that, as far as I have been informed, the raw material supply basis is very unfavorably situated, the operation of these foundries will probably not be an unmixed joy.

With kind regards,

Signed: ZIEGLER

Copies to

Director Dr. Buergin
Director Dr. Altwicker
Branch Office Berlin

**TRANSLATION OF DOCUMENT NI-4964
PROSECUTION EXHIBIT 1563**

**LETTER FROM DR. MAHNKE OF THE ECONOMIC GROUP CHEMICAL
INDUSTRY TO FARBEN, 1 NOVEMBER 1941, GIVING NOTICE OF
THE FOUNDATION OF THE CHEMIE OST COMPANY AND REQUEST-
ING FARBEN TO REMIT THE CAPITAL PLEDGED**

Attorney at Law Dr. Mahnke
Economic Group Chemical Industry

I. G. Farbenindustrie A. G.
Frankfurt/Main 20, Grueneburgplatz

Berlin W 35, 1 November 1941
Sigismundstrasse 6

[Handwritten note] Fraeulein Busli to pay; and to announce payment to
Wirtschaftsgruppe and Dr. Passarge.

[Signed] STEIN 3/11

Our Ref. Dr. Mnk/Hd

Subject: Chemie-Ost G.m.b.H.

I beg to inform you that, on the basis of the power of attorney conferred on me, I have today effected the foundation of Chemie-Ost G.m.b.H. before a notary. The copy of the articles of the company will be sent to you as soon as the company has been registered.

As the company's application for entry into the trade register by our senior business managers, Dr. W. Passarge, chemist, and Guenther Urbich, merchant, can only be effected after the original capital has been paid in and is at their disposal, I ask you to remit immediately the capital pledged by you, to the amount of 1,000 reichsmarks to the

Deutsche Bank, Deposit Account C, Berlin W 9, Potsdamer Strasse 5,
to the credit of Economic Group Chemical Industry.

[Handwritten note] Remitted 3 Nov. 41 III 488 B 18391 Account Chemie Ost
G.m.b.H.

In view of the urgency of the application, I ask you once more to
take action at the earliest possible moment.

Heil Hitler!

[Signed] DR. MAHNKE

**PARTIAL TRANSLATION OF DOCUMENT NI-6088
PROSECUTION EXHIBIT 1564**

**EXTRACTS FROM THE MINUTES OF THE 44TH MEETING OF FARBEN'S
COMMERCIAL COMMITTEE, 4 NOVEMBER 1941, CONCERNING
QUESTIONS IN THE EAST**

Present: Geheimrat Schmitz; von Schnitzler, chairman; Dencker;
Haefliger; von Heider; Ilgner; Krueger; Kugler; Mann;
Mueller; Oster; Otto; Silcher and Terhaar (intermit-
tently); Waibel; Weber-Andreae; Weiss

* * * * *

8. *Questions Concerning the East*

Ilgner reads statements from Dr. Terhaar's report. After this, a
discussion takes place about Chemie Ost G.m.b.H. and questions con-
cerning exports to the East. Mann and Terhaar report on the
tendencies which have been discernible up to now in the general de-
velopment and which show, above all, that the offices established for
the economic administration of the East have not as yet any definite
competence. It is decided that Chemie Ost G.m.b.H. shall be founded
with the statutes on hand, without any letter being written either from
or to the Ministry of Economics in order to clarify the matter.

In order to work out as quickly and as intensively as possible the
tasks which arise for Farben in its new spheres of work in the occupied
territories of the East, it was decided, after a detailed discussion of
the matter, that it would be useful to set up in Berlin a liaison office
for the East with Mann at its head. The appropriate departments
in Berlin NW 7, in particular the WIPO, will put themselves at the
disposal of this office.

Oster reports on the present condition of the Soviet nitrogen plants
in the Occupied Eastern Territories.

* * * * *

Berlin NW 7, 5 November 1941

K/Sm/G 44/41

Signed: VON SCHNITZLER

Signed: KRUEGER

TRANSLATION OF DOCUMENT NI-6735
PROSECUTION EXHIBIT 1184

LETTER FROM DEFENDANT VON KNIERIEM TO THE REICH MINISTRY
OF ECONOMICS, 17 DECEMBER 1941, CONCERNING A PROPOSED
TRUSTEE AGREEMENT RELATING TO SYNTHETIC RUBBER PLANTS IN
RUSSIA

I. G. FARBENINDUSTRIE AKTIENGESELLSCHAFT,
LUDWIGSHAFEN/RHINE

Secret

To the Reich Ministry of Economics
Attention: Ministerialrat Dr. Roemer or deputy
Berlin W. 8, Behrenstr. 43

Dr. H./Ho 17 December 1941

Synthesekautschuk-Ost G.m.b.H.

We acknowledge receipt of your letter of 24 November 1941 with new draft of trusteeship agreement between the Reich, the G.m.b.H., and Farben.

First of all, we would like to propose that the name of Kunstkautschuk-Ost G.m.b.H. be changed to Synthesekautschuk-Ost G.m.b.H., because our sales organization has repeatedly found that the use of the prefix "Kunst" [artificial] creates the undesirable idea of an "Ersatz" [substitute] product in the customer's mind.

We have thoroughly examined your draft which differs not inconsiderably from the arrangement negotiated earlier with the Chemical Department of your office. As the result of this examination, we take the liberty of enclosing an alternative draft. We shall be glad to discuss this alternative draft with you personally and we therefore refrain from adding lengthy explanations in writing now.

We take the liberty of adding the following remarks in connection with a few points only:

Article 3, paragraph 2

While, according to the wording of the present drafts, the independent existence of the G.m.b.H. seemed to be guaranteed to some extent in spite of the decisive influence to be exercised by the Reich, the wording of article 3, paragraph 2, of your new draft leaves the possibility open, in theory, that the committee envisaged by it could use its directive powers so extensively as practically to exclude the possibility of the independent existence of the G.m.b.H. or any adequate freedom of action on the part of its business management. We are, of course, aware that this is not intended, but would appreciate it if the directive powers of the committee were limited to "fundamental questions," and the scope of the cooperation between the Reich

committee and the G.m.b.H. established in a standing order to be appended to the trusteeship agreement. The preliminary draft of a standing order of this kind is enclosed in our alternative draft.

Article 7

As discussed at the meeting in your office on 28 October 1941, we start with the normal case where the G.m.b.H. has only to restore the Soviet-Russian plants to their former condition and to operate these plants according to the methods hitherto in use without it being primarily intended to utilize Farben's methods or experience in these plants. In the first place, we think it necessary for this thought to be expressed in the formulation of article 7. But at the same time, we would like to point out the following: it appears to us incorrect from a technical standpoint—and indefensible from the standpoint of economic policy—deliberately to exercise care to use no Farben methods or experience in the reconstruction and operation of the Soviet-Russian plants. The G.m.b.H. will always be expected—and with justification—to aim at maximum exploitation in reconstructing and operating the Soviet-Russian plants; and it may easily be found necessary to employ Farben's methods or experience in a Soviet-Russian plant. If this should happen, we do not think that we can dispense with safety measures of the kind discussed at the time with the chemical department of your office. We have accordingly worded article 7 rather differently in our alternative draft; the aforementioned safety measures—as already provided for earlier—could be laid down in a covering letter to be addressed by the Reich Minister for Economics to Farben in connection with the conclusion of the trusteeship agreement. We propose using for this the wording suggested in article 3 of the enclosed draft for a letter of that kind (the other articles of this letter will be discussed later).

Article 13

As you may see from the enclosed alternative draft, we find it necessary to make a few changes in article 13. We would like to refer in particular to the following points:

We have omitted from our alternative draft the regulations of article 13, paragraph 2 of your draft, but have included a modification of the basic idea in the new paragraph 2 of our alternative draft. We cannot understand why, in principle, no compensation is payable if the G. m. b. H., Farben, or a company closely connected with Farben, rents or takes over all or an essential part of the plants at a later date; because it is not certain beforehand that the terms on which the plant is rented or taken over later will be sufficiently favorable as to represent at the same time compensation for our activity in connection with the trusteeship. Further, we are unable to conceive how there can be any connection between any "advantages which may

already have resulted from the guarantee agreements with the Reich for the development of buna production" and compensation for work which has no connection with the plant—the plant in question can only be Schkopau—covered by a guarantee agreement. In the relations between the Reich and Farben with regard to developing buna production in Germany, performance and counter-performance balance each other, so that to mix up this complex with trusteeship compensation seems to us to be oblique reasoning.

On the basis of your representations in the conference held on 28 October 1941, we have checked whether the clause concerning the scale of compensation for trusteeship enables us to dispense with the general stipulation contained in the drafts hitherto made, whereby we are not to suffer any disadvantage in the field of chemical research in connection with synthetic rubber and related substances due to our cooperation in the reconstruction and operation of the Soviet-Russian plants, or whether this stipulation can be limited so as to apply to cases where we introduce Farben processes in the Russian plants. We agree with you that it should be perfectly possible, when fixing the amount of trusteeship compensation payable, to take into consideration the advantages and disadvantages resulting from termination of the trustee relationship. On the other hand, however, we think that problems may possibly arise in connection with the Soviet-Russian plants—quite apart from the nature and length of the trustee relationship and also quite apart from the question of methods to be used—which cannot be satisfactorily solved merely by fixing a compensation for trusteeship. For this reason, we consider it necessary to adhere to the earlier drafts and to maintain the principle that we are to suffer no disadvantage through our cooperation. In conformity with the earlier drafts, we suggest using the text of article 2 of the enclosed draft letter addressed by the Reich Minister of Economics to Farben.

In addition, we are anxious—also with regard to article 14—to take the precaution of clarifying our conception of the methods hitherto used in Russia before entering into the trustee relationship. We therefore intend, in connection with the conclusion of the trusteeship agreement, to send you a letter similar to the draft which forms a further enclosure to this letter.

Article 17 (formerly article 16)

During the discussion at your Ministry on 4 December 1941, you confirmed to us that the short term of the trust agreement was provided for only in view of the intention to have the trust agreement changed into a lease, upon consolidation of conditions, or to have it replaced by a purchase agreement. We think it desirable also to express these ideas in the covering letter from the Reich Minister

of Economics to Farben, and suggest for this purpose the text proposed for a letter of this kind in article 1 of the enclosed draft.

For the sake of speed, we enclose three copies of this letter and enclosures, in accordance with your wishes.

Heil Hitler!

I. G. Farbenindustrie Aktiengesellschaft

Signed: v. KNIERIEM

Signed by proxy: HEINTZLER

Enclosures

Copy to:

Dir. Dr. ter Meer, Frankfurt

Dir. Dr. Ambros, Ludwigshafen

Dir. Borgwardt, Frankfurt

Dr. Loehr, Frankfurt

**PARTIAL TRANSLATION OF DOCUMENT NI-2996
PROSECUTION EXHIBIT NO. 1175**

**CIRCULAR LETTER TO THE MEMBERS OF THE VORSTAND AND OF THE
COMMERCIAL COMMITTEE OF FARBEN, 3 JANUARY 1942, TRANSMITTING
A SITUATION REPORT CONCERNING DEVELOPMENTS IN
RUSSIA**

I. G. Farbenindustrie Aktiengesellschaft
Political-Economic Policy Department

Berlin NW 7, 3 January 1942
Unter den Linden 78

[Stamp]

Office of the Chief Engineer, No. 72
Received: 5 January 1942

To the Members of the Vorstand and of the Commercial Committee

At the request of Consul General Mann we beg to transmit to you the Situation Report of the Liaison Office East on Russia, concluded on 3 January 1942.

I. G. Farbenindustrie Aktiengesellschaft

[Signed] KRUEGER

[Signed] by proxy MUELLER

Enclosure

Strictly Confidential

* * * * *

In connection with the activities of the companies for the East, it should be pointed out that an economic and colonial exploitation of

the Eastern Territories is not envisaged in the long run. Therefore the companies for the East, the practical function of which it is at present to regulate the relationship to the German economy, must be considered as mere expediency institutions which later on, at the proper moment after the end of the war, will be superseded in some way or other by private enterprise. In any case the basic tendency aims at increasing already the responsibility of the plant leaders who are, at present, still employed as trustees, and at creating the basis for independent enterprise through a participation in profits, which can be considered as a preliminary step to reversion to private ownership. In this connection it is particularly interesting that the Fuehrer emphasized in unmistakable terms to the Reich Marshal that state or Party economy was not to be introduced into the occupied territories, but that private enterprise was to be allowed to go its own way as far as possible. The end of the war is envisaged as the date on which private industrial enterprise is finally to be included in the scheme. German enterprise and German trade will from that time on have every opportunity of participating on an independent footing in the economic reconstruction of the Eastern Territories. The guiding principle here will be the promotion of private enterprise and the founding of independent establishments, the latter to be tied as far as possible to their local areas. This does not mean that big firms like Farben will be excluded from participation in the reconstruction in the East. On the contrary, it is realized that the initiative of big firms of this kind will have to be called on to a very considerable extent. On the other hand, however, it is deemed desirable that, as time passes, the enterprises in question will not be directed by employees belonging to Germany but by plant leaders who, in each case, will become independent and take root there.

In the field of the general work of reconstruction to be performed in the East, it is of interest that the question of foreign investments has gained importance. It is not yet known to what extent, and in what form, the Government of the Reich intends to authorize investments by the European countries. According to the situation, it will, in the first place, be a question of the delivery of machines and material, and perhaps, also, of processes. In view of the manpower shortage, the use of foreign personnel will also be necessary. Capital investments will be the very last form of participation, especially since every form of reversion to private ownership on a large scale remains excluded for the time being. In this connection the credit problem must be solved too, a task which is all the more difficult as German trade with most countries shows a debit balance and Germany, therefore, can repay the values delivered in the form of material only from the proceeds of the Russian plants themselves, which again necessitates interim financing, perhaps through temporary credits. Furthermore,

the Reich announces its intention not to leave temporary profits, derived from the low standard of living and the low cost of production, to the enterprises, but to take them itself, thus leaving the Russian factories with nothing but the normal profit customary in Germany. This intention of the Reich to take in all surplus profits originated with the plan to use the Eastern Territories for the liquidation of the German war debt. In the face of this, foreign countries, however, will have to ask themselves whether the profits eventually derived are proportionate to the risk connected with the deliveries of material. Only after this question has been answered, can it be expected that the tendency, already apparent in Hungary, Holland, Denmark, Italy, and Switzerland, to organize companies for the East will assume a concrete form.

It may be considered an established fact that, as far as the starting of production in the enterprises is concerned, it is intended to create the conditions which are considered desirable for subsequent development in a slow and natural manner, without any harsh intervention on the part of the state. But it will only be possible to gain a practical survey of existing problems when it has been decided next spring which enterprises can be put into operation. The preparation of this survey is mainly the task of the Chemie Ost G. m. b. H. which, within the limits of its character as a sponsorship company, is getting to be considered more and more by the authorities as a central chemical corporation. At all events, even today the tendency aims at entrusting the Chemie Ost G. m. b. H. with the control of the enterprises managed by trustees and at granting it also the right of nominating trustees. In addition to this, it is supposed—in its capacity of central purchasing agency, and, of course, only in the field of chemicals—to arrange the procurement of apparatus and raw materials, and to cooperate in the solution of foreign currency and market-credit problems. In connection with this survey, which covers the field of activities of Chemie Ost, it must be mentioned that up to the present time the company is not active, for all practical purposes, but confines itself to the preparation of the tasks it has to expect. The conviction prevails that a genuine chance for industrial activity does not yet exist in the East and that, therefore, reserve is advisable. This attitude also affects the founding of additional companies for the East and makes for further delay. Now as before, the plan to merge future individual foundations into the all-embracing Chemie Ost plays its part.

As for the question of existing possibilities of participation in the reconstruction work in the Eastern Territories, the principle that the East is to be considered as a purely agricultural and raw material area should be mentioned once more. The directives for the measures to be applied in the future in the Occupied Eastern Territories provide for a ruthless evacuation of the industrial cities of the South and for the

removal of all useful industrial machinery, especially of all nonferrous metals, et cetera. All our strength should be concentrated on agriculture and mineral oil exclusively. Therefore the fact that the East is to become principally and preferably an agricultural region, as far as this is not already the case, leads to the conclusion that, as a matter of principle, industrial planning is out of the question within a measurable space of time, for which reason all activation in such a direction should also be considered, at present, as obviously superfluous. The authorities therefore recommend the exercise of reserve and concentration, now as before, mainly on observation and information. At the moment, this watchword seems all the more advisable as, in the field of organization, certain disagreements still have to be overcome which only need to be hinted at here under the catchword "Disagreement between the Reich Ministry for the Occupied Eastern Territories and the Reich Commissariats" [Reichskommissariate]. On the other hand, care must be taken that information be gathered in time, if the general situation makes Farben activity seem advisable.

* * * * *

[Signed] de Haas

**TRANSLATION OF DOCUMENT NI-6732
PROSECUTION EXHIBIT NO. 1173**

**DECREE BY GOERING, 2 NOVEMBER 1942, CONCERNING TASKS OF
WIRTSCHAFTSEINSATZ OST**

Copy

[Handwritten]
II/1298

The Reich Marshal of Greater Germany Plenipotentiary for the Four Year Plan Economic Executive Staff East [Wirtschaftsfuehrungsstab Ost]

[Handwritten note] Chemie Ost G. m. b. H.

[Handwritten] Bo

[Handwritten marginal note]: To Mr. Borgwardt; please return. In my opinion it means: Whatever you can't define and what has not been disposed of, is to be considered as Wirtschaftseinsatz Ost G. m. b. H. The decree was transmitted to me *confidentially*.

[Signed] STEIN 11 December

Berlin, 2 November 1942

V. P. 15975/6

Subject: Wirtschaftseinsatz Ost [G. m. b. H.]

War developments make it necessary to put the economic strength of the Occupied Eastern Territories—to an even larger extent than originally contemplated—at the service of the German war activity. In view of the progressive enlargement of the occupied areas, the economy of the Occupied Eastern Territories will only be able to

fulfill its functions in connection with the war economy if the commercial and technical experience available within the German economy is utilized to the greatest possible extent. The Bolshevik regime combines the political direction of economy and the practical management of the plants and commercial enterprises in the hand of the state. This is contrary to the National Socialist conception of economy. The authorities should direct the economic policy; but the economy must look after the practical management. The economic offices established within the Occupied Eastern Territories cannot be allowed to manage plants themselves, as this is not their task and they do not possess the commercial apparatus required for this purpose and the necessary business experience and relations. The individual economic offices, of course, may not always have sufficient knowledge and experience to attract the most suitable German firms. For the branches of war economy most important for the war effort, this will be done by the eastern corporations established with my consent. No corresponding office in charge exists for the other branches of economy.

The Reich Groups Industry and Commerce have now offered to take over the selection of businessmen for these branches of economy according to the principles of private economy and within the framework of a company. In view of the fact that the Reich Minister for the Occupied Eastern Territories* and the Reich Minister of Economics have advanced this offer as a proposal of their own, I agree that the *Wirtschaftseinsatz Ost G. m. b. H.* should take over the task of attracting all available German and European economic assets for those branches of industrial economy not yet controlled by the licensed eastern corporations and of supporting the firms and enterprises called upon in their practical work. For the accomplishment of these tasks, the company, in accordance with the economic and political directives issued by the supreme economic offices and in agreement with the local economic offices, is entitled to—

a. Entrust third persons with the temporary management of industrial plants or commercial enterprises or to manage these themselves.

b. Carry through all measures necessary for putting back into operation, rebuilding, completing, and erecting new industrial plants and commercial enterprises.

c. Transact business of all kind and to provide in this connection for future needs by keeping stocks.

The *Wirtschaftseinsatz Ost G. m. b. H.* may not be permitted to develop into a trust. It is supposed to direct; and its main task is the selection and appointment of individual firms and businessmen where it does not, itself, temporarily take charge of the industrial plants and commercial enterprises. In order to accelerate the employment

*Alfred Rosenberg was Reich Minister for the Occupied Eastern Territories.

of individual firms or enterprises, the company is entitled to conclude with them temporary contracts in accordance with the directives given by the central offices entrusted with trusteeships. The formal conveyance of the objects intended for administration (and the signature of the definitive contracts) will be the task of the local offices entrusted with trusteeship. The taking up of practical activity by the firms and businessmen selected by the company must not, however, be delayed by this.

The question of reestablishing private ownership in the occupied territories cannot be decided at this juncture, out of consideration for those taking part in the war. Industrialists who, in the interest of the war effort, offer their services now for the rebuilding of the eastern economy may, however, be confident that they will receive preference later, along with the war veterans.

I request all offices within the Reich and the Occupied Eastern Territories to allow the Wirtschaftseinsatz Ost G. m. b. H. to function in the Occupied Eastern Territories and to give it all necessary assistance.

Signed: GOERING

Certified: SCHUETZE

(Administrative Assistant)

Distribution:

High Command of the Armed Forces, WFS [Operations Staff]

WiStab Ost [Economic Staff East]

High Command of the Armed Forces, AWA [Section for General Armed Forces Matters]

High Command of the Army, Gen. Qu. [Quartermaster General]

**TRANSLATION OF DOCUMENT NI-4971
PROSECUTION EXHIBIT NO. 15**

**LETTER FROM FARBEN TO THE REICH MINISTRY OF ECONOMICS, 3
JULY 1942, CONCERNING THE POSSIBLE UTILIZATION OF THE
RUSSIAN SYNTHETIC RUBBER PROCESSES**

**I. G. FARBENINDUSTRIE AKTIENGESELLSCHAFT,
LUDWIGSHAFEN RHINE**

3 July 1942

To the Reich Ministry of Economics
Attention: Ministerialrat Reinbothe
Berlin W 8, Behrenstrasse 43

SECRET!

Dr. H/Ho

Synthese-Kautschuk-Ost G. m. b. H.

On the basis of the discussion of 12 June 1942 at your Ministry and the meetings of experts that followed, far-reaching agreement

has been reached concerning the Synthese-Kautschuk-Ost G. m. b. H. The outcome of these discussions is recorded in the draft of 20 June 1942.

One main question only remained unanswered in these discussions: namely, to what extent and under what conditions shall we be entitled to make use, within Greater Germany, of those manufacturing methods and know-how which we came across in Soviet Russia. Our draft of the trustee contract of 17 December 1941 provided that all manufacturing methods found in Russia, as well as improvements developed by the company, were to be handed over to us exclusively and duty free for use within Greater Germany. At the meeting of 12 June 1942, Ministerialrat Reinbothe raised some objections against declaring this surrender in the contract as duty free from the start, since the extent of production reached by Farben on the basis of the trustee contract on one side, and the value of the Soviet-Russian manufacturing methods on the other, would still depend on so many unknown factors that it would be impossible, at the present moment, to weigh them one against the other.

During the discussions of experts that followed, the representatives of your Ministry thought they were unable to give their full consent to the exclusive surrender of Soviet-Russian manufacturing methods for our utilization within the territory of the Greater German Reich as desired by us, requesting that we state our reasons in a special memorandum why we considered it best that the Reich renounce its claim to utilize these manufacturing methods and experiences within Germany.

Our reasons are as follows:

As you know, Farben, at considerable cost in labor and money, started to develop buna in good time [rechtzeitig] and, at its own risk, established large plants for the manufacture of buna to such an extent that the amount of rubber required for the war by the German Army and German economy can be met. In view of the services rendered by Farben to the Reich, we do not think it fair that the Reich should now enter into competition with Farben in Germany over the utilization of manufacturing methods by using those methods found in Soviet Russia, the more so since these methods can only be made workable for the Reich through the intermediary of those experts whom Farben has put at the disposal of the Reich for that purpose. We therefore beg that the following appendix, according to our draft of 17 December 1941, be added to article 14, paragraph 3, of the trustee contract:

“The Reich will renounce its claims to any utilization of manufacturing methods, experience, inventions, and improvements, according to articles 1 and 2, within the territories of the Greater German Reich.”

Should you be willing to share our point of view, we, in turn, would be ready to agree with Ministerialrat Reinbothe concerning the question of tax exemption, and would postpone the problem of eventual tax obligations for the period after the expiration of trusteeship, according to article 14, paragraph 3, of the contract of 20 June 1942; it is then to be settled at some later date and in a more appropriate way. The mutual interests could then be examined and all justified economic needs of Farben taken into consideration.

We should be grateful to you if you could, in case of need, arrange for a final discussion on these two aforementioned points at your earliest convenience. In view of the fact that our experts received word yesterday to be ready to take charge of the Soviet-Russian plants, which we expect to take in possession very soon, due to the renewed advance of the German Army, we think it urgently desirable that final agreements be reached in order to enable the Synthese-Kautschuk-Ost G. m. b. H. to start production at the given moment at once.

Heil Hitler!

I. G. Farbenindustrie Aktiengesellschaft

Signed: AMBROS

Signed: by proxy HEINTZELER

Copy to:

Director Dr. ter Meer, Frankfurt/Main

Director Dr. Ambros, Ludwigshafen

Dr. Loehr, Frankfurt/Main

Dr. Roell, Ludwigshafen

**TRANSLATION OF DOCUMENT NI-4960
PROSECUTION EXHIBIT 1189**

LETTER FROM FARBEN'S DORRER TO DEFENDANT AMBROS, 11 AUGUST 1942, CONCERNING DR. EILERS' UNSUCCESSFUL ATTEMPT TO VISIT ONE OF THE RUSSIAN SYNTHETIC RUBBER PLANTS

**I. G. FARBENINDUSTRIE AKTIENGESELLSCHAFT
LUDWIGSHAFEN/RHINE**

Intermediate Products Group

To: Director Dr. Ambros

11 August 1942
BI/Dr. Do/H

Dr. Eilers' Trip ¹

Dr. Eilers telephoned on 6 August from Schkopau and informed us that he has returned without accomplishing anything. It was impossible for him to get near the Voronezh plant, as up to now SK-2 was not in German possession. As far as he could find out, the plant is very much destroyed. Besides, according to the information given by deserters, all the installations and the specially skilled workers were removed to the East in the summer of last year.

Dr. Eilers is working again in Schkopau and has to attend to some business regarding PCU ² in the near future. Dr. E. would like to give you a short personal report about his impressions. I suggested to Dr. E. that he should come to Ludwigshafen after the 24th. Could you perhaps find a quarter of an hour for Dr. Eilers in your program for the 25th? In that case I would inform Dr. Eilers accordingly.

Signed: Dorrer

3. ARGUMENT CONCERNING THE RELEVANCE OF CONTEMPORANEOUS DOCUMENTS OFFERED BY THE PROSECUTION AND INTERLOCUTORY RULING OF THE TRIBUNAL

a. Discussion Before the Tribunal on 24 October 1947

EXTRACT FROM THE TRANSCRIPT, 24 OCTOBER 1947 ³

DR. DRISCHEL (counsel for defendant Ambros): Your Honor, Dr. Drischel for the defendant Ambros. Today I should like to repeat and explain the objection which I announced yesterday, against the

¹ Dr. Eilers had been proposed earlier as a technical expert for "SK-5" plant in Russia by defendant Ambros. See the first enclosure to Defendant Ambros' letter (of 28 June 1941) to Defendant Krauch, Document NI-4448, Prosecution Exhibit 1178, the first document reproduced in this subsection.

² Polyvinyl Chlorid unchloriert—unchlorinated polyvinylchloride, a plastic.

³ Mimeographed transcript, page 2726-34.

probative value of all the documents on the Synthese-Kautschuk-Ost G.m.b.H. I want to extend my observations on probative value beyond an objection as to relevancy and make a formal objection, because this question seems suitable for the Court to give a ruling on the legal question of the probative value of this whole matter. All of the documents which have been submitted by the prosecution on this matter consist of negotiations, discussions, correspondence between Farben and the Reich Government. Everything that has been discussed here is not legally relevant for the prosecution, as they see the conduct of Farben, for the following reasons:

First of all, according to the contents of the documents themselves, no agreements or contracts were concluded between the Reich and Farben. The Synthese-Kautschuk-Ost G.m.b.H. was never founded and was never registered. All you can see in the documents are preliminary discussions regarding a possibility, as to what one might possibly do some day, and drafts were worked out but nothing more.

Second, even if the drafts submitted by the prosecution had not remained merely drafts, but had become agreements, then even these agreements would not have been legally relevant, because they would not have contained anything on the subject of the charges against the defendants, which is plundering or spoliation—that is, an offense against property rights committed in an occupied country. Document NI-4975, Prosecution Exhibit No. 1182,* which was discussed yesterday (that is in book 63), is a draft of a letter of the Reich Ministry of Economics addressed to Farben, and it mentions that the Reich has taken note of the desire of Farben that if—if I may translate it—“if and when” the plant or plants should be sold by the Reich, Farben should be given “Vorkaufsrecht”—preemption. Even this is not a definite promise, but merely a proposal. The Reich even made another stipulation, saying, “within the framework of what is possible from the point of view of national economy and politically.” That really means—“if we wish it.” For what was then possible for the Reich politically, and from the point of national economy, depended solely on its subjective judgment. Thus the assurance is not really a promise at all, but merely a consolation.

Third, Your Honor, as far as the documents speak of procedure and practice, we cannot talk of an offense against property rights as the basis of the concept of plunder and spoliation. That would presuppose, at least, that some copyright law was in existence, a patent law or something of that sort, but nothing of the kind is mentioned in these documents. May I also call your attention to this, Your Honor: One of my friends has just pointed out to me that the concept which I mentioned previously—“Vorkaufsrecht”—was not quite correctly translated. In the English, I believe, it is the “right of first refusal.”

*Not reproduced herein.

That is what it means. It is a purely obligational legal concept which has nothing to do with property.

If I may summarize, the prosecution cannot, even with the documents offered so far, maintain or prove that all of the preliminary negotiations and discussions between the Reich and Farben ever went beyond the stage of remote possibility, feelers, proposals, *et cetera*, but that is not sufficient to give even the shadow or the appearance of a crime such as plunder and spoliation.

For these reasons, and in order to prevent unnecessary waste of time during the rest of the trial, I raise the objection against the case of Synthese Kautschuk Ost G. m. b. H. being treated as a charge any longer.

PRESIDING JUDGE SHAKE: We will hear what the prosecution has to say.

MR. DUBOIS: The question has been raised as to the relevancy of the documents contained in document books 63 and 64, which deal primarily with the allegations contained in paragraphs 114 through 118 of the indictment, under the heading: "Farben in Russia." It is perfectly true that the evidence which we have submitted does not establish a completed act of plunder and spoliation committed within the territory of the Soviet Union. In fact, as will be noted from the indictment and the introductory remarks by Mr. Newman, we do not charge, because we did not have such proof, that Farben actually acquired control of the Russian chemical industry or any part thereof, as was charged in the case of Austria, Czechoslovakia, Poland, Norway, and France. We do not think it necessary to argue at this point the question as to whether the language in Control Council Law No. 10 covers an attempt to commit war crimes and crimes against humanity. The provisions of paragraph 2 of Article II of Control Council Law No. 10, particularly that provision which says that any person is deemed to have committed a crime as defined in paragraph 1 if he was connected with plans or enterprises involving its commission are, we believe, sufficiently broad to cover the crime of attempt that we are familiar with in Anglo-Saxon law. But without arguing this question at this time, the fact that the plans and enterprises involving the commission of plunder and spoliation in Russia did not succeed, does not in any event take away from the relevancy of these documents, insofar as they show the motives of these defendants in the over-all program to secure economic domination of Europe. The charges under count two of the indictment concern the participation by the defendants in a vast scheme of plundering property in occupied territories and countries, and it is charged that the means adopted were intended to strengthen Germany in waging its aggressive wars, to assure the subservience of the economy of the conquered countries to

Germany, and to secure the permanent economic domination of the continent of Europe.

The allegations contained in paragraphs 114 through 118, and the documents which have been offered in support of these allegations are, in our judgment, relevant in establishing the intent and purpose with which these defendants engaged in this program of exploitation of the resources of Europe. I might add that I believe the documents that have been introduced here today have been very illuminating on that score. What happened in Russia—even though, so far as we can prove, it did not result in actual acquisition of property in Russia, because of the resistance of the Russian Army—is, nevertheless, we believe, very relevant in establishing the state of mind with which the defendants engaged in the whole program of plunder and spoliation. It should also be noted that all of the allegations contained in count two of the indictment have been incorporated in count one of the indictment by virtue of section I of count one, and it is the contention of the prosecution that the acts and conduct of these defendants with respect to Russia, which are described in the documents introduced in document books 63 and 64, constituted one phase of the participation by these defendants in crimes against peace. We had planned and we certainly now will submit later to the Court a more extensive explanation than we have given to date of why the acts and conduct which have been described in counts two and three of this indictment constitute, in our judgment, an integral part of the planning, preparation, initiation, and waging of wars of aggression and invasions of other countries.

To sum up, irrespective of whether Control Council Law No. 10 covers attempts to commit war crimes and crimes against humanity, the prosecution contends that the allegations in paragraphs 114 through 118 are relevant to the general charge that the defendants participated in a vast program of plunder and spoliation of public and private property in Europe.

In addition, we charge that the acts and conduct alleged in paragraphs 114 through 118 constitute participation by the defendants in crimes against the peace.

DR. DRISCHEL: Your Honor—

PRESIDING JUDGE SHAKE: We will be glad to hear you further.

DR. DRISCHEL: Would you allow me, Your Honor, to give a short rejoinder to what has just been said by the prosecution? The basic mistake of the prosecution is that it seems to assume that the negotiations between Farben and the Reich in the matter of the Synthese-Kautschuk-Ost already constituted an attempt of a punishable act in the sense of Control Council Law No. 10, plunder and spoliation. That is the fundamental error. Everything that happened between Farben and the Reich did not go beyond the stage of mere preliminary

acts; that is not an attempt in the technical juridical sense. No attempt was made, but things remained in the preliminary stage, and this distinction between "attempt" as the commencement of a punishable act and preliminary preparations outside the latter is also made by Anglo-American law, as far as I am informed. It is, therefore, completely irrelevant what the subjective intentions, if any, of the gentlemen of Farben were, because no intention is to be punished, but any act which may have taken place, and, as the prosecution has said, there was no act.

In conclusion, the conduct of Farben on this point "East" cannot be used as an illustration for other events in the occupied territories. If allegations to this effect are made for events in other territories, let them be proved there. To draw conclusions from preparations which cannot be punished is not justified either legally or factually in this case.

PRESIDING JUDGE SHAKE: May the Tribunal inquire of the prosecution if it would be possible, to abandon temporarily the presentation of this evidence and go to another subject without disturbing too much the routine and procedure for the balance of the day?

MR. SPRECHER: Your Honors, there are eleven more documents left, I believe.

PRESIDING JUDGE SHAKE: What the Tribunal had in mind was—aside from these eleven documents that you say are in the book that have not been offered—could you leave this book and go to another subject without occasioning a delay in the course of the trial?

MR. SPRECHER: We can proceed to another document book and to another topic.

PRESIDING JUDGE SHAKE: Very well. I may say that the Tribunal feels that this matter is of sufficient importance to warrant more thorough consideration than we can give it from the bench and in the course of the trial, and if the prosecution can aid us by going to another matter, we shall ask you to pass the balance of this book until we have had an opportunity to exchange views and reach a conclusion with respect to the objections urged by the defense. We will undertake to do that without unduly delaying your presentation of the remaining documents in this book. We will undertake to attempt, at least, to advise you on next Monday as to what our conclusion is concerning this matter.

Just one further observation concerning this matter: Would it be possible for the counsel for the defendant and counsel for the prosecution to give us, informally, a copy of your remarks? We observed that counsel for the prosecution was apparently reading, and we were not so sure about counsel for the defendant. Did counsel for defendant have your remarks reduced to writing?

DR. DRISCHEL: No, Your Honor, I did not. Your Honor, my objec-

tion had not been put down in writing beforehand, only a few notes, but I can submit to the Court a short summary of my observations.

PRESIDING JUDGE SHAKE: That would be very helpful to us, because we would like to have before us very definitely and concretely a statement of the positions of the parties. We do not mean for you to file a brief for the record or anything of that kind, but if we can have the benefit of a short, terse statement of your views, we would like to have it. Of course, when it comes from you we shall have to arrange to have it translated unless you can arrange to give us your views in English. You may do as you please about that, but if it inconveniences you to put it in English, we will have it translated.

DR. DRISCHEL: I am only afraid, Your Honors, that that will not be possible before Monday morning.

PRESIDING JUDGE SHAKE: Could you do it by Monday morning?

DR. DRISCHEL: Yes; I can do it by Monday morning—

PRESIDING JUDGE SHAKE: We are just advised that the transcript will be available to us by tomorrow noon, and if, by Monday morning, you wish to add anything to your remarks that will not appear in the transcript, we will then have the transcript and will consider the presentation on the record, and anything that you may wish to add to it by way of supplementation.

Thank you very much.

DR. DRISCHEL: Would it be possible, as an exceptional measure, that we, too, could get the transcript by tomorrow, I mean the English text—normally, we only get it a couple of days later—so that, in my written statement, I would not repeat myself?

PRESIDING JUDGE SHAKE: If the Tribunal can have the transcript tomorrow noon, there is no reason why the counsel for defense and the prosecution may not have it. However, you may have to deal with it in English. I don't know what the facilities are for the German transcript.

DR. DRISCHEL: Thank you, Your Honor.

MR. SPRECHER: Mr. President, we would have only one more brief remark to make that brings up an entirely additional ground, with respect to the relevancy of these materials. Under Control Council Law 10, Article II, paragraph 2e, any person is deemed to have committed a crime if he "was a member of any organization or group connected with the commission of any such crime." Some of the documents we are about to come into deal, for instance, with the Reich Group Industry and the Economic Group Industry, which, as you will see, had a considerable amount to do with the entire pattern of spoliation in the Soviet Union, quite beyond the mere matters we have brought up here, where we haven't been able to prove the ultimate and final success with respect to the spoliative intent shown, and some of these defendants were members of those organizations.

b. Ruling of the Tribunal on 7 November 1947

EXTRACT FROM THE TRANSCRIPT, 7 NOVEMBER 1947*

PRESIDING JUDGE SHAKE: The Tribunal has had under advisement the objections of the defendants to the introduction in evidence of the following Prosecution Exhibits: 1178, NI-4446; 1179, NI-4969; 1180, NI-6737; 1181, NI-6697; 1182, NI-4975; 1183, NI-4972; 1184, NI-6735; and 1185, NI-4974, contained in prosecution book 63, and Exhibit 15, NI-4971 in book I; also Exhibits 1186, NI-6736; 1187, NI-7468; and 1189, NI-4960, in book 64. It will be recalled that these exhibits related to the so-called "Russian Aspect" of the prosecution's case. There may be an error in the enumeration of the exhibits involved. If there is, we should like to afford you an opportunity at the conclusion in this announcement to correct the list of the exhibits. We have taken them from our desk memorandum. The Tribunal now announces its ruling on said objections.

There is contained in count five of the indictment a charge of conspiracy to commit crimes against peace. The prosecution has not yet offered its evidence specifically designed to sustain that charge. The rules as to the competency of evidence to establish conspiracy are quite broad. Under these circumstances, the Tribunal is unable to say at this time that the exhibits objected to may not have some probative value in establishing that charge when considered in connection with other evidence relating to that object. Having reached the conclusion just said, it is unnecessary to consider whether the exhibits are competent to establish any of the other charges contained in the indictment nor do we express any opinion as to what weight, if any, should ultimately be attached to said exhibits. The objection to the introduction of the exhibits enumerated in this ruling is now overruled by the Tribunal.

Now, if there is any correction in the list of exhibits embraced in this ruling we shall be glad to have you point it out to us at this time or to call the matter to our attention subsequently. We think counsel for both sides are fully advised of the scope of this ruling insofar as it relates to this group of documents. The President may have committed an error in the listing of the documents or may have omitted one that should have been embraced in it, but we shall assume that this ruling covers all of the documents within the category of the objection.

*Mimeographed transcript pages 3483 and 84.

4. TESTIMONY OR AFFIDAVITS OF DEFENDANTS AMBROS, TER MEER, HAEFLIGER, ILGNER, AND MANN

a. Testimony of Defendant Ambros

EXTRACT FROM THE TESTIMONY OF DEFENDANT AMBROS¹

DIRECT EXAMINATION

* * * * *

DR. HOFFMANN (counsel for defendant Ambros): Mr. Ambros, I should like to ask you briefly about a matter in connection with which the prosecution has mentioned you, and that is, the question of the eastern companies which were founded during the war in order to take over the factories in Russia if that should become necessary. What do you know about that, and how and when were you approached in this matter?

DEFENDANT AMBROS: I have explained this matter very clearly in my affidavit.² I believe it was not introduced in the prosecution affidavit. I made a distinction between two of my actions in the East. The first was immediately after the outbreak of the war with Russia. For about a year, in 1940 to 1941, I had to negotiate with the Russians in the buna field, and then, on 22 June 1941, war broke out against Russia. A few days later, I received an order by telegram from the Reich Ministry of Economics to assemble at once experts—chemists—from the buna plant, three or four men who would be able to manage buna plants from a technical aspect. It was thought that the troops would very soon reach one of the Russian buna plants; for instance, Jefremov or Voronezh, and there should be an expert there to prevent the buna plant from being burned or destroyed, and whose duty it would be to see that the plant was put in operation again as soon as possible. I remember that in one of the first letters written at that time, the end of June 1941, it was said that the duty of the experts was to see to it that production of Russian rubber, Russian buna, should start soon to supply the Russian economic areas, and in addition to serve German interests also. I must remind you that from a relatively small buna production not only Germany had to be supplied; but also Sweden, or the Balkans, or Italy. The first task was to post these chemists, and I did so in a few days, and I informed the Reich Minister of Economics that I had done so. I also informed the Reich Office [for Economic Development]. These chemists were drafted; that is to say, they were put under military orders. They were given officer's uniforms and were under the orders of the Army that was marching east. That was the first action.

¹ Further extracts are reproduced above in subsection D 4, below in section IX F 4, and earlier in sections V B 4, VII G 7b and K 6 in volume VII, this series.

² Not reproduced herein.

Q. And what actually happened?

A. Nothing happened. Only one chemist reached ruined Kharkov. It was completely dismantled. There was hardly anything left of the buna plant.

Q. Now, Mr. Ambros, the prosecution has offered a whole sheaf of documents which show what the intention was. Now, I want to ask you what your opinion was, what you know about it, and what Farben really intended in this eventuality?

A. I need not go into the contracts. Your question is what did Farben think, or what did I think?

Q. What did you, yourself, think?

A. I thought that it was sensible that, if it should really happen that Russian factories were reached, these factories should be operated.

Q. Very well. Did you think that these factories might later on possibly be made useful for Farben?

A. No. But the idea came to me early that Russian rubber was a different quality. Russian rubber was suitable, for instance, for making boots, but it was not suitable for making tires. Further, the suggestion was brought up as to whether a Russian rubber factory could be modified and adapted to the production of good buna, by Farben using its experience in the Russian plants and making styrene and introducing styrene polymerization—in short, by adapting Russian buna production to good quality buna. This, of course, brought up problems which, formulated from the legal side, had the following object: There was concern lest, in this way, experience and knowledge should be turned by us, the Farben experts, into channels which later on might not be equitable for us, and we were thinking of the German Labor Front where Mr. Ley* might in this way become the owner of buna factories. One must not forget that at the time Farben had invested over a billion, privately, in buna and that it was the duty of the Vorstand to consider safeguards to protect such capital in the, to put it mildly, disorderly conditions of the Third Reich. To formulate this idea was the purpose of many contracts, all of which remained academic or theoretical. No contract was signed. The famous letter of the Reich Ministry of Economics, which was to be written to protect our interests, was never written, and that is really why the Russian buna company was never founded at all. That is all.

* * * * *

*Leader of the German Labor Front (DAF), Dr. Robert Ley was indicted in the case before the International Military Tribunal. He committed suicide before the trial began.

b. Affidavit and Testimony of Defendant ter Meer

TRANSLATION OF DOCUMENT NI-8148
PROSECUTION EXHIBIT 1881

AFFIDAVIT OF DR. FRITZ TER MEER, 23 APRIL 1947

AFFIDAVIT

I, Friedrich Herman ter Meer, after having first been warned that I will be liable for punishment for making a false statement, state herewith under oath, of my own free will and without coercion, the following:

Before going into details about conditions in Russia and, especially, those in the buna plants, I shall first define in general terms the respective spheres of responsibility of Ambros and myself: My task was more the management, whereas Ambros was more the builder of the plants and he supervised the smooth running of the production. Later, approximately from 1942 on, this changed somewhat, as Ambros also started to participate in questions of contracts.

In reference to the Russian question, a meeting took place in July 1941 in the Reich Ministry of Economics (RWM) in which the RWM explained the Reich's plans. The Reich's viewpoint was that German industry in Russia was not to acquire any property in the industrial installations located there, but that German industry was only to assist the Reich as trustee in running the plants which fell into German hands.

I have at hand a protocol of the meeting of the IG Vorstand on 10 July 1941, which reads:

"After this, Ilgner reports on two meetings at the Reich Ministry of Economics at which Oster, Buetefisch, Ambros, and he, himself, had taken part. The matter primarily dealt with was the enumeration of associates now drafted for service in the Wehrmacht who appear suitable to take part (in a technical or administrative capacity) in the work of keeping the chemical industry going in the former Soviet Union. * * * Farben will be appointed as trustee for rubber * * *. In principle, Farben declares it is ready to give assistance * * *."*

From this wording, also, I deduce that the initiative came from the RWM.

Had the factories come to be controlled by IG, we probably would have converted the Russian process into the second phase of our German buna-S process. That would have led to a better and more perfected technique for the Russian factory, in regard to both process and apparatus. We therefore attached importance, in such a case,

*The excerpt quoted is from NI-8077 which is reproduced above in section E 2.

to having a voice in the fate of a plant which we had improved technically. However, I am unable to give any details in the matter.

As far as I remember, I discussed the model of a trustee agreement with Mr. Ambros and inserted the protective clauses—or recommended their insertion—which were required in the rightful interests of IG.

The model agreement was to be used not only for the projected Synthese-Kautschuk-Ost G. m. b. H., but also for other eastern corporations. I can no longer state positively what discussions took place with regard to a possible acquisition of ownership of such factories, especially buna plants. Another Vorstand minutes which is in my hands (No. 31 of 10 April 1942), only says that one of our most important problems in the East

“* * * is the transfer of trusteeships for the management of local enterprises, whose return to private ownership at an appropriate date is agreed upon in principle. However, no decision has yet been made as to the form in which this is to occur or the body which is to obtain priority.”

My personal basic reaction towards new acquisitions was negative inasmuch as I did not want to buy ordinary factories abroad anyhow. I discussed these questions in great detail with Ambros, especially in the rubber affair. The forced over-expansion of German production might have resulted in the desire to minimize expansion in Germany by converting Russian rubber factories. As far as I remember, I had planned to convert the Russian rubber factories (which, owing to war events, now lay far behind the German front) to the production of buna-S. In such a case, where we might have given the Russian factories valuable information, we wanted to secure a right for a future date also. The guarantee of such a right was only possible in an agreement in the form of preemption. The German patents, which had already been in existence for a long time, would not have afforded protection in Russia.

I wish to state in this connection that about the same time the installation of a factory had been begun in Auschwitz, in which I participated very unwillingly. The whole Auschwitz enterprise might have been dropped if we had been able to convert a Russian factory to our process; that may have influenced our attitude towards the Russian factories.

I have carefully read each of the three pages of this sworn statement and have signed them personally. I have made the necessary corrections in my own handwriting and initialed them, and I declare herewith under oath that in this statement I have given the pure truth to the best of knowledge and conscience.

[Signed] DR. FR. TER MEER

EXTRACT FROM THE TESTIMONY OF DEFENDANT TER MEER ¹

CROSS-EXAMINATION ²

* * * * *
MR. SPRECHER: In order to save time I have only one or two questions on the Russian matters under count two and count one, with respect to spoliation.

Do you recall that the Farben Vorstand itself, just after the invasion of Russia, referred to Russia as "the former Soviet Union"?

DEFENDANT TER MEER: I am sorry to say that I cannot answer that question either. I don't know; it is possible.

Q. Did you discuss with Dr. Ambros a model contract for the so-called eastern corporation which was to be used not only for buna in the Soviet Union, but also for other chemical products?

A. As far as I know, one of two model contracts were worked out for the so-called trusteeship contracts which were to be concluded in the East for the various groups of chemical enterprises, and one of these model contracts undoubtedly was the basis of the draft of the contract which was to be drawn up for the Synthese-Kautschuk-Ost, G. m. b. H.

During the interrogation which either you or Mr. Newman conducted with me about this point, I said that I had worked out this contract with Dr. Ambros, but I believe that that was a mistake. As I learned subsequently, these negotiations took place principally with Dr. Heintzeler; but that does not affect the facts. I remember that I talked about these contract drafts with various gentlemen and made suggestions about changes.

Q. Well now, is there any question about the fact that you wanted it clearly understood that, in connection with buna in the Soviet Union, if anyone was to get title to the Russian buna plants it was to be I. G. Farben? In other words, you wanted a preemptive right to purchase Russian buna plants in case they were at any time to be sold, is that right?

A. I cannot answer your second question by saying "yes." I would not have answered your first question either with "yes," since this option clause was nothing but a protective clause for Farben in case we might be forced to transfer to a Russian buna plant knowledge gained from our German buna process; and in that case, we wanted to have our say if any arrangements were made about the plant at a later time. The best method to safeguard one's say in a model agreement is, of course, to include an option clause in it.

¹ Further extracts are reproduced above in subsections C 6, D 3, D 6, below in section IX F 2 and earlier in sections VII C 5g, E 3, G 3, H 4b, I 7c, J 4, K 3a, L 3d, M 3 and O 7a, in volume VII, this series.

² For reasons explained above in subsection D 1, the cross-examination of Defendant ter Meer upon the subject of the spoliation charges preceded his direct examination on that subject.

Q. Now, I show you Document NI-8148, which will become Prosecution Exhibit 1881.* This is an affidavit by you which has so far not been mentioned. Apart from this modification you just made with respect to the preliminary discussions on the model agreement concerning the East corporations, do you still believe that this affidavit sets forth matters fairly?

A. It is described the other way around here, as though the model agreement for the Synthese-Kautschuk-Ost [G. m. b. H.] served as the model for other contracts.

Q. Did you find anything else, Doctor?

A. I only read this one paragraph about the model of a contract. Am I to read the rest as well?

PRESIDING JUDGE SHAKE: The witness wishes to know, Mr. Prosecutor, whether you want him to answer as to the entire document, or whether you wish to direct his attention to some particular statement in the document.

MR. SPRECHER: May I draw your attention—

PRESIDING JUDGE SHAKE: May I suggest that if you are concerned about the entire document, why not let the question pass until 3 o'clock, and he can read it then during recess, and then he can answer it. Is that agreeable?

MR. SPRECHER: May I further suggest that, if the defendant has any suggestions, that he take the initiative at that time with respect to corrections.

* * * * *

MR. SPRECHER: Dr. ter Meer, after the recess you were going to make some reference to Prosecution Exhibit 1881, Document NI-8148; the affidavit concerning the Russian matter.

DEFENDANT TER MEER: After having been able to read this affidavit during recess, I can state that my testimony with respect to that model agreement was true. The affidavit was dictated at the time by Mr. Newmann; and if two sentences, which incorrectly follow each other here, are properly read, we see that it was not Dr. Ambros and I who drew up that model agreement—rather, it says that the model agreement was not only to be the basis for the Synthese-Kautschuk-Ost G. m. b. H., but it was also to serve as a basis for other East companies.

As far as I remember, I discussed with Mr. Ambros the model of a trustee contract, and recommended such clauses to be incorporated into it as belonged to the justified interests of Farben.

It is just as I said: model contracts were, as far as I know, worked out in the Reich Ministry of Economics by Dr. Ungewitter of the Economic Group, together with representatives of industry. I discussed it with Dr. Ambros, and I then extended it to include the clause concerning the Synthese-Kautschuk-Ost G. m. b. H.—which company,

*Reproduced immediately above.

by the way, was never actually formed, as you know—it was only in theory.

Q. I also understood the affidavit in the way you described it, insofar as you mentioned that you did have a trustee agreement from somebody else as a basis for working out a further trustee agreement which would be applicable in the chemical field in particular, with respect to buna. So with that statement, I do not think that the Court would be at all confused on our respective positions on that point.

A. Thank you.

Q. Now, do you have anything else to say?

A. No, nothing at all.

Q. I mean about this affidavit?

A. No.

* * * * *

DIRECT EXAMINATION

* * * * *

DR. BERNDT (counsel for defendant ter Meer): Mr. President, I do not think I can start on Poland today, but, with Your Honor's permission, I could use these 2 minutes to ask Dr. ter Meer three questions about the Russian problem. Thank you very much.

Dr. ter Meer, during your cross-examination on 17 February 1948, the prosecution submitted to you Exhibit 1881, which is an affidavit that you made on 23 April 1947 about those trustee corporations which were to be founded in Russia, and about the Synthese-Kautschuk-Ost G. m.-b. H. Do you have anything to change in that affidavit?

DEFENDANT TER MEER: No, the affidavit is in order.

Q. Then the second question: What happened to the Synthese-Kautschuk-Ost G. m. b. H.?

A. Nothing at all, Dr. Berndt. It was never founded. Only drafts for people from the Reich Ministry of Economics. It concerns a draft of a trustee agreement between Farben, the Reich and the Synthese-Kautschuk-Ost G. m. b. H., and two drafts of the letters that were to be written in connection with the agreement, but neither the agreement nor the two letters were ever actually completed.

Q. The last question now: the entire affair came to nothing; is that right?

A. Yes, that is correct.

* * * * *

c. Testimony of Defendant Haefliger

EXTRACT FROM THE TESTIMONY OF DEFENDANT HAEFLIGER, 17 MARCH 1948¹

REDIRECT EXAMINATION

* * * * *
DR. VON METZLER (counsel for defendant Haefliger): Mr. Haefliger, the prosecution, in the course of its cross-examination, has submitted to you a number of documents about which I want to examine you. Now, have you got these documents before you?

DEFENDANT HAEFLIGER: Yes.

Q. I shall start with Prosecution Exhibit 1996, 1997, and 1998.² This is a correspondence between you and Director Ziegler, Bitterfeld, in which the question of the trustee administration and further management of Russian light metal plants is being discussed. First of all I want to ask you this: Were you informed about the situation of the Russian light metal plants after the outbreak of war against Russia?

A. No; rather, this was the position: When I learned that the Reich Ministry of Economics intended to create trustee companies for the trustee administration of the chemical industry in the Occupied Eastern Territories, I was also informed that a similar procedure was being considered in the light metal field. I transmitted this information to the competent electronmetal departments at Bitterfeld, and on 8 August 1941 (that is Exhibit 1998), I received information from the director, Dr. Ziegler, from which it was apparent that the inquiry which was sent to the Reich Air Ministry about 2 months before the commencement of hostilities, was not sent to me. The allusion in this letter, and I quote, "we expect a certain recognition for the extraordinarily troublesome negotiations with the Russians at the end of last year and the beginning of this," refers to difficult licensing negotiations, which at that time were carried on with the Russian Trade Delegation in Berlin, to give the Russians a license for our magnesium manufacturing process and application process. We gave the Russian experts full insight into our plants and we afforded them an opportunity to study the production there, although the contract had not as yet been signed.

Q. Pardon me if I interrupt you; when was that?

A. That was at the end of 1940 and the beginning of 1941.

Q. Thank you.

A. A trustee management of the light metal industry in the Occupied Eastern Territories was never actually realized, as far as I know.

¹ Further extracts are reproduced earlier in section VII C 5a, I 7f, N 5a, and O 7b, in volume VII, this series.

² Documents NI-14530, NI-14529, and NI-14531, respectively, all three of which are reproduced in subsection E 2 above.

At any rate, I never heard that a trustee company was founded in the field of light metals.

Q. Mr. Haefliger, let me put to you one sentence from Prosecution Exhibit 1998, and I quote:

“It was declared in general that, as far as one could see, there was no question of any reconstruction of the Russian light metal plants since labor conditions and the supplying of raw materials, and so forth, would probably be too difficult from the point of view of transportation.”

Did you know about that fact when writing your letter, Exhibit 1996?

A. No. As I said, I was only informed about that through the letter of Dr. Ziegler.

Q. Would you have written the letter, Exhibit 1996, at all, had you known of that?

A. No, then there would have been no reason to do that.

Q. Did you know anything about the stripping of light metal plants for semifinished products in Russia which is mentioned in Exhibit No. 1998, in the last paragraph?

A. No; I never heard anything about that.

Q. If I understood you correctly, you said that this exchange of correspondence, at any rate as far as you know, had no results.

A. Yes, that is true; there were no results as far as I know.

* * * * *

d. Affidavit and Testimony of Defendant Ilgner

PARTIAL TRANSLATION OF DOCUMENT NI-6348 PROSECUTION EXHIBIT 1209

**EXTRACTS FROM AN AFFIDAVIT OF DEFENDANT MAX ILGNER,
10 APRIL 1947**

AFFIDAVIT

I, Dr. Max Ilgner, after having first been warned that I will be liable for punishment for making a false statement, state herewith under oath, of my own free will and without coercion, the following:

With reference to my statement of 15 August 1945, which I made in English, I repeat my former protest concerning other gentlemen. I had pointed out already that such part of the statement as refers to the Hermann Goering works is not in accordance with the facts, and that at any rate I was neither authorized nor competent to make such statement.

As to the details of participations by I. G. Farben, as far as Francolor, the *eastern corporations* [Ostgesellschaften], and Norsk-Hydro are concerned, I can say this:

* * * * *

2. As far as the eastern corporations are concerned, the initiative originated with the Ministry of Economics (RWM) immediately after the war against Russia was started. A discussion in regard to this took place in the RWM at which, apart from myself, Oster, Bueteffisch, Ambros, and Schneider were present (as to the participants, I may be mistaken). I assisted in making a report of this meeting to the Vorstand.

The RWM had not yet decided upon the question of whether the firms participating in the eastern corporations—in other words, private industry—should participate in the Russian firms; and, if so, to what extent and which individual firms. I, however, do not know either what I. G. Farben's original purpose was in participating in the eastern corporations, aside from suggestions as to personnel, as requested by the authorities.

I. G. Farben at first was concerned with the question which of its personnel it should offer. I took part in such discussions. We particularly recommended Willibald Passarge, in whom I took a personal interest after the Nazi Party (Foreign Organization) had forced his dismissal from our sales organization in Paris. I wanted to give him a job within my organization, Berlin NW 7. He was appointed one of the three managers of Chemie Ost G. m. b. H. We also suggested the agricultural expert, Dr. Otto Schiller, and also Dr. Prentzel and Guenther Schiller, who, as far as I know, were with the armed forces.

Mr. Wilhelm Rudolf Mann at that time formed a Russia Committee [Russland Ausschuss], of which I was also a member and occasionally took part in its meetings. Within the framework of my organization, I. G. Farben Berlin NW 7, I had, as part of the Political-Economic Policy Department a Liaison Office East [Verbindungsstelle Ost] (Terhaar and de Haas) which was at the disposal of Mr. Mann in his capacity as chairman of the Russia Committee. The Russia Committee worked under the direct instructions of Mr. Mann. Though these gentlemen had jurisdiction, essential questions were also reported upon in the Mail Conferences. I saw to it that all questions concerning Russia, arising within the framework of my organization were assigned by the competent I. G. Farben organization to Igerussko and to the Russia Committee.

As to Farben's participation in Russian enterprises, I can state (with the reservation that my memory may be fallible) that Farben took the attitude that if the German chemical industry took part in the development of the chemical industry in occupied Russia, Farben was anxious not to be overlooked. It was a general principle of Farben to show a reserved attitude towards all new acquisitions, since each new participation meant an undesirable enlargement of

the concern. It is true that in the course of the last years, for many reasons, compulsory and otherwise, this principle was ignored.

* * * * *

I have carefully read each of the three pages of this declaration and have signed them personally. I have made the necessary corrections in my own handwriting and initialed them, and I declare herewith under oath that I have given the pure truth to the best of my knowledge and conscience.

[Signed] DR. MAX ILGNER

**EXTRACT FROM THE TESTIMONY OF DEFENDANT ILGNER,
18 MARCH 1948¹**

DIRECT EXAMINATION

* * * * *

DR. NATH (counsel for defendant Ilgner): I now come to the question on Russia. Dr. Ilgner, did you have anything to do with the Russian problems which have come up for discussion here?

DEFENDANT ILGNER: With the exception of a few personnel questions in the summer of 1941, I had no official contact with the Russian problems.

Q. On page 12, part II of the Preliminary Memorandum Brief, the prosecution speaks of three documents, Exhibits 1169, 1170, and 1171, in book 63, saying that the contents of these documents, and I quote, "became general and common knowledge in Germany."²

Did you, Dr. Ilgner, know these documents? Did you hear of their contents?

A. No, I never knew them and I never heard of their contents, but I have read them through here and I must say I am astonished at the allegations of the prosecution. I shall quote only from Exhibit 1169, a few headings: "Top Secret," "Secret Reich Matter"—that is something of the Reich Government, only for official use. In the same way, the other two exhibits are secret official documents which, of course, were by no means generally known. They could not be generally known.

¹ Further extracts are reproduced above in subsection C 3 and earlier in sections IV D 2, VII D 4b and O 7c in volume VII, this series.

² All three of these exhibits were secret directives concerning the economic policy to be followed in the Occupied Eastern Territories. Prosecution Exhibit 1169, Document NI-6365, is an extract from a secret directive printed by the High Command of the Wehrmacht in June 1941 before the invasion of the Soviet Union. Prosecution Exhibit 1170, Document NI-6375, is a later supplement to Prosecution Exhibit 1169. Prosecution Exhibit 1171, Document NI-440, concerns a discussion held under the chairmanship of Goering on 8 November 1941. None of these documents is reproduced herein. However, NI-6364 is an extract from Document 1743-PS, and NI-6375 is an extract from Document EC-347, both of which were introduced in the IMT trial and the German text of which is reproduced in *Trial of the Major War Criminals* (EC-347 in vol. XXXVI, pp. 331-355; 1743-PS in vol. XXVIII, pp. 3-15).

Q. Mr. Ilgner, the prosecution alleges the same thing of four other documents. Do you know the ones I am thinking of?

A. I have read them through and I can say exactly the same of them.

Q. On page 12, part II of the Preliminary Memorandum Brief, the prosecution cites Exhibit 1175, also in book 63. Did you know the report of the Eastern Liaison Office of 3 January 1942?

A. That is a situation report on the basis of official information. I am sure I received it, because I am on the distribution list. Whether I read it or not, I cannot say today. I do not consider this of decisive importance.

Q. Dr. Ilgner, we will leave that to the Tribunal. On page 3, part II of the Preliminary Memorandum Brief, the prosecution says, and I quote: "Far from being shocked by these inhuman methods, Farben was only concerned about its own participation in the spoils."

The prosecution refers to the Vorstand minutes of 10 July 1941, Document NI-8077, Prosecution Exhibit 1177,* book 63, English page 47, German page 42. Here statements are made by you about a meeting in the Reich Ministry of Economics. Do you see any connection there? Please comment.

A. In my opinion, there is no connection at all. The prosecution document speaks for itself. It discusses only personnel questions and trustee functions.

Q. Do you mean by that the same personnel questions which you mentioned before, which you said was the only official contact which you had with the Russian problem? Please describe them.

A. It was at the beginning of July 1941, shortly after the outbreak of the war with Russia. The Chemistry Referat of the Reich Ministry of Economics called a meeting in the building of the Reich Ministry of Economics attended by a very large number of chemical industrialists of Farben; Oster, Bueteffisch, Ambros, and I were present, as the minutes of the Vorstand, Exhibit 1177, show. I quote:

"The matter primarily dealt with was the enumeration of associates now drafted for service in the Wehrmacht who appear suitable to take part (in a technical or administrative capacity) in the work of keeping the chemical industry going in the former Soviet Union." That was the personnel question.

Q. What did Farben do?

A. The Vorstand, after this meeting of 10 July 1941, decided that all Farben agencies were to report to the office of the Commercial Committee the names of such employees who were drafted and had some knowledge of the Russian language or Russia. Three days before, on 7 July 1941, at a mail Conference at my office, immediately after the meeting at the Reich Ministry of Economics, I had discussed

*Reproduced in part in subsections D 2 and E 2 above.

the same matter with my associates, and I had arranged that such a list be prepared for my office.

Q. Was this list submitted to the Ministry of Economics?

A. Later, together with the other lists, this one was submitted. It was possible that these men on the list might be brought back from the front.

Q. In the same paragraph on page 13 of the Preliminary Memorandum Brief, the prosecution mentions the question of returning the eastern companies to private ownership. Was this question of any significance at that time? Was it acute?

A. No, it was not acute, and it never became acute. In the Prosecution Exhibit 1177,¹ the Vorstand minutes of 10 July 1941, there is a very clear statement, and I quote: "The owner of the chemical enterprises will be the Reich, for whose account and at whose risk the plants will be operated."

Q. Dr. Ilgner, did you not comment on this subject in your affidavit of 10 April 1947, in Nuernberg? That is Document NI-6348, Prosecution Exhibit 1209,² book 65, English page 95, German page 64.

A. Yes, but I have to make some corrections. First of all, in my affidavit—that is to say, in the formulation of my affidavit—I said quite rightly that I dealt only with personnel questions, and I added, I quote:

"I, however, do not know either what I. G. Farben's original purpose was in participating in the eastern corporations, aside from suggestions as to personnel, as requested by the authorities."

But Mr. Newman, the interrogator, was not satisfied with that and tried to get me to say something further. He wanted me to make a hypothetical statement, and unfortunately I agreed, and this has to be stricken now. I did that in a separate affidavit³ and I therefore need not go into it now.

Q. In the Vorstand meeting following the meeting in the Reich Ministry of Economics, did you report the order of the Ministry of Economics to draw up a charter for the Chemie Ost G. m. b. H. which was to be founded?

A. Yes, these minutes are Prosecution Exhibit 1177, also in book 63, and I quote: "Farben has received the order that, together with Kali-Chemie, the Deutsche Solvay-Werke, and the Stickstoff Syndikat, it is to work out a charter for Chemie Ost G. m. b. H."

Farben therefore did not attempt to obtain an interest, but carried out a government assignment to work out a charter.

Q. But the prosecution says—again on page 13, part II of the Preliminary Memorandum Brief, paragraph C—that Farben

¹ *Ibid.*

² Reproduced in part immediately above.

³ Document Ilgner 192, Ilgner Defense Exhibit 195; not reproduced herein.

attempted, and I quote: "to delegate Vorstand members to the supervisory board or board of directors of such corporations." It refers to Document NI-4964, Prosecution Exhibit 1563,¹ book 64, English page 18, German page 17. What do you have to say about that?

A. Well, Dr. Nath, I believe the prosecution completely misunderstands the whole situation. On the initiative, and by order, of the Reich Ministry of Economics, a trusteeship company was formed, for which industry was allowed to supply its services free of charge. That was no business transaction. That was an administrative agency set up by the government. As for the sending of Dr. Willibald Passarge to the management of the Chemie Ost G. m. b. H., that again was a decision of the authorities. I shall read again from the Prosecution Exhibit 1177:

"Dr. Ungewitter suggests Dr. W. Passarge for this as a contact man, and a representative of DEGUSSA," (that is the Deutsche Gold- und Silber Scheideanstalt, in Frankfurt-on-Main) "as administrator. In principle, Farben declares it is ready to give assistance." That was the resolution of the Vorstand.

Q. Who was Dr. Ungewitter?

A. Dr. Ungewitter was the head of the Economic Group Chemical Industry and also the Reich Deputy for the Chemical Industry. He took charge of Chemie Ost G. m. b. H.

Q. On page 15 of the Preliminary Memorandum Brief, in the last two paragraphs of the chapter on Russia, the prosecution deals with Document NI-1334; Prosecution Exhibit 1176,² book 63. These are minutes of a mail conference of Farben, Berlin NW 7, of 7 July 1941. The prosecution uses these words—I shall quote: "As early as 7 July 1941, that is, less than 3 weeks after the assault on Russia started, Defendant Ilgner instructed Dr. Gierlichs to work out 'suggestions for the reorganization of Russian enterprises under German leadership.'" What do you have to say about that?

A. First of all, this all belonged to the beginning of the chapter on Russia. The prosecution, by mistake, deals with this matter twice; that is confusing. The same incident is discussed on page 13 of the Preliminary Memorandum Brief, in Exhibit 1177, which I have already discussed at some length.

Q. Dr. Ilgner, how do you explain the addition on page 15 of the Preliminary Memorandum Brief, the last paragraph of the chapter on Russia? I quote: "on to the pattern of Aussig-Falkenau."

A. The mail conference of NW-7 took place immediately after the conference in the Reich Ministry of Economics. During this mail conference I told my associates of the assignments which I had been given by the Ministry of Economics. Since the Chemistry Depart-

¹ Reproduced in 2 above.

² *Ibid.*

ment of the Ministry of Economics, at whose instigation this entire conference took place, was the same which 2 years before—that was in 1938—had handled the Aussig-Falkenau matter, I would assume—at least it would have been very natural—if the Reich Ministry of Economics had made such a remark. I cannot recall these details today. I only know that this matter became unimportant because, in the meantime, we had been ordered to work out a charter. It is an unimportant episode.

* * * * *

e. Testimony of Defendant Mann

EXTRACTS FROM THE TESTIMONY OF DEFENDANT MANN,
11 APRIL 1948 *

DIRECT EXAMINATION

* * * * *

DR. BERNDT (counsel for defendant Mann): That brings me to the next point which is mentioned in the indictment under 2 (f), and that is Russia. When you listed the various offices you held, you also spoke of a Commercial Eastern Committee?

DEFENDANT MANN: In November 1941 there was a discussion within the circle of the members of the Vorstand concerning the situation in the occupied Russian territories and, more particularly, concerning the tendencies to development which became apparent during that period concerning our possibilities of export to the East. In view of the organizational conditions in these Eastern Territories, which were completely different from ours, I have to remind you that there it was a question of state economy. In view of this situation, the opinion prevailed that in the case of a commercial coverage of these Eastern Territories in a near or distant future by the I. G. Farben, then Farben should, for the first time, deviate from its up to then prevailing principle of decentralization and should set up a joint sales combine for the East. In order to prepare such a Farben sales organization for the Eastern Territories, the Commercial Eastern Committee was set up, It is of great interest to read the minutes now and to see that we, ourselves, at that time, again and again made it a point to have the autonomy of the sales combines stressed. That can be read in a decision of 1941. This Commercial Eastern Committee was presided over by me and met two or three times. We heard reports there made by the business manager, De Haas, who was the liaison man with the Reich Government agencies, particularly with the Ministry of the Occupied Eastern Territories. On account of these reports of de Haas', we then

*Further extracts are reproduced earlier in sections V C 2 and VII D 4a in volume VII, this series.

reached a decision that for the time being we should take no measures in the commercial field in the eastern territories, but that we should, in the former territories of Estonia, Latvia, and Lithuania, which now are part of the Soviet Union, set up a Farben sales agency, the so-called I. G. Ostland-Kontor, G. m. b. H. in Riga. The task of this organization was to supply these areas with Farben products.

Q. You were speaking of the report of de Haas and that you channeled this report to the members of your Vorstand, your colleagues. The prosecution sees something suspicious in that.

A. Well, all I can say with regard to that is that after I read this report of de Haas, I was of the opinion that it was necessary to inform my colleagues about this report. There is no personal view expressed by Farben in the report with the exception that there is a statement that the situation is not yet transparent enough, and therefore, no decisions can as yet be taken. It was the task of the Eastern Committee to use its connections with the Ministries in order to get information of the situation of commercial reasons.

Q. Now, were business transactions actually carried out?

A. Well, the so-called I. G. Ostland G. m. b. H. at Riga did have a turnover of quite considerable volume. They sold to firms in those areas which had been quickly reorganized in the sense of private enterprise; however, for the real old Russian territories no commercial transactions could be carried out because a decision by the German Government agencies concerning the form and the ways in which future commercial transactions could be carried out in those territories had not as yet been made.

Q. Now what did this company sell?

A. Dyestuffs, chemicals, photographic material, and practically all the products of the I. G. Farben except pharmaceuticals, because there existed a Reich organization for that purpose and, therefore, these products went through other channels.

Q. Did this company also take production which was in the East and bring it into Germany from the East?

A. No; the company had nothing to do with production. It was a pure sales organization for sales in the Eastern Territories.

Q. Did you otherwise have any connection with any company domiciled in the East?

A. No.

Q. Wasn't there a certain connection with one institute which was set up by the Behring Werke?

A. In the Eastern Territories a certain number of serum institutes were taken over by the Wehrmacht as they advanced, and employees of Behring Werke were drafted by the Armed Forces and given the assignment to reactivate those institutes in order to produce sera and vaccines there for supplying the civilian population, and partly also

the Armed Forces units stationed in those areas. As a special case, I would like to mention the Lemberg [LVOV] Institute which will be mentioned in another connection by you, I think.

Q. Very well. Now in conclusion of that point, another question: Through your collaboration, were any assets in the Occupied Eastern Territories purchased for the benefit of Farben or the Behring Werke?

A. No.

* * * * *

IX. SLAVE LABOR—COUNT THREE

A. Introduction

Count three of the indictment was entitled "Slavery and Mass Murder." The specifications, appearing in paragraphs 120 through 143 of the indictment (see sec. I, vol. VII, this series, were divided broadly into three parts: "A. Role of Farben in Slave Labor Program"; "B. Use of Poison Gas and Medical Experimentation upon Enslaved Persons"; and "C. Farben at Auschwitz" [Oswiecim]. Five of the defendants were found guilty under the slave-labor charges involving Farben's plant adjoining the Auschwitz concentration camp, but in all other respects, the slave-labor charges were dismissed (see "Decision and Judgment," sec. XIII). Judge Hebert dissented in part from the findings of the majority of the Tribunal, declaring that all defendants who were members of the managing board of Farben (19 defendants) should have been found guilty under the slave-labor charges (see sec. XV, below).

An effort was made at the trial to present the evidence on slave labor in two parts, that concerning Farben and the slave-labor program generally ("the General Slave Labor Case"), and that concerning Farben and the Auschwitz concentration camp ("the Auschwitz Case"). However, this separation of materials for trial convenience was not rigid and, in fact, both evidence and argument overlapped substantially on many points. In this section the first materials deal briefly with the numbers of laborers, slave and otherwise, which were employed by Farben during the war (subsec. B). This is followed by the testimony of perhaps the most dramatic defense witness, Dr. Muench (subsec. C). Muench testified with clarity concerning the scope and nature of the extermination of human beings at Auschwitz, but declared the entire matter was a highly guarded secret of the SS. Next follows the full or partial translation of more than 100 contemporaneous documents (subsec. D). These documents appear chronologically, regardless of their subject matter, with a few exceptions when two or more closely related documents have been grouped together for reasons of clarity of presentation.

The contemporaneous documents on slave labor are followed by three subsections containing affidavits and testimony. The first contains the affidavit or testimony of five prosecution witnesses who were imprisoned at Auschwitz, the first two as political prisoners and the others as prisoners of war (subsec. E). This is followed by extracts from the testimony of eight defendants, including each of the five defendants who were convicted under count three—Krauch, ter Meer, Ambros, Buete fish, and Duerrfeld (subsec. F). The section con-

cludes with affidavits or testimony of eight defense witnesses (subsec. G).

Argumentation concerning the slave-labor charges may be found in both the opening statements (sec. III, vol. VII, this series) and closing statements (sec. XI, below). Extensive materials on slave labor (both argument and evidence) appear in volumes of this series concerning other cases. See particularly the Milch case, section IV A, vol. II; the Flick case, section VII, vol. VI; the Krupp case, section VIII, vol. IX; and the Ministries case, section XI, vol. XIII.

The use of Zyklon B gas to exterminate concentration-camp inmates and medical experimentation upon enslaved persons were also the subject of the charges of count three of the indictment in the Farben case (par. 131). The evidence submitted by both prosecution and defense on these charges was particularly extensive and many of the issues as joined were highly complicated. None of the defendants was found guilty under these charges. Because of space limitations, evidence on these subjects has not been included herein, unless it be in a passing reference made in evidence otherwise relating directly to the slave-labor charges. A British Military Court conducted a trial which involved the distribution of Zyklon B gas to concentration camps for the purpose of exterminating human beings. This trial, "The Zyklon B case," is reported in "*Law Reports of Trials of War Criminals, Selected and Prepared by the United Nations War Crimes Commission*," volume I, pp. 93-103.

B. Number of Foreign Laborers, Prisoners of War, and Concentration Camp Inmates Employed by Farben

**COPY OF DOCUMENT NI-11411-A
PROSECUTION EXHIBIT 1558**

AFFIDAVIT OF KURT HAUPTMAN, 17 NOVEMBER 1947, SUMMARIZING A FARBEN CHART SHOWING THE DIFFERENT TYPES OF LABOR EMPLOYED BY FARBEN BETWEEN 1941-1944

I, Kurt A. Hauptman, U.S. War Department civilian, Office of Chief of Counsel for War Crimes, after having been warned that I will be liable to punishment for making a false statement, state here-with under oath the following:

The document No. NI-3761-A shows on page 2 in the following form the figures set forth below.*

*Document NI-3761-A, a chart prepared by the chief of the Office of Farben's Technical Committee in 1944, was received in evidence as Prosecution Exhibit 1557. This document was a color chart and accordingly is not reproduced herein.

Year	Number Foreign Workers	Number Prisoners of War	Number Loan Workers Foreign Loan Workers Forced Workers Convicts of Wehrmacht KZ Inmates	Number Germans	Total Number
1941-----	8,800-----	1, 600	0	108, 300	118, 700
1942-----	{ 12,900 (men)----- 3,100 (women)----- }	2, 300	4, 000	109, 400	131, 700
1943-----	{ 27,600 (men)----- 12,200 (women)----- }	6, 800	11, 300	98, 100	156, 000
1 Apr. 1943----	{ 33,800 (men)----- 13,100 (women)----- }	6, 200	12, 200	96, 900	162, 200
1 June 1943----	{ 34,100 (men)----- 13,000 (women)----- }	6, 000	12, 300	102, 600	168, 000
1 Aug. 1943----	{ 35,100 (men)----- 13,600 (women)----- }	5, 400	13, 700	102, 800	170, 600
1 Oct. 1943----	{ 34,500 (men)----- 14,000 (women)----- }	5, 000	13, 300	102, 400	169, 200
1 Jan. 1944----	{ 38,500 (men)----- 16,000 (women)----- }	12, 200	8, 900	100, 300	175, 800
1 Apr. 1944----	{ 38,300 (men)----- 16,100 (women)----- }	11, 700	8, 300	98, 500	172, 900
1 Aug. 1944----	{ 39,700 (men)----- 15,800 (women)----- }	12, 200	10, 600	99, 600	177, 900
1 Oct. 1944----	{ 46,100 (men)----- 16,700 (women)----- }	9, 600	10, 900	97, 500	180, 800

I have carefully read the one page of this affidavit and signed it personally. I have made the necessary corrections in my own handwriting and initialed them. I declare herewith that I have given the full truth to the best of my knowledge and belief.

/s/ KURT A. HAUPTMAN

AGO B-246323

U. S. War Department Civilian, Office of
Chief of Counsel for War Crimes

17 November 1947

**COPY OF DOCUMENT NI-11412-A
PROSECUTION EXHIBIT 1560**

**AFFIDAVIT OF KURT HAUPTMAN, 17 NOVEMBER 1947, SUMMARIZ-
ING A FARBEN CHART SHOWING THE PERCENTAGE OF FARBEN
WORKERS IN THREE DIFFERENT CATEGORIES AS OF 1 OCTOBER
1944**

I, Kurt A. Hauptman, U. S. War Department civilian, Office of Chief of Counsel for War Crimes, after having been warned that I will be liable to punishment for making a false statement, state herewith under oath the following:

The document NI-3762-A shows on page 2 in the following form the figures set forth below.*

*Document NI-3762-A, a chart prepared by the chief of the Office of Farben's Technical Committee in 1944, was received in evidence as Prosecution Exhibit 1559. This document was a color chart and accordingly is not reproduced herein.

Name of Combine	Percentage Foreign Workers	Percentage Prisoners of War	Percentage Loan Workers Foreign Loan Workers		Percentage Germans	Number of Workers
			Forced Workers	Convicts of Wehrmacht KZ Inmates		
LEUNA (Synthetic Gasoline).	{ 23.5 (men)----- 4.1 (women)--- }	7.3	5.0	60.0	31,391	
LUDWIGSHAFEN/OPPAU (Chemicals, Synthetic Gasoline, Buna).	{ 18.7 (men)----- 7.1 (women)--- }					10.8
HOECHST (Pharmaceuticals, Dyes).	{ 16.5 (men)----- 7.4 (women)--- }	1.4	8.5	66.2	12,089	
LEVERKUSEN (Chemicals).	{ 23.5 (men)----- 12.6 (women)--- }					2.7
BITTERFELD/WOLFEN (Chemicals).	{ 32.2 (men)----- 6.4 (women)--- }	5.1	4.6	51.7	18,950	
SCHKOPAU (Buna)-----	{ 33.2 (men)----- 5.3 (women)--- }					4.0
HUELS (Buna)-----	{ 16.6 (men)----- 8.4 (women)--- }	9.6	0	65.4	8,847	
WOLFEN (Film, Cameras, Synthetic Fibres).	{ 21.7 (men)----- 22.3 (women)--- }					0.3
AUSCHWITZ (Synthetic Gasoline, Gasoline).	{ 40.3 (men)----- 12.7 (women)--- }	2.1	26.6	18.3	17,828	
HEYDEBRECK (Gasoline).	{ 42.3 (men)----- 6.6 (women)--- }					10.5

I have carefully read the two pages of this affidavit and signed them personally. I have made the necessary corrections in my own handwriting and initialed them. I declare herewith that I have given the full truth to the best of my knowledge and belief.

/s/ KURT A. HAUPTMAN

AGO B-246323

U. S. War Department Civilian, Office of
Chief of Counsel for War Crimes

17 November 1947

C. Testimony of Dr. Hans W. Muench, Defense Witness, Concerning Knowledge of and Rumors About the Extermination of Concentration Camp Inmates at Auschwitz

EXTRACTS FROM THE TESTIMONY OF DR. HANS W. MUENCH*

DIRECT EXAMINATION

DR. HOFFMANN (counsel for defendant Ambros): Witness, what is your present address?

WITNESS MUENCH: Bernbeuren, Upper Bavaria.

*Complete testimony is recorded in the mimeographed transcript, 11 May 1948, pages 14321-14345.

Q. Witness, did you ever testify before a Tribunal?

A. The end of last year I was tried by the Supreme People's Court of Poland in the large trial of Auschwitz where I was defendant No. 8.

Q. What was the result of the trial, as far as you were concerned, Mr. Witness?

A. I was acquitted in that proceeding.

Q. What was your SS Grade that you held while you were in the trial?

A. I was a 2d Lieutenant [Untersturmfuehrer] of the Waffen SS, and as such I was an accused in the trial.

Q. Can you give me the reasons briefly why the Tribunal there acquitted you?

A. From September 1943 until January 1945, I was a physician in the Hygiene Institute in Auschwitz, and the Hygiene Institute was affiliated with the concentration camp.

Q. And what was the reason why the Tribunal acquitted you?

A. The Court found that in disregard of my personal safety, I effectively protected the inmates, regardless of race or nationality, and that I had the confidence of all inmates.

Q. Did the Polish Court then set you at liberty?

A. A few days after I was acquitted I was taken to Berlin, and released by the Polish authorities.

Q. Mr. Witness, how did you come to join the SS?

A. At the end of May, 1943, I was drafted for the SS, as a specialist for bacteria cultures.

Q. Were you with the SS previously?

A. No.

Q. Could you do anything against the drafting for the SS?

A. Not at the time. At the beginning of 1940, I was asked to join the Hygiene Institute of the SS and I could prevent this only by volunteering for service with the Wehrmacht. That was the only possibility to evade the desires or the demands of the SS.

Q. Witness, when you speak of the SS, you mean the Waffen SS?

A. Yes.

Q. When you were drafted in 1943, you had no other choice but to comply with that draft?

A. The provision that the SS could not take volunteers of the Army was abolished at that time by a personal decree of Himmler who issued a law about this.

Q. What was your career, Mr. Witness, in the SS—very briefly?

A. I went through the normal infantry training for physicians, lasting two months, and then I was transferred to the Hygiene Institute of the Waffen SS in Berlin.

Q. How long did you stay there, and where did you go afterwards?

A. I stayed only briefly in Berlin, because the Institute was damaged by bombs, and my place of work was no longer in existence.

Q. Where were you transferred then?

A. To the Hygiene Institute of the Waffen SS in Auschwitz.

Q. Did you know, Mr. Witness, that that Hygiene Institute was situated in the concentration camp of Auschwitz?

A. I did not know until I arrived there.

Q. What was your first impression of Auschwitz when you arrived?

A. I had already heard about extermination camps, and particularly extermination camps for Jews, through reports over the Swiss radio that I listened to regularly in the preceding years, but since I considered this news to be propaganda, I did not believe it at the time, because the facts that were being described seemed too terribly outrageous to me. When I arrived in Auschwitz, and had to convince myself personally that these reports were not exaggerated, I was very much shaken emotionally.

Q. To what activities were you assigned in Auschwitz?

A. In 1943, in the spring, the Hygiene Institute had been founded in Auschwitz in order to control the very severely spreading epidemics among the inmates in Auschwitz and to see to it that these epidemics did not spread to the civilian population in the industrial area of Upper Silesia. Typhus and typhoid were concerned mainly.

Q. How did the Hygiene Institute work as far as personnel was concerned?

A. The work proper, the bacteriological work in particular, was conducted exclusively by inmates, by specialists and authorities from all over Europe.

Q. Can you give me a few names?

A. Professor Tomaschek of the University of Bruenn [Brno]; Professor Jakubski from the University of Poznan; Professor Mansfeld, from the University of Budapest; Professors Klein and Coblenz, from Strasbourg; Professor Levine of the Pasteur Institute, Paris; Dr. Pollak, a noted internist of Prague. The entire detail consisted of 100 to 120 inmates, more than one half of whom were highly qualified experts.

Q. What competence or jurisdiction did you have within the concentration camp itself?

A. Essentially I had to supervise this detail of inmates, and within the concentration camp I had to advise the camp physician or the physician of the garrison on the control of diseases.

Q. Mr. Witness, in that position that you held, did you have a chance to gain an insight into the entire concentration camp of Auschwitz?

A. Yes.

Q. Would you describe briefly all the territory that was part of the concentration camp Auschwitz?

A. The concentration camp consisted mainly of the main camp, Auschwitz I, and the camp Birkenau, Auschwitz II, and then there were forty-two branch camps affiliated, some of which were small and had only several hundred inmates and others had several thousand inmates. In the summer of 1944, the entire Auschwitz complex consisted of 144,000 inmates.

Q. Did Monowitz also belong to the Auschwitz concentration camp?

A. The Monowitz camp was a branch camp of the Auschwitz concentration camp, the largest branch camp.

Q. Was that indicated also in the field of medical care, something about which you know?

A. I do know about the medical care and it didn't differ in any way from the other branch camps.

Q. How was this medical care given at Monowitz?

A. The subsidiary and branch camps—Monowitz, in particular—had a so-called hospital building which was equipped like a hospital ward and that meant that it was destined only for short treatment. More serious cases and sicknesses that took long to cure were transferred to Auschwitz or to Birkenau.

Q. Mr. Witness, you already mentioned that it was an irrefutable fact that mass exterminations were carried out in Auschwitz. Is that right?

A. Yes.

Q. Would you describe briefly where this extermination was carried out, particularly the locality?

A. The extermination plant was located at Birkenau. The crematoria and gas chambers were located one to one and a half kilometers southwest of the Birkenau camp, camouflaged in a small woods.

Q. What purpose did the crematoria serve?

A. All corpses were burnt there, as far as their capacity was sufficient.

Q. If the capacity of these ovens was not sufficient, what was done then?

A. Then the corpses were burned on large piles.

Q. Could one see these fires from the outside or were these fires also camouflaged?

A. One couldn't see these fires at all, but one had to smell the odor because the burning of such tremendous numbers of corpses caused a terrible odor which was perceptible everywhere.

Q. Mr. Witness, you were informed about the fact that human beings were being gassed at Auschwitz?

A. Yes.

Q. During the time that you were working as a physician in Auschwitz did you make many trips—vacation trips or official trips—to Germany?

A. Yes, very many to Germany.

Q. What knowledge did the people in the Reich have, as far as you were able to find out?

A. I found out everywhere that the concentration camp Auschwitz was practically unknown in Germany. It is true that I was very careful that it did not become known that I was working in Auschwitz.

Q. Mr. Witness, for what reason did you not spread the fact that human beings were being gassed and exterminated?

A. I was asked this very often and also before the Supreme Court of Cracow, and I can say in answer to it that that would have been a completely useless undertaking which would have very shortly caused me and my family to be liquidated very quickly, because the Gestapo was so well organized and the threats for nonobservance of the secrecy that surrounded the Auschwitz exterminations were so clearly worded for members of the SS that everybody avoided telling even his closest friend about it, because experience taught us that anybody who talked about it in any way was very quickly found out because the Gestapo sniffed out every rumor very consistently that spread about Auschwitz.

Q. Do you have any indications for the fact that the other SS members that were working in Auschwitz had a similar sentiment or fear of spreading these rumors?

A. Certainly, undoubtedly, and to an even greater extent than in my case, especially as far as the great majority of the guards was concerned, because those guards were very harshly and severely treated by the SS already at that time.

Q. How about the inmates? Do you know, have you any experience whether the inmates informed anybody else about the fact that gassings were being conducted there?

A. I have the very definite impression, and all the information that I have been able to obtain about this now, after I was released from prison, convinced me of the fact that the inmates, too, did not say anything to civilians with whom they got in touch in Auschwitz for they, the inmates, were liquidated very quickly, and simply if it was proven against them that they had disclosed this information or even if only a suspicion that they had disclosed this information existed and, in the face of the chimneys in Auschwitz that were smoking constantly, every inmate had inhibitions about telling anybody else.

Q. Mr. Witness, what would you say if someone visited a plant in Auschwitz twice or three times a year for a period of one or two days? Would he then have to gain knowledge about these things?

A. I repeatedly witnessed guided tours of civilians and also of commissions of the Red Cross and other parties within the camp, and

I was able to ascertain that the camp leadership arranged it masterfully to conduct these guided tours in such a way that the people being guided around did not see anything about inhuman treatment. The main camp was shown only and in this main camp there were so-called show blocks, particularly block 13, that were especially prepared for such guided tours and that were equipped like a normal soldiers' barracks with beds that had sheets on them, and well-functioning washrooms. They had heat and a part of the kitchen was also shown which was properly equipped like any other large kitchen. A laundry was shown them and other administrative buildings where one couldn't see anything.

Q. Where was the misery actually going on?

A. In Birkenau, in the Birkenau camp and also in the main camp. But during the time when these guided tours were conducted around, this could not be seen because the inmates were mostly working at that, and the inmate that had deteriorated, who was "physically weak," as the technical term was, became a victim of extermination anyhow, so that the inmates that were still alive all had a rather good appearance.

DR. HOFFMANN: I have no further questions.

DR. HELLMUTH DIX (counsel for defendant Schneider): Dr. Muench, do you know when Hitler stopped the gassings?

A. If I remember correctly, in the middle of October 1944.

Q. You were speaking about visits of the Red Cross. Was that the International Red Cross?

A. Yes.

Q. The International Red Cross. You said that the inmate physicians were very capable. Isn't it true that, between the inmate physicians and the SS physicians, some close contact developed because of their profession, as far as this was possible?

A. That's certainly true in my case and I observed that in a very few other cases also.

Q. From a human point of view, and to put it mildly, all that you saw there must have been terribly embarrassing to you and that was certainly understandable. Is it possible that physicians who were in contact with these things tried to push the blame on somebody else's shoulders by giving the names of other people as being guilty?

A. Do you mean in the trials?

Q. No, I don't mean before the courts. I mean in the concentration camp. If any SS physician talked to an inmate physician personally, is it true that then the SS physician tried to push the blame from himself, and in a certain sense from his medical superiors, to somebody else's shoulders?

A. That was true.

Q. There have been many inmate physicians examined here. Would

it then be possible that the SS had the tendency to push the responsibility towards the shoulders of Farben, if they spoke—

MR. SPRECHER: Just a minute. The nature of these last few questions has been exceedingly improper and we ask that the Court let this witness, who is a very intelligent witness, testify on his own, having been indicated the subject by counsel.

PRESIDING JUDGE SHAKE: Sustained. The questions are leading, Dr. Dix.

DR. DIX: You confirmed for me that the physicians had the tendency of blaming somebody else for the responsibility.

A. I can say something else in supplementation. It is an irrefutable fact that only the SS, the Reich Security Main Office, and particularly, the concentration camp leadership had to do with these things, and if I said that the SS physicians endeavored to push the blame on somebody else, then they meant the Reich Security Main Office.

PRESIDING JUDGE SHAKE: Anything further from this witness? You may cross-examine the witness.

CROSS-EXAMINATION

* * * * *

MR. MINSKOFF: Now, Mr. Witness, you testified that persons in Germany didn't know about the gassings and the exterminations at Auschwitz. Now, could you tell the Court, how about the civilians that lived in Auschwitz and smelled these chimneys each day and saw the trains come into Auschwitz? How about those civilians? Did they know about the gassings that were going on at Birkenau?

A. I must put it this way. Auschwitz, and the vicinity as far as Kattowitz [Katowice] was full of rumors about the extermination of Jews by gassings and by burnings, and if anyone wanted to obtain detailed information about this then he could do it only by getting in touch with an SS leader with whom he was closely associated—if he knew him well, and by discussing it with such an SS leader. A simple SS man would have given him no information, just as little as any inmate would have given him any information.

Q. Now, Mr. Witness, I hadn't intended to ask you whether persons in Kattowitz, about fifty kilometers away, knew about the gasings. I was asking about Auschwitz itself, the city of Auschwitz, where civilians lived, and in that city where civilians lived, right in the shadow of the crematoria, did those civilians, not in Kattowitz but in Auschwitz, did they know about the gasings?

A. Yes, that is the way I also meant it, because in Kattowitz one was able to smell the stench of the crematoria just as well as in Auschwitz. Auschwitz and the further surroundings are to be considered equally in this respect because one could not perceive more than the odor. That's all one could perceive from these gasings.

Q. Now, Witness, isn't it a fact that tens of thousands of persons from all over Europe came to Birkenau through this railroad right next to your office, and were brought into Birkenau right through the city of Auschwitz? Isn't that a fact?

A. Yes, that's a fact.

Q. So that, over a period of two years, over four and a half millions came through this little railroad next to your office into Birkenau, right through Auschwitz, isn't that true?

A. The figure isn't important as far as a few millions are concerned, but there were millions anyway that came in.

Q. Now, Mr. Witness, weren't there civilian workers on those railroads?

A. Yes.

Q. And weren't there Polish civilian workers on the ramp of the station at Auschwitz?

A. Yes.

Q. And didn't these civilians, who weren't bound by the secrecy of the SS, see all these persons coming in through Auschwitz to Birkenau in crowded trains?

A. They were exposed to the same pressure as the SS. It's true that they weren't put under an oath every day anew, but for them the danger was even greater than for the SS because they were suspect from the very start of making any disclosures, and for that reason the Gestapo supervised them very closely and every one of those people working for the railroad, or the Poles, had to feel that he was being kept under surveillance. There are many examples, especially among the German-speaking Poles, who were sent to a concentration camp as a result of even the vaguest suspicion that they had disclosed anything.

Q. Now, Mr. Witness, apart from what these civilians who lived in Auschwitz might have told of what they themselves knew, didn't the civilians themselves who lived in Auschwitz and had constant contact with other civilians who worked on the railroads and near the railroads, didn't they themselves at least know of the gassings of inmates and the gassings of persons being brought to Birkenau?

A. Well, I can only repeat what I said before. The knowledge of the exterminations in Auschwitz has to be considered as general, according to my experience, but only by way of rumor. Because any actual confirmation, particularly about the manner in which these exterminations were being conducted, nobody, in my opinion, could procure; and then one must take into account that many trains came out of Auschwitz too and they were made up in the same way as the trains going in. They were completely sealed.

Q. Mr. Witness—

A. May I add one more thing, please. The SS spread again and again the news that the trains that came out of Auschwitz were loaded with inmates that were being transferred to other camps, and it happened frequently that transports were transferred to other camps so that one could see this actually to be true.

Q. Mr. Witness, did you personally ever witness the gassing of human beings?

A. Yes, I saw one gassing at one time.

Q. And before you actually — personally — saw this gassing, is it your testimony that all your knowledge of gassings was just rumor?

A. No. Not my knowledge. And as far as the SS in Auschwitz is concerned, one can assume that all of them knew about details even if they didn't all of them see it themselves.

Q. Now, Mr. Witness, did you know that there were thousands of I. G. Farben employees living right in the city of Auschwitz?

A. Yes.

Q. And did these I. G. Farben employees have the same access to the knowledge of the gassings in Birkenau that the civilian Poles had who lived in the city of Auschwitz?

A. Access to what facilities — to the camp you mean?

Q. No. I will withdraw that question. Mr. Witness, on the I. G. Farben construction site in Auschwitz, there were some 7,000 inmates of the concentration camp Monowitz working. Now, these 7,000 inmates; would they know about the gassings that took place at Birkenau?

A. All of the inmates who were in Auschwitz knew about it. They were informed to the fullest extent.

Q. Now, Mr. Witness, isn't it a fact that, during the time you were at Auschwitz, Allied planes dropped leaflets over Kattowitz and Auschwitz informing the population what was going on in Birkenau?

A. No, I don't know that.

Q. Mr. Witness, you testified a little earlier that those who were sick in the camps, like in concentration camp Monowitz, would be sent to Auschwitz-Birkenau, but I wasn't quite clear as to why they were sent to Auschwitz-Birkenau. I'd like to put just a question or two to you on that. Mr. Witness, those persons who were in the hospital at Monowitz and were shipped to Auschwitz-Birkenau because of an edema or phlegmon, for what purpose were they shipped to Birkenau?

A. As far as these people were Jews, I must state that most of them were gassed.

Q. And, Mr. Witness, if they were sent from the hospital in Monowitz to Auschwitz-Birkenau, and they were Jews; and they were sent because of weakness and collapse, why were they sent to Birkenau?

A. Also to be gassed.

Q. Thank you. No further question.

* * * * *

REDIRECT EXAMINATION

* * * * *

DR. HELLMUTH DIX (counsel for defendant Schneider): I have one question. The prosecution stated that four and one half millions were gassed. Is that figure not too high, as far as your information goes?

A. In the Auschwitz trial in Krakow, three and one-half million were determined as definitely certain. But it was said in that connection it wasn't proven whether perhaps it wasn't more than that.

PRESIDING JUDGE SHAKE: Now, is that all, gentlemen? Then, Mr. Witness, you are excused from further attendance and the Tribunal will rise for its recess.

D. Contemporaneous Documents

PARTIAL TRANSLATION OF DOCUMENT SCHNEIDER 245 SCHNEIDER DEFENSE EXHIBIT 123

EXTRACT FROM A DECREE OF THE MINISTERIAL COUNCIL FOR THE DEFENSE OF THE REICH, 1 SEPTEMBER 1939, CONCERNING RESTRICTIONS ON THE TERMINATION OF EMPLOYMENT, AND RELATED MATTERS

Excerpt from the Reich Law Gazette 1939 No. 169, Part I, page 1685

Decree concerning Restrictions on Change of Place of Work dated 1 September 1939

The Ministerial Council for the Defense of the Reich issued the following legal decree:

Section I. Termination of the working contracts

Paragraph 1

(1) Managers, workers, staff members, apprentices, volunteers, and practitioners cannot terminate their working contract (apprenticeship) before the Labor Office has sanctioned the termination.

(2) The termination of a working contract prior to approval is legally invalid, unless the Labor Office subsequently approves of it in particularly exceptional cases.

(3) The approval of the Labor Office does not constitute the decision whether the termination of the contract is justified or not. The same applies to termination of a contract where the term of notice is not observed.

Paragraph 2

Approval according to paragraph 1(1) and (2) (above) is not required if—

(1) The contracting parties agree on the termination of the working contract.

(2) The enterprise (building site) has to be closed down.

(3) The worker, staff member, or apprentice has been employed temporarily or on probation and the working contract (apprenticeship) expires within 1 month.

Section II. Duty to report

Paragraph 3

Any person who, according to paragraph 2, does not require approval for the termination of his working contract (apprenticeship) has to report to the Labor Office competent either for his last dwelling place or his permanent residence, after leaving his former place of work.

Section III. Employment restrictions

Paragraph 4

(1) Enterprises (private and public enterprises and administrative offices of all kinds) and households may employ workers, staff members, apprentices, volunteers, and practitioners only with the approval of the Labor Office.

(2) Approval is not required for employment in agricultural enterprises.

* * * * *

Section VI. Final regulations

Paragraph 11

Any person violating or evading this ordinance or leaving his occupation prior to regular termination of the working contract (apprenticeship) in accordance with the regulation, shall, upon request of the head of the Labor Office, be fined and imprisoned or will be subject to one of these penalties.

* * * * *

Berlin, 1 September 1939

The Chairman of the Ministerial Council for the Defense
of the Reich

GOERING
Field Marshall

The Reich Minister and Chief of the Reich Chancellery

DR. LAMMERS

**TRANSLATION OF DOCUMENT NI-4310
PROSECUTION EXHIBIT 1298**

**DECREE OF FRANK, GERMAN GOVERNOR GENERAL IN POLAND,
26 OCTOBER 1939, CONCERNING COMPULSORY LABOR COMMIT-
MENT IN GERMAN-OCCUPIED POLAND AND NOTING THAT A
SPECIAL DECREE WILL BE ISSUED FOR JEWS**

*Decree Concerning the Introduction of Compulsory Labor Commit-
ment of the Polish Population of the Government General, 26
October 1939*¹

On the basis of section 5, paragraph 1, of the decree issued by the Fuehrer and Reich Chancellor on 12th October 1939 and dealing with the administration of the occupied Polish territories, I herewith order:

Section 1

1. All Poles residing in the General Government between the ages of 18 and 60 are subject to public labor—commitment, which decree is taking immediate effect.

2. For Jews special decree will be issued.²

Section 2

Persons in the position to prove a permanent occupation of public interest are not to be drafted for the accomplishment of the compulsory labor-commitment.

Section 3

The public compulsory labor-commitment comprises particularly work in agricultural enterprises, construction and maintenance of public buildings, construction of roads, waterways and railways, regulation of rivers and works contributing to public culture.

Section 4

1. The workers will be paid according to wage scales considered just.

2. The case of the workers and their families is to be assured within the frame of possibilities.

Section 5

The Chief of the Labor Branch of the Office of the Governor General will issue the regulations necessary for the execution of this decree.

The Governor General for the Occupied Polish Territories

FRANK

Warsaw, 26th October 1939

¹ Taken from the 1939 Verordnungsblatt (order gazette) of the Government General of the occupied Polish territories, page 6.

² Concerning the treatment of Poles and Jews, see pages 594-774, volume III, this series.

PARTIAL TRANSLATION OF DOCUMENT NG-1408*
PROSECUTION EXHIBIT 1847

COVERING LETTER TO MEMBERS OF THE GENERAL COUNCIL, INCLUDING DEFENDANT KRAUCH, AND EXTRACTS OF STATEMENTS MADE BY STATE SECRETARY BACKE AT THE SIXTH MEETING OF THE GENERAL COUNCIL OF THE FOUR YEAR PLAN, 14 FEBRUARY 1940, ADVISING SAFEGUARDING OF THE NEXT HARVEST, UTILIZATION OF POLISH WORKERS AND PRISONERS OF WAR, AND THE PROBABILITY OF HAVING TO "CAUSE BY FORCE" THE MOVING OF NECESSARY POLISH WORKERS TO GERMANY

Berlin, 7 March 1940
W 8, Leipziger Str. 3

Minister President, Field Marshal Goering
Plenipotentiary for the Four Year Plan

V. P. 4437 [Handwritten] German Economy Food Situation

Corresponding to the suggestion made in the Sixth Session of the General Council, there is attached the text of the statements by State Secretary Backe.

BY ORDER

Signed: DR. GRAMSCH
Certified

[Stamp]

[Signed] STRAUCHMANN
Administrative Secretary

Minister President Field Marshal Goering
Plenipotentiary for the Four Year Plan

[Initial] R [Ritter]

[Handwritten]

1. To Ambassador Ritter
2. To the Files

[Illegible initial] 11 March

*This document was introduced in the Ministries case (Case 11, vols. XII-XIV, this series) as Prosecution Exhibit 977 and, by inadvertence during presentation of evidence concerning Defendant Lammers, as Prosecution Exhibit 2602. It is reproduced in part in volume XIII, this series, page 949 ff. Parts of the extract from this document, reproduced herein, are not included in the extracts reproduced in volume XIII.

To Messrs.

State Secretaries :

Koerner

Neumann

Backe

Dr. Syrup

Kleinmann

Alpers

Under State Secretary von Jagwitz

Reich Cabinet Councillor Dr. Willuhn

Ministerialdirigent Dr. Brebeck

Ministerialrat Dr. Baermann

Minister Eisenlohr

Professor Dr. Krauch

Lieutenant Colonel Conrath

Ministerialdirigent Marotzke

Ministerialdirektor Dr. Gramsch

Copy

Dictation, State Secretary Backe *

Berlin, 3 February 1940

To V. P. 4437

*Statements of State Secretary Backe to the General Council on
14 February 1940*

With regard to the food supply, it has been pointed out on several occasions—from the point of view of the food economy—that the basis of a functioning food supply is domestic production and that, in the event of war, the most urgent task is to keep this agricultural production from falling as much as possible. Piled up reserves do not secure the food supply, for by their nature they can only be supplementations on a greater or lesser scale. *The basis of the food supply remains production.* How decisive this fact is, may, perhaps, be explained by a few figures taken from the field of the grain economy.

Last year's record grain harvest of Greater Germany amounted to 28.5 million tons; the bread grain reserve at the outbreak of war to 6.2 million tons. Presupposing a normal grain harvest in the first year of the war and assuming further that production only drops by 10 per cent in the first year of the war, there results, as compared with the rec-

*The apparent inconsistency between the date of the meeting "14 February 1940," and the date just above, "3 February 1940," appears to arise from the following sequence of events: On 3 February, Backe dictated the remarks he intended to make at the sixth meeting on 14 February; on 14 February, Backe read his statement to the sixth meeting; on 7 March, the Office of the Four Year Plan distributed the text of Backe's remarks at the sixth meeting, taking the text from Backe's earlier draft and neglecting to eliminate therefrom "Dictation S/s. (State Secretary) Backe" and the date of this dictation.

ord harvest of last year (28.5 million tons), first of all a loss of 2½ million tons (difference between the record harvest and a normal harvest), and furthermore, the above mentioned 10 percent loss of 2.6 million tons, thus a total loss of 5.1 million tons; a loss which will use up within a year nearly the entire bread grain reserve accumulated during long years of strenuous effort.

Assuming (as here, in the case of grain), similar drops in the case of root crops too, losses could arise which would be equivalent to 7 and more million tons of grain values. It is obvious that such a decline in production would of necessity lead to a breakdown in the food supply during the second year of the war, as in 1918. Therefore, under no circumstances must the present good supply situation deceive us about the seriousness of this situation.

A further aggravating factor is that, already in 1939, it was not possible, due to the difficulties in transportation and in the supply of coal, fuel, and spare parts, the requisitioning of horses and drafting of people to the Armed Forces, to bring in and process the entire peace harvest of 1939. Apart from losses in the grain and root crop harvests which have arisen in the evacuated territories, losses similar to those which have arisen in the eastern provinces (henceforth a part of the German supply territories), *the late and incomplete bringing in and processing of* the root crops have a particularly adverse effect upon the situation.

It is true, the potatoes have been brought in with the greatest efforts and endeavors on the part of agriculture. This, however, must not hide the fact that, above all, the shortage of labor and teams of horses prevented the harvest from being carried out as carefully as it should have been. And so the potato fields everywhere have not been picked over again; experience shows that especially when machines are used, 15, sometimes 20 percent of the potatoes remain in the field which can only be retrieved by repicking. *This repicking has scarcely ever taken place.* Furthermore it should *nowise be overlooked what further loss will occur if the potatoes are picked in wet weather, put in piles in damp weather, and if the potato piles are not sufficiently covered, et cetera.* In peacetime, the loss due to rot is estimated at 8 to 10 percent, or approximately 4 to 5 million tons of potatoes.

The losses in the beet harvest are much more obvious. While as a rule the beet harvest was usually over before the frost came and never lasted beyond Christmas, this year about 10 percent of the beets were still lying outside in the fields on 1 January, apart from those not yet hoed up. At present there are 400,000 tons of beets which have not been hauled away, of which approximately 100,000 tons have not even been hoed. These 400,000 tons must be considered a total loss,

and therefore have been released for fodder purposes—as far as it is still possible. Due to the prolonged campaign and the *losses in the fields, the loss of sugar must be estimated at 12–13 percent*; it amounts to approximately 270,000 tons of sugar, presupposing the total sugar production to be from 2.1 to 2.2 million tons. The same circumstances also brought about a considerable reduction in the production of sugar-beet fodder which makes the already existing gap in fodder supplies still larger. *Thus demands are being made from all sides on the bread grain reserves.*

The present production situation and the endangered situation in the future necessitate the adoption of two kinds of measures:

I. Greatest possible allocation of workers and material for the future harvest, and

II. Economy measures on the part of consumers.

The measures under I are most urgent, because due to their later effectiveness and the fact that they occur but once, they allow of no delay. The measures under II it will not be possible to carry out for the most part before the end of the cold spell. Nevertheless they, too, must be considered as early as possible.

I. Safeguarding of the next harvest

The damage which has already been caused or is going to be caused by the weather, by the late and incomplete fall cultivation, and by the failure to plough in the fall, must be accepted and cannot be changed. This is the more reason to make good for these damages by good and timely spring cultivation. For this is decisive—

- (1) *Allocation of labor, especially of Poles.*
- (2) Allocation of tractors and horses.
- (3) *The delivery of fertilizers.*
- (4) The delivery of seed.

1. *Condition of labor allocation for agriculture.* The need for agricultural workers, as determined through general inquiry, amounts to 1 million Poles, excluding the prisoners of war. In addition, as reported by the Group Labor Allocation, the following foreign workers will be allocated:

30,000 Italians
25,000 Slovaks
12,000 Hungarians
3,000 Dutch

70,000 men compared with approximately 120,000 men in 1939. Aside from those, there will be, from the fall, 57,000 civilian Poles and approximately 320,000 prisoners.

In contrast to the requested one million Poles there are now only 780,000 Poles scheduled to come in, approximately 700,000 of them from the Government General.

The promise that, as of 20 January 1940, there would be run every day eight to ten trains of a thousand men each is unfortunately not fulfilled. Rather there are now scheduled to be transported, according to the statements by State Secretary Syrup :

Altogether from 29 January to 1 March, approximately 400,000 human beings.

In contrast to the original plan to bring by 1 April 700,000 human beings to Germany, it is now only 400,000, and according to the experience made it must be doubted whether even these amounts will be reached by 1 April.

The results of this delay are now that for one thing, transportation is bound to last until far into the summer, that is, that the workers will come *too late for the spring work*; for the other, great danger exists that fewer Hackfruechte [collective term for beets, potatoes, and like vegetables], especially potatoes, will be planted. As soon as—because of lack of laborers—the fields have been sown with spring grain, it will no longer be possible to plough them in order to plant potatoes, because there will be no longer time for it.

An aggravating factor is that in the opinion of the Government General the hiring of laborers will be made more difficult or even prevented by the Poles who have been evacuated to the Government General, who do not trust the recruiting, but rather advise against going to Germany. The clergy is active in the same direction. Further difficulties will be caused by the collective delousings and vaccinations which have been ordered. On the other hand, according to the promise of the Transportation Ministry, the allocation of cars seems to be certain.

The conclusions and required steps which follow from this situation are—

a. The Labor Ministry must under all circumstances, at least up to 1 April, actually carry through the scheduled minimum program of 400,000 human beings; as far as possible, transportation must be accelerated.

b. If, as it appears likely, there will be, in the Government General, difficulties at the labor recruiting offices in the recruiting of civilian Poles, it will be unavoidable to give the Occupation Army authority and directive *to cause, by force, the necessary number of workers to be transported to Germany.*

c. Since it is no longer possible to use the civilian Poles in time for cultivation, it will be necessary to relieve school children from school

attendance, especially for the planting of potatoes, the hoeing of beets and potatoes; the older school children, however, during the entire spring cultivation.

d. Based on a letter of the Reich Food Minister to the Deputy of the Fuehrer, contact has been made with the Deputy of the Fuehrer concerning *large-scale use of the Party for spring cultivation*.

e. To give a stimulus (to the local labor forces, agricultural workers and their families as well as wives of workers from neighboring towns, etc.) for the cultivation and harvesting of Hackfruechten, it will be necessary, according to the peacetime custom, to give, in addition to payment for cultivation and harvesting, a certain *bonus in produce*. It is thought here of permission to take without stamps two and one-half pounds of sugar per Morgen [0.84 acre] of beets hoed and beets dug; altogether five pounds per Morgen.

* * * * *

**PARTIAL TRANSLATION OF DOCUMENT NI-14138
PROSECUTION EXHIBIT 1899**

**EXTRACTS FROM THE MINUTES OF THE MANAGEMENT MEETING OF
FARBEN'S WOLFEN PLANT, 14 MAY 1940, CONCERNING THE AP-
PROVAL OF APPLICATIONS FOR EMPLOYMENT OF POLISH WORKERS**

No. 373 *Minutes of the Meeting of the Management, held on 14
May 1940*

Present: Dr. Kleine
Dr. Miller
Director Riess
Dr. Esselmann
Dr. Mediger
Prof. Eggert
Dr. Schulze
Joerss

Absent: Dr. Gajewski
Grahl

* * * * *

17. The applications for employment of Polish male and female workers have been approved. The billeting question for women has not yet been finally decided. In addition to our plant, Polish male and female workers should also be employed in the Lichtenberg plant.

Wolfen, 15 May 1940

Signed: DR. SCHULZE

Dr. Sch/M

**PARTIAL TRANSLATION OF DOCUMENT NI-14135
PROSECUTION EXHIBIT 1900**

**EXTRACTS FROM THE MINUTES OF THE MANAGEMENT MEETING OF
FARBEN'S WOLFEN PLANT, 18 JUNE 1940, CONCERNING THE AR-
RIVAL, EMPLOYMENT, AND PAYMENT OF POLISH FEMALE WORKERS**

No. 378 *Minutes of the Meeting of the Management, held on 18
June 1940*

Present: Dr. Gajewski
Dr. Kleine
Dr. Miller
Direktor Riess
Dr. Mediger
Dr. Hofmann
Dr. Birringer
Professor Eggert
Dr. Mertelsmann
Joerss

[stamp]
Secretariat Dr. Gajewski
Rec'd: 24 June 1940

Absent: Dr. Esselmann
Dr. Schulze

* * * * *

19. Forty-three Polish female workers in the second transport which arrived here yesterday will be employed for the fabrication of films and 30 will be employed for the fabrication of artificial silk.

20. According to official instructions, Polish female workers in the film factory have to receive a payment of 15 percent less than Germans in the same position, thus tariff payment plus premium less 15 percent.

* * * * *

Wolfen, 20 June 1940
Dr. Mtm./M

Signed: DR. MERTELSMANN

**TRANSLATION OF DOCUMENT NI-11781
PROSECUTION EXHIBIT 1408**

**LETTER FROM REICH MINISTRY OF ECONOMICS TO FARBEN, 8 NO-
VEMBER 1940, CONCERNING DECISIONS FOR EXPANSION OF BUNA
PRODUCTION, AND REQUESTING STEPS NECESSARY TO BEGIN BUILD-
ING OF A NEW PLANT IN SILESIA BY JANUARY 1941**

Copy

[Handwritten]

For Dr. Ambros

The Reich Minister of Economics
II Chemical Dept. 25705/40 g

Berlin W. 8., 8 November 1940
Behrenstrasse 43

Express letter

Subject: Expansion of buna production from 100,000 to 150,000 tons

Secret

To the I. G. Farbenindustrie A. G.

Attention of Dr. ter Meer, or his deputy

Frankfurt (Main) 20, Grueneburgplatz

In the conference which took place in my Ministry on 2 November 1940, the expansion of the buna plants was fixed at 150,000 tons. This expansion was to take place in two works, namely:

1. In the Ludwigshafen works, with an output capacity of 25,000 tons per year.

2. In an eastern works to be newly erected in Silesia, likewise with an output capacity of 25,000 tons per year.

You declared yourself ready, in principle, to carry out the construction of these plants and I request that the building of the third plant be started immediately, which will be under the further control of the Plenipotentiary General for Special Questions of Chemical Production [G. B. Chem.], Prof. Dr. Krauch, as well as of the Reich Office for Economic Development. With regard to the plant in Silesia, I request that you immediately undertake the initial negotiations for financing and settle the question regarding the site, so that in accordance with the suggestion of the Plenipotentiary General for Special Questions of Chemical Production, the final date on which construction will be started can be set for January at the latest.

With reference to the priority rating of these building projects their general grouping under special priority is not possible at the moment; I am, however, prepared to support this expansion in every way and in specially situated cases to give priority ratings. I should like these questions to be discussed in collaboration with the Plenipotentiary General for Special Questions of Chemical Production, Professor Dr. Krauch; and, in particular, I should like you to let me know which cases, in your opinion, unquestionably require a priority rating to begin with, for the expansion of buna plant III in Ludwigshafen. Similarly, the High Command of the Wehrmacht has promised suitable assistance with regard to partial inclusion in the priority ratings.

BY ORDER

Signed: VON HANNEKEN

[Stamp] Reich Ministry of Economics

Certified:

Signed: KOCH

Clerk

PARTIAL TRANSLATION OF DOCUMENT AMBROS 306
AMBROS DEFENSE EXHIBIT 73

EXTRACTS FROM THE MINUTES OF THE 77TH MEETING OF FARBEN'S
CHEMICALS COMMITTEE ON 11 NOVEMBER 1940*

Opening: 15 hours Close: 20 hours

Present: Weber-Andreae

Dr. Ambros

Dr. Buhl

Dr. Buergin

Haefliger

Dr. Kuehne

Dr. ter Meer

Borgwardt

v. Heider

Horstmann

Ohliger

} part of the time

} secretary

Excused: Dr. Wurster

* * * * *

Dr. Ambros gives particulars regarding the prospective completion of the individual production stages in the *buna works Schkopau and Huels* and reports on the *erection* of a third *buna works* in *Ludwigshafen* and a further works *in the East*, as ordered by the Reich.

* * * * *

Signed: WEBER-ANDRAE
[Signed] OHLIGER
Secretary

DOCUMENT AMBROS 308
AMBROS DEFENSE EXHIBIT 75

LETTER FROM THE MAYOR OF AUSCHWITZ TO FARBEN, 9 JANUARY 1941, CONCERNING A POSSIBLE INDUSTRIAL SITE TO THE EAST OF AUSCHWITZ

The Buergermeister [Mayor]
(Amtskommissar)
[Municipal Commissioner]

Auschwitz, 9 January 1941
Bielitz District

[Stamp]
Technical Dept.

To. I. G. Farbenindustrie A. G.

Ludwigshafen on the Rhine

Subject: Industrial Project Letter of 23 December 1940—Dr. A/St

*All the extracts contained in the defense exhibit are reproduced herein.

In reply to the above-mentioned communication I beg to state the following:

1. There is a good and suitable site of the required size for building purposes in the immediate neighborhood, to the east of Auschwitz. The site is in the direction of Dwory. It is flat and above flood-level, and also offers favorable rail connections such as are seldom found. A very favorable connection with the Weichsel [Vistula River] is also possible.

2. The following communities belong to the Amtskommissar district of Auschwitz:

Auschwitz	with	11,209	inhabitants
Birkenau	with	4,450	inhabitants
Babitz	with	2,260	inhabitants
Broschkowitz	with	400	inhabitants
Klutschnikowitz	with	813	inhabitants
Dwory	with	2,219	inhabitants
Wlosienitz	with	813	inhabitants
Poremba-Wielka	with	965	inhabitants
Stare-Stawy	with	735	inhabitants
Zaborze—Oste [East]	with	465	inhabitants
Monowitz	with	1,178	inhabitants

25,507 inhabitants

Apart from about 7,000 Jews concentrated in the town of Auschwitz, the rest of the population of the town is still predominantly Polish.

3. With regard to the respective water levels of the Weichsel, Sola, and Przemsza rivers I have no reliable information. I assume, however, that the Teschen Hydraulics Office will give you all necessary information on the subject.

4. Auschwitz has had a large elementary school [Volksschule] up to now. The question of whether to reopen one of a higher denomination (in Polish times there was a High School [Gymnasium] here) will be taken up as soon as the preliminary condition is fulfilled, that is, as soon as sufficient numbers of Reich Germans arrive.

Any further questions could be discussed on the occasion of a visit of inspection, which I would ask you to arrange soon. In this connection I would, however, make the express request that you get in touch first of all with the Silesian Regional Planning Community, Katowice District Office in Katowice, to avoid overlapping with other plans. The above-mentioned planning office has been working for a long time on the question of the opening up of the local industrial area, so that their cooperation will also be of the greatest importance in connection with local planning.

Heil Hitler!
[Signed] GUTSCHE

TRANSLATION OF DOCUMENT NI-11783
PROSECUTION EXHIBIT 1410

LETTER FROM THE MINERALOEL-BAUGESELLSCHAFT M. B. H. TO DEFENDANT AMBROS, 11 JANUARY 1941, TRANSMITTING COPY OF REPORT ON A CONFERENCE OF 10 DECEMBER 1940 ON "AUSCHWITZ-MONOWITZ" AS A POSSIBLE SITE FOR HYDROGENATION PLANTS, THE REPORT DISCUSSING ECONOMIC, GEOGRAPHICAL, AND POPULATION FACTORS, AND NOTING THAT AUSCHWITZ WAS "STILL BEING USED AS A RESERVOIR OF JEWISH MANPOWER," THE PROBABILITY THAT "THE GREATER PART OF THE INHABITANTS WILL BE EVACUATED WHEN CONSTRUCTION BEGINS," AND RELATED MATTERS

[Handwritten] Buna IV

Mineral Oil Construction Company Limited
Berlin SW 61, Belle-Alliance Strasse 7-10

To Direktor Ambros
I. G. Farbenindustrie A. G.
Ludwigshafen/Rhein

Our reference Berlin SW 61
Si/Th/Kb 11 January 1941

Dear Sir,

With reference to yesterday's discussion, I am enclosing excerpts from the report of the conference of 10 December 1940 concerning the site for 2 new hydrogenation plants.

With best regards and Heil Hitler

Yours

[Signature] Illegible

Enclosure

11 January 1941

Kb.

Secret!

*Excerpts from the report of the conference of 10 December 1940
(Katowice) concerning the site for 2 new hydrogenation plants*

3. *Auschwitz-Monowitz*

When inspecting the third building site (east of Auschwitz) it was noticed that there is an excellent site of about 5 square kilometers which offers still better possibilities for expansion. In addition,

the water situation is very favourable because the draining works can be placed below the confluence of the Weichsel [Vistula], Przemsza, and Sola Rivers and sufficient water will be available, even with minimum outflow. Exact outflow data will be obtained from the Katowice *Water Office*.

Coal can be procured from 3 sides; to wit, the Cracow district, the central district, and the coal deposits southwest of the building site, where the new Brzeszcze and Jawiszowitz shafts of the Hermann Goering Werke are located, and from the Silesia Shaft, near Dzieditz, which is supposed to be the property of Elektroindustrie/Berlin. The distance from the central and Cracow districts is about 25 kilometers by rail, and from the southwestern district about 9-10 kilometers by rail. It would be preferable to get supplies from the southwestern district because a private works railroad could be built for that purpose. According to Herr Weber's statements, the quantities mined by the two mines of the Hermann Goering Werke at present amount to 4,900 tons per day and those mined by "Silesia" to 1,500 tons per day. The production at the mines belonging to the Hermann Goering Werke can easily be increased to 7,000 tons per day, so that a total of 8,500 tons per day can be procured from this district. In theory, these 3 mines can meet the total requirements of the hydrogenation plant. We were unable to ascertain whether there is available a coal suitable for hydrogenation with a low ash content of about 3-5 percent, low oxygen content, et cetera. Should the 840,000 tons of hydrogenation coal not be available, these amounts would have to be sent from the central or Cracow districts. Herr Hentrich suggests that the mines in the vicinity of the site be inspected in order to ascertain if the types of coal are suitable and so that experiments to this end be conducted in Ludwigshafen.

At present, the locality of Auschwitz is still outside the police jurisdiction of the German Reich area. It appears that it is at present still being used as a reservoir of Jewish manpower [Juden reservoir]. Since it may be expected that the greater part of the inhabitants will be evacuated when construction begins, in view of the population policy, there would be suitable quarters available to accommodate building workers and later on factory staff.

In addition, the site is very favorably located from the point of view of possible air pollution, so that, taking everything into account, it can be said that this building site would in every respect satisfy the requirements.

PARTIAL TRANSLATION OF DOCUMENT NI-11784
PROSECUTION EXHIBIT 1411

REPORT OF A CONFERENCE BETWEEN REPRESENTATIVES OF FARBEN,
INCLUDING DEFENDANT AMBROS, AND THE SCHLESIEN-BENZIN
COMPANY, 18 JANUARY 1941, CONCERNING AUSCHWITZ AS A
POSSIBLE SITE FOR A JOINT BUNA-HYDROGENATION PROJECT,
NOTING THAT "A CONCENTRATION CAMP WILL BE BUILT IN
THE IMMEDIATE VICINITY OF AUSCHWITZ FOR THE JEWS AND
THE POLES," AND OTHER MATTERS

[Handwritten] Dir. Dr. Ambros
[Handwritten] File History of Buna IV

Schlesien-Benzin
WK/S

18 January 1941

Discussion of 16 January 1941 in Ludwigshafen Plant 1 on the possibilities of collaboration by buna [producers] and Schlesien-Benzin in Auschwitz

Representatives of I. G. Farben: Direktor Dr. Ambros
 Dr. Mach
 Senior Engineer Santo
 Dr. Eisfeld
Representatives of Schlesien-Benzin: Direktor Josenhans
 Dr. Kroenig

Dr. Ambros gave the following report on the situation:

It is finally decided that the third buna works, with a capacity of 20-30,000 tons per annum, shall be erected in Ludwigshafen. On the other hand, the fourth buna works is to go to Silesia, although there, at [an expenditure of] about 150 millions, it will cost three times as much as if it were constructed as an extension of Huels. Breslau, which was earlier discussed as a location for Buna IV, was not taken further into consideration, because the distances from coal are too great. There are also numerous objections to Heydebreck. The consideration that Buna IV should, as far as possible, be in the vicinity of coal is strengthened by the prospective acquisition by IG of the Pless [Pszczyna] coal mines. The contract concerning this coal acquisition already has been interchanged and will probably be signed in the course of a few days. Taking this situation into consideration, a study of the map indicates Auschwitz and, in particular, the spot between Auschwitz and Monowitz south of the railway line, as the most suitable location. In addition, there seems to be sufficient water available. It is likewise to be assumed that there is lime in the neighborhood. In a discussion between Dr. Ambros and Director Simmat,

which took place at the instance of Professor Krauch, it transpired that the Upper Silesian Hydrogenation Works [Oberschlesien Hydrierwerke] had contemplated the same spot for their Plant 2 and that Herr Josenhans had already thoroughly inspected this place. Dr. Ambros asked Herr Josenhans for his impressions on this building site.

Herr Josenhans stated as follows:

Auschwitz lies 35 kms southeast of Katowice on the Vistula. The Vistula here is only half as big as the Oder at Heydebreck. It is not by far as large as the Saale at Leuna. Its water volume is said to amount to 6 cubic meters per second at low water. The building site itself lies high, so that there is no danger of flooding. Moreover, the building site is relatively flat, so that the levelling work will probably not have to be very extensive. Furthermore, the place is not wooded, so that there will be no felling and grubbing work. The railway line is very favorably situated for the building site. The place so far contemplated is 4.5 kms. in length, which, reckoning a space requirement for hydrogenation of 2.5 square kilometers and for buna (according to Herr Santo) of 1.5 square kilometers, can be regarded as fully sufficient; it might be possible, after the demolition of Monowitz, to make an extension towards the east. The road from Auschwitz to Monowitz will probably have to be laid directly alongside the railway, so that in the north the works would extend up to the railway and the town of Dwory, respectively. On the whole, the building site makes an excellent impression. Other building sites in the neighborhood of Auschwitz and its further vicinity are unsuitable, as a recent surveying expedition, which was composed of 30 members, has established.

Geographically, the territory presents the following aspects: Heydebreck is the most beautiful region of Upper Silesia. From Gleiwitz [Gliwice] onwards, the territory becomes ever more unattractive. At Myslowitz [Myslowice] the industrial territory ends. Auschwitz is pure agricultural land. It formerly belonged to Galicia. The inhabitants of Auschwitz, especially the children, make a very miserable impression. Apart from the large market place, the town itself makes a very wretched impression. The water for the town is brought up on the market place with the aid of a hand-driven waterwheel. An old castle situated in the vicinity of the town has a relatively charming appearance. The inhabitants of Auschwitz consist of 2,000 Germans, 4,000 Jews, and 7,000 Poles. The Germans are peasants. The Jews and Poles, if industry is established here, will be turned out, so that the town will then be available for the staff of the factory. For this reason, it will not, at least at first, be necessary to build many dwellings, because an adaptation of the existing houses, at least to a certain extent, will probably be possible. A concentration camp will be built in the immediate neighborhood of Auschwitz for the Jews and the Poles.

At a distance of about 30 kms., the Beskiden [Beskids] (mountains) can be recognized. At 60 kms. distance lies Cracow. While the territory around Auschwitz cannot, from a scenery point of view, be described as bad, it is, of course, from a cultural and civilization point of view, entirely unopened. Every German who goes there is therefore a colonist.

Concerning the intentions of Schlesien-Benzin, Herr Josenhans stated that the production would be developed in somewhat the same manner as at Blechhammer with a production according to the guiding figures as follows: 200,000 tons gasoline and 200,000 tons hydrogenation fuel oil; that is about $\frac{2}{3}$ of Blechhammer. The hydrogen production would also, as in Blechhammer, be obtained from low-temperature carbonization coke.

Schlesien-Benzin will endeavor to clarify the position with regard to hydrogenation and low-temperature carbonization coal from East Upper Silesia during a surveying trip which is to take place during the week of 20 to 25 January 1941. If, as a result of this, it is shown that Auschwitz is also suitable from this standpoint, Schlesien-Benzin will approach the Reich Office concerning the construction of this building site. In this connection, Dr. Ambros remarked that the coal extended nearly as far as Auschwitz.

In continuation of conversations on the 10th and 11th between Dr. Ambros and Dr. Kroenig on the one hand, and on the 11th between Dr. Buetefisch and Herr Josenhans on the other hand, the question of collaboration between buna and Schlesien-Benzin in Auschwitz was discussed.

* * * * *

Herr Josenhans believes that if the results of the investigations are favorable and buna and Schlesien-Benzin decide to work together, the approval of Professor Krauch for Schlesien-Benzin works 2 at Auschwitz can be considered as certain, as the fuel oil quantities envisaged in Blechhammer are by no means sufficient to satisfy the requirements of the High Command of the Navy [OKM] and a further hydrogenation fuel-oil works will therefore be necessary.

PARTIAL TRANSLATION OF DOCUMENT NI-15258
PROSECUTION EXHIBIT 2261

LETTER FROM FAUST TO SANTO, FARBEN CHIEF ENGINEER AT LUDWIGSHAFEN, 25 JANUARY 1941, ENTITLED "AUSCHWITZ PLANT" AND REPORTING UPON FAUST'S VISIT TO SILESIA INVESTIGATING THE POSSIBLE SITE FOR THE FOURTH BUNA PLANT, COMMUNICATIONS IN THE AUSCHWITZ AREA, THE EXISTING PLAN TO EVACUATE POLES AND JEWS, THE POSSIBILITY OF RETAINING POLES AND JEWS AS LABORERS, THE AUSCHWITZ CONCENTRATION CAMPS WITH 20,000 JEWS, AND OTHER MATTERS

LURANIL-BAUGESELLSCHAFT

mit beschränkter Haftung

[Luranil Construction Company]

Ludwigshafen a. Rh., Friesenheimerstr. 38 Cables Telephone
Luranil 6496

Herrn Obergeringieur Santo
Ludwigshafen/Rhein

Our reference
F/Lg

Ludwigshafen on the Rhine, 25 January 1941

Re: Auschwitz Plant

Dear Herr Santo,

Unfortunately I did not receive your letter of the 21st instant with its enclosures, nor your telegram about the competency of the Hydraulics Office Katowice. Nevertheless, I believe I told you the most important things over the telephone today, and I will sum them up again as follows:

On Wednesday I had a conference with Dr. Greif on the Regional Planning Office in Breslau. There I was able to see the ordnance survey maps in question and the enlarged ordnance survey maps. In December there was a big day-excursion to the Auschwitz site, apparently with the people of the Mineraloel-Baugesellschaft m. b. H. They went by bus and Josenhans took part in the trip as well. Dr. Greif emphasized that, naturally, the Mineraloel-Baugesellschaft m. b. H. would have priority in requisitioning the site in question near Monowice [Monowitz], but that the site was so big that we could also make our plans for it. A railroad connection could probably be made between Auschwitz and Dwory, for which the Reich Railway (in this case) would no doubt grant a special permit.

On the other hand, however, they were also thinking of constructing a railroad which would bypass the site and branch off south of Auschwitz on the line Dzieditz—Auschwitz, to follow along the south side of the plant-site and then, east of Monowitz, again run into the line Auschwitz-Cracow.

Apart from this, I only received information of a general nature from Dr. Greif. For example, that the whole area was very densely populated; that most villages had 2,000 and more inhabitants; that in Auschwitz, out of approximately 18,000 living there, 70 percent were Jews; that south of Auschwitz there was a concentration camp with 20,000 Jews, et cetera.

For my guidance on the spot itself, I made myself another blueprint of the Auschwitz district which corresponded approximately to the section of the ordnance survey map which you sent me.

On the same day, I drove by car to Oppeln [Opole] where I spent the night, and on the following day I went via Gross-Strehlitz [Strzelce Opolskie], Peiskretscham, Gleiwitz [Gliwice], Rybnik, Loslau, and Freistadt to Teschen.

At the Waterways Office in Teschen, I was received by Baurat Broess, who informed me that, for reasons of competency, he had passed on the whole affair to the Waterways Office in Katowice which was under the charge of Provinzialbaurat [regional construction councillor] Weber.

I then went on through Skotschau, Schwarzwasser, Pless [Pszczyna], Tichau, and Berun to Auschwitz. If ever you take this trip yourself, I advise you to go from Skotschau to Auschwitz via Bielitz and Kety. You will have a chance then (if, from Kety, you go a little out of your way towards the south), to look at the Sola Dam near Porabka, where the landscape is extremely beautiful, they say. (Built by the Poles.)

The site for the plants—east of Auschwitz on both sides of the Auschwitz-Monowitz road—seems to me to be extraordinarily favorable. It is completely flat and will hardly need any levelling at all. It lies approximately 248 meters above sea level, whilst the Weichsel [Vistula River] is about 225 meters above sea level, so that it is never in danger of floods. In Dr. Greif's opinion, roads can be built from Auschwitz to Dwory and Monowitz. Apart from this, the population of the Auschwitz area, which is entirely Polish, will be moved out by 1 April 1942, as well as all Jews. The possibilities as regards rail-

road connections I have already spoken about before. I will say more about water conditions further on.

Auschwitz is a small county town [Kreisstaedtchen] something like Ohlau [Olawa] or Wohlau, but makes an impression of unbelievable dirt, which is, of course, accentuated by the masses of snow and the thaw. Like all other villages in this area, the villages of Dwory and Monowitz look as if time had stopped there for the past 200 years. They mostly have wooden huts with bucket wells in front as they probably did under Peter the Great. The phenomenon which is typical for the Polish people strikes one again here; namely, the woman seems to be the element which preserves the race—that is to say, the women are healthy and look fresh, at least when they are still young, whilst the men look unhealthy and consumptive, and very often have faces like typical criminals.

I spent the night in Katowice (Hotel Monopol).

[Here follows a further description of the area, particularly dealing with water supply and waterways]

* * * * *

As regards labor, he [the technical expert, Diplomingenieur Jambor] thinks that in spite of the imminent emigration, Poles and Jews will come into consideration.

The Waterways Administration intends to open up stone quarries on the Przemsza with quarrying and sifting installations in order to procure gravel and other material. They say that there is sand available in the area.

I did not look at sites [Standorte] I and II as I did not know them. The other particulars you wished for, too, about the agencies competent for the Reich Railway, Reich Food Agricultural Estate, electrical power supplies, the government and Landrat's office, I could not procure on account of the little time I had.

The above particulars should give you ample information in reply to the questions you put to the Hydraulics Office in Teschen. The only things I have not sent you are the water levels you asked for under 2.

With kind regards and

Heil Hitler

Yours

[Signed] FAUST

PARTIAL TRANSLATION OF DOCUMENT NI-6285
PROSECUTION EXHIBIT 1335

EXTRACTS FROM THE MINUTES OF THE MANAGEMENT MEETING OF
FARBEN'S LUDWIGSHAFEN PLANT, 31 JANUARY 1941, CONCERN-
ING MANPOWER DEVELOPMENTS

1941/1

Management Meeting in Ludwigshafen/Rhine on 31 January 1941

Present: Baumann, Brendel, Buelow, Eymann, Mair, Holdermann,
Holzach, Krieger, Mueller-Cunradi, Pfannmueller, Pflauer,
Pier, Reppe, Stroebele, Weiss, K., Wurster

Excused: Ambros, Goldberg, Kessler, v. Knieriem, Lappe, Weiss, A.

Wurster reports on the IG meetings which have taken place since the last directorate meeting.

A detailed representation was given, illustrated with charts, concerning the present constitution of the staffs and the changes to be expected. The effects of the impending call-ups were discussed and the necessary measures decided upon, including, among others, larger assignments of prisoners of war, also in so-called unexceptionable factory plants, and additional assignment of about 1800 foreign workers, together with a corresponding extension of the cantonments. The proportion of those called up, to the whole staff, is 14.5 percent in Ludwigshafen-Oppau, the highest among the large IG works.

Sickness status among male members of the staff is below that for the corresponding months of the years 1939 and 1940; among the female members of the staff it is unusually high, and sharper control is decided upon here.

Approval for the introduction of the 12-hour alternate shift is accorded provisionally up to 30 April 1941, and can therefore, in case of need, be introduced at once.

Wurster gives a survey of the development of the wage scale conditions among the various groups of employees; corresponding directives are decided upon for proposed regulations in 1941.

* * * * *

The efforts of Wiens to supply the clothing needs of the foreign members of the staff with garments of all kinds have had very satisfactory results; some 3000 clothing coupons were given out and honored.

* * * * *

Signed: WURSTER

PARTIAL TRANSLATION OF DOCUMENT NI-11785
PROSECUTION EXHIBIT 1412

DRAFT OF A MEMORANDUM BY CHIEF ENGINEER SANTO ON FAR-
BEN'S CONTINUING INVESTIGATION OF PROSPECTIVE SITES FOR
THE BUNA PLANT IN SILESIA, 10 FEBRUARY 1941, DISCUSSING THE
RELATIVE ADVANTAGES OF RATTWITZ AND AUSCHWITZ, AND
NOTING WITH RESPECT TO AUSCHWITZ THE PLANNED EXPANSION
OF THE CONCENTRATION CAMP, THE POSSIBILITY OF EMPLOYING
CONCENTRATION CAMP INMATES AFTER NEGOTIATIONS WITH
HIMMLER, THE NECESSITY OF USING POLES AND JEWS FOR UN-
SKILLED LABOR, AND OTHER MATTERS

Ludwigshafen, 10 February 1941 S
S/Sch

Draft

*Memorandum for the files concerning investigation trip to the Ratt-
witz site*

Subject: Buna IV

Conference in Breslau on 30 January 1941

Present: Dr. Kroll, Regierungspraesident

Dr. Mueller, Regional Planning Office Silesia

Diplomingenieur Zech, Regional Planning Office Silesia

Oberingenieur Santo, I.G. Ludwigshafen

Oberingenieur Faust, Dyhernfurth

The Regierungspraesident was very anxious to have this discussion in order to become acquainted with the situation as regards the building project of the buna plant IV. I informed him that IG was still carrying out investigations in regard to the selection of the site, since the necessity for lowest costs made this essential. There would be considerable disadvantages with regard to the supply of raw materials if Rattwitz were chosen as the site in preference to a place like Auschwitz, where coal and lime are much nearer. In answer to this, the Regierungspraesident stated that in all probability the same tax reductions as were granted to the Eastern Territories would also be granted to the Gau Lower Silesia. He imagined that this fact might also considerably improve the chances for Rattwitz. Because of concentration of industry and labor, the Upper-Silesian district would not be as suitable for setting up a new industry as, for instance, Rattwitz. Furthermore, he imagined that the freight for coal and lime might be considerably reduced through the intervention of the Gau-leiter and the government with the Reich Railroad [Reichsbahn] authorities, which would mean that there would no longer be any misgivings concerning the freight for the raw materials. The Regierungspraesident asked expressly that the competent gentlemen of IG should carefully consider these possibilities and advantages when making

the final decision. I assured him that I would pass on this information to our competent gentlemen.

Katowice, Regional Planning Office, 31 January

Present: Diplomingenieur Froese

Diplom-Volkswirt Skrziprzyk, Regional Planning Office

Oberingenieur Santo, I. G. Ludwigshafen

I informed the gentlemen of the plan to set up a fourth buna plant in the Auschwitz district. Froese pointed out that the area in question at Auschwitz was to be reserved for hydrogenation. With the aid of maps, the site was discussed from the point of view of traffic conditions, population, et cetera. Auschwitz is the junction of several two-track railroad sections to the north, northwest, east, and southeast. It is also in the center of a well-constructed road network leading in all directions. About 12 kilometers north of Auschwitz is situated the connecting canal which links the Oder-Danube Canal with the Vistula as well as the Reichsautobahn Gliwice-Cracow. The situation from the traffic point of view is, therefore, favorable. Coal is to be found in the district of the Pless mines in the northwest as well as in the Dombrowa district to the northeast and also in the Bielitz district to the southwest at a distance of about 20 kilometers only. Railroad connection with the railroad station at Auschwitz is to be provided for. A proposal to extend the track in the north of the area was rejected by the Reich Railroad. The Reich Railroad suggested that the connecting railroad should lead from the railroad station at Auschwitz in a large curve southwest of the area. The Reich Railroad section Auschwitz-Cracow (tow), which has left-hand traffic lanes, is not free from danger of flooding between Auschwitz and Dwory. The Reich Railroad might consider transferring this stretch, which is open to the danger of flooding, south of the village Dwory. This ground is fairly flat and free from the danger of flooding. Size is provisionally fixed at 3 square kilometers, leaving out the Auschwitz-Monowitz road. If the village Monowitz is cleared, which is quite possible, the area can be extended still farther to the east. The building ground can be regarded as good. Subsoil conditions unknown. The condition of the terrain was described as extremely good. According to German price conditions, value of the ground is approximately RM 1200 per acre. The terrain is under the administration of the Reich Commissioner for the Strengthening of Germanism, Reichsfuehrer SS [Himmler]; he also determines the price. The Reich road Auschwitz-Monowitz-Zator is to be transferred south. Extraction of gravel probably possible in the valley of the Sola, also supply of bricks through brickworks in the Upper-Silesian area. No statement can be made in regard to power supply. Large-scale plans for the expansion of the power network have been, or rather, are to be made. Among other things, a long-distance cir-

cular system for gas supply was planned, which was to connect the Upper-Silesian district, via the Neu-Berun and Auschwitz district, with the Karwin Basin. There are frequent lime deposits in the district. Nothing can be said in regard to prices and procurement. Special facilities in regard to salt and lime import from the Gouvernement [Government General] are considered possible. The town of Auschwitz is at present inhabited by 7000 Jews and 4000 Poles. The inhabitants of the villages in the neighborhood are all Poles. Jews as well as Poles are to be removed, probably at the beginning of Spring 1941. Resettlement is to be effected by placement of German soldier farmers as well as by calling back Upper-Silesian industrial workers. In conformity with negotiations with the Reich Commissioner, part of the Polish population is to be kept for the building period. The Regional Planning Office considered partial accommodation of the building staff at Auschwitz possible, as 40 to 50 percent of the Auschwitz dwellings are usable. (This possibility was later on disputed by the Mayor of Auschwitz.) The extension of the town Auschwitz was planned towards the south and the east. A green belt of 500 meters will be kept open between the plant and the new dwelling area. West and southwest of Auschwitz a terrain of approximately 10 kilometers is to be used for a concentration camp settlement. The concentration camp already existing with approximately 7,000 inmates is to be expanded. Employment of prisoners for the building project possible after negotiations with the Reichsfuehrer SS. Plans, maps (large-scale ordnance maps), et cetera, are not available. All data must be procured on the basis of new measurements and photos. In order to keep the ground clear for a hydrogenation plant requiring at least 3 square kilometers, the Regional Planning Office suggested two more plots of ground of approximately 1-1.4 square kilometers:

- terrain *a.* West of the Imilien-Gross-Chelm highway, south of Gross-Chelm between aforesaid road and the rail
- terrain *b.* road line Katowice-Auschwitz.

The Regional Planning Office urged that these terrains be also considered as locations.

Gleiwitz, Waterways Office, 31 January

Present: Baurat Hilfer, Chief, Waterways Office

Diplomingenieur Jambor, Technical Expert of the Waterways Office

Oberingenieur Santo, I. G. Ludwigshafen

The following volume of water at lowest water level was given for the various rivers:

[Here follows a description of rivers in the area, waterways, and related matters]

* * * * *

There are no industrial building contractors in Auschwitz or the neighborhood. The big firms in Beuthen [Bytom] and Katowice will have to be used, although they are already overburdened with work. Poles and Jews will have to be used as unskilled building laborers. Performance of these is extraordinarily bad. The building prices are at least 30 percent dearer than the normal prices in Germany itself. The production of gravel out of the Vistula and the Sola will be possible. An addition of finer material will be necessary, as the gravel available consists mostly of coarse material. There are small brickworks available, of very small capacity. Bricks will have to be brought from Upper Silesia. Most of the brickworks have been requisitioned by the Reichsfuehrer SS. Object is Dwory NNW plus 223,82, HHW plus 229,58. These figures refer to zero level Adriatic Sea with a difference of plus or minus 7 centimeters above zero point.

Signed: SANTO
5/192

Distribution List:

Dir. Dr. Ambros [Checked off on original]
Dr. Eisfeld
Dr. Mach
Oberingenieur Faust—Dyhernfurth

**TRANSLATION OF DOCUMENT NI-11112
PROSECUTION EXHIBIT 1413**

**FILE NOTE OF DEFENDANT TER MEER ON A CONFERENCE IN THE REICH
MINISTRY OF ECONOMICS ON 6 FEBRUARY 1941, CONCERNING
THE APPROVAL OF LUDWIGSHAFEN FOR THE THIRD BUNA PLANT,
THE INSTRUCTION THAT FARBEN CHOOSE AN APPROPRIATE SITE
FOR THE FOURTH BUNA PLANT IN SILESIA, DEFENDANT AMBROS'
NARRATION OF THE QUALIFICATIONS OF AUSCHWITZ FOR THE
FOURTH BUNA PLANT, AND OTHER MATTERS**

[Stamp]

Secret

*File Note on a Conference in the Reich Ministry of Economics, Berlin
W. 8 Franzoesische Strasse 45, on 6 February 1941*

Present: Ministerialrat Dr. Roemer, Reich Ministry of Economics
Dr. Wirth, Reich Office for Economic De-
velopment
Dr. Stephan, Reich Office for Economic De-
velopment
Dr. Ambros
Dr. ter Meer

Re: Buna Planning

At the meeting held on 2 November 1940 in the Reich Ministry of Economics under the chairmanship of Under State Secretary v. Hanneken, it was definitely decided to expand the buna installations so as to achieve a total production of 150,000 tons per year. For this purpose, two new buna plants, each with an output capacity of 25,000 tons per year, were to be built. The site suggested by IG for the third buna plant, Ludwigshafen, was approved, and IG was also instructed to find an appropriate site for a fourth plant in Silesia.

During a previous conference in the Reich Ministry of Economics, held on 19 October 1940 under the chairmanship of State Secretary Landfried, IG pointed out that the job of expanding the Huels plant from 40,000 to 60,000 tons a year, (and the construction of a new plant in Silesia involved thereby) would represent a great burden, both with regard to the construction costs and the amount of the cost price to be expected. State Secretary Landfried expressed the opinion that IG should make appropriate suggestions to his Ministry with regard to these increased expenses, which he acknowledges. The purpose of the conference with Ministerialrat Dr. Roemer was a detailed statement on these proposals on the part of IG.

Dr. Ambros started by describing the favorable development of the Ludwigshafen project based on the Reppe method and emphasized that, given normal war conditions, the polymerization plants in Ludwigshafen would already be completed by the end of 1941, so that, in case of a production stoppage in Schkopau or Huels, the Ludwigshafen installations would already be in a position to produce buna from imported butadiene. The whole process of production will start in the middle of 1942. The progress of the construction so far, the placing of orders, the procurement of labor, confirmed the fact that our plans for Ludwigshafen completely corresponded to the goal desired, namely, to achieve an increase in buna production with the greatest possible speed. In connection with these statements, it was explained that IG did not want to accept any financial assistance from the Reich for the construction of the buna plant in Ludwigshafen, and that we merely counted on having the expenses of the starting period covered by a corresponding financial contribution from the Schkopau and Huels buna plants, which would be added to the price of buna at that time. After that, Dr. Ambros described in detail the requirements for the Auschwitz site of the fourth buna plant.

Taking into consideration the above-mentioned willingness of State Secretary Landfried to listen to suggestions by IG concerning the excessive costs of building the Silesian buna plant, we developed the following ideas: There can be no doubt that the construction of the buna plant at Auschwitz, where production would get under way in the second half of the year 1943 at the earliest, represents a special risk. The beginning of production in Auschwitz is, after all, 4 or 3 years.

behind the start of mass production in Schkopau or Huels, and thus it cannot be foreseen whether the buna plant at Auschwitz will be in full production long enough fully to write off the debt for the factory installations. In addition, there is the considerable increase in construction costs when compared to those of the intended maximum expansion of the Huels plant; as a rough estimate of the total cost, the figure of 135 million reichsmarks is mentioned, to which can be added at least 5 more million, since quarters for the plant employees in Auschwitz will have to be erected to a much greater extent than is customary in the other German industrial areas. The difference as compared to an expansion in Huels is given as around 60 million reichsmarks. IG has no intention of approaching the Reich with regard to raising the construction and production capital for Auschwitz; it is willing to finance the project itself if the competent Reich authorities will support the following plan: The difference of 60 million reichsmarks will be amortized within a period of several years—5 years was mentioned, for example—through an increase in the amortization rates by increasing the price of rubber, whatever that price may be at the time. In other words, the price of rubber prevailing in Germany is not to be reduced at the rate permitted by the increasingly cheaper production at Schkopau and Huels and later Ludwigshafen; rather, a credit balance is to be created for the Auschwitz plant for a number of years at the expense of that production, and this credit will cover the previous amortization of these 60 million reichsmarks. Apart from the agreement of the Reich Ministry of Economics, this plan would require the approval of the Reich Commissioner for Price Control and the consent of the Reich Ministry of Finance, because of the tax exemption of this special amortization.

Ministerialrat Roemer thereupon asked about the type of company to be founded, and it was explained to him that no final decisions had been made on that score. The formation of a new company for Auschwitz was under consideration, perhaps by including other IG interests located in the East; this company would be furnished with appropriate capital and a corresponding loan issued in bonds.

Dr. Roemer also asked about the buna price as it would develop in the course of the year. While we emphasized our basic intention of reducing the price of buna in line with technical developments as quickly as possible, we explained that we could not maintain our original idea of further reducing the present price of RM 2.30 for buna as early as 1 January 1941. We described the technical development of Huels, which, in general, is progressing nicely since there have been no serious "growing pains," but which so far has not permitted the achievement of the monthly level of production of 1,500 tons of buna, which had been planned. This production level is expected to be reached by April 1941 at the earliest. Huels would

therefore, for the time being, continue to require financial assistance from Schkopau. Afterwards, we intended to compensate for the 4 million reichmarks spent in vain in Breslau by means of the buna price, with the permission of the Reich Commissioner for Price Control. All in all, we did not expect to be able to talk of a reduction in the price of buna before the middle of the year. In this connection, we also expressed the intention of maintaining the price of buna at RM 2.30 past the middle of the year and to pay for some work at Auschwitz at its expense; we intended, for instance, to pay for the planning of the construction sites, the construction of barracks, other provisional buildings, and general installations or settlement buildings.

Ministerialrat Roemer expressed his agreement with our suggestions. He requested that we submit these to him in writing, and he is prepared to take up preliminary discussions with the government; that is, with Oberregierungsrat Dr. Rentrop from the Office of the Reich Commissioner for Price Control, and with the competent authority in the Reich Ministry of Finance.

Frankfurt on Main, 10 February 1941

Signed: DR. F. TER MEER

Copy to:

Dr. Ambros

Dr. Struss

Direktor Dencker

**TRANSLATION OF DOCUMENT NI-11113
PROSECUTION EXHIBIT 1414**

**FILE NOTE OF DEFENDANT TER MEER ON A CONFERENCE WITH
DEFENDANTS KRAUCH AND AMBROS ON 6 FEBRUARY 1941, SUM-
MARIZING AMBROS' REPORT TO KRAUCH ON THE QUALIFICATIONS
OF THE AUSCHWITZ SITE, THE DIFFICULTY IN PROCURING SUITABLE
LABOR AT AUSCHWITZ, THE NEED TO SETTLE GERMAN LABORERS
IN AUSCHWITZ, KRAUCH'S DECISION THAT AUSCHWITZ WOULD BE
THE SITE, AND RELATED MATTERS**

*File Note on a Conference with Professor Krauch held on 6 February
1941*

[Stamp]
Secret

Those present were: Krauch
Ambros
ter Meer

Subject : Buna IV

Dr. Ambros gave a detailed account of the results of his examination of the Auschwitz site for the fourth buna plant with a capacity of 25,000 tons per year. The conditions necessary for the building of the buna plant had meanwhile been assured :

A flat tract of land, above high-water level, sufficiently large, and having a good water supply; excellent communication facilities furnished by the Reich Railroad, Reich Autobahn, and the projected Oder-Vistula Canal.

Coal supply from the Fuerstengrube, situated at a distance of 19 kilometers, at a cost of RM. 7 per ton of 5,000 calories. Cost of transportation by cable car to the plant, RM. 0.80 per ton. As the coal is suitable for low-temperature carbonization, low-temperature coke for the carbide furnaces can likewise be obtained at a very favorable price. Lime can be drawn from the existing lime quarries situated at a distance of about 30 kilometers. The lime quarries, it is true, are situated within the Government General and provisions would have to be made for duty-free import to Upper Silesia. As the limestone ridge extends through eastern Upper Silesia as well, however, it may not be impossible to open up a new lime quarry even nearer the plant and within Upper Silesia.

Salt will come from Wieliczka.

The fact that the existing young [junge] coal is suitable for low-temperature carbonization opens the possibility of subjecting the pit coal to be used for firing, to preliminary low-temperature carbonization, by which process a basis is created for the provision of hydrogen, ethylene, and fuel gas. Auschwitz should therefore also be considered, in the course of further development, as a future center for the realization of new plans of Sparte I (for example, acetic acid on a carbon monoxide base). In view of this, a sufficiently large area should, from the outset, be chosen as the building site to be requisitioned at Auschwitz.

Taking all in all, Dr. Ambros arrived at the conclusion that the Auschwitz site was at least as favorable—if not more so—as the best site in Norway, viewed from the point of view of power supply; with regard to further plants to be erected on a coal base in connection with the buna plant, Auschwitz was in all circumstances to be given priority. The only difficulty arising at Auschwitz was the procurement of suitable labor; an extensive settlement program will be unavoidable, to induce German workers to settle in Auschwitz.

Professor Krauch then stated that the Reich Office for Economic Development would now drop the Norway project as a result of these examinations, and Auschwitz is decided upon as the site for the fourth buna plant. Plans had already been made to erect at Auschwitz a hydrogenation plant of extensive proportions; Professor Krauch em-

phasized the fact that this plan, which, at this time was not as urgent as the buna plant, would have to be postponed accordingly.

Ludwigshafen will immediately examine the territory in question with a view to giving its approval and begin the planning of the buna plant. It was planned to contact Reichsfuehrer SS Himmler in connection with the settlement of German laborers in Auschwitz, as soon as the first plans for the buna plant had been completed.

Frankfurt a. M., 10 February 1941

Signed: DR. F. TER MEER

Copies to:

Dr. Ambros

Dr. Struss

Direktor Dencker

**PARTIAL TRANSLATION OF DOCUMENT NI-11782
PROSECUTION EXHIBIT 1415**

**MEMORANDUM OF EISFELD, 13 FEBRUARY 1941, CONCERNING
INSPECTION TOUR TO AUSCHWITZ, REPORTING ON THE SITE, WATER
SUPPLY, RAIL CONNECTIONS, RAW MATERIAL SUPPLIES, MAN-
POWER, THE NECESSITY OF OPENING NEGOTIATIONS WITH
HIMMLER ON NECESSARY MEASURES BECAUSE OF PLANNED EVAC-
UATION OF POLES AND JEWS, AND OTHER MATTERS**

[Handwritten] For Dir. Dr. Ambros

I. G. Farbenindustrie A. G.

[Handwritten] B IV [Buna IV]

Ludwigshafen/Rhine, 13 February 1941

Dr. Ef/C [Dr. Eisfeld] *

[Stamp]

Secret

Buna-plant project—Auschwitz site

The following picture of the Auschwitz site emerged from the impressions gathered on the occasion of an inspection tour on 1 to 4 February 1941:

1. *The site*

An almost level plateau, 1½ kilometers wide and more than 2 kilometers long, about 20 meters above the normal water level of the Vistula, is situated 2 kilometers east of Auschwitz on both sides of the road leading to the village Monowice. It is entirely above high-water

*Dr. Kurt Eisfeld was a chemist in Farben's Ludwigshafen plant under Defendant Ambros. Eisfeld was put in charge as expert for chemical questions of the buna plant in Auschwitz. He participated in the construction conferences for the Auschwitz plant.

level and the ground-water conditions appear promising. In order to create the biggest possible continuous industrial site, the Regional Planning Office intends to shift the Auschwitz-Monowice road to the southern border of the projected works. To enable the town Auschwitz to expand, the Regional Planning Office has provided for a 2 km.-wide strip of land between the present town Auschwitz and the future industrial site. Westward expansion of the town on the other side of the Sola is impossible as the whole area between the Vistula and the Sola has been set aside for the projects of the Reichsfuehrer SS. A green belt is to separate the residential area from the industrial site.

2. *Water supply*

* * * * *

3. *Rail connections*

* * * * *

4. *Supply of raw materials*

a. *Coal and coke*

* * * * *

b. *Limestone*

* * * * *

c. *Salt*

* * * * *

d. *Benzene*

* * * * *

e. *Electric current*

* * * * *

5. *Allocation of labor*

According to the District Commissioner, Auschwitz and the localities belonging to the Auschwitz district have a population of 25,000—of whom 11,200 live in Auschwitz itself. The ethnic composition is very bad. All told, there are said to be only 2,000 “racial Germans” [Volksdeutsche] living there, very few of whom, however, are able to speak German. Seven thousand Jews are collected together at Auschwitz, and the remainder of the population is Polish. The working capacity of the Poles is considered very small by all the technical

authorities. The whole area belongs to evacuation area I [Räumungszone I], from which all Jews and Poles are to be evicted by 1 April 1942. Auschwitz and villages gives an impression of extreme filth and squalor.

The villages are mostly composed of typical Galician wooden shacks. Only a very small part of the buildings will be suitable for housing the new settlers which are to form the population there. By far the largest part will of necessity have to be demolished. This is already being carried out by the Reichsfuehrer SS in the town quarter situated on the western bank of the Sola. The eviction of the Poles and Jews is going to cause a great shortage of workers from the spring of 1942 on. It is therefore necessary to open negotiations with the Reichsfuehrer SS as soon as possible in order to discuss the necessary measures with him. For example, the Regierungspraesident at Katowice suggested that for the time being, the best workers be retained during the eviction of the Poles in order to make possible their utilization for construction work. It must further be determined whether it is possible to settle our countrymen (who are returning to the evacuated area) sufficiently early to enable us to employ them on construction work. The most difficult problem will be that of organizing a plant staff. A considerable proportion of the trained workers, and probably all of the foremen, will have to be brought to Auschwitz from Germany proper in order to ensure faultless running conditions. Construction of a large-scale settlement, including schools, cultural centers, et cetera, must therefore be started at least at the same time as the factory building in order to create living conditions for the staff which would provide even a modicum of comfort.

Some of the chief prerequisites for the execution of the building project are the solution of the labor and eviction problems and the provision of plans and survey maps, since no suitable plans or maps are available. In addition, camps and mess facilities must be provided for the construction staff and management. As a result of these difficulties, which are rather greater than those found on other building sites, it cannot be expected that the construction work will be commenced and carried out at any great speed. The construction of the Auschwitz plant will therefore demand an estimated construction period of at least 2 to 3 or 4 years.

TRANSLATION OF DOCUMENT NI-1240
PROSECUTION EXHIBIT 1417

LETTER FROM GOERING TO HIMMLER, 18 FEBRUARY 1941, CONCERNING "MEASURES OF POPULATION POLICY FOR THE AUSCHWITZ BUNA PLANT" AND REQUESTING THAT JEWS BE EXPELLED FROM THE AUSCHWITZ AREA TO PROVIDE BILLETS FOR CONSTRUCTION WORKERS, THAT POLES BE PERMITTED TO REMAIN TEMPORARILY AS CONSTRUCTION WORKERS, THAT THE LARGEST POSSIBLE NUMBER OF WORKERS BE MADE AVAILABLE FROM THE CONCENTRATION CAMP, AND IN CONNECTION WITH THESE MATTERS, THAT GOERING BE INFORMED OF ORDERS ISSUED JOINTLY BY HIMMLER AND DEFENDANT KRAUCH

The Reich Marshal of the Greater German Reich
The Plenipotentiary for the Four Year Plan 18 February 1941
2709/41/4, Top Secret

Berlin W 8, Leipziger Str. 3
Telephone 126341

[Stamp]
Top Secret

9 Copies

[seal]

The Reich Marshal of the Greater German Reich
The Plenipotentiary for the Four Year Plan

Subject: Measures of population policy for the Auschwitz buna plant
in East Upper Silesia

I request that the following steps be taken in order to assure the supply of laborers and the billeting of these laborers needed for the construction of the Auschwitz buna plant in East Upper Silesia, which will commence the beginning of April and which has to be carried out with the highest possible speed:

1. The Jews at Auschwitz and in the surrounding area are to be removed as quickly as possible, especially for the purpose of clearing

their apartments in order to accommodate the construction workers of the buna plant.

2. Temporary permission to be granted the Poles in Auschwitz and the surrounding area, who may be used as construction workers, to stay in their present lodgings until the termination of the construction works.

3. The largest possible number of skilled and unskilled construction workers to be made available from the adjoining concentration camp for the construction of the buna plant.

The total requirement for construction and assembly workers will be 8,000 to 12,000 men on the construction lot, according to the speed of work which can be reached.

I request that you inform me as soon as possible about the orders which you will issue in this matter together with the Plenipotentiary General for Special Questions of Chemical Production [Gebechem].*

Signed: GOERING

To Reichsfuehrer SS Heinrich Himmler

Copies to:

- a. State Secretary Dr. Syrup
- b. The Minister for Arms and Munitions, Dr. Todt
- c. The Plenipotentiary General for the Control of the Construction Economy, Dr. Todt
- d. The Plenipotentiary General for Special Questions of Chemical Production, Prof. Dr. Krauch

Above copy for your attention

Signed: GOERING

[seal]

The Reich Marshal of the Greater German Reich
The Plenipotentiary for the Four Year Plan

Certified

[Signed] SCHUETZE

Administrative Assistant

*A letter from the Krauch Office to Farben, 4 March 1941, concerning subsequent orders by Himmler and their execution, is reproduced later in this subsection as Document NI-11086, Pros. Ex. 1422.

TRANSLATION OF DOCUMENT NI-11086
PROSECUTION EXHIBIT 1422

LETTER FROM DEFENDANT KRAUCH, SIGNED BY WIRTH AS DEPUTY,
TO DEFENDANT AMBROS, 4 MARCH 1941, STATING THAT HIMMLER
"AT MY SUGGESTION" AND UPON INSTRUCTIONS FROM GOERING,
HAD DECREED ON 26 FEBRUARY 1941, AMONG OTHER THINGS,
THAT JEWS BE REMOVED FROM AUSCHWITZ AREA FOR ACCOM-
MODATION OF BUNA CONSTRUCTION WORKERS AND THAT SS
LEADERS WERE ORDERED "TO AID THE CONSTRUCTION PROJECT
BY MEANS OF THE CONCENTRATION CAMP PRISONERS IN EVERY
POSSIBLE WAY"

Plenipotentiary for the Four Year Plan
Plenipotentiary General for Special Questions of Chemical
Production

[Stamp]

Office Dr. Ambros

Received: 7 March 41

No. 61

Berlin, W. 9, 4 March 1941

Saarlandstr. 128

Telephone: 12 00 48

Teletype: K1-113

Cables: Gebechem

[Stamp]

Top secret

Ref: Chem. I-65—Dr. Wh/Hu

Journal No. 1593/41 Top Secret

Subject: Buna Works IV Auschwitz

[Handwritten]

Copies to: Direktor Dr. ter Meer

Direktor Dr. BueteFisch

Senior Engineer Santo

Dr. Engineer Duerrfeld

Senior Engineer Faust

Dr. Eisfeld

To the I. G. Farbenindustrie Aktiengesellschaft

Attention Direktor Dr. Ambros

Ludwigshafen/Rhein

At my suggestion and acting upon instructions of the Reich Mar-
shal,* the Reichsfuehrer SS, under date of 26 February of this year,
has decreed the following:

*Goering's letter of instructions to Himmler of 18 February 1941, Document NI-1240,
Prosecution Exhibit 1417, is reproduced above in this subsection.

1. The Jews in Auschwitz are to be evacuated from the area as quickly as possible and their apartments are to be made available for the accommodation of the construction workers of the buna works.

2. Poles residing in the Auschwitz area and suitable for employment as construction workers for the buna works must not be expelled.

3. The Inspector of Concentration Camps [Gluecks] and the Chief of the SS Economic and Administrative Main Office [Oswald Pohl] have been ordered to get in touch immediately with the construction manager of the buna works and to aid the construction project by means of the concentration-camp prisoners in every possible way.

4. The Chief of the Personal Staff of the Reichsfuehrer SS, SS Major General Wolf, who is appointed as liaison officer between the Reichsfuehrer SS and the Auschwitz works, has jurisdiction in all matters concerning the Auschwitz works.

These orders are so far-reaching that I request you to apply them to the widest extent and as soon as possible.

BY ORDER

[Signed] WIRTH

**TRANSLATION OF DOCUMENT NI-11943
AMBROS DEFENSE EXHIBIT 220***

LETTER FROM THE HIGH COMMAND OF THE WEHRMACHT TO DEFENDANT AMBROS, FEBRUARY 1941, NOTING THAT THE DECISION HAD BEEN MADE TO LOCATE BUNA PLANT IV AT AUSCHWITZ, AND RELATED MATTERS

High Command of the Wehrmacht
No. 229/41 g [secret]

Berlin W 35, February 1941
Tirpitzufer 72/76

[Stamp]
Secret

5/175

[Handwritten]

Foundation File B IV

To Direktor Dr. Ambros

I. G. Farbenindustrie A. G.

Ludwigshafen/Rhein

Dear Dr. Ambros,

Please excuse me for not having replied to your letter dated 26 January before now. In the meantime, frequent discussions have taken place between the Reich Marshal and Field Marshal Keitel with regard to the rubber [caoutchouc] and buna question. These discussions have also exercised some influence on the decision affecting Buna IV.

*NI-11943 was a document offered by the prosecution, later withdrawn from evidence and offered to the defense as a defense exhibit.

Meanwhile the following decision has been made: the installation will be built in Auschwitz in Upper Silesia. If you should still wish to discuss matters of personnel, I shall gladly put myself at your disposal some day next week. Perhaps you could arrange the day with my Adjutant, Major Doehner, over the telephone.

Heil Hitler
Yours Faithfully
[Signed] THOMAS

[Handwritten]

Taken care of 16 February 1941

Copies to:

ter Meer

Eisfeld [check marks after names]

**TRANSLATION OF DOCUMENT NI-11938
PROSECUTION EXHIBIT 2199**

**LETTER FROM DEFENDANT KRAUCH TO FARBEN, ATTENTION OF
DEFENDANT AMBROS, 25 FEBRUARY 1941, CONCERNING THE
URGENCY OF THE AUSCHWITZ PROJECT, NOTING DECREES ISSUED
BY GOERING TO SUPREME REICH AUTHORITIES AT KRAUCH'S
REQUEST, REQUESTING IMMEDIATE NOTICE OF ANY OBSTACLES,
ASKING FOR ALL NECESSARY PREPARATIONS FOR UTILIZATION OF
LABOR ASSIGNED, AND RELATED MATTERS**

Minister President, Field Marshal Goering
Plenipotentiary for the Four Year Plan
The Plenipotentiary General for Special Questions of Chemical
Production

Berlin W. 9, 25 February 1941
Saarlandstrasse 128
Telephone 120048
Teletype K 1-113
Cable Address: Gebechem

[Stamp]

Office Dr. Ambros
Received 26 Feb 1941
No. 43

Ref. Chem. I 65 Dr. Ste/Mt
Journal No. 1522/41g

EXPRESS LETTER

[Stamp]

Secret

Subject: Buna Plant Auschwitz

I. G. Farbenindustrie A. G.

Attention: Dir. Dr. Ambros, o. V. i. H. [or deputy]

Ludwigshafen, Rhine

[Handwritten]

ter Meer

Eymann/Santo

Faust

Mach (twice)

File B IV Eisfeld

Heidebroek

Duerrfeld

Your building project is part of the most important supply basis of war economy. In the new arrangement of priority stages ordered by Field Marshal Keitel, your building project has first priority. Details and regulations for its execution will be sent to you later by my office. At my request, the Reich Marshal issued special decrees a few days ago to the supreme Reich authorities concerned, in which he again particularly emphasized the urgency of the project, and is constantly devoting his particular attention to the progress of those tasks of military-economic production which have been entrusted to your care. In these decrees, the Reich Marshal obligated the offices concerned to meet your requirements in skilled workers and laborers at once, even at the expense of other important building projects or plans which are essential to the war economy.

In the face of such special emphasis on the importance of your task, I expect you therefore, of your own accord, to do everything within your power to start production as quickly as possible without regard to expense of any kind whatever. In the case of plants in operation, I expect you, just as relentlessly, to do everything within your power to obtain the maximum output from your enterprise. Should you be confronted by difficulties of any kind to prevent a complete exploitation, I request you to inform me immediately.

Since it is to be expected that you will shortly be allotted the necessary workers, I ask you to make all the necessary preparations to house the workers assigned and to employ them usefully. It must never happen that, for some reason, you show delay in employing the workers assigned, either because they do not include as many skilled workers as you would wish or because of lack of housing.

I request you to negotiate with the social welfare authorities, in particular with the Trustee of Labor so that, if necessary, you can

speed up the completion of your construction project by granting extra rations for efficiency, increasing working hours, employing a greater number of women.

I request you to employ every means to see that your enterprise fulfills all the demands put on it in this fight to the finish.

I request you to bring the fundamental viewpoints of this letter to the knowledge of your associates in an impressive and most serious manner, so as to induce your whole staff, possibly together with the Party agencies, to unite all their strength anew.

Heil Hitler!

[Signed] DR. C. KRAUCH

**PARTIAL TRANSLATION OF DOCUMENT NI-5765
PROSECUTION EXHIBIT 1371**

**EXTRACTS FROM THE MINUTES OF A NUMBER OF CONFERENCES OF
THE DIRECTORATE OF FARBEN'S LEVERKUSEN PLANT, 1941-1945,
CONCERNING LABOR QUESTIONS**

Minutes of the Directorate Conference of 10 March 1941 at Leverkusen

Present: Kuehne, Hoerlein

Albers, Duisberg, Einsler, Grobel, Konrad, Lutter, Mentzel
Redies, Ruesch, Paulmann, Schoenhoefler, Wenk, Zahn, Wolf
(Duisburg)

Unable to attend: Brueggemann, Mann, R. Bayer, O. Bayer, Haberland, Harz, Krebs, Mertens, Bachmann

1. The minutes of the IG conferences and works combines are being discussed. Reports on the employment of foreign labor are being made. Thereafter Dr. Kuehne, referring to a discussion with Dr. ter Meer, talks about the difficulties in labor employment. For the benefit of the plants in question, those workers are to be made available who, in the near future, will have to be released for military reasons, anyway; 150 workers and foremen are concerned. Moreover, Dr. Kuehne will submit to Dr. Krauch propositions concerning the merger of production lines in order to save manpower in an effective way.

* * * * *

Next conference Tuesday, 25 March in the buna building

[Signed] DR. KUEHNE

Leverkusen—IG Plant, 10 March 1941
Management Dept. C.D./Ss

* * * * *

*Minutes of the Directorate Conference of 11 November 1941 at
Leverkusen*

Present: Kuehne, Hoerlein, Brueggemann, R. Bayer
Albers, O. Bayer, Duisberg, Einsler, Haberland, Harz,
Konrad
Ludwig, Lutter, Mentzel, Mertens, Redies, Ruesch, Paulmann
Schoenhofer, Wenk, Zahn
Raspe, Wolf
Absent: Mann, Grobel, Krebs, Bachmann

[Handwritten initial] S [Schnitzler]

* * * * *

4. The assignment of Russian PWs was discussed. The assignment of teams (consisting of 20 men each) is planned, which is not a possible proposition for the chemical works. They might be used for construction work.

* * * * *

9. A propaganda leaflet, very well drawn up, reporting on the situation in the camps of foreigners in Ludwigshafen, was presented.

* * * * *

Management Department, 12 November 1941

C.D./Ss

[Signed] DR. KUEHNE

* * * * *

*Minutes of the Directorate Conference of 13 January 1942 at
Leverkusen*

Present: Kuehne, Brueggemann, Bayer
Albers, O. Bayer, Duisberg, Einsler, Haberland, Harz,
Konrad
Krebs, Ludwig, Mentzel, Redies, Ruesch, Paulmann
Schellenberg, Schoenhofer, Wenk, Zahn
Wolf (Duisburg)

Absent: Hoerlein, Mann, Grobel, Lutter, Mertens, Bachmann

[Handwritten initial] S [Schnitzler]

* * * * *

6. The result of the discussion on TEA-credits is communicated. There was a special discussion on the relation between the works now under construction and the requirements of the western factories running at full speed, and the consequences resulting therefrom were also pointed out.

* * * * *

12. Authorization for Herr Casper, A-Factory, to sign for the company, is to be requested from the Central Committee [of the Vorstand].

13. Dr. Bayer suggests that subsistence deductions in the pay roll of Polish juvenile laborers be examined by the social welfare department.

14. *Next session 3 February*

[Signed] DR. KUEHNE

Leverkusen—I. G. Plant, 14 January 1942

Management Department, C.D./Ss

* * * * *

Minutes of Directorate Conference on 28 April 1942 at Leverkusen

[Handwritten initial] S [Schnitzler]

Present: Kuehne, Hoerlein, Mann, R. Bayer, O. Bayer, Duisberg, Grobel, Haberland, Harz, Konrad, Krebs, Ludwig, Lutter, Mentzel, Mertens, Redies, Ruesch, Paulmann, Schoenhoefer, Wenk, Zahn, Popp, Wolf (Duisburg)

Absent: Brueggemann, Albers, Einsler, Paulmann, Schellenberg, Bachmann

* * * * *

5. Herr Mann informs about the discussion of the Commercial Committee concerning questions or organization of the German economy.

Herr Mann particularly touches the very far-reaching responsibility of the plant leaders in the sphere of the raw materials and labor market policy.

* * * * *

11. Herr Mann points out that the Reichskommissariat Ostland,* in connection with the Reich Ministry for the Occupied Eastern Territory, considers it as important that German technicians, especially on the part of the chemical industry too, should visit the factories in the occupied territories with a view to practical exploitation.

12. Herr Mann proposes that Leverkusen, taking as example the German-Polish technical dictionary developed by Leverkusen, prepare a German-Russian technical dictionary which will be worked out by a former IG coworker, Mr. Grosse. Dr. Bayer will see to details. The dictionary will have two parts; one, Russian-German, and the other, German-Russian. [Handwritten] H. Voss, settled 4 May.

* * * * *

19. Dr. Kuehne points out a circular of Dr. Krauch concerning the treatment of foreign laborers (not prisoners). In this connection Dr. Popp reports about the employment of foreign labor in the plant.

Sanitary installations, particularly, are discussed in detail.

* * * * *

*Administrative unit comprising the Baltic countries and White Russia.

Leverkusen—IG Plant, 29 April 1942
Management Department C. D./Ss

[Signed] KUEHNE

* * * * *
*Minutes of the Directorate Conference of 2 February 1943 at
Leverkusen*

[Handwritten initial] S [Schnitzler]

Present: Kuehne, Hoerlein, Brueggemann, R. Bayer, Albers, O. Bayer, Grobel, Harz, Ludwig, Lutter, Mentzel, Mertens, Redies, Ruesch, Paulmann, Schoenhoefler, Schellenberg, Wenk, Zahn, Boehme, Popp, Raspe

Absent: Mann, Duisberg, Einsler, Haberland, Konrad, Krebs, Bachmann, Wolf

* * * * *

2. It is expected that, in exchange for the staff members which have been lately drafted for the Army, a sufficient number of foreigners will be made available. The transfer of such important a number of staff members is very depressing. It seems that in spite of all efforts, a relief cannot be expected. Following the last information, an increase of 30 percent must even be expected.

For a replacement by foreigners, the barracks should be finished as quickly as possible.

3. Dr. Popp at the same time points to the housing shortage of German workmen and employees. Investigations will be made as to the possibility of constructing barracks as living quarters.

* * * * *

6. A Ludwigshafen report is available on the industry and technical skill of foreign workers.

Dr. Popp will complete a similar chart for the Leverkusen situation.

* * * * *

[Signed] DR. KUEHNE

Leverkusen—IG Plant, 2 February 1943
Management Department Dr. Be/Ss

* * * * *

*Minutes of the Directorate Conference on 23 March 1943 at
Leverkusen*

Present: Kuehne, Hoerlein, Brueggemann, R. Bayer, Albers, O. Bayer, Duisberg, Einsler, Grobel, Haberland, Harz, Konrad, Krebs, Ludwig, Lutter, Mentzel, Mertens, Redies, Paulmann, Schoenhoefler, Schellenberg, Wenk, Boehme, Popp, Raspe, Wolf

Absent: Mann, Ruesch, Zahn, Bachmann

[Handwritten initial] S [Schnitzler]

* * * * *

2. Dr. Popp reports about the situation regarding the employment of women; *500 women* will be assigned at first; *144 of them are already working*. The help of the plants for the appropriate use and the helpful caretaking of the women is important. The transfer of new "Arbeitsmaiden" [girls drafted for work] is secured. Experience with them so far is good.

3. In Leverkusen, too, the aliens are used for urgent Sunday jobs.

* * * * *
Next conference Tuesday 4 May 1943

[Signed] KUEHNE

Leverkusen—IG Plant, 24 March 1943
Management Department C. D./Kr

* * * * *
Minutes of the Directorate Conference of 4 May 1943 at Leverkusen

[Handwritten initial:] S [Schnitzler]

Present: Kuehne, Hoerlein, Brueggemann, Mann, R. Bayer
Duisberg, Einsler, Grobel, Haberland, Harz, Konrad, Krebs,
Lutter
Mentzel, Mertens, Redies, Ruesch, Paulmann, Schoenhoefer
Schellenberg
Boehme, Popp
Wolf (Duisburg) von Heider (Frankfurt)

Absent: Albers, Bachmann, Bayer, Ludwig, Raspe, Wenk, Zahn

* * * * *
5. Reference is being made to the necessity of the right employment of eastern labor, supposed to be used in plants exclusively.

6. New regulations of inventors' compensation necessitate—according to Dr. Brueggemann's report—a partial change in our scientists' contracts. Dr. Redies reports in this connection about the first case that came up through the inventor's trustee.

Thereafter, questions regarding suggestions coming from the plants are discussed. Taxes on the payments of premiums will be carried by the company.

7. Dr. Kuehne reports that the creation of escape appliances and apparatus for Leverkusen is being thoroughly investigated. Herr Mann reports that—in collaboration with the firm Knoll—a possibility for evacuating the salvarsan production can be created. A detailed discussion follows in which Herr Mann reports about *Professor Brandt's* visit to *Leverkusen*.

* * * * *
Next meeting, Tuesday 8 June

[Signed] KUEHNE

Leverkusen—IG Plant, 5 May 1943
Management Department C. D./Ss

*Minutes of the Directorate Conference of 14 September 1942 at
Leverkusen*

Present: Hoerlein, Brueggemann, Mann, R. Bayer
Albers, O. Bayer, Boehme, Einsler, Grobel, Haberland, Harz
Konrad, Krebs, Ludwig, Mentzel, Mertens, Paulmann,
Redies, Ruesch
Schellenberg, Schmitz, Schoenhoefler, Zahn
Popp, Raspe, Bachmann (Knapsack)
Absent: Duisberg, Klebert, Lutter, Wenk, Wolf

* * * * *
4. Due to alien workers not returning from their leave and due to the entire cessation in the supply of good workers, the production is going downwards in general. As the only possibility to get workers (the "red-slip" procedure was without success) appears the attempt to hire labor in certain two French Départements.

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[Signed] DR. HOERLEIN
* * * * *

Confidential

*Minutes on the Technical Directorate Conference [Technische
Direktionskonferenz] on 6 March 1944 at Leverkusen*

Present: Haberland (chairman), Kuehne, Brueggemann, Wenk,
Einsler, Albers
Lutter, Ruesch, Schellenberg, Redies, Bayer, Harz, Ludwig
Klebert, Raspe, Popp
Absent: Konrad

* * * * *
In the next session, Warnecke will report on the tasks taken over by him in the labor allocation branch within the Economic Group; in the following session, Ludwig will report on the A-factory, and later, Boehme on the ZW-department. Within the next days, Wernecke goes to Italy in order to procure people for the Economic Group where, at the present time, the recruiting of labor is done by the commissioners of the most varied agencies.

* * * * *
In Leverkusen, the percentage of casualties amounts to about 15 percent of the conscripted, while it is about 10 percent for the other IG works. Popp is requested to find out whether a mistake might have crept in.

* * * * *
The present camps for foreigners are fully occupied. The necessity to complete the construction of further barracks soon is again pointed out.

Next technical directors' conference: 27 March 1944

[Signed] HABERLAND

Leverkusen—IG Plant, 13 March 1944
Management Department/Be

* * * * *

Confidential

*Minutes of the Technical Directorate Conference of 27 March 1944 at
Leverkusen*

[Handwritten initial:] S [Schnitzler]

Present: Haberland (chairman), Kuehne, Brueggemann, Wenk,
Einsler

Albers, Lutter, Ruesch, Schellenberg, Redies, Bayer, Harz
Ludwig, Boehme, Klebert, Raspe, Popp

Absent: Konrad

Chief of Party Organization Dr. Ley, who spoke publicly for the first time in Leverkusen 20 years ago, will visit Leverkusen on Tuesday, 28 March 1944, to inspect his old place of activity. Haberland announces the program. The mass meeting [Grossappell] scheduled in the main hall of plant B is cancelled.

* * * * *

[Signed] HABERLAND

Next Technical Directorate Conference: 17 April 1944

Leverkusen—I. G. Plant, 31 March 1944
Management Department/Be

* * * * *

Confidential

*Minutes of the Technical Directorate Conference on 10 July 1944, at
Uerdingen*

Present: Haberland (chairman), Kuehne, Brueggemann, Struss,
Wenk

Albers, Lutter, Ruesch, Schellenberg, Redies, Bayer, Konrad
Harz, Ludwig, Boehme, Klebert, Raspe, Popp

Absent: Einsler

* * * * *

Haberland reads an article out of Speer's reports, requiring absolute exactness in demanding workers. Subsequently Wenk reported on the labor situation and informed us that, according to latest developments, female foreign workers having repeatedly spent the night out of the camp will be locked up by the police from Saturday noon until Monday morning. With this effective punishment a decrease in efficiency will be avoided. With regard to keeping alive the eagerness

for work, it is generally regretted that the Poles could not take any leave for the past years. Popp notified us that of 30 cases where—experimenting in this respect—Poles had been given leave, more than half of them did not come back.

Interruption of pregnancy of female aliens is to be carried through in a barracks erected by the Kreis [district].

Hungarian Jews cannot be employed in the Niederrhein [lower Rhine] works, billeting facilities not being at hand. Unfortunately there will no longer be any allotment of new workers by the Economic Group. A lack of workmen in factories important for war can only be overcome by means of closing down less important factories.

* * * * *

Next meeting: 24 July 1944
Leverkusen, 18 July 1944
Management Department/A

[Signed] HABERLAND

* * * * *

Confidential

Minutes on the Technical Directorate Conference on 18 September 1944, at Leverkusen

Present: Haberland (chairman), Brueggeman, Wenk, Einsler, Albers, Lutter
Ruesch, Schellenberg, Redies, Bayer, Konrad, Herz, Ludwig Boehme, Klebert, Raspe, Popp

Haberland reports on the present situation. Already since a few days, prisoners of war and unreliable foreign civilian workers have been withdrawn from the Uerdingen plant.

* * * * *

Confidential

Minutes of the Technical Directorate Conference on 3 October 1944, at Leverkusen

Present: Haberland, (chairman), Brueggermann
Albers, Boehme, Einsler, Klebert, Konrad, Ludwig, Popp, Raspe
Redies, Ruesch, Schellenberg, Wenk

Absent: Bayer, Harz, Lutter

* * * * *

By order of the Reich Defense Commissioner, Leverkusen was to supply 76 masons for concrete constructions at the West Wall.* By referring to the ordinance of Speer, to the effect that specialists must

*A system of fortifications along Germany's western frontier.

not be drawn from the armament industry for the construction of entrenchments, it was possible to bring it about that only inexperienced labor, mainly female eastern workers, will have to be given up.

* * * * *

Next meeting: Monday, 9 October 1944, 9: 30 a. m. in E 21, Room 17

Leverkusen, 9 October 1944
Management Department/Hb

[Signed] HABERLAND

* * * * *

Confidential

*Minutes of the Technical Directorate Conference of 23 October 1944,
at Leverkusen*

Present: Haberland (chairman), Brueggemann
Albers, Bayer, Boehme, Einsler, Harz, Klebert, Konrad,
Ludwig
Lutter, Popp, Raspe, Redies, Ruesch, Schellenberg, Wenk

* * * * *

Haberland reports about his conferences with the Gau Labor Office concerning the reduction of additional labor to be used at the West Wall. Leverkusen received a request for supplying 2,000 men. This number has been reduced to 1,000 men for the time being. Primarily, Italians will be made available.

* * * * *

Leverkusen—IG Plant
26 October 1944
Management Department/Hb.

[Signed] HABERLAND

* * * * *

Secret

*Minutes of the Technical Directorate Conference of 6 November 1944,
at Leverkusen*

[Handwritten initial] S [Schnitzler]

Present: Haberland (chairman), Brueggemann
Albers, Bayer, Boehme, Einsler, Harz, Klebert, Konrad,
Ludwig
Lutter, Popp, Raspe, Redies, Ruesch, Schellenberg, Wenk

* * * * *

During the last 3 days, Leverkusen has released about 1300 men for the West Wall. With the first and second groups, 700 Italians and

300 female Eastern laborers were furnished, and with the third group, 300 male Poles. The furnishing of 100 men each was taken over by Dormagen and Uerdingen. With this, Leverkusen has delivered a total of 1,800 men.

* * * * *
*Next meeting: Monday, 13 November 1944, forenoon 10.30 hours at
E 21, Room 17*

Leverkusen—IG Plant, 10 November 1944
Management Department/Hb.

[Signed] HABERLAND

* * * * *

Confidential

*Minutes of the Technical Directorate Conference in Leverkusen on
13 November 1944*

[Handwritten initial:] S [Schnitzler]

Present: Haberland (chairman), Brueggemann
Albers, Bayer, Boehme, Einsler, Harz, Klebert, Konrad,
Ludwig
Lutter, Popp, Raspe, Redies, Ruesch, Schellenberg, Wenk

* * * * *

Due to aliens having left, several barracks are vacant. They are to be deloused and put in order, so that they may be used by German families in case of emergency.

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Next conference: Monday, 20 November, 10.00 a.m.

Leverkusen—IG Plant
16 November 1944
Management Department/Hb

[Signed] HABERLAND

* * * * *

Confidential

*Minutes of the Technical Directorate Conference of 11 December 1944,
at Leverkusen*

[Handwritten initial:] S [Schnitzler]

Present: Haberland (chairman), Brueggemann, Wolff (D.K.)
Albers, Boehme, Einsler, Harz, Klebert, Ludwig, Lutter,
Popp
Raspe, Redies, Ruesch, Schellenberg, Wenk
Absent: Bayer, Konrad

* * * * *

A visit of Professor Krauch and State Secretary Koerner at Leverkusen has been announced for Friday, 15 December 1944, 11 hours a.m.

* * * * *

Next session: Monday, 18 December 1944, 10.00 hours a.m. in E 21

Leverkusen—IG Plant

14 December 1944

Management Department/Hb

[Signed] HABERLAND

* * * * *

Confidential

Minutes of the Technical Directorate Conference of 18 December 1944, at Leverkusen

[Handwritten initial:] S [Schnitzler]

Present: Haberland (chairman), Brueggemann, Hoerlein, Bachmann (Knapsack) Wolff (D.K.)

Albers, Bayer, Boehme, Einsler, Klebert, Ludwig, Lutter, Popp

Raspe, Redies, Ruesch, Schellenberg, Wenk

Absent: Harz, Konrad

* * * * *

Wenk reports on the present state of the alien workers and points out the possibility that aliens who had run away from the West Wall had, till now, not yet been reengaged to work in the corresponding shops. It is decided to make an exact count of the aliens in the camps on a fixed day and to notify the works of the results.

* * * * *

Next meeting : Tuesday, 2 January 1945, 10 hours a.m., in E 21.

Leverkusen—IG Plant

21 December 1944

Management Department/Hb

[Signed] HABERLAND

* * * * *

Confidential

Minutes of the Technical Directorate Conference of 22 January 1945, at Leverkusen

[Handwritten initial:] S [Schnitzler]

Present: Haberland (chairman), Brueggemann, Hoerlein, Weibezahn (Knapsack)

Albers, Boehme, Einsler, Klebert, Ludwig, Lutter, Popp, Raspe

Redies, Ruesch, Schellenberg, Wenk

Absent: Bayer, Harz, Konrad

* * * * *

The heating of the foreigners' camp still leaves much to be desired, owing especially to insufficient supply of coke. Schellenberg will therefore try to obtain a shipload of coke.

* * * * *

Next session: Monday, 29 January 1945, 10 o'clock a.m. in E 21.

Leverkusen—IG Plant

26 January 1945

Management Department/Hb

[Signed] HABERLAND

**PARTIAL TRANSLATION OF DOCUMENT NI-7107
PROSECUTION EXHIBIT 1350**

EXTRACTS FROM THE MINUTES OF A MEETING OF FARBEN'S ENTERPRISE COUNCIL, 11 MARCH 1941, NOTING THE EMPLOYMENT OF MORE THAN TWELVE THOUSAND FOREIGNERS IN FARBEN PLANTS, AND OTHER MATTERS

Minutes of the Meeting of the Enterprise Council [Unternehmensbeirat] on 11 March 1941, 11 a. m. held in Schkopau

Present were: the plant leaders [Betriebsfuehrer] (with the exception of Dr. Brueggemann, Dr. Buergin, Dr. von Schnitzler, Dr. Wurster), and the members of the Enterprise council.

Agenda

1. Questions pertaining to the employment of labor.
2. Medical service in the plants and in the camps: Report by Prof. Dr. E. Gross.
3. L. P. -saving [L. P. -Sparen]
4. Assistance to I. G. Farben employees
5. Latest news concerning the Reich wage scale agreements for the industrial workers.
6. Miscellaneous.

In the afternoon

Dr. Ambros' reporting on buna with a subsequent inspection of the buna works.

1. Questions Pertaining to the Employment of Labor

Schneider reports in detail concerning the employment situation in our works. The number of workers employed had to be again considerably increased due to the growing orders and the approximately 18,000 employees inducted into the Armed Forces. In the main, women and foreign workers were obtained (including the 2162 P. W.'s among them, there are now 12,366 foreigners of divers nationalities

employed in the separate works). Employing these women as well as the foreigners required the solution of special problems (housing, feeding, separate dressing-rooms, etc.). In reference to the report of Schneider, experiences gained by the separate works in regard to the divers categories of foreign labor were exchanged. According to Schneider's report, 232 workers and 60 salaried employees, making a total of 292 *employees*, were killed in action until 5 February 1941.

There is unanimous agreement that, in spite of many difficulties and in spite of the average inadequacy of the work obtained from foreign and compulsory labor, it will not be possible to dispense with them in the future either. Satisfaction is expressed generally that cooperation with the authorities and the German Labor Front in this sphere is favorable.

2. *Sanitary Service in the Plants and in the Camps*

Gross reports in detail on the manner of carrying out health measures in the plants and the camps. He refers to former reports before the Unternehmensbeirat and reports that meanwhile, organizing the medical service of the plants has been completed in agreement with the Main Office for Public Health, respectively, the Office for Health and Public Protection of the German Labor Front [D. A. F.] [Amt fuer Gesundheit und Volksschutz]. Thirty-five full-time physicians and 16 part-time physicians are employed in the I. G. Farben works and it must be expected that in view of the constant expansion of the works, this number will be increased as soon as suitable replacements will be available after the war.

* * * * *

Signed: SCHNEIDER

PARTIAL TRANSLATION OF DOCUMENT NI-15148
PROSECUTION EXHIBIT 2200

REPORT OF DEFENDANT DUERRFELD TO DEFENDANTS AMBROS AND BUETEFISCH, AMONG OTHERS, ON A CONFERENCE OF FARBEN REPRESENTATIVES WITH OFFICIALS OF AUSCHWITZ CONCENTRATION CAMP, 27 MARCH 1941, DISCUSSING PRIOR CONFERENCE BETWEEN DEFENDANT BUETEFISCH AND SS GENERAL WOLFF, A THOROUGH INSPECTION OF AUSCHWITZ CONCENTRATION CAMP, DETAILED ASSISTANCE TO AUSCHWITZ PLANT CONSTRUCTION TO BE GIVEN BY THE CONCENTRATION CAMP, NUMBERS AND TYPES OF CONCENTRATION CAMP INMATES AVAILABLE, WORKING HOURS, THE SELECTION OF INMATE FOREMEN (KAPOS)* FROM PROFESSIONAL CRIMINALS, FEEDING, AND OTHER MATTERS

[Handwritten] Dir. Dr. Eymann/Oberingenieur Santo

Due. [Duerrfeld]

Leverkusen, 30 March 1941

Gs

Report of Visit

Discussion with the Camp Commandant of the Concentration Camp near Auschwitz, on 27 March 1941, 1500 hours

Present: SS Major Hoess, camp commandant
SS Major Kraus, chief of administration of concentration camps, Oranienburg
SS Captain Burboeck, officer in charge of the assignment of inmates, Berlin-Lichterfelde
and several SS First Lieutenants and SS Second Lieutenants, officers in charge of the special questions under discussion
Oberingenieur Faust, Ludwigshafen/Dyhernfurth
Diplomingenieur Floeter, Ludwigshafen/Dyhernfurth
Ingenieur Murr, Ludwigshafen
Dr. Duerrfeld, Leuna

*"Capo" or "Kapo" derived from the French "caporal." "Capo" was the name, throughout the Nazi concentration camp system, for a minor supervisor or "straw boss" recruited from a special and preferred segment of the concentration camp inmates.

Purpose of discussion

After the preliminary discussion, which took place in Berlin on Thursday, 20 March, between Director Dr. Bueteffisch and SS Lieutenant General Wolff in the presence of SS Brigadier General Gluecks—Oranienburg (Inspector of Concentration Camps) and Loerner—Berlin (Inspector of the Assignment of Inmates), the details of the ways and means in which the concentration camp could assist in the construction of the plant were to be discussed.

General

It should be stated beforehand that the discussion was held on an exceedingly objective and yet very friendly note. The concentration camp showed its willingness to assist in the construction of the plant as far as it could. The discussion was followed by a thorough inspection of the camp with all its installations and workshops.

Agreements

1. Herr Faust asked for about 1,000 *unskilled and skilled workers* for the current year, if available. The camp can provide this number *without any further preparations*.

2. Next year's requirements were given as approximately 3,000 inmates. The concentration camp will be able to provide this number if the accommodations necessary for increasing the present number of inmates in the camp (8,000) are provided.

Additional quarters are at present being built in the camp, but are being held up by the lack of steel reinforcements for the floors and ceilings. We undertook to see whether we could help the camp to obtain this more quickly (priority and delivery question).

3. It is quite possible to provide additional workers in excess of the present total, since the camp is to be extended to hold about 30,000 inmates. The decisive factor for the speed at which this can be done is the procurement of iron and of the necessary number of Capos. These Capos (foremen and other skilled workers) are being selected from amongst the professional criminals [Berufsverbrecher] and are to be transferred from other concentration camps to Auschwitz.

This program is being carried out.

4. A direct route over the Sola, south of Auschwitz, to the works area was suggested for bringing the inmates to the building site. The concentration camp is building a bridge for this purpose. A narrow-gauge railroad is to be laid over the same span so that the inmates can be transported to and from the building site by this light railway. Both parties are to try to obtain the necessary rails.

5. The working time is to be in accordance with the season and can be provisionally fixed at 10–11 hours in summer and at least 9 hours in the winter. The output is estimated at 75 percent of that

of a normal German worker. A payment of RM 3 per day for unskilled workers and RM 4 per day for skilled workers is to be made for each inmate. This includes everything, such as transportation, food, et cetera, and we will have no other expenses for the inmates, except if a small bonus (cigarettes, etc.) is given as an incentive.

6. It would not be practicable to employ prisoners of war at the same time, at least not during the current year, because the required number of workers can be provided in full by the camp.

7. The number of skilled workers available in the camp is very small, so that we cannot count on them for the construction of the plant. There are, however, already quite a number of skilled workers who have been trained there. At present, the camp management is very much occupied in training skilled workers for all the trades required for the building program, in consideration of our construction project. A number of workshops are available for this purpose, but they are still too small and primitive.

The locksmiths and carpenters only have one large, primitive hut each, in each of which about 100 men are working. It is planned to have the carpenter shop in a large, fairly old building which is available, in which about 500 men could work. The wood-processing machines required for the workshop have been ordered, but deliveries are very slow. In this respect, too, our assistance is required. The locksmiths', tinsmiths' and saddlers' workshops et cetera are all to be extended still more.

8. Shoe repair and tailor shops are also available, and the work for the construction crew could also be handled by them.

* * * * *

[Here follow items, here omitted, concerning such matters as power and gravel supply]

* * * * *

12. The feeding of the workers who are to be cared for in the plant's own camp could be assisted by deliveries of potatoes and vegetables. The delivery of meat is out of the question for this year. If necessary, food could be supplied to the building site for the firm's workers for the time being, until our own kitchen is finished.

13. The camp management thinks that the water supply of the concentration camp could come from wells south of the camp. A firm, Gaul of Darmstadt, has been assigned to do the drilling work. Copies of the analyses furnished thus far by the National Institute of Hygiene in Beuthen [Bytam] (Prof. Lentze) are being sent to Leuna. The sewage is to be drained off into the Sola through a biological-mechanical purification installation. It was agreed that the purified sewage should either be drained into the Sola 500 m upstream [handwritten: downstream?] from our take-in point, or else into the Vistula.

13. Camp Commandant Hoess advises that care be taken in the assignment of ethnic German workers. A branch office of the Stapo [State Police] Bielitz is to be established in Auschwitz for the workers which are to be taken over by the works.

Summary

The entire proceedings took place in cordial agreement; both parties expressed a desire to give each other every possible assistance. The camp commandant, for instance, put all the workers in the camp, the camp doctor, ambulance, if necessary even transport facilities, at our disposal in case of emergency, until the construction site is operating properly. It was agreed that when new questions arise, a similar meeting should be held. The advance detachment of the construction management, under Herr Murr, was particularly advised to apply to the adjutant of the camp commandant, Hauptsturmfuehrer [Captain] Frommhagen, whenever necessary.

[Signed] DUERRFELD

Distribution:

Director Dr. Ambros	}	Ludwigshafen
Director Dr. Eymann, Oberingenieur Santo		
Oberingenieur Faust		
Dr. Eisfeld		
Dr. Mach		
Diplomingenieur Heidebroek		
Director Dr. Buetefisch/Dr. von Staden	}	Merseburg
Director Dr. Sauer/Dr. Strombeck		
Dr. Duerrfeld		
Dr. Braus		
Oberingenieur Keinke		
Dr. Hoepke		
Diplomingenieur von Lom		

PARTIAL TRANSLATION OF DOCUMENT NI-11115
PROSECUTION EXHIBIT 1426

EXTRACTS FROM MINUTES OF FIRST CONSTRUCTION CONFERENCE
ON "IG PLANT AUSCHWITZ" AT FARBEN'S LUDWIGSHAFEN PLANT,
24 MARCH 1941, CONCERNING NECESSARY COOPERATION BE-
TWEEN EXPERTS OF FARBEN'S LUDWIGSHAFEN AND LEUNA
PLANTS IN THE CONSTRUCTION, DISTRIBUTION OF FUNCTIONS,
VARIOUS CONSTRUCTION PROBLEMS, HOUSING OF STAFF; REPORT
OF DEFENDANT DUERRFELD ON CONFERENCE WITH SS GENERAL
WOLFF ON THE ROLE OF THE AUSCHWITZ CONCENTRATION CAMP,
AND RELATED MATTERS

TABW/Hk Lu 314
31 March 1941 Gu

IG Plant Auschwitz First Construction conference on 24 March 1941
in Ludwigshafen on Rhine*

Present:

Director Dr. Ambros	Senior Engineer Dr. Mach
Director Dr. von Staden	Dr. Eisfeld
Director Dr. Eymann	Senior Engineer Faust
Senior Engineer Dr. Duerrfeld	Certified Engineer Heidebroek
Senior Engineer Santo	

In his introduction, Ambros welcomes the gentlemen present to the first construction conference for the new Auschwitz plant, and emphasizes the special advantages of cooperation between the Leuna and Ludwigshafen plants. He expresses his conviction that, through friendly relations on the part of the experts of the two plants, a firm basis is assured for speedy and successful work and that, thereby, in spite of the difficulties to be expected in the East, a guarantee for the establishment of a successful enterprise is provided.

As to procedure, Ambros proposes that construction conferences should be held at short regular intervals—for the time being, weekly—in Ludwigshafen, Leuna, and later in Auschwitz, in which, as far as possible, all competent experts should participate. In these first con-

*The initials of the defendant ter Meer appear at the bottom of the first page.

ferences, a clear plan of the various fields of work belonging to the individual collaborators must be aimed at, so that, in view of the excessive amount of work required from the technical staff, all overlapping of activities can be avoided from the beginning. In order to keep the construction staff and the experts on the plants informed, procedure for the distribution of exchange of correspondence and documents will be established. But in order, on the other hand, not to increase correspondence unnecessarily, three distributor stamps are arranged:

1. One distributor for general questions of the whole works planning.
2. One distributor for the experts of the Auschwitz buna plant.
3. One distributor for the experts of the Auschwitz motor fuel plant.

Manufacturing Program

A. *Ambros* explains the program for the *buna plant*

* * * * *

The following is decided regarding the individual sectors of the buna plant:

B. St. W. [Construction Office West] takes over the construction of the building and of the machine-technical part, the ordering of the apparatus, the installation of the carbide plant (2+ (1) carbide furnace), the gas conversion, and possibly, the calcareous sinter plant. IG will draw up another building contract with Construction Office West. Dr. *Wildhagen* has already expressed his agreement. Collaboration with the construction department at Ludwigshafen is to be so arranged that *Santo* is responsible for uniform construction and architectural layout. *Faust* is in charge of the local construction work. *Santo* asks that *Larubner* of Construction Office West should begin the construction of the buildings soon, and that he should complete the Gendorf construction work. Plans and orders for all apparatus up to and including polymerization are at the buna construction office or at the construction office at Ludwigshafen.

Hydrogen, gas for heating, and nitrogen will be supplied by the motor fuel plant and constructively processed by Leuna.

B. *Von Staden* explains the program for the *motor fuel plant*.

* * * * *

C. *Coal and low-temperature carbonizing* [*Fuerstengrube*] plant

Von Staden reports on investigations conducted up to date at the Fuerstengrube.

* * * * *

Leuna will erect the hydrogen plant immediately in order to secure the requirement of the buna plant —4,000 cmb/h—until the middle of

1943. At the next building conference, Leuna will submit the data concerning space requirements, power statistics et cetera.

* * * * *

D. Procedure for distribution of work in the construction of the Auschwitz plant

Ambros gives the following directives:

I. *Buna plant*. The responsible expert for chemical questions of the buna plant is *Eisfeld*.

The planning of the plant is centralized at the construction office under *Mach*, the Construction Department Ludwigshafen under *Santo* is in charge of the construction work.

II. The building and machine-technical part of the *motor fuel plant* will be dealt with by *Leuna*. The appointment of the individual experts will follow later.

Santo, in collaboration with *Hoepke*, will be responsible for the uniform architectural layout and design of the plant.

III. The general planning of the Auschwitz plant (and therewith, the fusion of the buna plant and the motor fuel plant) lies, at present, in Ludwigshafen in the hands of *Santo*, *Duerrfeld*, and *Mach*.

[At this point the report covers various other matters discussed, such as the construction plant, railroad track connections, water supply, power, offices, and laboratory buildings.]

* * * * *

Designation for Correspondence

The initials "AZ" are to be used for the entire plant. The abbreviation "AZ" will thus be used for the designation of the building, for example, AZ 186 will mean building 186 at the Auschwitz plant.

Personnel Problems

The organization plan is to be submitted at the next construction conference.

Housing

Santo reports to the following effect: The programs are to be submitted immediately. Corresponding applications will be sent to the Reich Office. In the first place, all the dwellings are to be situated in the vicinity of the plant. Designs for dwellings have been submitted. At present, war conditions demand certain modifications in size of apartments. There are 3,000 workers and employees to be housed. The Reichsfuehrung SS * is to be contacted. For the planning of the apartments, *Santo* appoints *Anders* of Ludwigshafen. He is to get into touch with the district planner (*Katowice*). The dismantling of the *Rattwitz* barracks has been commenced. Applications are being submitted for the building of further barracks as bachelor homes.

*National headquarters of the SS.

Faust advocates strong construction. He plans two huts as clinics, one of them as an isolation hut. *Krafft* (clinic) will make arrangements with *Murr* (building site) immediately.

Contact with authorities

Santo emphatically points out that preparatory work at the building site involves considerable business intercourse with all kinds of authorities. In order from the beginning to avoid disagreements, it is necessary that the individual chiefs precisely demarcate their spheres of work.

Conditions of employment

Eymann points out the necessity to work strictly along uniform lines. At the next meeting Duerrfeld will submit a plan of the categories. *Faust* inquires as to the points of view to be adopted for engaging a staff on the spot. Application and employment via the Luranil¹ has proved to be suitable if, at that time, the interest of the applicant was aroused by indications of later permanent employment in IG. Where applicants have been accepted at a high starting wage, raises will be held back until they are equal with the others.

Situation of the construction site

Report of Duerrfeld on discussion with Wolff² of the Main Office Reichsfuehrung SS:

1. It has been promised that 700 inmates of the Auschwitz concentration camp will be assigned to the construction site for labor.

2. A promise has been received that the Main Office of the SS will use its influence to effect an exchange within the concentration camps of the SS with the object of transferring skilled workers from the Reich to Auschwitz.

3. All available labor in Auschwitz is to be completely utilized.

4. The camp administration (*Hoess*) will undertake the guarding of the building site.

5. Workshops, where possible, are to be erected within the camp.

6. The administration of the concentration camp is instructed to investigate the questions as to how far it will be possible for them to undertake also the feeding of the workers at the building site.

7. The guarded area/[Polizeigrenze] will be extended so that the building site will come inside the area.

¹ Luranil Baugesellschaft m. b. H., a Farben-owned construction company.

² Karl Wolff was a lieutenant general in the SS.

Santo reads reports of the surveyors on the building site. It is expected to augment this staff very shortly by addition of the Peters office. Steps have been taken to obtain an aerial photograph. *Santo* submits plans for tracks and construction office on the site.

Acquisition of land

The negotiations with the Treuhandstelle-Ost [Trustee Office East] for the acquisition of land are being initiated by Dr. Schaefer, who has proved valuable in the negotiations for Rattwitz, et cetera. The discussion with Wolff of the Main Office of the SS had no result as regards acquisition of land. *Duerrfeld* and *Santo* will further clarify this point on their next visit to Auschwitz.

Accounting

Ludwigshafen and Leuna are each to have one bookkeeping system for buna and motor fuel.

* * * * *

Training of apprentices

Faust makes the suggestion to hire boys from Upper Silesia, in IG plants with training workshops, as apprentices. Ambros is writing to IG works (supplement II). The final training of the apprentices is to be carried out later at Auschwitz.

Change of Profession

Duerrfeld makes two suggestions:

1. He will apply to the DAF [German Labor Front] asking them to supply skilled manual workers (metal and chemical) from the existing reeducational camps.

2. *Duerrfeld* will apply to the regional labor exchange at Katowice for approval of free recruiting in order to be able to bring people liable for service temporarily to the western plants for retraining. It is proposed to include herein such service-liable persons who are not active in their own calling but are working in other fields. It is certain that there will be the possibility to procure skilled labor from the textile factories in Bielitz [Bielsko], as extensive closing-down programs are to be expected. Those skilled workers are to be retained for their own trade in Ludwigshafen, Schkopau, and Leuna, through assignment for constructional work in these plants.

The next meeting will be held on 1 April in Ludwigshafen.

Signed : HEIDEBROEK

PARTIAL TRANSLATION OF DOCUMENT NI-11116
PROSECUTION EXHIBIT 1428

EXTRACTS FROM THE MINUTES OF SECOND CONSTRUCTION CONFERENCE ON "IG PLANT AUSCHWITZ," 1 APRIL 1941, CONCERNING MINUTES OF FIRST CONSTRUCTION CONFERENCE, THE DUERRFELD REPORT, PLAN FOR ORGANIZATION, AND OTHER MATTERS

TABW/Hk-Lu 314
3 April 1941 Gu.

*IG Plant Auschwitz Second Construction Conference of 1 April 1941
in Ludwigshafen on Rhine*¹

Present: Director Dr. Ambros
Director Dr. Eymann
Senior Engineer Dr. Mach
Senior Engineer Santo
Senior Engineer Dr. Duerrfeld
Dr. Eisfeld
Certified Engineer Heidebroek
Thier (part of the time)

1. Ambros reads the minutes of the first conference on construction. A few minor changes are adopted.

* * * * *

5. Duerrfeld receives a list of the agencies and authorities which are to be asked to appear at the conference on 7 April 1941.² The conference is to take place in Katowice and not in Auschwitz.

* * * * *

10. *Duerrfeld Report*
a. *Water*

* * * * *

b. *Duerrfeld Report on Discussions with Camp Commander Hoess*
Hoess is very willing to support the construction management to the best of his ability. For 1941, *Faust* requires about 1,000 unskilled laborers which can be furnished by the camp. *Hoess* said that in 1941 he could furnish a maximum of 1,500 men. At present it is not yet possible to accommodate more prisoners, but in 1942, this number can be raised to 3 or 4,000. *Hoess* asks that the construction management assist him in erecting barracks by supplying wood. *Hoess* is to receive this assistance; he is also to get some iron for construction. For

¹ The initials of the defendant ter Meer appear at the bottom of the first page.

² Extracts from the minutes of the conference with government officials on 7 April 1941, Document NI-11117, Pros. Ex. 1430, are reproduced immediately below.

the present, the utilization of prisoners is accomplished in groups, supervised by Kapos. Every Kapo has about 20 men under him.

* * * * *

16. *Plan of Organization*

Duerrfeld submits a plan of organization which is to be discussed in detail during the next conference.¹

17. *Salary and Wages*

The salary scale is to be discussed with the trustee for labor in Katowice.

18. The name of the plant is not yet final.

Ambros asks for suggestions for the next conference on construction.

The next conference will take place in Katowice on 7 April 1941.

[Signed] HEIDEBROEK

**PARTIAL TRANSLATION OF DOCUMENT NI-11117
PROSECUTION EXHIBIT 1430**

**EXTRACTS FROM THE MINUTES OF THE FOUNDERS' MEETING OF THE
AUSCHWITZ PLANT AT KATOWICE ON 7 APRIL 1941, ATTENDED BY
VARIOUS REPRESENTATIVES OF GOVERNMENT OFFICES AND
FARBEN, AND CONCERNING NUMEROUS FACTORS INVOLVED IN
CONSTRUCTION AND OPERATIONS, AUSCHWITZ AS AN IMPORTANT
FACTOR IN THE EXECUTION OF NATIONAL AND POLITICAL TASKS
IN THE EAST, AND RELATED MATTERS**

Registered

Foundation of the Auschwitz plant²

Minutes of the Founders' Meeting at Katowice on 7 April 1941

Dr. von Puttkammer, of the Reich Office for Regional Planning [Raumordnung], Berlin, opens the meeting and asks the representatives of the Reich Office for Economic Development (RWA) for information on the planned production for the foundation of the new plant at Auschwitz.

Dr. Eckell (RWA) presents the need for an increase in German buna production. Auschwitz has been chosen as the site of another factory, which is to produce 30,000 tons of buna per annum. The project, as far as construction itself is concerned, has been given a priority rating of 0, as far as equipment and installation are concerned, a priority rating of SS; with this classification, the degree of

¹ Further details on this conference are contained in defendant *Duerrfeld's* report of 27 March 1941, Document NI-15148, Pros. Ex. 2200, reproduced in part earlier in this subsection.

² The initials of the defendant *ter Meer* appear at the bottom of the first page.

priority is sufficiently indicated. He asks the representatives of the State, the Party, and the Wehrmacht for active support so that the short time limits set for I. G. Farbenindustrie can be adhered to.

Certified Engineer Kranopul (RWA) reports that I. G. Farbenindustrie has received an additional order, apart from buna production, for the erection of a fuel plant with a capacity of 75,000 tons per year, also to be built as quickly as possible.

The general outlines of the planning of the new plant and its possibilities of development were explained by representatives of I. G. Farbenindustrie.

Dr. Ambros introduces the representatives of I. G. Farbenindustrie and of the Ammoniakwerk Merseburg who are present, briefly indicating their functions, and then proceeds to make the following statements :

It is in accordance with the plans of the RWA, the Reich Ministry of Economics, and the High Command of the Army that, in the first stage of building operations, the *buna plant should be built with the utmost speed*. It is intended, as in another buna plant, to use the so-called four stage process, starting from coke and lime. But recent research indicates that coal, as a chemical basis, is also becoming increasingly important in the production of buna. As the plants of the Four Year Plan are built with a view to the future, technical advances must be considered in the foundation of a new plant. Therein lies the decisive reason why the *Silesian buna plant* should be built in the immediate vicinity of *Silesian coal* and not, as originally planned, near Breslau.

This becomes even more imperative in view of the further order of the Reich authorities for the erection of a fuel plant. In the case of this synthesis, too, we see a development in an unfamiliar direction. The connection between the buna plant and fuel plant is advantageous from the technical point of view, as the two processes can support, complement, and balance each other to a large extent in their preliminary stages.

It can be foreseen that out of these main branches, with their various preliminary, intermediate, and by-products, must necessarily grow new branches of organic chemistry; as for instance, plastics, resins, lacquer binding media, textile auxiliaries, et cetera. The latent potentialities of this branch of chemistry provide the stimulus for the development of a subsidiary industry in Upper Silesia, which will deal with the processing of these basic raw materials into finished articles.

The *source of life* for the new plant will be the hard coal of Upper Silesia, which is used as such for the production of steam and electricity or, after low-temperature carbonization, as raw material for the various syntheses in the form of low-temperature carbonization coke.

Dr. Bueteffsch (I. G. Farbenindustrie A. G.) has founded a new company, together with the management of the Fuerstlich Pless'sche Bergwerksgesellschaft for the purpose of securing, from the Fuerstengrube mine, the coal supplies for the Auschwitz plant.

The layout of the plant was explained with the aid of a chart and a model and the following basic principles were put forward:

[The minutes here include detailed discussion of four points, here omitted: (1) the site; (2) water supply and drainage; (3) transportation; (4) waste and refuse]

* * * * *

(5) Apart from these purely technical consideration, it is of the greatest importance that an *efficient and reliable staff of employees should be built up*. During the period of construction 8,000 construction workers and 4,000 metal workers will be required in the peak months. The complement of actual staff will be 5,000 at the beginning, (rising, with further extension of the plant, to 15,000).

By order of the Reichsfuehrer SS, extensive assistance from the Auschwitz concentration camp had been promised for the construction period. The camp commandant, Major [Sturmbannfuehrer] Hoess, has already made arrangements for the employment of his men. The concentration camp will supply inmates for preliminary work and craftsmen for carpentry and fitting; it will also assist the plant in the feeding of the construction workers, and will supply the building site with gravel and other building materials.

Some of the workers will be accommodated, if possible, in vacant homes in Auschwitz; for the remainder, cantonments will be erected. These measures apply solely to the accommodation of *construction workers*.

Apart from that, a *workers' settlement* for approximately 3,000 men at Auschwitz must be built as quickly as possible in order to create suitable living conditions for the staff, many of whom will be recruited from IG plants.

A large-scale building program for the town of Auschwitz, foundation of schools and hospitals, will be absolutely necessary. Furthermore, the wish has been expressed that the number of independent artisans in the vicinity should be increased. With reference to the transformation of the town of Auschwitz, contact has been established with District Commissar [Amtskommissar] *Gutsche*, who gives active support to the efforts of the new plant.

In order to recruit a good nucleus of personnel from local sources, apart from the resettlement of skilled workers from west of the Reich, I. G. Farben admit Silesian youths to the training establishments of their plants upon leaving school, where they would offer them, apart from free board and lodging and free training, a 12 months' preparatory course for a further period of training in the

future plant at Auschwitz. Furthermore, I. G. Farben asks the labor offices to prepare, at this early date, retraining schemes for DAF [German Labor Front] camps and suggests that 1,000-1,500 skilled workers should be trained (immediately, if possible) in the plants of IG.

Finally, the various representatives of government offices present are asked to express their opinions on the new plant so that the basic problems can be clarified at the meeting.

In conclusion, Dr. Ambros expresses the following views: With the Auschwitz project, I. G. Farben has designed a plan for a new enterprise of giant proportions. It is determined to do everything in its power to build up a virile enterprise, just like the numerous plants in West and in Central Germany. In that way, IG, is performing a moral duty in doing its very best to make this industrial foundation a strong cornerstone for a virile, healthy Germanism in the East. Dr. Ambros concludes by expressing the hope that the authorities will support I. G. Farben in this difficult but promising task.

The representatives of the various offices give their opinion.

[The minutes on the following items have been omitted: country planning; dumping problems; water supply; and drinking water.]

* * * * *

Allocation of Labor

1. Supply of building materials

No difficulties are anticipated in dealing with the problem of wood and metal supplies via the office of the local plenipotentiary for supplies of building materials, in view of the priority ratings O and SS of the project.

2. Allocation of labor

The Bielitz Labor Office is in a position to supply the necessary skilled and unskilled labor within the very near future. They will, furthermore be able to cope with an increasing demand. Difficulties were merely anticipated in securing metal workers. In this connection, Dr. Eckell states that the problem could perhaps be solved later by conscription of labor. Concerning the evacuation of Poles, Schaefer makes the following statements by authority of the Reichsfuehrer SS; Generally speaking, the complete evacuation of the Polish population from the territory in question is planned. It is the aim of the Reichsfuehrer to create on this spot an exemplary eastern settlement—particular attention being paid to settling here German men and women who are particularly qualified. In order to avoid depopulating the eastern territories, the Poles would be evacuated gradually. For the time being, the Government General could not absorb more

evacuees in any case; resettlement would therefore make very slow progress. Dr. Eckell reads an order of the Reichsfuehrer SS, according to which the evacuation of Poles fit for work, especially Polish artisans from Auschwitz, was to be temporarily suspended.

Senior Engineer Faust asks the labor office to do its best to suspend the flow of skilled labor to the Reich, in view of the labor requirements of the plants to be constructed in eastern Upper Silesia.

The district labor office undertakes to select 1,000-1,500 men to be retrained in the plants of the IG, and to be trained for the work required. It is pointed out in this connection that the IG undertakes to return these men to Silesia upon completion of training.

Settlement

Senior Engineer Santo describes the measures to be taken for the accommodation of the staff.

The construction workers will be accommodated, partly in the evacuated homes in Auschwitz and the neighboring villages, or in cantonments. Construction of the first barracks has already been started.

Apart from that, the construction of a workers' settlement must be speeded up and work must be started immediately on the construction of homes for at least 500-1,000 men. He has requested the Reich Office for Economic Development to give to this building project a higher priority rating than is customary in such cases. Furthermore, he has requested the Regional Planning authorities to decide in time on a prospective site for the settlement, as plans will have to be drawn up before the final building plans for Auschwitz are completed.

Architect Stossberg as representative of the Regional Planning authorities explains the plans for the extension of the town of Auschwitz. There is room for the development of a town of 40,000 inhabitants. He points out the Loess plateau surrounding Auschwitz as the only possible site for the settlement and asks IG to take that into consideration in the choice of an industrial site and to move the plant further east. In the interests of speeding up surveying he would welcome the support of IG.

* * * * *

Dr. von Puttkammer sums up the discussion by stating that all authorities have, in principle, given their approval to the new foundation. He points out that the Regional Planning authorities, and especially the offices in Upper Silesia, welcome the foundation as an important factor in the execution of national and political tasks in the East.

Ludwigshafen/Rhine, 16 April 1941

Dr. Ef/Ro

Distribution List:

Reich Office for Regional Planning Berlin W 8

Attention: Dr. v. Puttkammer

County Planning Association Si-
lesia

Attention: Baurat Ziegler

Director Dr. Bueteufisch	Leuna
Director Dr. von Staden	Leuna
Director Dr. Sauer	Leuna
Director Dr. Strombeck	Leuna
Senior Engineer Dr. Duerrfeld	Leuna
Senior Engineer Dr. Braus	Leuna
Senior Engineer Keinke	Leuna
Certified Engineer Loetzsch	Leuna
Senior Engineer Dr. Hoepke	Leuna
Director Dr. Ambros	Ludwigshafen/Rhine
Director Dr. Eymann	Ludwigshafen/Rhine
Senior Engineer Santo	Ludwigshafen/Rhine
Senior Engineer Faust	Ludwigshafen/Dyhernfurth
Senior Engineer Dr. Eisfeld	Ludwigshafen/Rhine
Senior Engineer Dr. Mach	Ludwigshafen/Rhine

**TRANSLATION OF DOCUMENT NI-11118
PROSECUTION EXHIBIT 1431**

**LETTER FROM DEFENDANT AMBROS TO DEFENDANT TER MEER AND
DR. STRUSS, 12 APRIL 1941, ENCLOSING THE REPORTS ON THE
AUSCHWITZ CONSTRUCTION CONFERENCES AND DISCUSSING THE
FOUNDERS' MEETING, "OUR NEW FRIENDSHIP WITH THE SS," THE
SUPPORT OF THE CONCENTRATION CAMP TO THE CONSTRUCTION
PROJECT, AND RELATED MATTERS**

Dr. Otto Ambros

I. G. Farbenindustrie Aktiengesellschaft

Ludwigshafen/Rhine

Telephone 6496

12 April 1941

Registered

To: Director Dr. ter Meer

Director Dr. Struss

IG—Frankfurt

Dear Sirs,

I enclose for your attention the minutes on our construction conferences which take place regularly once a week under my direction.*

*Extracts from the minutes of the first construction conference (NI-11115, *Pros. Ex. 1426*) and of the second construction conference (NI-11116, *Pros. Ex. 1428*) are reproduced earlier in this section.

From them you will obtain information on the organizational set-up and especially on the beginning of our activity in the East.

In the meantime, on 7 April, the founders' meeting for the drafting of the bylaws took place at Katowice.* It proceeded in a generally satisfactory manner. Certain opposition voiced by petty bureaucrats was quickly overcome.

Dr. Eckell proved his worth in this connection; and, in addition, our new friendship with the SS is proving very profitable [segensreich].

On the occasion of a dinner which the administrative authorities of the concentration camp gave in our honor, we further decided upon all measures connected with the use of the superb plant of the concentration camp for the benefit of the buna works.

I remain with best regards

Yours

[Signed] OTTO AMBROS

[Handwritten initials] t M [ter Meer]

Enclosure

**TRANSLATION OF DOCUMENT NI-14182
PROSECUTION EXHIBIT 1984**

**LETTER FROM FARBEN'S TECHNICAL DEPARTMENT AT LUDWIGSHAFEN
TO THE REICH LABOR MINISTRY, 22 APRIL 1941, CONCERNING THE
PLACING OF LABOR AT THE DISPOSAL OF FARBEN'S AUSCHWITZ
PLANT**

I. G. Farbenindustrie Aktiengesellschaft
Technical Department

D. 188

Registered

To the Reich Labor Ministry

Attn: Dr. Letsch

Berlin W 9, Saarlandstr. 128

[Stamp]

25 April 1941

[Handwritten] Le Va 5230/3710/41

[Handwritten] Va 5230/2901/41 Le 25 April

Our symbol

TA/Bau

Ludwigshafen/Rhine

22 April 1941 S/B.

Subject: Placing labor at the disposal of Auschwitz

At the instigation of the Plenipotentiary General for Special Questions of Chemical Production, we wish to inform you that, so far, the

*Extracts from the minutes of the first meeting are reproduced immediately above (NI-11117, Pros. Ex. 1430).

following firms were given orders for construction projects or are being considered for orders:

1. *Delivery of barracks:*
Arbeitsgemeinschaft Bardubitzki, Breslau
Herman Will, Breslau
2. *Execution of current construction jobs:*
Hoch- & Tiefbaugesellschaft A. G., Auschwitz
Karl Fabia, Auschwitz
3. *Excavation job and tracks:*
R. Schulz, Fraustadt
4. *Soil investigations:*
Baugrund G.m.b.H., Berlin
5. *Steel constructions:*
F. Fries & Sohn, Frankfurt a/M

Since we are still planning the entire installation, we cannot give you as yet the names of additional firms which will be commissioned with construction work. However, mainly those firms will be used which, belonging to the Sub- Group [Fachgruppe] Construction Industry are located in Upper Silesia, as well as the various associations of the construction trade which are known to us already from our construction projects in Dyhernfurth and Heydebreck.

Furthermore, the Auschwitz concentration camp is going to help us by making inmates available and by taking over work which can be done in its own shops. With regard to the employment of construction firms, we shall continue to stay in continuous contact with the Regional Labor Office Breslau or Katowice, as well as with the Sub- Group Construction Industry, the National Guild Association of the Building Trade, and the Todt* Organization.

I. G. Farbenindustrie Aktiengesellschaft

[Signed] Illegible

[Signed] by proxy Santo

P. S.

Additional firms charged with delivery of railway tracks:

Vereinigte Oberhuette, Gleiwitz

Koenigshuette in Koenigshuette

*Up to the time of his death in 1942, Dr. Fritz Todt was chief of the Todt Organization and Reich Minister for Armaments and Munitions. He was succeeded by Albert Speer.

PARTIAL TRANSLATION OF DOCUMENT NI-6099
PROSECUTION EXHIBIT 1312

EXTRACTS FROM THE MINUTES OF THE MEETING OF FARBEN'S SUPERVISORY BOARD, 11 JULY 1941, SIGNED BY DEFENDANT VON KNIERIEM, STATING THAT NECESSARY MANPOWER CAN GENERALLY BE ACQUIRED BY UTILIZING FOREIGN WORKERS AND PRISONERS OF WAR

Copy

58th Meeting of the supervisory board [Aufsichtsrat] of the I. G. Farbenindustrie Aktiengesellschaft, on 11 July 1941, 11 a. m., in Frankfurt/Main, Grueneburgplatz.

Present are all members of the board, with the exception of Messrs. Krauch, Aubert, von Bruening, Krekeler, Schimmelpenninck, Seleck

* * * * *

The plants have to make all efforts to get the necessary workers. By utilizing foreign workers and prisoners of war, the demand could be generally met.

* * * * *

Signed: KALLE

Signed: VON KNIERIEM

PARTIAL TRANSLATION OF DOCUMENT NI-15256
PROSECUTION EXHIBIT 2207

EXTRACTS FROM FARBEN-AUSCHWITZ WEEKLY REPORT NO. 8 FOR THE PERIOD 13-19 JULY 1941, NOTING THAT THE NECESSARY SKILLED AND UNSKILLED WORKERS CAN ONLY BE PROCURED BY COMPULSORY SERVICE

Weekly Report No. 8 for the Period 13 July to 19 July 1941

* * * * *

We are not yet able to say exactly how many foreigners were among that number. We have asked the firms to let us have these figures and will give them in next week's report. It will only be possible to procure the necessary skilled and unskilled workers by means of compulsory service. It was still not possible to assign additional inmates this week as the necessary guards are still lacking.

* * * * *

Signed: MURR*

*Murr was in charge of the advance detachment of the construction management of the Auschwitz concentration camp.

PARTIAL TRANSLATION OF DOCUMENT NI-14543
PROSECUTION EXHIBIT 1985

EXTRACTS FROM FARBEN-AUSCHWITZ WEEKLY REPORT NO. 11, FOR THE PERIOD 3-9 AUGUST 1941, CONCERNING CONFERENCES WITH REPRESENTATIVES OF AUSCHWITZ CONCENTRATION CAMP ON ASSIGNMENT OF INMATES, DIFFICULTIES IN UTILIZING INMATES, PROCUREMENT OF BARBED WIRE AND OTHER MATERIALS FOR A FENCE AROUND THE ENTIRE CONSTRUCTION SITE, REQUEST THAT FLOGGING OF INMATES BE TRANSFERRED FROM CONSTRUCTION SITE TO INSIDE OF CONCENTRATION CAMP, AND OTHER MATTERS

I. G. Farbenindustrie Aktiengesellschaft Auschwitz 9 Aug. 1941
Auschwitz (Upper Silesia) Works Fst/Go

Weekly Report No. 11 for the period 3-9 August

Preliminary Report

Various conferences with the commandant and his assistants about the assignment of inmates have taken place. As you know, the assignment of two more guard companies have been refused. Through the intervention of the Reichsfuehrer SS, it has now been ordered that all concentration camps are to detach 75 guards for duty at Auschwitz. Of this number, 40 have already arrived during the week covered by this report. In this way, it is possible for the concentration camp to assign another 1,000 inmates in addition to the 816 already employed at present. Of course, this could not be done from one day to the next. In any case, it was possible to increase the number of inmates employed from 800 to 1,000 as of Friday, 8 August 1941. During the course of next week, approximately another 700-800 men are to be assigned, if possible.

The assignment of inmates is causing difficulties, because due to the lack of guards—

1. They can always only be assigned in groups of at least 20 or more. The consequence of this is that, in some places, they are working together so closely that they are hindering each other. That is just a fundamental difference between the working methods of a concentration camp and of a free enterprise. The concentration camp has no need to consider economic principles but in free enterprise this must be done; particularly, when it is a case of firms working at standard rates. This is not always sufficiently taken into consideration and recognized by the officials of the concentration camp.

2. The inmates can only march out in daylight and must return to the camp in daylight. If it is foggy in the morning, the inmates are also not permitted to leave the camp. Therefore it is not pos-

sible to employ the inmates on shift work; they can only be considered for the day shift.

The conditions will naturally improve once the construction site has been fenced in. The preparations for this have been made so that the fencing can be done by the end of the month. It is now planned to use concrete posts, which are being made in the concentration camp, and barbed wire and wire netting, which we are obtaining from the wire drawing mill in Gleiwitz.

We have furthermore drawn the attention of the officials of the concentration camp to the fact that, in the last few weeks, the inmates are being severely flogged on the construction site by the Capos in increasing measure, and this always applies to the weakest inmates who really cannot work harder. The exceedingly unpleasant scenes that occur on the construction site because of this are beginning to have a demoralizing effect on the free workers (Poles), as well as on the Germans. We have therefore asked that they should refrain from carrying out this flogging on the construction site and transfer it to the inside of the concentration camp.

* * * * *

[Stamp]

Buna Auschwitz

Dr. Ambros

Dr. Bueteffisch/Dr. v. Staden

Santo

Dr. Mach

Dr. Eisfeld

Dr. Duerrfeld

Faust

Heidebroek

[Handwritten] Certified Engineer Rasch

**PARTIAL TRANSLATION OF DOCUMENT NI-15254
PROSECUTION EXHIBIT 2208**

**EXTRACTS FROM FARBEN-AUSCHWITZ WEEKLY REPORT NO. 13 FOR
THE PERIOD 17-23 AUGUST 1941, CONCERNING DIFFICULTIES WITH
POLES AND ETHNIC GERMANS, PUNISHMENT BY ASSIGNMENT TO
CONCENTRATION CAMP AUSCHWITZ FOR 2 MONTHS, AND RELATED
MATTERS**

Weekly Report No. 13 for the period from 17 to 23 August 1941

* * * * *

About 40 leading officials of the authorities took part in this conference; that is, representatives of all the agencies located in Bielitz (local court, provincial court, post office, chamber of commerce, lord

mayor, business and industry, etc.). The head of the Bielitz Labor Office, Oberregierungsrat Malucke, gave a survey of the present situation with regard to labor assignment in the Bielitz district. He described all the difficulties which have arisen (particularly in this district) because of the lack of discipline of the Poles and also of the ethnic Germans, and the means by which they are trying to combat this. Refusal to work and unauthorized change of employment cause the greatest difficulties in this respect. Even the repeated screening of all firms to determine where unauthorized labor was being used and the use of police against refusal to work have not yet had entirely the desired effect.

Following this, the district attorney gave a report about offenses against the War Economy Decrees and their punishment. Among other things, he criticized an agreement between the county councillor [Landrat] and the commandant of the Auschwitz concentration camp, who was also represented, according to which persons guilty of changing their employment without authorization and of refusing to work are punished by being sent to the Auschwitz concentration camp for 8 weeks' reform, and this without legal proceedings. He was of the opinion that such cases were a matter for the proper courts, and as long as the proper courts had not shown that they were not able to cope with these matters, there was no justification for agreements of this kind. He mentioned among other things that unauthorized change of employment and refusal to work were being punished relentlessly with penalties of up to 10 months' imprisonment.

* * * * *

The meeting was followed by a get-together; Dr. Duerrfeld and his wife also took part.

* * * * *

On 21 August, the undersigned visited Generaldirektor Falkenhahn of the Fuerstlich Pless'sche Grubenverwaltung in order to discuss the construction of the barracks for the Main Trustee Office East [Haupttreuhandstelle Ost], Katowice, and obtaining apartments for the plant leaders with him once again.

The permission of the building authorities [Baupolizei] has not yet been obtained for the construction of the barracks. Orders have been given to the firm Bardubitzki to bring the hut here; the order for laying the foundations has been given to the firm Grosspietsch.

With regard to the procurement of apartments for the plant leaders, I expressed my doubts as to whether it would be possible to get authorizations for such apartments at all today. The estate of the Pless'sche Grubenverwaltung in Emanuel-Segen is at present still being used as a transients' camp, and it will probably not be possible to consider it as accommodation for quite some time. There is, how-

ever, a possibility of arranging an apartment for Dr. Ottermann on the rebuilt attic floor of the administrative building of the Fuerstlich-Pless'sche Grubenverwaltung. An inspection of the place showed that it would be possible to arrange for an apartment in this space, and Generaldirektor Falkenhahn then approved this.

On this occasion, Dr. Ottermann pointed out that, as of 1 October 1941, a well-furnished and equipped 2-room apartment, which is at present still being occupied by the mine surveyor of the Grubenverwaltung will be vacant in Katowice. He suggested that this apartment be rented for the use of transient visitors of the IG.

* * * * *

Signed: FAUST

PARTIAL TRANSLATION OF DOCUMENT NI-11127
PROSECUTION EXHIBIT 1435

EXTRACTS FROM REPORT OF THE TWELFTH CONSTRUCTION CONFERENCE ON FARBEN-AUSCHWITZ, ATTENDED AMONG OTHERS BY DEFENDANTS BUETEFISCH, DUERRFELD, AND AMBROS, 13 OCTOBER 1941, CONCERNING THE STATE OF CONSTRUCTION, PLANNED ERECTION OF ADDITIONAL BARRACKS AND CAMPS, COMPLETION OF FENCES ON CONSTRUCTION SITE AS PREREQUISITE TO PROCUREMENT OF ADDITIONAL CONCENTRATION CAMP INMATES, DECISION THAT DEFENDANT DUERRFELD INFORM DEFENDANT KRAUCH BY LETTER OF ALL DIFFICULTIES, INCLUDING DIFFICULTIES INVOLVED IN EMPLOYING INMATES, AND RELATED MATTERS

TA/Bk/Az

13 October 1941 Fr.

I. G. Plant Auschwitz 12th Construction Conference held at Leuna on 7 October 1941

Present are:

From Leuna:

Director Dr. Buetefisch
Director Dr. von Staden
Senior Engineer Dr. Duerrfeld
Senior Engineer Dr. Hoepke
Senior Engineer Dr. von Lom
Dr. Braus
Dr. Weber
Certified Engineer Loetzsch

From Ludwigshafen:

Director Dr. Ambros
Construction Director Santo
Dr. Eisfeld
Senior Engineer Dr. Mach
Senior Engineer Heidebroeck

Present State of Construction

Duerrfeld reports on the present state of construction work. Barracks are to be extended sufficiently to accommodate assignments of up to 700 workers. The sides of the foundation trenches will be dug

at an angle of 45°. The Scheidig soil samples are ready for dispatch. The connecting spur line is to be laid on road A; it has reached the factory site in the East.

Many more foundation plans might be required for the construction site in order that the progress of construction work might be accelerated. Owing to existing conditions, the number of inmates employed on this work cannot be increased. The erection of fences around the plant has been begun; its completion is, however, a prerequisite for the employment of additional inmates. The inmates working for the Schulz company are only used 6½ hours. They arrive at the construction site too late and depart too early. Guarding them during foggy weather presents difficulties. On an average, 2 cubic meters of ground per man per day are moved. Equipment is not used to best advantage.

* * * * *

Ground Plan

Plans are drafted by Faust for building materials, warehouse, carpentry workshops, depot for railroad equipment, and whitewash shop Ludwigshafen will deal with these items.

Cantonment

The following solutions are recommended :

1. The apprentices' camp is to be established to the west of the works' boundary.
2. Besides the settlement to accommodate 5,000 men, which is under construction, another camp to house 5,000 men is to be set up to the west of the works' boundary, between the works and the future standby settlement to the east of the highway.
3. Another camp to accommodate 5,000 men will be established between the standby settlement and the future southeastern boundary of the town of Auschwitz, to the south of the Auschwitz-Zator road.
4. The bachelors' camp will be set up to the north of this road. (The plans for this camp were discussed with *Faust* and *Anders* on 10 October at the site. *Anders* will continue to work on the project.)

* * * * *

Housing facilities

Anders is to submit to Berlin final plans and, for purposes of comparison, the first draft showing the more pleasant and spacious design.

The Village of Babitz

Since there still is a number of serviceable houses in Babitz, an agreement should be concluded with the concentration camp authorities whereby the houses which can still be used are, for the time being, to be neither demolished nor blown up, but made into habitable apartments.

Date for the commencement of operations

In a letter to be sent to the Plenipotentiary General for Special Questions of Chemical Production *Krauch, Duerrfeld* is to list all difficulties and obstacles hindering progress in the building program, insofar as they can already be assessed. This letter is to contain not only information on existing bottlenecks hindering speedier progress in building such as shortage of building materials, difficulties connected with the employment of inmates, the supply of housing facilities, et cetera; but also detailed information as to the extent to which the general housing problem and existing living conditions in and around Auschwitz are proving a hindrance to progress in 1942. In this connection, mention has to be made of the fact that IG alone is not in a position to effect any improvement, but that the support of all authorities carrying influence in this sphere, in particular that of the Plenipotentiary General for Construction is necessary in order that special measures, adapted to local requirements, might be taken to further the plans for the expansion of the town of Auschwitz.

* * * * *

**TRANSLATION OF DOCUMENT EC-489*
PROSECUTION EXHIBIT 473**

**LETTER FROM LT. COL. KIRSCHNER (DEPUTY TO DEFENDANT KRAUCH)
TO GENERAL THOMAS, 20 OCTOBER 1941, CONCERNING KRAUCH'S
IDEA FOR THE EMPLOYMENT OF RUSSIAN PRISONERS OF WAR IN
THE ARMAMENT INDUSTRY, AND OTHER MATTERS**

Lt. Colonel Kirschner, on active duty, Staff of the Plenipotentiary
General for Special Questions of Chemical Production,
Professor Dr. C. Krauch
7617/41 secret

Berlin W 9, 20 Oct. 1941
Saarlandstr. 128
Tel: 120048

[Stamp]
Secret

[Stamp]
Office of Military Economics and Armaments
Department Armaments IV
23 October 1941
Ref. No. [Handwritten] 6849/41 secret
Encl. 1

*Photographic reproduction of this document appears in the appendix.

To: Chief of the Office of Military Economics and Armaments, in the
High Command of the Wehrmacht, Lieutenant General Thomas
Berlin W 62

[Initials] GT [Georg Thomas]
[Handwritten] 22 October
[Handwritten]
Department Armaments IV
23 October

Dear General,

Professor Krauch asked me yesterday when I visited him at his sickbed, to express his very special thanks to you for your energetic efforts in the Emergency Project Bruex, and for your willingness to stress the importance of the meeting on 23 October—which has become unnecessary, owing to the preliminary work of all persons participating—by your own presence.

During my visit, Professor Krauch developed an idea concerning the employment of Russian POW's in the armament industry [Kriegsruestung], for the further development—and, especially, the execution—of which he considers you, dear General, to be the right man.

I made a short note of the ideas of Professor Krauch in the enclosure,* which I am herewith handing you obediently as a suggestion of the G. B. Chemie [Plenipotentiary General for Special Questions of Chemical Production].

Heil Hitler!
Yours very obediently,
[Signed] KIRSCHNER

Encl.

**TRANSLATION OF DOCUMENT EC-194
PROSECUTION EXHIBIT 1287**

**DIRECTIVE OF FIELD MARSHAL KEITEL TO VARIOUS MILITARY AND
GOVERNMENT AGENCIES, 31 OCTOBER 1941, ANNOUNCING HIT-
LER'S ORDER THAT RUSSIAN PRISONERS OF WAR BE UTILIZED IN
WAR INDUSTRY, GENERAL PROVISIONS FOR THEIR EMPLOYMENT,
AND RELATED MATTERS**

Fuehrer's Hqs, 31 October 1941.

To Chief of the High Command of the Armed Forces
WFSt [Operations Department]
Abt. L [Dept. of National Defense]
No. O 2588/41 Secret

*The enclosure was not a part of the exhibit received in evidence.

Secret

Subject: Use of Prisoners of War in the War Industry [*Kriegswirtschaft*] *

The lack of workers is becoming an increasingly dangerous hindrance for the future of the German war and armament industry. The expected relief through discharges from the Armed Forces is uncertain as to extent and date. However, its possible extent will by no means correspond to expectations and requirements in view of the great demand.

The Fuehrer has now ordered that the labor of the Russian prisoners of war should also be utilized to a large extent by large-scale assignment for the requirements of the war industry. The prerequisite for production is adequate nourishment. Also very low wages are to be paid for the most modest supply of a few consumers' goods [*Genussmittel*] for everyday life, with possible rewards for satisfactory work.

For the allocation of labor, the following may be considered, for example:

I. *Armed Forces*

a. Clearing and construction units of all kinds in the Occupied Eastern Territories.

b. Work and construction battalions in the other occupied territories and in Germany.

c. Closed units of all kinds to relieve soldiers in labor service.

II. *Construction and armament industry* [*Ruestungswirtschaft*]

a. Work units for constructions of all kind, particularly for the fortification of coastal defenses (concrete workers, unloading units for essential war plants).

b. Suitable armament factories which have to be selected in such a way that their personnel should consist, in the majority, of prisoners of war under guidance and supervision (perhaps after withdrawal and other employment of the German workers).

III. *Other war industries* [*Kriegswirtschaft*]

a. Mining as under II b.

b. Railroad construction units for building tracks, etc.

c. Agriculture and forestry in closed units.

The utilization of Russian prisoners of war is to be regulated on the basis of above examples by:

To I. The Armed Forces.

To II. The Reich Minister for Armaments and Munitions and the Inspector General for the German Highway System, in agreement

*For further materials concerning measures against prisoners of war and enemy belligerents of the Third Reich by German military leaders, see pages 1-194, volume XI, this series (The High Command case—Case 12).

with the Reich Minister of Labor, and with the High Command of the Armed Forces (Wi Rue Amt) [Economic Armament Office].

Deputies of the Reich Minister for Armaments and Munitions are to be admitted to the prisoner-of-war camps to assist in the selection of skilled workers.

To III. The Reich Minister of Labor. Limitations are:

1. The securing of guards to protect the German people from danger.

2. Housing in closed camps.

3. Securing adequate nourishment.

The observance of the counterintelligence regulations which apply for the use of prisoners of war will be supervised by military counterintelligence agencies as until now.

The High Command of the Armed Forces (AWA) [Section for General Armed Forces Matters] will furnish the Reich Minister of Labor with blueprints based on professional selection for the appropriate use of labor, and will also permanently provide workers for assignment to the allocation.

Furthermore, the Commander-in-Chief of the Army is asked to take the necessary measures for the recruiting of volunteer labor in the eastern operational zone in cooperation with the Reich Minister of Labor.

Signed: KEITEL

Distribution:

High Command of the Army/G-1, Quartermaster General

High Command of the Navy/Naval Operations Staff (Quartermaster Dept. II)

High Command of the Air Force/Quartermaster General

Reich Ministry of Labor

Attention: State Secretary Syrup

Reich Minister for Armaments and Munitions

Attention: Oberregierungsrat Baurat Behrens

Reich Ministry of Economics

Attention: Ministerialrat Quecke

Reich Ministry of Food and Agriculture

Attention: Ministerialrat Dr. Dietrich

High Command of the Armed Forces/Economic Armament Office;

AWA (3 copies)

Dept. Foreign Countries/Counterintelligence

Dept. Foreign Countries

Operations Department, Department of National Defense (Chief

LII, IK, IL, IV, II, Ntb).

PARTIAL TRANSLATION OF DOCUMENT NI-11129
PROSECUTION EXHIBIT 1437

EXTRACTS FROM REPORT, 19 NOVEMBER 1941, OF THE THIRTEENTH
CONSTRUCTION CONFERENCE ON FARBEN-AUSCHWITZ, CONCERN-
ING EXPANSION OF THE TOWN OF AUSCHWITZ, HOUSES, BAR-
RACKS, OFFICE BUILDINGS, APARTMENTS, SALARIES, LABOR, ASSIST-
ANCE OF THE CONCENTRATION CAMP IN PROCUREMENT OF BUILD-
ING MATERIALS FOR EXPANSION, REQUEST BY THE OFFICE OF
FARBEN'S TECHNICAL COMMITTEE FOR BREAKDOWN IN CREDIT
REQUESTS FOR PROJECTS AS BETWEEN SPARTE I AND SPARTE II,
AND RELATED MATTERS

Ta/Hk/Az

19 November 1941

Secret

*I. G. Plant Auschwitz 13th Construction Conference at Ludwigshafen
held on 18 November 1941*

Present:

from Leuna:

Director Dr. von Staden
Senior Engineer Dr. Duerrfeld
Dr. Braus
Certified Engineer v. Lom
Certified Engineer Sitzenstuhl

from Ludwigshafen:

Director Dr. Ambros
Director Dr. Eymann
Construction Director Santo
Dr. Eisfeld
Senior Engineer Dr. Mach
Senior Engineer Heidebroek
Dr. Schloettig

Dr. Savelsberg

* * * * *

Expansion of the city of Auschwitz

IG agrees to support the county councillor of Bielitz to induce Architect Harry Junker of the Pommer'sche Heimstaetten in Stettin to apply for the job of municipal building adviser [Stadtbaurat] at Auschwitz. Connected with this job should be the management of the "Neue Heimat."

As good results have been obtained at other buiding sites by calling in the Todt Organization or Speer Organization, steps are to be taken to commission one of these organizations with the supervision of parts of the building site. This seems expedient especially in regard to speed up on the settlement.

Montan plant

The High Command of the Army is to be informed that, for the expansion of the town of Auschwitz or for the building of dwelling

houses which could later become the property of the Montan, an allowance, to be determined by the size of the plant, should be included in the building allowance of the Montan plant.

A final decision on the Montan plant cannot be expected before the expiration of 2 months.

Barracks

In order to be able to accommodate 8,000 men from 1 May 1942 onwards, 31 barracks per month must be set up, that is, one barrack per day. This requires a labor allocation of 700 men.

Recruitment of labor

As there is still unemployment in the Government General, a letter to Regierungsrat *Malbucke* of the Regional Labor Office at Bielitz is to be written, in which he will be asked to establish contact with the competent authorities of the Government General in order to recruit illegal Polish border-crossers from Cracow and vicinity for work at the construction site.

Concentration camp

The management of the concentration camp has made full use of the promise of support in the procurement of construction material for the expansion, and has provided for a construction program entailing the expenditure of 7 millions. The Plenipotentiary General for Special Questions of Chemical Production cannot give support to any such extent. Mr. Keinath is the responsible official in this field and is to find a suitable solution.

Office building

The construction work on the office building is to be continued.

Settlement

320 apartments are approved; also another 180. If possible, three floor houses with 6 three room apartments each, are to be built.

Salaries

A meeting is arranged, under the chairmanship of Dr. *Ambros* and Dr. *von Staden* with Chief Engineer *Hoffmann* and Mr. *Pfeiffer*, to lay down the rulings according to which salaries should be determined and payments made at Auschwitz.

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Credits

Eisfeld reports the wish of the Office of the Technical Committee, according to which each request for funds should show the proportion of the costs of the project to be borne by Sparte I and by Sparte II.

Next construction conference on 16 December 1941 at Leuna.

“HEIDEBROEK.”

**PARTIAL TRANSLATION OF DOCUMENT NI-15254
PROSECUTION EXHIBIT 2208**

**EXTRACTS FROM FARBEN-AUSCHWITZ WEEKLY REPORT NO. 26, FOR
THE PERIOD 17-23 NOVEMBER 1941, CONCERNING ESCAPE OF A
CONCENTRATION CAMP INMATE WHO PUT ON CIVILIAN CLOTHES,
AND THE SENDING TO THE CONCENTRATION CAMP OF FOUR POLISH
WORKERS WHO KEPT THEIR CLOTHES IN THE UNLOCKED CON-
STRUCTION BARRACK**

Weekly Report No. 26 for the period from 17 to 23 November 1941

* * * * *

On 22 November another inmate escaped from the building site after having put on civilian clothes in an unlocked construction barrack. Thereupon the labor allocation leader [Arbeitseinsatzfuehrer] has sent four Polish workers, who had kept their clothing in the unlocked construction hut, to the concentration camp.

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Signed: FAUST

**PARTIAL TRANSLATION OF DOCUMENT NI-15253
PROSECUTION EXHIBIT 2206**

**EXTRACTS FROM FARBEN-AUSCHWITZ WEEKLY REPORT NO. 30 FOR
THE PERIOD 15-21 DECEMBER 1941, REPORTING UPON AN INSPEC-
TION OF THE CONCENTRATION CAMP BY COMMANDANT HOESS
AND FARBEN OFFICIALS**

Weekly Report No. 30 for the period from 15-21 December 1941

* * * * *

Following this, there was a discussion, including an inspection tour of the concentration camp conducted by the commandant. Herr Schneider said quite openly that the concentration camp's demands for 7 million construction units [Bauvolumen] could not be considered under present circumstances. Since the amount of construction units which will be available to the Plenipotentiary General for Special Questions of Chemical Production will not be definitely fixed until the beginning of January 1942, the matter will have to be deferred until then. It was, however, established that the surrender of construction units for over 2 million reichsmarks was out of the question. It was left to the construction management of the concentration camp to reduce its demands accordingly, particularly since it would hardly be possible to process such a large number of construction units in the third year of war economy. The officials of the concentration camp

showed understanding for the present situation. A final arrangement will have to be made at the beginning of January 1942.

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Signed: FAUST

**PARTIAL TRANSLATION OF DOCUMENT NI-14556*
PROSECUTION EXHIBIT 1988**

EXTRACTS FROM FARBEN-AUSCHWITZ WEEKLY REPORT NO. 30, FOR THE PERIOD 15-21 DECEMBER 1941, CONCERNING DISCUSSION AND CONCLUSIONS AS TO TREATMENT AND DISCIPLINE OF CONCENTRATION CAMP INMATES AND POLES; THE EFFECT OF DISCIPLINARY MEASURES AGAINST POLES, INCLUDING ASSIGNMENT TO THE CONCENTRATION CAMP; THE DENIAL OF DISCIPLINARY POWERS TO THE CONSTRUCTION MANAGEMENT; OTHER DIFFICULTIES IN THE CONSTRUCTION PROGRAM, AND RELATED MATTERS

Weekly Report No. 30 for the Period from 15-21 December 1941

Distribution:

Ludwigshafen: Director Dr. Ambros/Dr. Eisfeld
Construction Director Santo
Chief Engineer Dr. Mach/Heidebroek
Merseburg [Leuna]: Director Dr. Buetefisch/Dr. von Staden/
Dr. Braus
Chief Engineer Dr. Duerrfeld/von Lom
Chief Engineer Dr. Hoepke
Plenipotentiary General for Special Breslau: *Franke*
Questions of Chemical Production Katowice: *Von Boeltz*

* * * * *

* This document contains extracts from the same Farben-Auschwitz Weekly Report as Document NI-15253, Prosecution Exhibit 2206, reproduced immediately above. The weekly reports were long and upon first analysis it was not always possible to know what parts of the document might be essential for trial purposes. Accordingly, one part of the report often received a document number and was translated before another part of the report was considered to be essential, given a different document number and translated.

On this occasion the mistreatment of the inmates on the working sites of the firm Schultz, which is still continuing, was discussed repeatedly. Herr Wernicke expressed his very serious objections to these occurrences and his fear that the German employees would not put up with it very much longer. We will talk about this to the commandant once again.

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The work, particularly of the Poles and inmates, continues to leave much room for improvement. The amount of sickness constitutes a great nuisance. For instance in the Schultz firm, 182 out of the total of 853 free workers employed were sick (report of 20 December 1941). The lack of discipline at work of the Polish workers is also shocking. Many of the workers work a maximum of 3-4 days per week. Every type of pressure, even sending them to the concentration camp, remains without result. In this respect, it is only to be regretted that the construction management itself has no disciplinary powers. Our experience so far has shown that only brute force has any effect on these people. But this is absolutely taboo here, as incidently it is in the Government General too. As is known, the commandant always argues that as far as the treatment of inmates is concerned, it is impossible to get any work done without corporal punishment [Pruegel].

Apart from the many other difficulties which prevail on the construction site, caused by present conditions, this situation must also be mentioned. There is no doubt that it will again and again have a deterrent effect on the schedules and will increase costs considerably. Although, until now, we have been able to keep the standard prices comparatively low, on the basis of our experience we feel that it will be very difficult to maintain this for any length of time, particularly since the firms employed up to the present have now also had their experience over a period of several months.

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PARTIAL TRANSLATION OF DOCUMENT NI-11130
PROSECUTION EXHIBIT 1445

EXTRACTS FROM REPORT OF FOURTEENTH CONSTRUCTION CONFERENCE ON FARBEN-AUSCHWITZ HELD ON 16 DECEMBER 1941, CONCERNING BOTTLENECKS IN CONSTRUCTION, DIFFICULTIES IN BUILDING BARRACKS AND IN TRANSPORTATION, PROSPECTIVE DISCUSSION BETWEEN TODT AND DEFENDANT KRAUCH ON ASSISTANCE OF THE TODT ORGANIZATION, AVAILABLE MEASURES TO MEET MANPOWER REQUIREMENTS, EFFICIENCY OF POLES AND INMATES AS COMPARED TO GERMAN WORKERS, FACTORS PREVENTING ASSIGNMENT OF MORE INMATES, AND OTHER MATTERS

TA/HK/Az

*Auschwitz IG Works 14th Construction Conference held on
16 December 1941 at Leuna**

Present:

Director Dr. von Staden	Director Dr. Ambros
Director Dr. Strombeck	Construction Director Santo
Senior Engineer Dr. Duerrfeld	Dr. Eisfeld
Senior Engineer Dr. Hoepke	Senior Engineer Heidebroek
Dr. Braus	Dr. Schloettig
Certified Engineer von Lom	<i>of Ludwigshafen</i>
Certified Engineer Loetzsch	
<i>of Leuna</i>	
Senior Engineer Faust	
Dr. Savelsberg	

Discussion of bottlenecks of the construction site

As bottlenecks particularly noticeable at present, Duerrfeld and Faust single out the cantonments, transportation and fuel, gravel production.

Cantonments

The barracks are on order since May 1941. On the occasion of their Christmas trip home, several officials of the construction site will visit the contractors. The main difficulty lies in transportation. There is a good chance of setting up one barracks a day if deliveries are made in time. The billeting in existing barracks was increased by closer quartering of the Polish inhabitants. Delivery of washing and toilet barracks is extremely tardy. In order to solve the transportation problem it is necessary to cooperate with the Freight Car Directing Office of the General Plenipotentiary for Special Questions of Chemi-

*The initials of the defendant ter Meer appear at the bottom of the first page.

cal Production. The foundations have been laid for further barracks which are to be delivered. Work has begun on the second camp near the Jewish cemetery. The aim of the work on the camp is to accommodate 15 thousand persons by the fall of 1942.

Transportation

The Auschwitz railroad station is overburdened. No more than 40 freight cars can be unloaded because not enough motor vehicles are available (fuel scarcity!). The change-over to fuel gas is being carried out. In Auschwitz, 70 freight cars arrive daily for the construction site and 120 for the concentration camp. An improvement can be expected in 3 weeks when another shunting mechanism on the site will go into operation. The settlement is also to have a rail connection. For the time being, tracks cannot be laid in all streets on account of the manpower shortage; however, tracks are to be laid in streets A, C, E, G, and J. These tracks are to be temporarily coupled west of the building site in order to obtain more favorable switching conditions. Tracks, switches, planks are on hand. The absence of a railroad engineer is felt to be a very great disadvantage. *Santo* raises the possibility of having *Martin* transferred from *Ludwigshafen*. *Schweizer* will join the location for good in January. A second siding will be opened in 4 weeks at the *Dwory* railroad station.

Track construction

Progress is held up by the lack of specialists. A thousand men can be used on track construction. The line on J Street is to be opened for traffic by the middle of May.

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Works fence

At present the concentration camp is not delivering any stakes. The prefabricated concrete workshop is manufacturing the stakes itself.

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The Todt Organization

A discussion between *Todt* and *Krauch* is expected to provide a decision on the utilization of the Todt Organization. The latter could build the settlement, the waterworks, the drainage system, or other complete projects outside the plant. The utilization of the Todt Organization can only begin 4 weeks from now, after all questions have been clarified.

Manpower requirements

Lieutenant Colonel *Kirschner* of the Plenipotentiary General for Special Questions of Chemical Production has declared that Auschwitz ranks after *Blechhammer* and *Heydebreck*. Therefore, some of the workers released by *Dyhernfurth* have already been assigned to *Heyde-*

breck, and there is a danger that many of the workers further to be released by Dyhernfurth will not be assigned to Auschwitz, as planned, but to Heydebreck. The Bielitz Labor Office has already acted on this assumption. Krauch is to be informed of this. To meet manpower requirements, the following sources can be used.

1. *Border-crossers*

Malukke of the Bielitz Labor Office is to be reminded of our suggestion to impress border-crossers held by the Government General.

2. *French firms*

The utilization of French firms is hampered by the lack of designers. Therefore, the only possibility is salaried workers which, however, appears promising. Dr. Titus is at present negotiating in France with French firms.

3. *Reich Labor Service*

There is a teletype message from Boeltz to the effect that the Labor Service [Arbeitsdienst] is not to be used in Auschwitz. The difficulties of billeting Labor Service members can be overcome by having the Labor Service fix up the houses available in the village of Babitz and create quarters there. If necessary, the Labor Service should build its own huts.

4. *Outside firms*

The firms working on the building location bring their own workers. We must see to it that the Labor Office does not transfer those workers to Heydebreck.

5. *Workers on leave from the Army*

The Army is expected to give winter leave to certain groups (engineers, technicians, foremen, and skilled workers); at any event, the workers thus obtained are to be employed even in frost and bad weather.

Employees

Dr. Duerrfeld, supported by Director Dr. Schneider, Leuna, will write a letter to IG Berlin (Agfa) to have them release workers for Auschwitz. At present there are 900 employees at Agfa working less than 48 hours.

Concentration camp

The concentration camp cannot give the expected help since it is under orders to set up accommodations for 120,000 captured Russians as fast as possible.

Working efficiency at the construction site

Faust reports that free Poles reach 50 percent of the efficiency of German workers, inmates 30 percent. The utilization of inmates cannot be increased at present, since the concentration camp has more work than it can do, for the reasons mentioned above. The effect of this is shown in the deliveries of the concentration camp. Delivery

of stakes for the works fence is insufficient, as is delivery of appliances for the huts. It was promised, however, that a part of the closets ordered would be delivered by Christmas.

Efficiency at the construction site can only be increased by an increase of supervisors. The Works Security Detachment [Werkschutz] must also be strengthened.

Working combines [Arbeitsgemeinschaften]

The labor offices do not favor the utilization of working combines (experience at Leuna). In Auschwitz, however, it is to be attempted at any event to form working combines and labor allocation associations [Arbeitseinsatzgesellschaften] in order to increase the labor allocation for construction work by coupling foreign firms with German firms.

Retraining

Faust asks to have a part of the locksmiths under training utilized in iron construction.

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Settlement

The work on the settlement is hampered by the lack of gravel. The building progress by "Neue Heimat" is not at all satisfactory. They already stopped work at 4° Centigrade. Therefore, the rest of the authorized homes, namely 680, are to be built by IG, if possible. The settlement is a good object for a labor allocation association. Architect Junkers, suggested for the position of municipal building adviser [Stadtbaumeister], will not come to Auschwitz; Schmitt of Ludwigshafen will arrive in his place. Schneider will be in Auschwitz as Keinath's assistant in order to investigate whether the building projects of the city and the concentration camp are necessary, and what their material requirements are.

Development of the city of Auschwitz

Work has begun on the rest house. Pharmacy and hospital have been contracted for.

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Demolition of houses

All houses on the left of the Sola are being torn down by the concentration camp. It has been agreed, however, that houses north of the Auschwitz-Neu-Behrung road will be left standing, as will all houses on the left bank of the Sola, which are north of the future Auschwitz railroad station.

* * * * *

Signed: HEIDEBROEK

**PARTIAL TRANSLATION OF DOCUMENT NI-15253
PROSECUTION EXHIBIT 2206**

**EXTRACTS FROM FARBEN-AUSCHWITZ WEEKLY REPORTS 31 AND 32,
FOR THE PERIODS 22-28 DECEMBER 1941 AND 29 DECEMBER 1941-
4 JANUARY 1942, CONCERNING VARIOUS CHRISTMAS CELEBRA-
TIONS BY THE GERMAN STAFF, INCLUDING CHRISTMAS PARTY OF
THE WAFFEN SS**

*Weekly Report No. 31/32 for the period from 22 to 28 December 1941
and 29 December 1941 to 4 January 1942*

* * * * *

As for the rest, the days before Christmas were devoted to Christmas celebrations. On 16 December, a party for our staff (about 300), took place in the hall of the local Seraphite convent on Krakauerstrasse, which the mayor had had repaired for this purpose—and on 18 December, there was one for approximately 400 members of the staff of German firms. On 20 December, representatives of IG took part in the Christmas party of the Waffen SS which was very festive and which ended up alcoholically gay; and on 22 December, in the Christmas celebration (with a goose dinner) of the city employees; of course we had also invited representatives of the concentration camp and of the city to our staff party.

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**TRANSLATION OF DOCUMENT NI-7066
PROSECUTION EXHIBIT 1372**

**CIRCULAR OF FARBEN'S LEVERKUSEN PLANT, 29 DECEMBER 1941,
CONCERNING VARIOUS ASPECTS OF THE TREATMENT OF POLISH
LABORERS.**

Leverkusen—I. G. Works, 29 December 1941

To the Department Heads, Works Managers, and Office Chiefs
Leverkusen

Re: Conduct towards civilian workers of Polish nationality

It is expected of every race-conscious German that he maintain the required distance between himself and Polish nationals. This applies in particular in cases where German nationals have to work immediately together with Poles. Even where it has been impossible to set Poles to work separately and it has become necessary for Germans to mix with them at work, this should never be a cause for forgetting the national enmity between the two nations. Every works manager should therefore always be aware of the fact that the Polish civilian workers under him are nationals of an enemy state,

and his conduct should be [governed] accordingly. Any social contact between these civilian workers and Germans is prohibited. It is the duty of every works manager to see that the restrictions put on these workers are strictly adhered to, and that all male and female Poles always wear—also on their working clothes—a distinguishing mark, which must be fixed on the outer garment and must always be recognizable, namely a violet "P" on a yellow background worn on the right side of the chest.

1. *Leaving of premises by Poles*

Polish civilian workers may leave their lodgings only for reasons of work as ordered by the works managers, and then only during the following hours:

From 1 April to 30 September from 21 to 5 hours, and

From 1 October to 31 March from 20 to 6 hours.

In order to avoid difficulties with the police authorities, any Polish worker who has to walk in the street on account of his work shift during the aforementioned hours shall be given a certificate with the stamp of the factory, showing the time his shift commences or ends. If need be, such certificate may be made out for a period of 1 week at a time. Forms may be obtained from the paper store (Holl. No. 9846 584.)

2. *Absenteeism*

Any inexcusable absence from work is to be passed on by the works immediately by telephone to the casino office, Herr Bloemer, Telephone 1293, and is besides to be reported in writing to the employment office.

3. *Mealtimes*

The mealtime for Poles in the individual dining halls is from 13 : 20 to 14 hours.

4. *Feeding on Sundays*

In order to assure due feeding on Sundays, the names of those Poles who are ordered to work on Sunday must be submitted to the casino office, in duplicate, not later than the preceding Saturday at 10 hrs. Name, plant, book number, period of work, and camp, must be stated.

5. *Wages*

a. *Payment to Polish women for cleaning and simple factory work.*

b. *Payment to Polish men and women in factories at premium hours.*

a. Polish women who are engaged in the chemical plants will, besides cleaning—which is in principle paid for by the hour—also undertake factory work (rolling barrels, and similar work). Polish women carrying out a considerable amount of such work can, when working

48 hours with good performance, earn up to 7 premium hours, provided that a premium for such work is also paid to German workers. If the working time is increased by overtime or Sunday work, the premium hours may be increased proportionately.

b. Some of the Polish men and women do not deserve the full premium in accordance with their performance. In such cases Polish men and women shall only be credited with their actual performance in premium hours. The time provided for becoming acquainted with the work and which is laid down in the premium agreement may, moreover, be extended. The period necessary for becoming acquainted with the work is left to the judgment of the works manager.

6. *Cleaning duties*

In view of the shortage of women cleaners, Polish women have, in turns, to undertake 2 hours cleaning duties in the works offices after closing hours. Works offices are to submit their requirements immediately to the employment office. The girls relieve each other monthly, they are assigned by the woman camp leader; the latter submits to the plants each month a list of the girls thus employed. The plant offices where the Polish women are engaged in cleaning will punctually report the number of hours put in to the factory office. Forms for indicating the hours may be obtained from the factory office.

7. *Payment of wages*

In order to prevent our German workers from coming in contact with Polish nationals when wages are paid, you will kindly arrange that the Polish workers are paid *after payment of wages to the German workers has been completed*. The pay envelopes for the Polish workers will be filled separately and added to the envelopes for our German workers.

8. *Vacation*

In respect to granting leave to Polish workers, the following decree of the Reich Ministry of Labor of 31 March 1941, shall apply:

“As far as Polish men and women workers who are or will be employed as civilian workers within the territory of the Reich are, according to regulations or agreements, entitled to a vacation or a visit to their family at home, the claim to such vacation or visit will be dropped for the time being. The Ministry reserves the right to fix the time when such claims for vacation or visits home will be complied with.”

9. *Short leaves*

In order to maintain due supervision of the Poles, which has also to be carried on outside the plant, short leaves can only be granted after previous consultation with the Welfare Department. We consider it a matter of course that short leaves can only be approved for

really sound reasons, such as a summons of an authority, visit to a doctor, et cetera.

10. *Medical service*

The medical department has a medical consulting room and a room for treatment in the basement, together with a waiting room *and a separate entrance from the street*. A Polish-speaking nurse is permanently on call there, as is also a Polish-speaking orderly. The physician's consulting hours are as follows:

Consulting hours, daily from 7:30 to 8:30 for Polish men.

Consulting hours, daily from 8:30 to 9:30 for Polish women.

Renewing of dressings daily from 16:00 to 17:30.

The consulting hours are kept by Dr. Feder (Tel. 2285).

The Polish-speaking orderly may be reached under Tel. 617.

In cases of accidents or sudden internal illness, the medical department, that is, the dressing station for Poles, can be visited any time; for all other treatments, however, only at the hours fixed. Furthermore, it is pointed out, in principle, that all Poles who wish to have medical attention have to furnish a sickness certificate which has first to be approved by the Health Insurance [Kasse] only for the medical department. The sickness certificate has to be made out by the factory. It is then decided during the consulting hours whether the patient shall be sent for treatment to a specialist, dentist, or dental surgeon. As far as it is not a question of cases for treatment, but of cases in which it has to be judged whether a patient is fit for work, or whether he should have a change of work, he should also be given a short statement in writing. Poles who are sick may not be sent home to the camp straight from work. This can only be done by the doctor. Sick workers who are unable or unwilling to turn up for work in the morning are to be seen by the doctor first. The camp leader informs the factory when the sick worker remains laid up in the camp. It won't do that Poles who complain of a headache, for instance, are sent to the medical department solely for this reason, as this does not leave sufficient time for dealing with urgent cases.

11. *Protective clothing*

Care should be taken that in cases where protective clothing has to be issued, a difference is made between German and foreign workers, insofar as the best garments are to be issued to Germans. Under no circumstances may work clothing (shirts, et cetera) be taken to the camp.

12. *Control of foreigners*

All foreigners employed at the factory—irrespective of nationality—are to be subject to especially strict control both of their work and their movements within the factory. Work managers are in all

cases responsible for the measures taken for this purpose in the works; foremen, chief foremen, and all German workers are to support the management energetically in this respect. Foreign workers must be prevented from leaving their work without permission and thus roaming about the works freely and unobserved. This applies in particular to Poles employed in the factory, in respect to whom the obligation to be accompanied has been suspended as an experiment. In factory roll calls, it should be pointed out to our German workers over and over again that it is in the interests of the workers, the factory, and the Reich, if the directives issued regarding foreigners are carefully observed and carried out. Insufficient or negligent supervision and nonobservance of the directive issued may easily lead to acts of sabotage by foreigners. In this connection, also, due control should always be exercised on the foreigners. The plants should further take special care that foreigners do not carry out a whispering campaign. The enemy states are instigating this, as they are well aware that foreigners are their best assistants in undermining morale. Should any of the plants need advice in this direction, the Works Security Detachment [Werkschutz] will gladly be at their disposal.

In the event of any violations occurring which cannot be settled immediately by the plants, the Works Security Detachment is to be informed, in order that everything may be done to prevent the plant from being damaged. At the same time, it is expected that in carrying out the directives given, the Works Security Detachment will be fully supported by the plants.

Decree concerning the determination of working conditions of Polish workers

The Reich Minister of Labor has issued a decree concerning the determination of working conditions of Polish workers. This decree became effective 5 November 1941, and is quoted below for your information, inasmuch as it is of essential interest for us:

As a result of the incorporation of the old German eastern provinces into the German Reich, and as a result of the employment of Polish workers in the territory of the Reich, it has become necessary to allot to the Poles employed within the territory of the German Reich a special position in the working life of the German Nation, in order to assure that the Four Year Plan may run an uninterrupted course. Besides, it would not be compatible with the sound sentiment of the people if they were to participate likewise and without restriction in the social progress of the new Germany.

1. The following provisions do not apply to Polish workers:

a. The law concerning the order for national labor.

b. The law concerning payment of wages on holidays.

The provisions concerning wage regulations shall, however, apply, unless stated otherwise in the decree mentioned below.

2. Polish workers are, in principle, only entitled to remuneration for work actually performed.

It is not allowed to continue payment of wages without work being performed.

The provisions concerning the granting of time off and continued payment of wages when keeping official appointments, as also when receiving medical attention as a result of an industrial accident for which the worker in question is not to blame, remain unaffected, without, however, creating a legal claim for continued payment of the wages. In all other cases where the worker is prevented from working, the claim is restricted to the granting of unpaid leave.

The provisions concerning the continued payment of wages in the case of loss of work as a result of air-raid alarms or air-raid damages, remain also unaffected.

The provisions concerning the continued payment of wages in cases of illness, or extra payments in addition to the sickness benefit, shall only then apply if it is a question of an industrial accident *for which the worker in question is not to blame.*

3. If work is performed on holidays there will be no claim for additional holiday payment, unless there is a regular claim for Sunday work or extra work done.

4. No benefits will be granted in case of a birth or marriage, nor will death benefits be paid, or similar payments made in the event of the death of a worker.

The following are not allowed either: Christmas gifts, annual bonuses, anniversary and loyalty bonuses, or similar payments which occur only once for special reasons.

5. It is not permitted to grant wages or factory payments in the case of confinements (maternity relief).

6. Provisions in rules concerning wages, in guiding rules or factory regulations which deal with an increase in leave on account of the workers having worked at or having been connected with the factory for a considerable time, or on account of having reached a certain age, shall not be applicable to Polish workers.

Leave for Polish workers under 18 is regulated according to the rules applicable to adults. Consequently, our Poles are, if the other conditions are fulfilled (waiting period, et cetera), entitled to 6 days leave. (This has been suspended for the time being.)

7. Respecting the remuneration to Polish workers, the general provisions are applicable insofar as nothing else has been expressly laid down. Polish workers should in principle be paid only the lowest rate of wages usual for their age and work group. This does not exclude the granting of additional payments in respect of above average performance. Provisions, according to which (in the case of piecework) at least the time-wage is to be paid, are not applicable to Polish workers.

8. Unless necessitated by urgent reasons in connection with the plant, Polish workers may not be employed at places where they would be entitled to issue instructions to German workers.

9. The law concerning protection of the young does not apply to Polish workers between the ages of 14 and 18. For these, the general provisions of the working time regulations are applicable.

All concerned are expected to see that these directives are strictly carried out; every one must realize that it is in the interests of the factory that the directives laid down for the treatment of foreigners are observed even more strictly than before. The responsibility for this lies in the first place with the works managers who must not leave this responsibility of supervising the foreigners to their subordinates, but must *personally* use their influence to see that the rules laid down are duly carried out.

Welfare Department
[Signed] POPP*

Circular No. 709
Welfare Dept.

**PARTIAL TRANSLATION OF DOCUMENT NI-15256
PROSECUTION EXHIBIT 2207**

**EXTRACTS FROM FARBEN-AUSCHWITZ WEEKLY REPORT NO. 33, FOR
THE PERIOD 5-11 JANUARY 1942, CONCERNING LABOR ASSIGN-
MENT, THE HINDRANCES CAUSED BY FROST AND SNOW, AND THE
IMMINENT FENCING IN OF THE POLISH CAMP TO INSURE CONTROL**

Weekly Report No. 33 for the period from 5 to 11 January 1942

Distribution:

Ludwigshafen: Director Dr. Ambros/Dr. Eisfeld
Construction Director Santo
Chief Engineer Dr. Mach/Chief Engineer
Heidebroek
Merseburg: Director Dr. Bueteffisch/Dr. von Staden/Dr.
Braus
Chief Engineer Dr. Duerrfeld/von Lom
Chief Engineer Dr. Hoepke
Gebechem: Breslau: Herr Franke
Katowice: Herr v. Boeltz

* * * * *

On 10 January Herr Certified Engineer von Boeltz visited us in order to obtain information about the progress of the labor assignment. Apparently there is still a possibility that the Reich Labor Service may be used on the construction site. Accommodations are to

*Dr. Hermann Popp was chief of personnel at Farben's Leverkusen plant.

be provided in the communal camp II (Jewish cemetery). Herr von Boeltz will discuss the question of accommodations on the spot with the man in charge of the matter for the Reich Labor Service in the near future. Two hundred sixty-two of the workers employed before Christmas have not yet returned. In addition, we are at present only employing 104 inmates. The work is very much hindered by frost and snow (see weather report).

* * * * *
Furthermore, we want to surround the Polish camp with a barbed wire fence so as to be able to exercise an absolute safe control.

* * * * *

Signed: FAUST

**PARTIAL TRANSLATION OF DOCUMENT NI-11131
PROSECUTION EXHIBIT 1446**

**EXTRACTS FROM REPORT OF FIFTEENTH CONSTRUCTION CONFERENCE
ON FARBEN-AUSCHWITZ, HELD ON 22 JANUARY 1942, CONCERN-
ING WEHRMACHT DRAFTING OF STAFF, POSSIBLE ASSIGNMENT OF
UKRAINIANS, PROVISIONING FOR WORKERS, HYGIENE, LIMITED
NUMBER OF WORKERS FROM OTHER FARBEN PLANTS PROCURED
FOR AUSCHWITZ, AND OTHER MATTERS**

TA/Hk/Az

13 February 1942 L

Secret

*I. G. Works Auschwitz 15th Construction Conference on 22 January
1942, in Leuna**

Present:

from Leuna:

Director Dr. Sauer
Director Dr. Strombeck
Senior Engineer Dr. Duerrfeld
Senior Engineer Dr. Hoepke
Dr. Braus
Certified Engineer von Lom
Certified Engineer Loetzsch
Certified Engineer Sitzenstuhl

from Ludwigshafen

Director Dr. Ambros
Construction Director Santo
Senior Engineer Dr. Mach
Dr. Eisfeld
Dr. Schloettig
Senior Engineer Heidebroek

Senior Engineer Faust
Dr. Savelsberg

Securing of personnel

Duerrfeld gives a survey on the numbers of employees called up by the Wehrmacht. Substitution by taking advantage of exchange possibilities very small. The Goering decree of 7 January 1942 gives 100 percent assurance only for the personnel engaged in the erection of

*The initials of the defendant ter Meer appear at the bottom of the first page.

mineral oil works. Consequently, the target dates for Buna 3 and also for IG Auschwitz are endangered.

Conferences on 27 and 28 January 1942 in Auschwitz

Discussions between members of the government, the Reich Office, and IG will be continued on these dates, the agenda for which has been drawn up.

* * * * *

Duerrfeld points out that possibly 3,000 to 4,000 Ukrainians may be assigned to the building site, in which case living accommodations will have to be prepared for them in the cantonment.

Eisfeld reports in connection with his negotiations with DAG the experiences of this company in the operation of canteens under their own management, also concerning quickly erected dwellings. *Savelsberg* will get in touch with DAG and go further into this suggestion.

Savelsberg reports that it will be possible, through a working combine of the building firms on the building site, to provide meals for the employees of outside firms separately from the IG employees, and thus relieve the IG provisioning department of this burden. He expresses the hope that in general the position at the building site as regards feeding will be improved by the measures taken, but that the procuring of the necessary textiles offers extraordinary difficulties. All these questions are to be thoroughly discussed at the conference taking place on the 30th January with the Regierungspraesident.

Medical care

Dr. *Peschel* (physician of the city of Auschwitz) is expecting to have two further assistants assigned to him.

Number of personnel

Duerrfeld reports on the number already engaged. Of the IG works written to, Hoechst and Leverkusen had not yet replied. From the remaining IG works, only a few men (10-15) have been obtained, for the most part people who may be expected to be called up shortly. It is to be discussed with Dr. *Schneider* what can be done in order to achieve greater success in this matter.

* * * * *

“HEIDEBROEK”

TRANSLATION OF DOCUMENT NI-13551
PROSECUTION EXHIBIT 1953

TWO LETTERS OF FARBEN'S LANDSBERG [WARTHE] PLANT TO COMMAND OF THE ARMAMENT DISTRICT, FRANKFURT, 24 JANUARY AND 2 FEBRUARY 1942, REPORTING UPON EXPERIENCES IN EMPLOYMENT OF 500 RUSSIAN PRISONERS OF WAR ALLOCATED TO THE PLANT, STATISTICS ON DEATHS AND SICKNESS, EFFECTS ON GERMANS AND PRISONERS OF WAR OF OTHER NATIONALITY, AND REQUESTING ASSISTANCE TO PREVENT REMOVAL OF REMAINING PRISONERS STILL FIT TO WORK

1. Letter of 24 January 1942

I. G. Farbenindustrie Aktiengesellschaft, Landsberg (Warthe)
[Handwritten] 12713-1 e
[Stamp]
Secretariat Dr. Gajewski
Rec. 23 Jan 1942
[initial] G [Gajewski]
[Handwritten] Noted, Karasek
24 January 1942

To the Command of the Armament District, Air Force Group
Frankfurt/Oder, Fuerstenwalder Str. 67
Registered
LaW-Hf/Fa

Soviet-Russian Prisoners of War

You are aware of the fact that at the end of November 1941 we were allocated 500 Soviet-Russian prisoners of war. You will see from the report below what experiences we have had with the Soviet-Russian prisoners of war on our building site. You will realize from this that an immediate change in present conditions is absolutely necessary.

Right from the beginning there was little work done by the Soviet-Russian prisoners of war, which was partly due to food conditions. In the meantime, a comparatively large number of Soviet-Russians have died, an even very much greater number does not appear on the construction site at all, due to sickness. For instance on 22 January 1942, the following was the actual employment of the Russians:

500 Soviet Russians originally available
 2 returned to the base camp [Stalag] immediately
 33 permanently assigned to work in the camp
 82 died
315 198 sick

185 [Fit for employment]

From this list you can see that only 37 percent of the original number actually work at the building site. The large number of sick Russians, which exceeds the number of those that come to work, naturally prevents any reasonably sensible utilization in war industry because the patients must have food, quarters, and also personnel to serve them.

The work done by the 37 percent actually employed on the construction decreases from day to day. According to a decree of the Armed Forces, the guards and the civilian supervisory personnel may not take any action against Soviet-Russians who are unwilling to work. It is also prohibited to let the Russians who are unwilling to work, work after hours, since this means that the supervisors will be required beyond the prescribed time (Enclosure 1).^{*} After this decree (which was also communicated to the various construction firms) became known, the work output of the Russians immediately dropped because now there were no more means of keeping them to their work.

You will be able to get confirmation of this from the reports of the Works Security Detachment [Werkschutz] which are attached as enclosures 2, 3, and 4; they are merely reports of examples of incidents which are repeated every day in great numbers. However, we also feel obliged to point out that the present conditions can have unpredictable effects on the discipline in the works. The German workers are exceedingly indignant about the very indulgent treatment which the Russians are enjoying, while Germans on the front who are taken prisoners are being tortured and mistreated. The effects on the Serbian and French prisoners of war who are still working for us are also dreadful, because these are following the example of the Soviet-Russians and are slacking off from work more and more and, in many cases, are making fun of their supervisors and refusing to work.

This leaves us only one conclusion:

If the circumstances described above are not changed immediately by appropriate intervention of the Armed Forces, we must return the Soviet-Russians to the base camp again because we fear the bad effects in the future and refuse to take any responsibility for the consequences.

Heil Hitler!

I. G. Farbenindustrie Aktiengesellschaft

Signed: HOFMANN

Signed: as deputy DR. BECKER

4 enclosures

copies to Chamber of Industry and Commerce, Frankfurt/Oder
Director Dr. Gajewski/Director Dr. Kleine, Wolfen-Film
Director Riess, Wolfen-Film
Works Security Detachment Welfare Dept. for information

^{*}None of the enclosures mentioned in the two letters making up this exhibit was a part of the exhibit as received in evidence. As the initials on the two letters indicate, the exhibit comprised copies in Farben files.

[Handwritten note] Received back from Kreis Chief Karasek, see No. 85688 of 19 February.
See also No. 85337 of 2 February 1942.

2. Letter of 2 February 1942

I. G. Farbenindustrie Aktiengesellschaft, Landsberg (Warthe)
Chamber of Industry and Commerce
Frankfurt/Oder

[Handwritten] 12713-1 e
Copies to Dr. Gajewski/Kleine
Dir. Riess
Welfare Department
[Initial] G [Gajewski]
[Stamp:]
Secretariat Dr. Gajewski
Rec. 5 Feb. 1942
2 February 1942

To the Command of the Armament District, Air Force Group
Frankfurt/Oder, Fuerstenwalder Str. 67

Registered
LaW-Hf/Fa

Use of Russian Prisoners of War in the Armament Industry

With reference to our telephone conversation with Major Simon, Command of the Armament District, Frankfurt/Oder, and with Dr. Frank of the Chamber of Industry and Commerce, Frankfurt/Oder, today, we are sending you enclosed copy of the letter which has reached us from the Deputy for Military District III of the Reich Minister for Arms and Munitions, Berlin, dated 28 January 1942. We have already informed you that this agency intends to deprive us of the last of the Soviet Russians still left to us, who are reasonably fit for work. I do not suppose there is any need for us to point out that, through a measure such as this, our whole Soviet-Russian program will collapse.

In order to describe the situation with regard to the employment of Russians to you—to supplement our letter of 24 Jan. 1942—we are giving you a survey of the employment of the Soviet Russians on 1 February 1942.

500 Soviet Russians originally available:
 2 sent back to the main camp immediately
 33 permanently assigned to work in the camp
 107 died
342 200 sick

—
158 Russians fit for employment.

This is 31 percent of the number originally allocated to us.

You promised us that you would immediately telephone the Gau Labor Office Chief, Engineer Kroemer, whose office is apparently carrying out this program, in order to prevent withdrawal of the workers.

Heil Hitler!

I. G. Farbenindustrie Aktiengesellschaft

Signed: HOFMANN

Signed: as deputy RICHTER

1 enclosure

copy to Dr. Hemmer, Commissioner to the Plenipotentiary General for Special Questions of Chemical Production in Military District III, Berlin.

**TRANSLATION DOCUMENT NI-11940
AMBROS DEFENSE EXHIBIT 221**

LETTER FROM THE COMMANDER OF THE REPLACEMENT ARMY, ARMY HIGH COMMAND, TO DEFENDANT AMBROS, 20 FEBRUARY 1942, CONCERNING THE AGREEMENT BETWEEN DEFENDANT KRAUCH AND THE ARMY HIGH COMMAND THAT KRAUCH BE RESPONSIBLE FOR LABOR REQUIREMENTS AND ALLOCATION OF BOTH FARBEN AND MONTAN INSTALLATIONS AT AUSCHWITZ, AND THAT BOTH TYPES OF INSTALLATIONS BE TREATED AS A SINGLE ENTITY

High Command of the Army
Commander of the Replacement
Army
66 b 12 21b Wa P Rue (Mun 3 Ib2)
[Ordnance Inspectorate for
Armaments and Munitions]
No. 1886/42/geh. [secret]

Berlin W 35, 17 February 1942
Tirpitzufer 72/76
[Stamp]
Office Dr. Ambros
Received, 20 February 1942
No. 35
[Initial] A [Ambros]

[Stamp]
Secret

I. G. Farbenindustrie A. G.
Attention: Director Dr. Ambros or deputy
Ludwigshafen/Rhein
Subject: Labor requirements for the construction project Montanwerk
Auschwitz

With regard to the above-mentioned matter, it is reported that, on 17 February 1942, an agreement was reached between the Plenipotentiary General for Special Questions of Chemical Production and the High Command of the Army, Ordnance Inspectorate for Armaments and Munitions, according to which the procurement of these workers, both for the IG installations (fuel and buna) and the Montan installations, will be taken over by the Plenipotentiary General for Special Questions of Chemical Production. Thus, with regard to the allocation of labor, both installations will be treated as a single entity.

BY ORDER

[Signed] Illegible

[Handwritten]

Auschwitz distribution:

[Stamp]

Auschwitz plant

Dr. Bueteffisch/Dr. von Staden

Dr. Eymann

Dr. Sauer, Dr. Strombeck

Santo

Dr. Duerrfeld

Faust

Dr. Braus

Dr. Eisfeld

Ranke/Loetzsch

Dr. Mach

Dr. Hoepke

[Handwritten] Heidebroek

Dr. Ambros

Dr. Savelsberg

**TRANSLATION OF DOCUMENT NI-1435*
PROSECUTION EXHIBIT 1289**

**LETTER FROM THE LABOR ALLOCATION DIVISION OF THE PLENIPO-
TENTIARY FOR THE FOUR YEAR PLAN TO THE REICH MINISTER FOR
ARMAMENTS AND MUNITIONS, 21 FEBRUARY 1942, CONCERNING
UTILIZATION OF PRISONERS OF WAR IN THE ARMAMENT INDUSTRY,
NOTING THAT THE CHEMICAL INDUSTRY IS A PART OF THE ARMA-
MENT INDUSTRY IN THE BROADER SENSE, AND RELATED MATTERS**

The Plenipotentiary for the Four Year Plan
Division [Administrative Group] Labor Allocation

Va 5135/861/42 Secret

Berlin, 21 February 1942

Subject: Allocation of prisoners of war to the armament industry
Oberregierungsrat Dr. Hoelk

[Stamp]

Secret

1. To the Reich Minister for Armament and Munitions—personal or
deputy—

Berlin W 8, Pariser Platz 3

*A number of handwritten notations, initials, and dates on the original document are illegible.

[Photographic reproduction of this document appears in the appendix.]

Reference: Letter from the Reich Minister, Dr. Todt, of 30 January 1942 M 6072/42.

Referring to the approximately 124,000 prisoners of war employed in the armament industry who are listed on the compilation of the Reich Ministry for Labor of 24 January 1942, it is here only a question of those prisoners of war who are being utilized in the armament factories sponsored by the OKW, Office of Military Economics and Armaments, that is, only in one [handwritten: limited] sector of the armament industry. As you know, under present conditions the factories of the iron and metal industry must be regarded almost exclusively as armament enterprises. In all the factories of the iron and metal industry together, however, a considerably greater number of prisoners of war were employed by the end of December 1941, namely about 150,000. Furthermore, it must be taken into consideration that other factories that belong to the armament industry (in a wider sense) are also employing large numbers of prisoners of war—for instance, the mining industry about 30,000 and the chemical industry about 15,000. A considerable part of the factories listed in the prisoner-of-war statistics of the Reich Ministry for Labor under the heading “miscellaneous work,” which, by the end of December, employed about 183,000 prisoners of war, might be regarded as belonging to the armament industry. I estimate the number of prisoners of war employed in this branch at least at 30,000 men as well, so that one may assume that by the end of December about 250,000 prisoners of war were already employed in the armament industry, taken in its wider sense. I have, however, ordered the offices for the allocation of labor to allot as large a number of prisoners of war as possible to the armament industry. This had already become noticeable during December 1941 by the fact, for instance, that the allocation of prisoners of war to the iron and metal industry during this month alone surpassed that of the previous month by 13,000.

[Handwritten marginal note: In the course of January, another 18,000 prisoners of war were added to this.]

As you know, I have, in addition, issued a decree on 8 January 1942—Va 3135/45—ordering a further most rigid execution of all current allocation measures for prisoners of war, and have given instructions that the prisoners of war released by these measures must, for the time being, be utilized *only for purposes of the armament industry*. Furthermore, it has been ordered that also those prisoners of war who are, by instructions from the OKW, to be withdrawn from jobs under the immediate control of the Wehrmacht, must be transferred *without exception to the armament industry*. The transfer of prisoners of war to the armament industry is under my special supervision. I

shall inform you in due course to what numerical extent the aforementioned measures have benefited the armament industry.

2. To be resubmitted after dispatch (then file)

[Initials and dates] illegible

**PARTIAL TRANSLATION OF DOCUMENT NI-15256
PROSECUTION EXHIBIT 2207**

**EXTRACTS FROM FARBEN-AUSCHWITZ WEEKLY REPORT NO. 42, FOR
THE PERIOD 9-15 MARCH 1942, CONCERNING POSSIBLE EMPLOY-
MENT OF RUSSIAN PRISONERS OF WAR, VISIT TO THE PRISONER-
OF-WAR CAMP WITHIN THE CONCENTRATION CAMP, FARBEN'S
CONDITIONS AS TO EMPLOYMENT OF RUSSIAN PRISONERS OF WAR,
AND RELATED MATTERS**

Weekly Report No. 42 for the Period from 9 to 15 March 1942

* * * * *

On the same day a conference took place in the Concentration Camp Auschwitz on the initiative of the Armament Inspectorate Breslau, concerning the accommodation of Soviet Russian prisoners of war in the prisoner-of-war camp, who were to be employed at the building site of the IG. The following representatives of the Armament Inspectorate participated: Brig. Gen. *Trachek*, Capt. *Rehfeldt*, Capt. *Weise*, and the commandant of the concentration camp.

An inspection of the prisoner-of-war camp of the concentration camp took place, and it was found to be in order. The prisoners of war who are still employed there made a thoroughly pitiful impression.

In agreement with General T., we stated that we could only employ Soviet-Russian prisoners of war on the building site on the condition that—

1. they are accommodated in the concentration camp Auschwitz,
2. the transport from the camp to the building site is guaranteed, which, up to now, has not been the case because of the difficulties in procuring the necessary passenger and freight cars which still prevail,
3. only healthy and strong prisoners of war are allocated, who are fully capable of work.

* * * * *

Signed: FAUST

PARTIAL TRANSLATION OF DOCUMENT NI-11132
PROSECUTION EXHIBIT 1440

EXTRACTS FROM REPORT OF SIXTEENTH CONSTRUCTION CONFERENCE OF FARBEN-AUSCHWITZ ON 6 MARCH 1942, CONCERNING PLANS FOR EXPANSION OF AUSCHWITZ CONCENTRATION CAMP, NEED OF TRANSPORTATION TO INCREASE ASSIGNMENT OF INMATES, BARRACKS CONSTRUCTION, DISCUSSIONS WITH KRAUCH OFFICE ON PROCUREMENT OF IRON FOR CONSTRUCTION, PROSPECTIVE COOPERATION OF FARBEN AND TODT ORGANIZATION, CREDITS AND EXPENDITURES, AND OTHER MATTERS

Secret

TA/Hk/Az

Ludwigshafen, 28 March 42 L

Auschwitz IG Works 16th Construction Conference held on 6.3.42 at Ludwigshafen/Rhine

Present:

from Leuna:

Director Dr. von Staden
Senior Engineer Dr. Duerrfeld
Senior Engineer Dr. Hoepke
Dr. Braus
Dr. Appel
Certified Engineer Loetzsch
Certified Engineer Sitzenstuhl
Keinath

from Auschwitz:

Senior Engineer Faust
Dr. Savelsberg

from Ludwigshafen:

Director Dr. Ambros
Director Dr. Eymann
Construction Director Santo
Senior Engineer Dr. Pfeiderer
Senior Engineer Dr. Mach
Dr. Eisfeld
Dr. Schloettig
Senior Engineer Heidebroek
Architect Anders
Certified Engineer Spitzner

* * * * *

Concentration camp

Faust reports on the plans of the concentration camp which were communicated to the mayor by the management of the camp and which state what sites west of the town the concentration camp wants for itself in the future. The plans of the camp are very far-reaching. Among other things, these sites include the railroad station and the location which was intended to be used for the industrial enterprises northeast of the railroad station. In order to bring about an agreement of the various interested parties, the construction management is to get in touch with the management of the concentration camp for the purpose of discussing the division of the area concerned at the appropriate office of the Reich Ministry of the Interior, where an IG representative, the management of the concentration camp, and a

representative of the town of Auschwitz are to discuss the division of the area.

Conditions at the construction site

Faust reports that at present 5,000 men are working on the construction site; 100 of these are camp inmates. In order to increase the utilization of inmates it is necessary to obtain more transportation. Twelve passenger cars and 45 freight cars must be procured for this purpose. This train must leave the camp every morning and go directly to the construction site, and also make the return trip. A 500 meter-long siding must be constructed in the camp and in the works. The construction of a siding in the concentration camp would have the advantage that during daytime freight cars for the camp could be unloaded on the empty siding.

Equipment on the building location

At present there are 14 dredgers and 20 pile drivers on the location, 10 of the pile drivers are again being operated.

Barracks construction

Barracks construction is progressing rapidly. The staff for the final construction stages of all barracks camps will be increased from 15,000 to 20,000. The second camp north of the Jewish cemetery is being built. A third camp to accommodate 3,000 is to be built in the southwest corner of the works. A fourth camp for 5,000 is to be built in Monowitz, and a fifth camp for 2,000 between Monowitz and Klosinitz, near the works railroad station. Six to eight freight cars are arriving daily with parts for the barracks. Up to now, 4,000 men can be accommodated in the camp.

* * * * *

Procurement of construction iron

Santo reported about the discussions at the Office of the Plenipotentiary General for Construction in Berlin. The current situation is extremely serious. The requirements for the second quarter of 1942 of the Silesian construction projects of the Plenipotentiary General for Special Questions of Chemical Production at Auschwitz, Heydebreck, et cetera, amount to about 67,000 tons of structural iron, of which only a small fraction can be supplied by the branch office. During the conference the Plenipotentiary General for Construction, Herr Desch, was sometimes represented by Herr Matscheck. The Plenipotentiary General for Special Questions of Chemical Production was represented by Wirth and Mann, IG by Santo and Duerrfeld.

* * * * *

Duerrfeld will approach Professor Dr. Krauch so that the latter may make a suitable report to General Hanneken and point out that the Goering decree is useless unless the allocations are made. The bare minimum for Auschwitz is 30,000 tons of structural iron.

In spite of these difficulties, everything is to be done to further the completion of the building site as planned. The barracks camps and other welfare measures to accommodate a manpower allocation of 15,000 workers early next year are to be completed.

Faust reports on further bottlenecks.

Wood

Allocation of lumber was 20 percent of the requested amount, round wood 12 percent of requisitions.

Utilization of the Todt Organization at the construction site

Santo reports about negotiations with Ministerialrat Schoenleben. According to them, the Reich Ministry for Armaments and Munitions will be integrated into the construction setup in accordance with the following viewpoints. The IG building management in Auschwitz will continue to receive the plans and data from the Ludwigshafen and Leuna Designing Departments and direct the labor allocation for construction work under the supervision of the building management. The O. T. [Todt Organization] will set up its own building management in Auschwitz parallel with the IG management. The O. T. management will be assigned to work on separate construction jobs, such as the works' railroad station, the dump, the waterworks, part of the Montan plant, et cetera. The O. T. building management shall acknowledge as binding all directives and regulations et cetera, of IG. Planning and direction will continue to remain in Leuna and Ludwigshafen. The accounting for buildings will be done in the same manner as for the IG building management. The O. T. will make technical examinations of the invoices and will send drafts to the IG bookkeeping department. Orders by the O. T. building management will be placed to the account, and added to the orders, of IG through IG's purchasing department. The O. T. management shall acknowledge all measures of the IG building management taken with regard to labor allocation, material quotas, et cetera. Baurat Mahlendorf will probably be put in charge of the O. T. building management and simultaneously will be in full charge of the entire construction site for the branch office. He is to be the connecting link to the branch office, and will be appointed efficiency expert. The branch office furnishes engineers and addi-

tional technicians. IG will take care of social welfare. IG will refund expenditures to O. T. The High Command of the Wehrmacht has directives pertaining to such cases. The O. T. will receive a 60 percent extra payment for all salaries paid by it. The basis of the compensation is the salaries paid by O. T. The O. T. will procure huts, furniture, et cetera.

* * * * *

Credits

Eisfeld gives an account of the entire credits. A cost estimate according to the latest records is on file. The total exceeds the estimate of September 1941 by RM 35,000,000. Eisfeld explains in detail these increases, which are chiefly to be expected for the auxiliary plants. The greatest portion of it, RM 7,000,000 is needed by the barracks camp, which is due to the local conditions and present circumstances. On the other hand, the requirements for funds will be spread over a long period of time since some construction stages will be delayed in their completion.

Savelsberg explains that the investments during the past year, including the extra expenses for the plants, amounted to RM 12,500,000.

* * * * *

Food

Savelsberg reports that the food supply has been assured up to the end of March. Further deliveries of potatoes have been promised.

Hygiene measures

A delousing station has been ordered for the barracks camp. The construction work is being carried out. The delivery of the equipment may be expected within about 6 to 8 weeks. For the disinfection of the camp, an amount of RM 300,000 a year is required.

Bookkeeping department

In April 1942 the entire bookkeeping department will move to Auschwitz.

* * * * *

Next construction conference at 9 a. m. on Friday, 10 April 1942, at Ludwigshafen.

“HEIDEBROEK”

TRANSLATION OF DOCUMENT NI-13544
PROSECUTION EXHIBIT 1954

LETTER FROM FARBEN'S LANDSBERG PLANT TO FARBEN'S BERLIN
OFFICE, 13 MARCH 1942, INITIALED BY DEFENDANT GAJEWSKI,
AND MENTIONING THE ALLEGED REASONS WHY RUSSIAN PRIS-
ONERS OF WAR WERE BEING WITHDRAWN FROM THE LANDSBERG
PLANT

[Handwritten] 12713-1 e

I. G. Farbenindustrie Aktiengesellschaft,
Landsberg (Warthe)

[Initial] G [Gajewski]

[Stamp]:

Secretariat Dr. Gajewski

In: 17 March 1942

13 March 1942

TO Regierungsrat Hermann
I. G. Farbenindustrie Aktiengesellschaft
Berlin SO 36

LaW-Hf/Fa

Dear Herr Regierungsrat,

As I informed you yesterday by telephone, General Goellner paid me a surprise visit yesterday. Colonel Count Schack and, surprisingly enough, Sergeant Sommerfeld, who is in charge of the local Soviet camp, also took part in the discussion. No other gentlemen were called.

General Goellner told me that the entire group of Soviet prisoners of war would be withdrawn because the medical investigations had shown such a poor state of health that any further employment on our construction projects seemed to be impossible. The numerous deaths as well as the poor state of health can be blamed on malnutrition on the one hand, and on the heavy labor which the Soviet-Russians are expected to do, on the other. We are said to have a share in this too.

I informed General Goellner first that our negotiations with the Regional Labor Office had led to other results and that, together with Mr. Bless, it had been decided to leave 130 healthy Soviet-Russians who are unable to work here, because at the time of the discussion with the Regional Labor Office—2 weeks ago—already more than 50 Soviet Russians had been designated healthy by the physician. I also voiced my amazement that, in spite of the thorough discussions which we had had here about 4 weeks ago with Count Schack and representatives of the Armed Forces, as well as with the Regional Labor

Office and other authorities, reports apparently are still being made which accuse the management of the plant, and therefore also our firm, with regard to the food situation.

The discussion which was held at that time had cleared up all these questions completely and without exception, so that I am surprised that this situation, which will soon become ridiculous, has still not been resolved. Apparently the only thing left for us is to ask for justification from higher authorities.

I have the impression as if yesterday's visits were due to another unfavorable report by Count Schack. An additional reason for this supposition is the presence of the sergeant during the discussion, whose presence at a conference of this type is, to say the least, somewhat strange. The initial differences in the discussion were rather extensive, but finally General Goellner came around and remarked that the withdrawal of the Soviet-Russians was only justified because of the regulation which decrees that prisoners of war who are not fit enough to be fully employed in industry have to be assigned to agriculture. He recommended to me to apply for the allocation of new prisoners of war—either Frenchmen or Soviet-Russians—from the Regional Labor Office, too, and to mention that General Goellner had agreed that additional prisoners should be assigned as replacements. He himself, however, could not take any steps against the measures that had been taken now, because he had expressed the expert opinion that none of our Soviet-Russians could be used for the heavier type of labor.

I already asked you on the telephone to discuss this matter again with General Goellner if an opportunity arises, because I still have the opinion that there are intrigues afoot against us from somewhere. As I already mentioned to you during our last conference, I have the feeling that the local camp commander is the source. Nevertheless, it is surprising that the highest level agencies should pay so much attention to so subordinate an office.

Above all, we will have to continue working on the Regional Labor Office in order to obtain the allocation of Frenchmen or Russians. Perhaps you can arrange a conference with Herrn Bless for Friday, 20 March 1942. In addition, I shall come to the Regional Labor Office together with Director Riess on Wednesday, 25 March, in order to discuss the attitude of the Regional Labor Office regarding our construction project fundamentally.

With best regards and Heil Hitler.

Yours,
Signed: HOFMANN

Copy to management, Wolfen-Film

**PARTIAL TRANSLATION OF DOCUMENT SCHNEIDER 32
SCHNEIDER DEFENSE EXHIBIT 202**

**EXTRACT FROM THE HITLER DECREE FOR THE PROTECTION OF THE
ARMAMENT INDUSTRY, 21 MARCH 1942**

1942 Reichsgesetzblatt, Part I, Page 165

Decree of the Fuehrer for the Protection of the Armament Industry
of 21 March 1942

* * * * *

War-essential requirements must be given absolute priority in the allocation of available manpower. The same applies to the distribution of raw materials, other materials, and products essential for the armament industry. I therefore decree as follows:

Article I

(1) Whoever intentionally makes false statements

1. on requirements or availability of manpower,
2. on requirements or stocks of raw materials, other materials, products, machines, or equipment essential for the armament industry, and thereby endangers the procurement of supplies for the armament industry will be punished with penal servitude; and in particularly serious cases, which are of considerable detriment to the armament industry, with death.

(2) In less serious cases, the verdict is to call for imprisonment and/or unlimited fines.

* * * * *

Article III

(1) The People's Court is the competent authority for trying these cases. If the perpetrator is subject to Wehrmacht jurisdiction, the Reich Court Martial is the competent authority in this instance.

* * * * *

Signed: ADOLPH HITLER

PARTIAL TRANSLATION OF DOCUMENT SCHNEIDER 251
SCHNEIDER DEFENSE EXHIBIT 127.

**ORDINANCE NO. 2 OF SAUCKEL, PLENIPOTENTIARY GENERAL FOR
LABOR ALLOCATION, 24 APRIL 1942, CONCERNING THE RESPONSIBILITY OF GOVERNMENT AGENCIES IN THE RECRUITMENT AND ALLOCATION OF MANPOWER, INCLUDING PRISONERS OF WAR AND FOREIGN WORKERS**

Ordinance No. 2 of the Plenipotentiary General for the Allocation of Labor Concerning the Maintenance of Uniformity in the Execution of the Tasks in the Sphere of Labor Allocation and Fixing of Wages, Dated 24 April 1942

The fulfillment of the task set to me by the Fuehrer requires the strictest coordination of the offices responsible for the direction of labor allocation and fixing of wages, as well as a united effort toward the common aim. I have taken the necessary steps to achieve this. In this connection, I have emphatically advised the said offices of the necessity for close and confident cooperation with the state and Party organs concerned, as well as with industry, and have issued appropriate directives. I have furthermore appointed the Gauleiter of the NSDAP as my Plenipotentiaries for the Allocation of Labor in the Gau territories under their supervision, and their special task will be to insure smooth cooperation of all agencies concerned with problems of labor allocation. Thus the prerequisites for efficient and smooth cooperation of all the forces active in the sphere of labor allocation and fixing of wages are created.

It is, moreover, essential for the success of the task that from now on all organs of the Party, the state, and the economy, the plant managers as well as all other agencies, organizations, and persons, who are not responsible for the direction of labor allocation and fixing of wages, refrain from interfering in the said tasks unless their cooperation is specifically requested by the competent offices.

No more interference of unauthorized persons, even if their action is inspired by the best intentions, will be tolerated in the future!

On the basis of the powers given me by the Fuehrer and the Reich Marshal of the Greater German Reich, I therefore decree:

1. The execution of all measures for the direction of labor allocation (including the direction of the younger generation) and for the fixing of wages; in particular the procurement, selection, distribution, transfer, and allocation of manpower (including prisoners of war released for civilian employment), as well as the recruitment and allocation of foreign workers, is exclusively the task of the administrative offices of labor allocation and of the offices commissioned by me or other competent authorities.

2. Unauthorized offices, organizations, and persons are forbidden to execute the measures listed under No. 1.

3. Persons violating my ordinance will be called to account.

Signed: SAUCKEL

**PARTIAL TRANSLATION OF DOCUMENT NI-6100
PROSECUTION EXHIBIT 1313**

**EXTRACTS FROM THE MEETING OF FARBEN'S SUPERVISORY BOARD,
30 MAY 1942, SIGNED BY DEFENDANT VON KNIERIEM, NOTING
THAT MANPOWER DEFICIENCIES HAD BEEN COMPENSATED BY
LONGER HOURS AND EMPLOYMENT OF WOMEN, FOREIGNERS,
AND PRISONERS OF WAR**

Sixtieth Meeting of the supervisory board [Aufsichtsrat] of the I. G. Farbenindustrie Aktiengesellschaft, held on Saturday, 30 May 1942, at 11:30, in Berlin, in the Deutsche Laenderbank.

All members of the Aufsichtsrat are present except Messrs. Aubert, Brunck, von Bruening, Krekeler, Count Schimmelpenninck, Selck.

* * * * *

The lack of workers, especially skilled labor, had to be compensated by longer working hours, and the employment of women, foreigners, and prisoners of war.

* * * * *

[Signed] VON KNIERIEM
[Signed] DR. C. KRAUCH

**PARTIAL TRANSLATION OF DOCUMENT NI-15256
PROSECUTION EXHIBIT 2207**

**EXTRACTS FROM FARBEN-AUSCHWITZ WEEKLY REPORT NO. 54, FOR
THE PERIOD 1-7 JUNE 1942, CONCERNING THE ASSIGNMENT OF
JEWS TO THE AUSCHWITZ CONSTRUCTION PROJECT, AND THE
ARRANGEMENT THAT "SCHMELT JEWS" DO NOT COME INTO CONTACT
WITH JEWS FROM THE AUSCHWITZ CONCENTRATION CAMP***

Weekly Report No. 54 for the Period from 1 to 7 June 1942

Part I

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4 June

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*Jews under the charge of SS Brigadier General Albrecht Schmelt were frequently described as the "Schmelt Jews" in contemporaneous documents and during the trial. At the time the above report was written, Schmelt's rank in the SS was that of Oberfuehrer or senior colonel. He later became Brigadefuehrer or brigadier general.

The assignment of Jews was discussed with Baurat Mahlendorf and Amtsmann Tschene of the Breslau Branch Office. The gentlemen also negotiated with the concentration camp about this same matter. It was arranged that the Jews who are under the charge of SS Senior Colonel Schmelt (Regierungspraesident of Oppeln) must not come into contact with the Jews from the concentration camp. Therefore the Jews from the concentration camp are to be employed within the works area and the so-called Schmelt Jews outside it (factory railroad station, etc).

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**PARTIAL TRANSLATION OF DOCUMENT NI-14523
PROSECUTION EXHIBIT 2129**

**EXTRACTS FROM FARBEN-AUSCHWITZ WEEKLY REPORT NO. 55, FOR
THE PERIOD 8-14 JUNE 1942, CONCERNING DISCUSSION WITH THE
COMMANDANT OF AUSCHWITZ CONCENTRATION CAMP ON A
PIECEWORK SYSTEM AND THE EMPLOYMENT OF INMATES AS
MUCH AS POSSIBLE WITHIN THE AUSCHWITZ PLANT FENCE TO
ECONOMIZE ON USE OF GUARDS**

Weekly Report No. 55 for the Period from 8 to 14 June 1942

Distribution:

Ludwigshafen: Director Dr. Ambros/Dr. Eisfeld
Construction Director Santo
Senior Engineer Dr. Mach/Senior Engineer Heidebroek
Certified Engineer Rasch
Merseburg: Director Dr. Bueteffisch/Director Dr. von Staden/
Dr. Braus
Senior Engineer Dr. Duerrfeld/von Lom
Senior Engineer Dr. Hoepke
Certified Engineer Mueller, Leuna Electro plant
Auschwitz: Commercial Department (Dr. Savelsberg)
Purchasing (Schmitt)
2 copies to Welfare Department (Dr. Rossbach and
Assessor Schneider)
Gebechem: Breslau, Herr Franke
Katowice, Certified Engineer Walter, Gleiwitz

9 June

Conference with the commandant of the concentration camp about the carrying out of the piecework system which was repeatedly discussed. A form and directives for carrying out the system are being submitted and discussed. The form is to be printed and as soon as it is available, the carrying out of this piecework system is to be started.

In order to economize guards, the prisoners are, as far as possible, to be employed in the future only within the plant fence. The plant fence is then to be equipped with guard towers, and these are to be manned by the guards. Within the plant area itself only a patrol service will be in existence. All details of this new guard method are being discussed and are further to be decided on by the expert officials during the next few days.

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Signed: FAUST

**PARTIAL TRANSLATION OF DOCUMENT NI-15254
PROSECUTION EXHIBIT 2208**

**EXTRACTS FROM FARBEN-AUSCHWITZ WEEKLY REPORT NO. 56, FOR
THE PERIOD 15-21 JUNE 1942, CONCERNING DISCUSSIONS ON THE
POSSIBILITY OF SETTING UP A BRANCH PENAL CAMP ON THE PLANT
SITE, PAYMENTS ACCORDING TO PERFORMANCE, MEASURES
AGAINST SHIRKERS, AND RELATED MATTERS**

Weekly report No. 56 for the Period from 15 to 21 June 1942

Distribution:

Ludwigshafen: Director Dr. Ambros/Dr. Eisfeld
Construction Director Santo
Senior Engineer Dr. Mach/Senior Engineer
Heidebroek
Certified Engineer Rasch

Merseburg: Director Dr. Bueteffisch/Director Dr. v. Staden/
Dr. Braus
Senior Engineer Dr. Duerrfeld/von Lom
Senior Engineer Dr. Hoepke
Certified Engineer Mueller, Electro plant

Auschwitz: Commercial Department (Dr. Savelsberg)
Purchasing (Schmitt)

2 copies to Welfare Department (Dr. Rossbach and Assessor
Schneider)

Gebechem: Breslau, Herr Franke
Katowice, Herr Eckelmann

Testing engineer: Certified Engineer Walter, Gleiwitz

15 June

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The setting up of a branch section of a penal camp [Straflager] on our plant site was discussed with the General Public Prosecutor, Dr. Steimer, Senior Public Prosecutor Nelesen, and Public Prosecutor Ziesso. In this connection it is first of all necessary that the inmates from the concentration camp will not work together with the ordinary

justice prisoners. Public Prosecutor Ziesso will pursue the matter further. In about 3 to 4 weeks we will be informed about the result.

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The problem of payments according to performance was again discussed during a conference of firms. The interest for the introduction of payments according to performance is definitely increasing. Herr Niepmann supplied explanations about the future employment of inmates and the precautionary measures which will have to be taken in this connection. It is pointed out that the severest measures will have to be taken against shirkers.

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It has to be avoided by all means that the plant fence be damaged. Entrepreneurs who employ Italian labor are asked to attend a discussion on 23 June at 1600 hours. The next conference of firms will take place on 7 July at 1000 hours.

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Signed: FAUST

**PARTIAL TRANSLATION OF DOCUMENT NI-14524
PROSECUTION EXHIBIT 2126**

EXTRACTS FROM FARBEN-AUSCHWITZ WEEKLY REPORT NO. 57, FOR THE PERIOD 22-28 JUNE 1942, CONCERNING ACCOMMODATIONS FOR 680 COMPULSORY POLISH WORKERS OBTAINED FROM SS BRIGADIER GENERAL SCHMELT, DECISION TO BUILD CAMP IV, "MONOWITZ," AS A CONCENTRATION CAMP, AND THE FENCING IN OF MONOWITZ UNDER CONCENTRATION CAMP INSTRUCTIONS

Weekly Report No. 57 for the Period 22 to 28 June 1942.

Part I

Preliminary Report

22 June to 25 June

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On 25 June SS Major Lindner negotiated about the accommodations for the 680 Polish forced laborers [Zwangsarbeiter] which the construction management managed to get us from SS Senior Colonel Schmelt.

* * * * *

Camp IV: Foundations were laid for 7 barracks, 2 barracks were erected. As it has been decided now that this camp is to be built as a concentration camp for prisoners, the fencing in of the camp, accord-

ing to the instructions of the concentration-camp construction management, was started. The last third of this camp is not needed and will not be built.

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Signed: FAUST

**PARTIAL TRANSLATION OF DOCUMENT NI-14512
PROSECUTION EXHIBIT 1986**

EXTRACTS FROM FARBEN-AUSCHWITZ WEEKLY REPORTS NO. 58 AND 59, FOR THE PERIOD 29 MAY-12 JULY 1942, CONCERNING RESULTS OF NEW DIRECTIVE THAT ALL POLES BE REMOVED FROM AUSCHWITZ CONCENTRATION CAMP TO GERMANY AND BE REPLACED "BY JEWS FROM ALL EUROPEAN COUNTRIES," VARIOUS MALTREATMENTS OF INMATES, ORDERS THAT MALTREATMENTS IMPAIRING INMATES' ABILITY TO WORK ARE PROHIBITED, ARRANGEMENTS FOR REGULAR BIWEEKLY CONFERENCES OF REPRESENTATIVES OF THE CONCENTRATION CAMP, THE LOCAL AUTHORITIES, AND FARBEN, AND RELATED MATTERS

Weekly Report No. 58/59 for the Period from 29 May to 12 July 1942

Distribution:

Ludwigshafen:	Director Dr. Ambros, Dr. Eisfeld Construction Director Santo Senior Engineers: Dr. Mach; Heidebroek Certified Engineer Rasch
Merseburg:	Director Dr. Bueteffisch; Director v. Staden, Director Braus Senior Engineers: Dr. Duerrfeld, von Lom; Dr. Hoepke; Certified Engineer Mueller, Electro-plant
Auschwitz:	Commercial Department (Dr. Savelsberg) Purchasing (Schmitt) Dr. Duerrfeld
2 copies to	Welfare Department (Dr. Rossbach and Assessor Schneider)
(III.) Gebechem:	Breslau, Herr Franke Katowice, Herr Eckelmann
Testing Engineer:	Certified Engineer Walter, Gleiwitz

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9 July

Discussions with SS First Lieutenant Schwarz about employment of inmates [Haeftlingseinsatz]. At present this suffers very much on account of the fact that, in accordance with the newest directive, all Poles are taken away from the Auschwitz concentration camp and are put into camps in Germany proper. Their place is taken by Jews from all European countries. Their number is to be increased to 100,000 persons. The result of this action is that nearly every day different workers are being employed on the individual construction sites.

The various maltreatments were also discussed. The camp leadership definitely condemns them, and strict orders are in existence which say that all maltreatments or other measures which could impair the inmates' ability to work have to be abstained from. It is requested to report immediately all such incidents so that the possibility to interfere right away is given.

10 July

As proposed by the Amtskommissar, regular conferences, "about every 14 days," between the commander of the concentration camp, the Amtskommissar, and the undersigned are to take place, in order to discuss current questions of common interest. During the first of these discussions, on 10 July, the commander was unfortunately unable to attend. In his place, the adjutant and two additional officials of the leadership corps conducted the negotiations. The next discussion is to take place on 24 July.

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Signed: FAUST

PARTIAL TRANSLATION OF DOCUMENT NI-11137
PROSECUTION EXHIBIT 1447

EXTRACTS FROM REPORT OF NINETEENTH CONSTRUCTION CONFERENCE ON FARBEN-AUSCHWITZ ON 30 JUNE 1942, CONCERNING ALLOCATION OF LABOR, VARIOUS TYPES OF LABOR EMPLOYED OR EXPECTED TO BE EMPLOYED, EXPECTED IMPROVEMENT IN EMPLOYMENT OF INMATES BY HOUSING 4500 IN CAMP IV ON PLANT SITE, FOOD SUPPLIES, BEDDING, FUTURE CONTENT OF THE FARBEN-AUSCHWITZ WEEKLY REPORTS, AND RELATED MATTERS

Secret

I. G. Plant Auschwitz 19th Construction Conference, 30 June 1942 at Ludwigshafen

Those Present:

From Leuna:

Director Dr. Sauer
Chief Engineer Dr. Duerrfeld
Chief Engineer Dr. Hoepke
Dr. Braus
Chief Engineer von Lom
Dr. Appel
Dr. Weber
Certified Engineer Sitzenstuhl
Certified Engineer Lóetzsch

From Ludwigshafen:

Director Dr. Ambros
Director Dr. Eymann
Construction Director Santo
Chief Engineer Dr. Mach
Dr. Eisfeld
Chief Engineer Heidebroek
Dr. Streek

From Leverkusen:

Dr. Hagen

From Auschwitz:

Dr. Savelsberg
Chief Engineer Faust

* * * * *

Construction situation

Faust reports on the conditions at the building site.

Allocation of labor

Upon instruction of the Plenipotentiary General for Special Questions of Chemical Production, 1320 men were furnished to Bruex. This reduction was carried out on a percentage basis covering all companies. All building sites were able to continue working. After difficult negotiations, an adjustment was accomplished through recruitment of

260 Belgians
72 Croats
680 Polish forced laborers
170 women from the Ukraine
plus 100 laborers returned from Bruex

1,282

In recent days, an additional 120 Belgians have arrived.

Italians

Performance is satisfactory. The Italians caused difficulties by demanding to be employed in accordance with the modified standard scales of the DAF. The Italians demand 200 percent of the performance scales, since allegedly not enough helpers are available.

Croats

The employed Croats have proved satisfactory. Predominantly, they were used for railroad surface-construction work.

Slovaks

Assignment of Slovaks to the plant is expected.

Polish forced laborers

Employed only recently; therefore, no evaluation possible yet.

Women from the Ukraine

Well fitted for excavation work.

Belgians

Poor performance; high rate of sickness; many drop out.

Employment of Inmates

The difficulties which always occur when employing inmates are to be remedied by housing 4,500 men in camp IV on the plant grounds. The success of that measure is yet to be determined. At any rate, it will be possible to employ the inmates in large groups and shifts. The prefabricated concrete shops are to be manned exclusively by prisoners, while the Germans and Italians working there at present are to be assigned to the building site. The concentration camp will deal with the feeding of the inmates in camp IV.

By some kind of piecework system, the individual and general performance of the inmates is to be increased.

Piecework rates

Its introduction produced up to 70 percent extra earnings. At the same time a considerable saving in wood was recorded, since the wood casings were treated with greater care. All companies are urged to introduce the piecework system before 15 July. Inclusive of inmates and people used at the installation, a total of 8,500 construction workers are employed at present. The total staff, including the office employees, amounts to 11,200. Last week's breakdown at the construction site is as follows:

Excavation-----	635
Roads -----	801
Railroad surface construction-----	138
Canalization and pipe bridges-----	704

Hospital -----	120
Old dwellings, camp, and expansion -----	427
Estate buildings -----	81
Mess halls -----	310
Baracks, garages, magazines, and warehouses, Fire brigade, dispensary -----	560
	<hr/> 3,776
Power station and water works -----	1,044
Apprentices' shop -----	80
Synthesis -----	1,033
Buna -----	1,893
(Excluding heating and electric installations, car repair, fire and plant protection ----- [sic] --	7,746
	<hr/> <hr/>
* * * * *	* * * * *

Food supplies

Savelsberg reports that potato supplies are guaranteed until the new harvest. The plant kitchen will soon be operating for the purpose of distributing an additional 350 grams of potatoes in the form of soups [Bunkersuppen]. Canned fruit and vegetables which are now available will be stored. Supplies of fresh vegetables have also been guaranteed. Savelsberg demands storage space so as to store food (besides potatoes and vegetables) for about 4 to 6 weeks for emergency situations. Savelsberg has drawn up a program for storing food.

1. A brick hall with basement with an area of 2,000 square meters (cellar of brick, roof on nailed binders). Purpose: food storage.
2. A hall of 1,400 square meters in area, 70 m by 20 m square, with cellar, as butcher shop.
3. Reconstruction of old barns for storage of cabbage.
4. Potato bins to store 54,000 hundredweights of potatoes. Most suitable type still to be decided on.

Shipment of wine will be secured by ordering jointly with IG wine store at Ludwigshafen. Sale and delivery of fish is starting in Auschwitz.

Textiles

Since all available bedding has been issued to workers, there is no bedding available for the employees. Available stocks are to be borrowed by making inquiries in Leuna, Ludwigshafen, Schkopau, and Huels. Ludwigshafen is out of the question, since deficiencies were caused by air raids. Barracks furniture is available.

Traffic

To meet the urgent shortage of transport workers, Ukrainian women and Russians are to be employed. Fifteen hundred Russians can be housed.

* * * * *

Weekly reports

To save paper and labor, the weekly reports are in future to be issued fortnightly, but shall contain an exact breakdown showing the amount of labor allocated to each individual construction job. The branch office of the Plenipotentiary General for Special Questions of Chemical Production in Breslau will receive only the report of the Welfare Department.

Miscellaneous

Duerrfeld reports that the Strength Through Joy [KdF] hall in Auschwitz will be inaugurated on 11 July. At the same time the Confidential Council will be initiated.

Next construction conference on 9 September at Auschwitz.

"LAUBE"

Enclosure

1 credit survey

**TRANSLATION OF DOCUMENT NI-7064
PROSECUTION EXHIBIT 1373**

**LETTER FROM THE WELFARE DEPARTMENT OF FARBEN'S LEVERKUSEN
PLANT TO PLANT SUPERVISORY EMPLOYEES, 11 JULY 1942, CON-
CERNING THE EMPLOYMENT OF RUSSIAN MALE AND FEMALE
WORKERS**

Leverkusen IG plant, 11 July 1942

To all Department Chiefs
Plant Managers, and Office Supervisors
Leverkusen

Re.: Employment of Russian male and female workers (called: eastern workers)

Eastern workers are those workers who do not belong to the ethnic German group and who are seized in the Reich Commissariat Ukraine, in the General Commissariat White Ruthenia, or in districts on their eastern borders, or on the borders of the former free states, Latvia and Estonia, and who are brought to Germany after the occupation by the German Wehrmacht and employed there.

Eastern workers allocated to plants are to be employed in groups only. It is recommended, if necessary, to make changes within the plant or department in order to achieve employment in groups.

Should group employment of the eastern workers not be possible, then, in each case, prior agreement of the counterintelligence agent (Dr. Seel) is to be sought.

The plants will take care that, as far as possible, eastern workers do not come into contact with other workers. Care is to be taken that they are kept segregated, also, in dressing and washing rooms. If there are no separate rooms available, an allocation of closets in the foreigners' corner will suffice.

The eastern workers are, until further notice, to be employed only on the day (that is, early and late shifts), not on the night shift.

The eastern workers will be escorted by a camp leader from the billets to gate III as a group. The escorting from gate III to the place of work has to be taken over by the plants. The eastern workers are to be called for at gate III at the following times:

For the day shift: at 7:00 hours.

For the early shift: at 5:30 hours.

For the late shift: at 13:30 hours.

In the same way, the eastern workers are to be escorted in groups to gate III after work and will be taken over by the camp leader at gate III at the following times:

For the day shift: at 17:30 hours.

For the early shift: at 14:30 hours.

For the late shift: at 22:30 hours.

The above-listed times are to be adhered to strictly. The escorts appointed by the plants have to hand over the eastern workers to the camp leader personally at gate III.

The meal times have been arranged as follows: All male and female eastern workers, no matter on what shift they are employed, will have their midday meal until further notice in the old mess hall on the first floor:

The day shift between 12:30 and 13:00 hours.

The early shift immediately following the handing over at gate III.

The late shift before they are received at gate III by the plant.

Supper will be given out at the camp.

It must especially be pointed out that the eastern workers have to be escorted in groups to and from meals as well.

It has to be particularly noted that the eastern workers received in the morning or at noon at gate III have to be handed over in the same number punctually. For this the plants are fully responsible. Checking of this is simplified by consecutive numbering.

The eastern workers have to wear in front on the right side of each article of clothing, also on the working clothes in the plant, a firmly attached sign with the inscription "East." The badges for the working

clothes will be supplied by the provisioning department at the request of the plants.

Likewise, the current number of each eastern worker, which at the same time is to be considered as the filing number, will be given to the plants by the employment office. As long as the prescribed signs cannot be supplied, the sign "East" is, as a substitute, in some way or another to be painted on the right side of the chest.

The supervision of eastern workers has to be guaranteed within the plant by the plant leader. The plant leader has to appoint (from among his employees) reliable German employees who will take over the supervision, and he has to report them for confirmation to the counterintelligence agent (Dr. Seel). The supervisory personnel will be supplied with a white armband with the inscription, "Armament-Works Security Police."

Regarding equipment for work (work clothing, towels, etc.), eastern workers will be treated as is customary in the plant, although at present the required clothing [ration] cards have not yet arrived. This will be settled by the provisioning department.

Breaches of discipline which cannot be dealt with by the plant are to be reported without delay to the welfare department (Dr. Hackstein).

The eastern workers are employed on a special basis; therefore German workers' conditions and workers' protective rights are not applicable.

The eastern workers receive the same wage tariff as German workers in comparable jobs.

If the output of the eastern worker remains below the average production of a German worker, his wages can be lowered accordingly. Any piecework earnings are to be accredited only at the rate of 7/10 of normal, and premium extra earnings at the rate of 70 percent of the premium normal in the plant.

Social allowances (head allowance and self-supporting allowance) are not due the eastern worker. Bonuses for work performed can be included up to 70 percent of the bonuses of a corresponding German worker in the comparable wage scale.

Generally, however, this is not to be done. Dirty and heavy work allowances are to be taken into consideration in calculating the comparable wage. The eastern worker is only entitled to compensation for work actually performed; he has no claim to additional pay for overtime. Sunday and holiday work, separation and billeting allowances, compensation or food allowances, may not be paid to eastern workers.

These conditions are to be observed very exactly when making out the plant wage sheets. We therefore request you to inform the offices charged with these jobs. A uniform deduction of RM 1.50 per day

is to be made for camp billets and food. The final fixing of the wage for an eastern worker will be done by the plant office on the basis of the total wage of the comparable German worker. He is paid from the day he starts work in the plant.

The eastern workers are subject only to the eastern workers' tax. Therefore they need not pay wage tax or contributions to the social insurances and to the German Labor Front. Eastern workers are not to receive a wage account.

As regards the care of sick eastern workers, instructions from the Reich Minister for Labor are still awaited. We shall inform you of these as a supplement to today's circular.

The same applies to leave and family journeys home. The eastern workers will be given a chance for saving with interest part of their earnings, as well as for the transfer of money to their home country. About this, detailed explanations will also follow.

Welfare Department
[Signed] Popp

Circular No. 759
Welfare Department

**PARTIAL TRANSLATION OF DOCUMENT NI-14551
PROSECUTION EXHIBIT 1991**

EXTRACTS FROM FARBEN-AUSCHWITZ WEEKLY REPORTS NO. 60 AND 61, FOR THE PERIOD 13-26 JULY 1942, CONCERNING DISCUSSION ON REQUIREMENTS FOR BARRACKS AND "SCHMELT JEWS," NOTIFICATION TO SOTRABE FIRM THAT "WE WILL NOT HESITATE TO COMMIT THE BELGIANS WHO WILL NOT WORK TO THE CONCENTRATION CAMP," VISIT OF REICHSFUEHRER SS HIMMLER TO THE PLANT SITE AND HIS PROMISE TO BE OF EVERY POSSIBLE ASSISTANCE, REQUEST TO COMMANDANT OF AUSCHWITZ "THAT WE RECEIVE JEWS FROM SS BRIGADIER SCHMELT," AND RELATED MATTERS

Weekly Report No: 60/61 for the Period from 13 July-26 July 1942

Distribution:

Ludwigshafen:	Director Dr. Ambros/Dr. Eisfeld Construction Director Santo Construction Engineer Dr. Mach/Chief Engineer Heidebroek Certified Engineer Reich
Merseburg:	Directors Dr. Buetefisch/Dr. von Staden/ Dr. Braus Chief Engineers Dr. Duerrfeld/von Lom Chief Engineer Dr. Hoepke Certified Engineer Mueller, Electro plant

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Testing Engineer :	Certified Engineer Walter, Gleiwitz
III Gebechem :	Breslau : Herr Franke Katowice : Herr Eckelmann

16 July

Conference with Senior Construction Director Mueller and Construction Counsellor Mahlendorf of the Breslau branch office about requirements for barracks and the assignment of Jews as labor to us by SS Senior Colonel Schmelt. Discussion with Senior Engineer Krapp and Dr. Fruehauf from Ludwigshafen, Certified Engineers Mueller, Leuna, and Dr. Appel, Merseburg, and fixing of deadlines for all wire nets [Maschennetz] and substations.

The attention of Herrn Sprimont, representative of the firm Sotrabe, was drawn to the fact that we do not intend to put up any longer with the slackness [Bummelei] of the Belgians, only 60 percent of whom turn up for work at all; and that we will not hesitate to have the Belgians who will not work committed to the concentration camp. Sprimont will point out the consequences of their slackness to his workers in a circular. In addition, it was agreed that only those Belgians are to receive food from the communal kitchen whose food cards bear the stamp of the German firm for which they work. This measure has already met with some success during the last few days, but, on the other hand, has also caused the Belgians to work until lunchtime, then go to eat, and not appear for work again. Another complaint is that a great number of the Belgian workers were classified as skilled workers who, according to their performance, cannot be recognized as such. It was made quite plain to Herrn Sprimont that the results of the employment of the firm Sotrabe have so far been absolutely unsatisfactory.

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18 July

Visit of the Reichsfuehrer SS with great retinue, including SS Lt. General Schmauser and SS Lt. Colonel Hoess, to whom the Reichsfuehrer SS had personally brought his promotion [papers] to SS Lt. Colonel. The Reichsfuehrer was welcomed by the undersigned in front of the recreation center. We then drove to the power plant and showed the distinguished guest the view of the entire works from the top of the large surface shelter, explaining the entire layout by means of a map prepared for this purpose. The Reichsfuehrer inquired about the probable starting dates, which were given as between May

and August 1943. He asked why these periods could not be cut still more by increasing the amount of labor employed. We then referred to the difficulties of obtaining labor and materials. When he asked why work had not yet been started on the mining installation we replied that we had not yet received a final order from the Army Ordnance Office. When he asked the reason for this, we informed him that we did not know this and that probably the Army Ordnance Office was not able to decide on this either because of the difficulties with supplies. The Reichsfuehrer ordered one of his adjutants to make a note of this matter.

The Reichsfuehrer further asked whether—now that 3 buna plants were already in operation—we could not erect our factory buildings according to the same plans. We replied that this had been done in some cases, but that, on the other hand, improvements in the plant had made alterations in design necessary. He thought that if this meant a loss of time, it would be preferable to build more quickly in accordance with the same plans and to put up with certain disadvantages in manufacture.

He paid particular attention to the prefabricated concrete method of construction, which he recommended to SS Lt. Colonel Hoess for imitation in the concentration camps of the SS. When leaving, the Reichsfuehrer promised us every possible assistance and invited us to let him know if we needed anything.

20 July

SS First Lieutenant Schwarz, labor assignment chief of the concentration camp, informed us that as of 21 July no more inmates will be assigned to the factory site, since it has been necessary to order confinement to the camp because of danger of infection. It is not possible to tell yet how long this ban will remain in force.

* * * * *

During the regular discussion with the concentration camp and the Amtskommissar, we asked the commandant to use his influence to see that we receive Jews from SS Senior Colonel Schmelt. The commandant told us that he would call the Gauleiter directly about this matter. He did not believe that there would be any difficulty. However, it had so far not been possible for the branch office of the Minister for Munitions to eliminate the objections of SS Senior Colonel Schmelt about the employment of the Jews on our construction site.

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PARTIAL TRANSLATION OF DOCUMENT NI-14559
PROSECUTION EXHIBIT 1963

EXTRACTS FROM THE MINUTES OF THE CONFERENCE AT FARBEN'S
BITTERFELD PLANT, 21 JULY 1942, CONCERNING THE SHOOTING
OF A RUSSIAN CIVILIAN WORKER ATTEMPTING TO FLEE

Mail Excerpt No. 2

Bitterfeld, 21 July 1942

* * * * *

Plant Protection Detachment

On 18 July at night, a Russian civilian, fleeing from the camp for Russians after having been called to stop by a plant protection officer, was shot at and fatally injured (18 July).

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PARTIAL TRANSLATION OF DOCUMENT NI-14553
PROSECUTION EXHIBIT 1992

EXTRACTS FROM FARBEN-AUSCHWITZ WEEKLY REPORTS NO. 62 AND
63, FOR THE PERIOD 27 JULY-9 AUGUST 1942, CONCERNING "THE
CATASTROPHIC SITUATION AS REGARDS BARRACKS WHICH HAS
ALREADY EXISTED FOR MONTHS," DEFICIENCIES OF WASHING AND
HYGIENIC FACILITIES, CLOTHING OF NEWLY ARRIVED CROATIAN
AND RUSSIAN WOMEN, WORK SHIRKING OF FRENCH AND BELGIAN
WORKERS, AND RELATED MATTERS

Weekly Report No. 62/63 for the Period from 27 July-9 August 1942

Distribution :

Ludwigshafen : Director Dr. Ambros/Dr. Einfeld
 Construction Director Santo
 Senior Engineer Mr. Mach/Senior Engineer
 Heidebroek
 Certified Engineer Rasch
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 Dr. Braus
 Senior Engineers Dr. Duerrfeld/von Lom
 Senior Engineer Dr. Hoepke
 Certified Engineer Mueller, Electro-Plant
Auschwitz : Commercial Dept. (Dr. Savelsberg)
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Testing Engineer : Certified Engineer Walter, Gleiwitz
(III) Gebechem Office Breslau Herr Franke
Gebechem Office Katowice Herr Eckelmann

28 July

Conference of firms. The following subjects were discussed : Slackers, employment of Russian female labor, employment on Sunday, payment for work done, wages for transportation and communications. Besides this Herr Schmitt spoke about the new supplement to the "General Conditions for Construction Workers, dated 1 March 1942," and referred to our circular No. 5050, attached to weekly report No. 60/61 and covering the compensation of foreign workers.

The catastrophic situation as regards barracks, which has already existed for months, will therefore continue. Today, in camp II, for more than 3,000 persons we have only 3 barracks with washing facilities. In camp III, where some 700 Polish forced laborers [Zwangsarbeiter], 724 Croats and 1040 Russian women are accommodated, we have no hut with washing facilities at all. It is the same in camps IV and V, although, it is true, these are not occupied as yet. Camp IV cannot be gotten ready to receive inmates, since it has not yet been possible to procure the necessary quantities of netting and barbed wire. The lack of living quarters for employees gives rise to daily complaints and discontent. We do not know today where we shall put the new employees the next day when they arrive. With each new employee who arrives, the lack of office space increases.

On the one hand we have given up all idea of erecting big buildings for the administration and the requirements of social welfare (baths), and on the other hand we are refused a supply of huts. The Plenipotentiary General for Special Questions of Chemical Production has intervened in the matter, and—as Herr Eckelmann informed us on 5 August—with hopes of success.

* * * * *

The lack of hygienic installations is all the more painful as there are still dangers in the camp which have not yet been eliminated. The well-grounded complaints of the messing authorities about the lack of kitchen space are getting louder from day to day.

With regard to the lack of technical workers as already described, we have applied to the Plenipotentiary General for Special Questions of Chemical Production for the return of the workers given to Bruex, since the period agreed upon has now expired.

The workers who have arrived in the meantime, Croats and Russian women, are not fit to raise the average quality of our working personnel or to give any substantial increase to the work performance.

The Croats wear clothes which are completely torn, mostly not of their own fault, and are indescribably dirty. There are also a num-

ber of Gypsies among them whose faces would not make one want to meet them alone in the dark. In comparison to what we are used to on this building site, the average work performance of the Croats cannot be described as bad.

The Russian women, who are mostly between 15 and 25, are for the most part indescribably poorly dressed. Generally they only wear a blouse and skirt and it is doubtful whether they even have a shirt underneath. They all go barefoot as well. Their work performance is fairly satisfactory, but only when they are constantly supervised. As soon as the supervisor turns his back, all hands are idle. Nothing rouses these women out of their stoical calm, however, especially as they do not understand what is said to them. On the whole, this new acquisition on our building site is just what we needed to make our misery complete [der uns gerade noch gefehlt hat].

Beneath all criticism, however, is the assignment from the firm Sotrabe. Forty to fifty percent of this elite from Belgium and France never appears at work at all. All the methods we have tried seem to be fruitless. Even the cutting off of food supplies has not had the desired* * * * above all it is suspected that the Poles allow their * * * to starve. To that must be added a hypernormal * * * We hope that the * * * which for the last 14 days * * * labor correction camps * * * create a change * * * follows, it is true, through our own * * * doubtful whether our work's security police * * * to accomplish this task.

* * * * *

Signed: FAUST

**PARTIAL TRANSLATION OF DOCUMENT NI-15254
PROSECUTION EXHIBIT 2208**

**EXTRACTS FROM FARBEN-AUSCHWITZ WEEKLY REPORTS NO. 64 AND
65, FOR THE PERIOD 10-23 AUGUST 1942, CONCERNING RESULTS
OF DISCIPLINARY MEASURES ON OUTPUT OF RUSSIAN WOMEN
WORKERS, PURGING OF UNRELIABLE FRENCH AND BELGIAN WORK-
ERS OF THE SOTRABE FIRM WITH THE AID OF THE WORKS SECURITY
POLICE AND THE GESTAPO, DISTRIBUTION OF WOODEN SHOES TO
RUSSIAN WOMEN, AND RELATED MATTERS**

Weekly Report No. 64/65 for the Period from 10 to 23 August 1942

* * * * *

III. *Employment of Russian women*

The camp administration has succeeded in being firm with the Russian women and has accustomed them to a strict discipline. The

*The ellipses which follow result from omissions from an entire section on the left hand bottom of the last page of the original document.

result of their success is seen in the new picture shown by camp II on the one hand, and by a series of reports from firms in the social welfare department dealing with the ever-increasing improvement in the output of Russian women.

On the basis of the experience made, the same educational work will be carried out in the near future amongst the Croats, and after that the orientation of camp II (Frenchmen and Ukrainians) will be undertaken. A thorough purging was undertaken by the social welfare department of all unreliable elements and shirkers in the personnel of the firm Sotrabe. This was accomplished partly with the assistance of the work's security police and the Gestapo. Altogether we have had 160 workers sent back to France and Belgium up to now. Wooden shoes were distributed to the Russian women and were sufficient to go round.

Signed: SCHNEIDER

**PARTIAL TRANSLATION OF DOCUMENT NI-14555
PROSECUTION EXHIBIT 1989**

**EXTRACTS FROM FARBEN-AUSCHWITZ WEEKLY REPORTS NO. 66 AND
67, FOR THE PERIOD 24 AUGUST-6 SEPTEMBER 1942, CONCERNING
DISCUSSION WITH VARIOUS FIRMS DOING CONSTRUCTION ON
FARBEN-AUSCHWITZ, ON ASSIGNMENT OF FEMALE EASTERN WORK-
ERS, ACCOUNTING FOR THEM, DENIAL OF LEAVE FOR POLES,
TRANSFER OF SHIRKERS TO CONCENTRATION CAMP, THE FINAL
ARRIVAL OF WIRE NET AND BARBED WIRE MAKING POSSIBLE
UTILIZATION OF ADDITIONAL INMATES, AND RELATED MATTERS**

*Weekly Report No. 66/67 for the Period from 24 August to
6 September 1942*

Distribution:

Lu [Ludwigshafen]: Directors Dr. Ambros/Dr. Eisfeld
Construction Director Santo
Chief Engineers Dr. Mach/Heidebroek
Engineer Rasch

Me [Merseburg]: Director Dr. Buetefisch/Director Dr. v.
Staden/Dr. Braus
Chief Engineers Dr. Duerrfeld/von Lom
Chief Engineer Dr. Hoepke
Certified Engineer Mueller, Elektro/plant

Az [Auschwitz] :	Commercial Department (Dr. Savelsberg) Purchase (Schmitt) Dr. Duerrfeld
2 copies :	Social Welfare Department (Dr. Ross- bach and Assessor Schneider)
Testing Engineer :	Certified Engineer Walter, Gleiwitz
III.	Plenipotentiary General for Special Questions of Chemical Production :
	Breslau Mr. Franke
	Katowice Mr. Eckelmann

* * * * *

Discussion with firms [Firmenbesprechung] :

Lt. Col. Niepmann gives a detailed report about the care and guarding of the female eastern workers. Afterwards Mr. Buehler speaks about the distribution and the allotment of these women. Mr. Schmitz announces that the accounting for the female eastern workers will be undertaken up to 31 August 1942 by us. From 1 September 1942 on, this accounting will be taken care of by the firms. Mr. Schmitz also speaks about the payment of less-than-average performances.

Mr. Faust decides on principles that Poles do not receive any leave. For the present, the smoking prohibition is lifted.

* * * * *

Mr. Niepmann announces that shirkers, et cetera, can be transferred, from 1 September 1942 on, to the concentration camp for admittance to the labor training camp.

* * * * *

After wire netting and barbed wire have at last been delivered, or the delivery can be expected within the next days, we can finally complete camp IV for the admission of inmates. We, therefore, hope to be able to accept inmates—that means additional inmates—in about 14 days.

* * * * *

Signed: FAUST

PARTIAL TRANSLATION OF DOCUMENT NI-11138
PROSECUTION EXHIBIT 1448

EXTRACTS FROM REPORT OF TWENTIETH CONSTRUCTION CONFERENCE
ON FARBEN-AUSCHWITZ, HELD ON 8 SEPTEMBER 1942, ATTENDED
AMONG OTHERS BY DEFENDANTS BUETEFISCH, AMBROS, AND
DUERRFELD, CONCERNING PROGRESS OF CONSTRUCTION, SOURCES
OF ADDITIONAL LABOR, PLANS TO EMPLOY NEWLY ARRIVED CON-
CENTRATION-CAMP INMATES NOT INFESTED WITH DISEASE BY
ERECTING MONOWITZ CAMP ON THE BUILDING SITE, PROGRESS
IN BUILDING BARRACKS, STATE OF HEALTH OF CERTAIN GROUPS
OF FOREIGN WORKERS, OUTBREAK OF TYPHUS EPIDEMIC IN THE
CONCENTRATION CAMP, AND OTHER MATTERS

[Stamp]

Secret

[initials] tM [ter Meer]

[Handwritten] file

TA/Hk/Az

Ludwigshafen, 24 September 1942 L

*IG Works Auschwitz 20th Construction Conference on 8 September
1942 at Auschwitz/Upper Silesia*

Present were:

from Leuna:

Director Dr. Buetefisch
Director Dr. Sauer
Director Dr. von Staden
Chief Engineer Dr. Hoepke
Dr. Braus
Chief Engineer von Lom
Dr. Weber
Dr. Appel
Certified Engineer Loetsch
Certified Engineer Haeseler
Certified Engineer Sitzenstuhl

furthermore:

Dr. Schaefer

from Ludwigshafen:

Director Dr. Ambros
Construction Director Santo
Chief Engineer Dr. Mach
Dr. Eisfeld
Chief Engineer Heidebroek

from Auschwitz:

Chief Engineer Dr. Duerrfeld
Chief Engineer Faust
Dr. Savelsberg
Engineer Murr
Certified Engineer Baeu
Certified Engineer Schott
Dr. (med.) Peschel

I. Reports on the progress of construction work

To begin with, Duerrfeld, by means of some examples, demonstrated the difficulties in obtaining the most urgent requirements for the construction site, which often arose in an unexpected way. The constructional management's chief worry lay in the difficult situation regarding—

1. The allocation of quotas, and
2. The procurement of labor.

Due to the new method, the quota system was still unreliable. But it will in future also be possible to meet the most urgent demands of the construction site for constructional and machine iron by means of strict adherence to all schedules and constant liaison with all the appropriate offices.

Procurement of labor

Duerrfeld demonstrated by means of diagrams that the *complement of staff on the building site would almost reach the intended figures.* [Handwritten exclamation mark] In these considerations it must, however, not be forgotten that the efficiency of the workers obtained was considerably below that of normal workers. As usual, the bulk of the workers would be Polish. The intended sharp increase of labor requirements in the next few weeks would continue to strain the procurement of labor to the utmost. The following auxiliary sources for procuring labor were available:

a. Recruitment of Poles in the Government General was to provide a further 1000 workers.

b. 2000 Russian eastern workers were to be sent to Auschwitz by order of Sauckel. No definite promises were at hand as yet.

c. Prisoners of war. Sauckel had promised that 5,000 prisoners of war would be sent to the building sites in Upper Silesia. 2,000 of these were intended for Auschwitz. The remainder was to go to Heydebreck and Blechhammer.

d. Recruitment of further Serbs was to be continued.

e. The share borne by French and Italian firms was to be increased as well. Negotiations about this were to take place in the Reich Office in the near future. In addition to direct recruitment by the builder, it was also intended to combine French firms with the construction and machine installation firms by means of suitable contracts. The names of the French firms were to be provided by the Reich Office (Lieut.-Col. Kirschner).

f. For reasons of hygiene it was at the moment impossible to employ inmates and Jews through the concentration camp. In order to be able to employ newly arriving, non-infested Jews and inmates, it was intended to build a camp on the building site in which quarters would be provided for them.

Checks by the individual groups of the technical section showed a *deficiency of about 7,000 locksmiths, including 2,000 apprentices.* [Handwritten exclamation mark] The remainder was to be met through employment of Russian prisoners of war, Russian and German retrainees and suitable firms. 400 apprentices would be available next year. The sources of supply of further German retrainees were almost exhausted now. Induction had claimed about 200 of the 1,200 retrainees who had been engaged. Polish workers had also been retrained. 380 Russian retrainees were already at Auschwitz.

In order to be able to have the methanol project ready for operation by July 1943 as scheduled, the Reich Office was informed that 3,000 building, skilled and unskilled workers would have to be allocated to this project *immediately*. [Handwritten exclamation mark] A further condition for this operation schedule was the absolute fulfillment of orders on the part of the supplier firms.

Von Staden stated that Councillor of State Schieber had arranged the *provision of 40,000 workers* for the powder and explosives production project. [Handwritten: Where are they to come from?] Since both the expansion of the methanol plant by 60,000 tons per year and the construction of the enlarged Montan plant were included in this project, one could assume that Auschwitz would be allotted some workers under this quota. Ambros announced the visit of a commission composed of one representative each of the Reich Office, the High Command of the Army, and the Plenipotentiary General for Construction, which was to decide on the means necessary for the construction of the Montan plant in accordance with its schedule. (Allocation of 2,000 construction workers and 250 mechanics). The result of this visit could be considered a test for the efficacy of the powder and explosives manufacturing program.

The 1,300 building and untrained workers lent to Bruex [Most] were to recommence work at Auschwitz during the week of *10 to 15 September*. [Handwritten question mark.]

Faust demonstrated the distribution and employment of the workers available by means of a compilation which had been provided. It was decided to withdraw at least 500 workers from the work which was at the moment being carried out on the settlement, on the renovation of the old flats, on the estate buildings and on the cantonment, in order to speed up the work on the factory building site of importance to production, and especially on the underground construction work. These measures should remain in effect for 6 weeks to begin with. After expiry of this period, further decisions on labor allocation would be made.

Increase of efficiency

The introduction of the piecework system had proved successful. An additional incitement towards increasing efficiency was to be the allocation of foodstuffs in the form of premiums.

* * * * *

Barrack camps

Faust reported on the completion of the camps:
Camp I completed.
Camp II completed, except for canalization.
Camp III no bath-house and latrines as yet.

Camp IV completed, except for double fencing.
 Camp V ready to receive 1000 Schmelt Jews [Schmeltjuden].

* * * * *

At the moment 7000 beds were actually available. They could not be fully occupied, however, as latrines, bath-houses, and kitchens had not as yet been provided. Facilities for heating the barracks were available.

Finished concrete hall

At the moment 2,500 meters of the basic building, considered as a single chamber, have been completed. The program was being carried out according to plan. The procurement of windows and fittings was causing considerable difficulties.

* * * * *

Taking possession :

The transfer from the official administration of the Ostland [G. m. b. H.] to the IG was effected :

1. For the acreage of the Dwory Estate, on 30 October 1941, with 1 November 1941 as effective date.

2. For the remainder (excluding Zaborze, Broschkowitz and partly Auschwitz) on 24 April 1942, with 1 April 1942 as effective date.

* * * * *

The following items are still to be taken over : 9 farms in Kruki and individual estates in the border areas and the remaining acreage of the Zaborze, Broschkowitz, and Auschwitz communities. This estimated total of 225 hektometers will be taken over from the Ostland [G. m. b. H.] in fall after harvest is over, without paying any compensation.

* * * * *

VI. State of Health, ambulance

Report by Dr. (med.) Peschel, see appendix 3.* [Handwritten] (which follows)

VII. Financial requirements and final settlement of accounts

Financial requirements

Duerrfeld gave a brief survey which Savelsberg supplemented with the following statistics :

Total expenditure 1941	actual costs	15.5 million
1942 I. Half year		34.5 million
Sparte I		16.0 million
Sparte II		18.5 million
II. Estimate for the half year		63.0 million
Sparte I		28.3 million
Sparte II		34.7 million

*Reproduced at the end of this document.

According to these figures, the annual expenditure for the year would probably amount to a total of approximately	97.5 million
Sparte I	44.3 million
Sparte II	53.2 million
Total expenditure as of the end of August 1942	54.0 million
Sparte I	25.5 million
Sparte II	28.5 million

Final settlement of accounts

Ambros again expressly pointed out that no building project should be embarked upon until it had been authorized by the granting of a loan. This direction applied, in particular, to the estate buildings, factory building, and the auxiliary plants planned in Auschwitz. The greatest possible economy was to be practiced in carrying out the building operations.

For reasons of personnel shortage and paper economy, accounts were to be balanced, for the time being, only once per quarter. In cases in which it was planned to exceed allowances, the plant accounts department was to inform the specialists in order that the accounts might be examined in good time and, if necessary, supplementary programs drawn up.

VIII. Winter stockpiling

Savelsberg pointed out that silos for the storage of cabbage and potatoes must be ready within a short time, as deliveries for winter stockpiling would begin shortly. (See also the report by Dr. Savelsberg, dated 2 September 1942.) Next construction conference, 4 November 1942 at Merseburg.

[Signed] HEIDEBROEK

*Enclosures**

Appendix 3 to the Report of the 20th Construction Conference held at Auschwitz, Upper Silesia, on 8 September 1942

State of Health, Ambulance (Report Dr. (med.) Peschel)

The state of health of the workmen and employees at the building-site at Auschwitz is, in general, satisfactory. Of the infectious diseases occurring in the Auschwitz district (malaria, typhoid, typhus, dysentery, and recently diphtheria also) there have been very few cases in our camp. Definitely established have been 1 case of typhus, 8 cases of typhoid, and very isolated cases of dysentery.

In 21 days during the month of August, 2,654 patients were treated by the camp doctor, that is an average of 126.3 persons per day.

*Of these enclosures, only appendix 3 is reproduced herein.

Three hundred fifty-six works injuries occurred, one fatal. I am, unfortunately, as yet unable to give a report on patients treated through the first aid post, as statistics are incomplete owing to lack of personnel. The X-ray equipment was put into operation during the early days of July (only after the initial difficulties have been brought under control, and after the arrival of a female radiographer on 1 November 1942 will it be possible to work it at full capacity). In the month of August, it was used on 145 occasions. The kitchen staff regularly undergo a bacteriological examination, in order that the bacilli carriers may be eliminated from the kitchens.

The delousing station which is operated by a disinfectant has deloused 2,917 persons in 20 working days. Maximum, so far *680 persons per day*. Sickness occurs among members of the individual nations as follows, figures being given in percentages:

<i>Day</i>	<i>28 August 1942</i>	<i>1 September 1942</i>	<i>4 September 1942</i>
<i>Poles</i>	1.92%	1.57%	1.8%
<i>Italians</i>	3.6%	2.2%	3.2%
<i>French</i>	6.9%	6.4%	3.2%

In order to reduce the number of cases of sickness among the French workers, a French nursing orderly has been detailed, by agreement with the firm of Sotrabe, to separate the malingerers from those who are genuinely ill, even before they are examined by the doctor, so that the malingerers are no longer brought to the doctor.

As a fairly large-scale typhoid fever epidemic has broken out in the Auschwitz concentration camp, and as an increasingly large number of cases of typhus have occurred in the town of Auschwitz, the danger of these two diseases was pointed out in a notification to the works, and it was recommended that all German and ethnic German members of the staff be inoculated against typhoid and typhus. (Against typhus with typhoral tablets, and against typhoid fever with Behring's antityphoid vaccine.) A very high percentage of the staff voluntarily presented themselves for inoculation. Inoculation is still in progress. For this reason, the precise figures can still not be given.

The entire accident-reporting system has, so far, been conducted by the medical department. With the arrival of a security engineer for Auschwitz, a statement was made during a conference in the presence of all authorities interested therein (for example, the plant management, fire brigade, welfare department, and the security officer) on the future operation of the accident service in our works.

Signed: DR. PESCHEL

PARTIAL TRANSLATION OF DOCUMENT NI-14489
PROSECUTION EXHIBIT 2130

EXTRACTS FROM FARBEN-AUSCHWITZ WEEKLY REPORTS NO. 70 AND
71, FOR THE PERIOD 21 SEPTEMBER-4 OCTOBER 1942, CONCERNING
SS LIEUTENANT GENERAL POHL'S VISIT TO THE AUSCHWITZ PLANT,
DEFENDANT AMBROS' LECTURE CONCERNING THE ENTIRE INSTAL-
LATION, POHL'S ASSURANCES OF SUPPORT, AND RELATED MATTERS

*Weekly Report 70/71 for the Period of 21 September until 4 October
1942*

Distribution: Ludwigshafen: Direktors Dr. Ambros/Dr. Eisfield
Construction Direktor Santo
Senior Engineers Dr. Mach/Heide-
broek
Certified Engineer Rasch
Merseburg: Direktor Dr. Bueteffisch/Dir. Dr.
v. Staden
Dr. Braus
Senior Engineers Duerrfeld/von
Lom
Senior Engineer Dr. Hoepke
Certified Engineer Mueller, Elek-
tro-plant
Auschwitz: Commercial Department, (Dr. Sav-
elsberg)
Purchase Department (Schmitt)
Dr. Duerrfeld
2 Copies: Social Welfare Dept. (Dr. Ross-
bach and Assessor Schneider)
Testing Engineer: Walter, Gleiwitz
III Gebechem Breslau, Herr Franke
Katowice, Herr Eckelmann

Summary:

An inspection of the Auschwitz plant by SS Lt. General Pohl (which took place in the late afternoon) was preceded by a lecture of Dr. Ambros concerning the entire installations of the plant. On this occasion, our labor-allocation difficulties were also discussed and resulted in the following promise of the SS Lt. General:

Immediately following the completion of camp IV, which is to be expected by 15 October, inmates will be put at our disposal for our construction work. The SS Lt. General will try, furthermore, to supply suitable workers for assembly work via all German concentration camps (metal workers, electricians). The SS Lt. General will issue orders to supply us with warm clothing which is necessary

for the winter for the Croats, male Ukrainians and female Ukrainians employed on the building site.

The SS Lt. General therefore will do everything in his power to assist us after he has realized what vital questions are involved in the construction of our plant.

* * * * *

Signed: FAUST

**PARTIAL TRANSLATION OF DOCUMENT NI-14514
PROSECUTION EXHIBIT /1993**

**EXTRACTS FROM FARBEN-AUSCHWITZ WEEKLY REPORTS NO. 70 AND
71, FOR THE PERIOD 21 SEPTEMBER-4 OCTOBER 1942, CONCERNING
LABOR PROBLEMS IN RELATION TO NECESSITY OF COMPLETING
CONSTRUCTION BY SPRING OF 1943, SHIRKERS, FOOD DISTRIBUTION
ACCORDING TO PERFORMANCE, SUPPLY BY CONCENTRATION
CAMP OF WINTER CLOTHING PRESUMABLY TAKEN FROM INMATES,
PERCENTAGES OF ESCAPES BY NATIONALITY OF FOREIGN WORKERS
EMPLOYED ON CONSTRUCTION SITE, NUMBERS OF ESCAPED WORKERS
RETURNED, AND RELATED MATTERS**

Weekly Report No. 70/71 for the period from 21 September to 4 October 1942

Distribution:

Ludwigshafen	Dir. Dr. Ambros/Dr. Eisfeld Construction Direktor Santo Senior Engineers Dr. Mach/Heidebroek Certified Engineer Rasch
Merseburg	Dir. Dr. Buetevisch/Dir. Dr. v. Staden/Dr. Braus Senior Engineer Dr. Duerrfeld/von Lom Senior Engineer Dr. Hoepke Certified Engineer Mueller, Electro-plant
Auschwitz	Commercial Department (Dr. Savelsberg) Purchase (Schmitt) Dr. Duerrfeld
2 copies	Social Welfare Department (Dr. Rossbach and Assessor Schneider)
III	Testing Engineer Walter, Gleiwitz Gebechem: Breslau, Herr Franke Katowice, Herr Eckelmann

* * * * *

29 September

* * * * *

Conference of firms. In connection with the article written by Reich Minister Dr. Goebbels in the "Reich" entitled "What is at

stake," the chief of construction [Faust] addressed the entrepreneurs assembled in a very serious speech to the effect that, when considering the task given to us, it is not the private interests which are at stake, but we, too, have here to make our contribution to the decisive battle fought by the entire German nation. The frequent grumblings which started on account of the Bruex workers (who had returned) being employed in another task were discussed accordingly. The indignation which arose on account of the calling up of labor from various road construction projects for the completion of camp IV was also discussed in this connection. The construction leadership pointed out that nothing would be able to refrain it from assigning the available labor in a way required by the carrying-out of the most important construction work which had to be completed, under all circumstances, in the spring of 1943.

The representative firms are asked to understand this and it is being expressed that we all, construction leadership and entrepreneurs, form a pledged community which has to reach the appointed goal under all circumstances. For this the same readiness to serve as shown hourly by our comrades on the Eastern Front is required.

Herr Buehler talks about the possibilities to safeguard the plant against espionage, and about supervision, especially of the foreigners. Inquiries are made by some construction chiefs about pressure which can be applied against workers who repeatedly tried to shirk. The construction leadership promises full support.

A work schedule for those Sundays which are working days is being set up. Experience in connection with payment of inferior work is being discussed. According to Herr Faust, food classified into 3 groups according to performance, would be more effective.

* * * * *

2 October

* * * * *

Discussion with SS Major Burger and SS Captain Mulka in the concentration camp. The concentration camp has received the order from SS Lt. General Pohl to supply us with the winter clothing required by us in a sufficient quantity. This concerns jackets, trousers, coats and blouses, also overcoats, but not socks and shoes. These are presumably the civilian clothes of the admitted inmates. The amount realized from this clothing is put at the free disposal of the concentration camp by Pohl.

For the accommodation of the prisoners in camp IV, which, as it is known, is to take place on 15 October, the concentration camp demands in addition a prison building consisting of several detention cells, a mortuary for 30 to 40 corpses, a dissecting room, et cetera. Submitting the plans made by us for these buildings, it is stated that under no circumstances could these buildings be completed by 15

October and that the opportunity had been given already three months ago to report that these buildings are required. It is requested to postpone the completion of these buildings in order not to endanger the employment of the prisoners as of 15 October. Burger states that there are no objections against this.

* * * * *

Signed: FAUST

Weekly report No. 70/71, part III/24—1942 (Key date 30 September 1942)

* * * * *

III. Labor allocation of foreigners

Of the foreign laborers allocated to our construction site the following have since escaped, or were returned respectively:

Out of 406 Eastern workers (men)-----	240	escaped	59 percent
Out of 1,042 Eastern workers (women)-----	190	escaped	18 percent
Out of 217 Government General workers (men)-----	13	escaped	6 percent
Out of 231 Government General workers (women)-----	3	escaped	1 percent
Out of 1,076 Croats-----	131	escaped	12 percent
Out of 1,573 Belgians and French-----	424	escaped	27 percent
Out of 369 Poles of the Government General-----	121	escaped	24 percent

A total of 16 men was returned.

Signed: SCHNEIDER

TRANSLATION OF DOCUMENT 084-PS* PROSECUTION EXHIBIT 1302

REPORT OF THE CENTRAL OFFICE FOR MEMBERS OF EASTERN NATIONALS IN THE ROSENBERG MINISTRY, 30 SEPTEMBER 1942, CONCERNING THE RECRUITMENT, TREATMENT, AND CARE OF EASTERN WORKERS, AND RELATED MATTERS

Central Office [Zentralstelle] for Members of Eastern Nationals [ZO] I h

Berlin NW 7, 30 September 1942
Hegelplatz 2

Concerning: Present status of the question of eastern laborers

The *commitment* and *treatment* of foreign laborers, who have been brought into the Reich from Occupied Eastern Territories, depicts a

*Document 084-PS was introduced in the IMT trial as Prosecution Exhibit 190-USA. The German text is reproduced in full in *Trial of the Major War Criminals*, volume XXV, pages 161-179, and the English translation is reproduced in its entirety in *Nazi Conspiracy and Aggression* (office of United States Chief of Counsel for Prosecution of Axis Criminality), United States Government Printing Office, Washington, D. C., 1946, volume III, pages 130-146.

proceeding which will not only be of significant importance to the German war production and the securing of food, but also for the carrying out of German administrative interests in a former Soviet area. Two large fields of action are affected by the way in which the problems connected with the inclusion of millions of eastern nationals in the Reich are solved :

1. Development of the *war situation*.
2. The enforcement of the German *claim to leadership in the East after the war*.

When the call for labor in Germany was increased in January 1942 among the Occupied Eastern Territories, this set up a situation among those classes of Russian and Ukrainian civilians concerned which had by all means the appearance of a risk. Even if one group (the volunteers) set excessive hopes on the journey into the Reich under the impression of irresponsible promises while the other (forced laborers) left their homes reluctantly or, at least, with misgivings, because of memories of former Bolshevik deportations as well as planted anti-German rumors, the fact remains that the trip to Germany had to be felt as a *journey into the unknown* not only by the two [groups] concerned but also by those relatives who remained behind, because of the isolation of the USSR from Europe for decades. The public judgment of the Reich and its leadership would be [just as] dependent upon the outcome of this measure [as upon the measures] taken by the German military and civilian authorities in the Occupied Eastern Territories. The employment in Germany offered an unusual opportunity to learn to know by personal experience, which no propaganda could replace, the Greater German Reich [which] was much slandered by the Soviet press, and the National Socialistic position to the working class, and thus to gain a basis of comparison to the corresponding Communistic doctrines and methods. This meant no more nor less, than that the draft of eastern laborers would be of importance in the development of political opinions among the eastern nationals towards the power which was presently occupying the region, which would aid [those] measures taken to accomplish the recruitment [the commitment], the housing, *et cetera*, in the Reich, which should have been taken into consideration *from the start*, since in view of the necessity to keep [win] the aid of the native inhabitants in the huge areas behind the front, factors which cannot be controlled by regulations or orders, namely the frame of mind which is of war potential value must be considered.

Instead of taking consideration of this, the drafting and the employment as well as the housing, treatment *et cetera* of the so-called eastern laborers has so far been taken care of exclusively according to labor, technical, and the security police points of view, with the result that the headquarters responsible for this were able to report

the due numerical fulfillment of the program as well as the security of the German nationality and of the businesses [plants]. At the time, however, facts had to be hushed up which could have been avoided not only in the interests of German prestige and to the satisfaction of the Occupied Eastern Territories but which even today cost the lives of thousands of German soldiers by their efforts [effects]. The facts, which up to the fall of 1942, have undergone only part or incomplete changes, are among others, the following.

1. *The concept* of the workers from the occupied territories of the USSR was narrowed down to the labor-and-social-legal term "eastern laborers." A labor condition among "foreigners" was hereby created in a segregated "employment under special conditions" which had to be looked upon [by] those affected, as degrading.

2. *The drafting of Eastern* workers and women workers often occurred without the necessary examination of the capabilities of those concerned, so that 5-10 out of a hundred, sick and children, were transported along. On the other hand, in those places where no volunteers were obtained, instead of using the lawful employment obligations, coercive measures were used by the police (imprisonment, penal expeditions, and similar measures.)

3. *The employment* in the businesses [plants] was not undertaken by considering the occupation and previous training, but according to the chance assignment of the individual to the respective transports or transient camps.

4. *The billeting* did not follow the policies according to which the other foreigners are governed, but just as for civilian prisoners, in camps which were fenced in with barbed wire and were heavily guarded, from which no exit was permitted.

5. *The treatment* by the guards was on the average without intelligence and cruel so that the Russian and Ukrainian workers, in enterprises with foreign laborers of different nationalities, were exposed to the scorn of the Poles and the Czechs among other things.

6. *The food and care* was so bad and insufficient in the camps for the eastern laborers being employed in the industry and in the mines that the good average capability of the camp members dropped down shortly and many sicknesses and deaths took place.

7. *Payment* was carried out in the form of a ruling in which the industrial worker would keep on the average 2 or 3 RM each week and the farm laborers even less, so that the transfer of pay to their homes became illusory, not to mention the fact there had been no satisfactory procedure developed for this.

8. *The postal service* with their families was not feasible for months because of the lack of a precautionary ruling, so that instead of factual reports, wild rumors arrived in their countries—among other means, by means of emigration.

9. *The promises* which had been made time and time again in the areas of enlistment stood in contradiction with those facts mentioned under 3-8.

Apart from the natural impairment of the frame of mind and capabilities which these measures, as well as conditions, brought with them, the result was that the *Soviet propaganda* took over the matter and evaluated it carefully. Not only the actual conditions and the letters which reached the country, in spite of the initial blockade, as well as the stories of fugitives and such, but also the clumsy publications in the German press of the legal rulings relative to the matter gave them enough to manipulate with. Commissar for Foreign Affairs Molotov in his *note* to the enemy powers referred already in April 1942 to this, especially in paragraph III of this document in which, among others, it is stated :

“The German administration is treading under its feet the long recognized laws and customs governing war, in that it has given the orders to the troops to take into captivity all male civilians and in many places even the women, and to use against them those measures which the Hitlerites have introduced toward prisoners of war. This does not only mean *slave labor* for the captured peaceful inhabitants but in most cases it also means inescapable starvation or death through sickness, corporal punishments, and organized mass murders.

“The deportation of peaceful inhabitants to the rear, which has been widely practiced by the German Fascist Army, begins to take on a mass character. It is carried out under direct rulings of the German High Command (OKW) and its effects are especially cruel in the immediate rear areas during a retreat of the German Army. In a series of documents, which have been found with the staffs of destroyed German units, there is a directive to the order of the High Command under Nr. 2974/41 of 6 December 1942 which directs that all grown men are to be deported from occupied populated points into prisoner of war camps. From the order to the 37th Infantry Regiment of the 6th Division, of 2 December 1941 under the heading ‘About the deportation of the civilian population’ it can be deduced that for the period from 4 to the 12 December the *capture and forceful deportation of the total population* of 7 villages to the German rear areas was planned, for which a carefully worked out plan was proposed.

“Sometimes all the inhabitants were deported, sometimes the men were torn away from their families or mothers were separated from their children. Only the smallest number of these deported people have been able to return to their home village. *These returnees report terrible degradations, heaviest forced labor, abundant deaths*

among inhabitants because of starvation and tortures, and murder by the Fascists of all the weak, wounded, and sick.”

Further, there are even today announcements in the Soviet newspapers as well as radio about the treatment of eastern laborers which might have as an effect a strengthening of the moral power to resist in the Red Army. Further, there is mentioned the text of a letter which arrived in Ordshonikidsegrad [Ordzhonikidzgrad] from a Russian girl and which was published in a “*Proclamation*” of the police administration of the Northwestern Front of the Red Army under the heading “A Russian Girl in Cologne,” attaching in connection with it an effective propaganda viewpoint about the “Fascist Forced Laborers” in Germany.

“Do you know”—it goes on at the end of the proclamation—“that every one of us who goes to Germany will meet the same fate as Olga Selesnewa! Do not forget that the German monster will make each and every one of you, who has remained behind, a slave on your own soil or drag you to eternal *forced labor* in Germany! Dear brothers and sisters * * *. Go to the partisan detachments! Injure the German occupants at every step. Hit the Hitler thieves everywhere and continuously. The Russian soil shall become their graves!”

The effects of this large-scale documentary-proven radio-press-and-leaflet propaganda, operating even into German-administered territories, must be considered as one of the main reasons for this year’s stiffening of the Soviet resistance as well as the threatening increase of guerilla bands up to the borders of the Government General.

In the meantime, after a *betterment of the condition of the eastern laborers* had been insisted upon, not only by the main office for politics in the Reich Ministry for the Occupied Eastern Territories, which has been able to find support in the repeated requests by the High Command of the Armed Forces, but also by the gentleman charged with the responsibility for all labor employment [Plenipotentiary General for Labor Allocation (Sauckel)] as well as the Department of Labor Employment [Allocation] in the German Labor Movement [German Labor Front], which has the supervision of the eastern laborers—those previously existing legal and police rulings have been mitigated and the conditions in the 8–10,000 camps in the Reich have, on the whole, been improved. Thus those fixed wages, which have been determined by the tables of compensation in a ruling [dated 20 January 1942] of the Council of Ministers, upon which deductions were made up to 75 percent, have been replaced by new tariffs. The eastern laborers were left free of duty [tax] according to it, and the taxes were paid in form of an eastern laborers tax by the owner of the enterprise (Ruling of Council of Ministers for the defense of the Reich of

30 June 1942). Thus after many months of negotiations, with the cooperation of the Central Economic Bank in Rovno, a salary transfer, in the form of a savings stamp procedure, was regulated. Thus, the ruling of the Reich Chief of the SS [Reichsfuehrer SS] of 20 February 1942 prescribing barbed wire has been dropped by a supplementary ruling of 9 April 1942 and at the same time, in exceptional cases, groups were permitted to go out under German guards, of late, it has even been permitted under their own supervision. The food supply was adjusted by a special delivery letter of the Reich Food Minister dated 17 April 1942, to a degree where the "Soviet civilian laborer," as well as the prisoners of war, received a uniform ration. This was still not enough compared to the normal amount of food given to those employed in the industry and in the mines, besides it was still much less and worse than that for the Poles, but it was an improvement, compared to former conditions. Furthermore, the postal communication has been adjusted for those eastern laborers who come from the civilian-administered [regions] as well as those who are from the regions directly to the rear of the Army—at least theoretically. On account of the burden placed on the censorship office for foreign countries, the High Command of the Armed Forces has recently asked again for a reduction of this measure.

In spite of the improvements mentioned, as well as others which in many cases can be traced back to the personal intervention of the Deputy General of Labor Employment [Plenipotentiary General for Labor Allocation], the total situation of the eastern laborers (sampling [key] date: 1 October 1942) must still be considered *unsatisfactory*, namely, not only in respect to the differences in the treatment of industrial workers and farm laborers but in the differences found in the different states and enterprises. On the average, there are still about 40 percent of the lodgings for eastern laborers which would *not* meet the requirements even if all the wartime restrictions were considered. Among these are a frightening number of camps whose conditions are such as to destroy the success of the attempt of improving relationship and the corresponding radiating uplift of the morale within the eastern territories. Not even to mention the fact that the marking "OST" [East], an identification ordered by the police, is being felt as degrading, there remains such a *quantity of grievances and problems* that it would be impossible to relate them now. Only the following points are to be mentioned:

1. *The enlisting and employing of persons of German parentage [blood] as eastern laborers*

Several observations made by the commissions from the central office, to inspect camps, as well as petitions which have reached them, show that persons of German parentage [blood] were enlisted—against regulations—as eastern laborers. Even if they are not recog-

nized people of German parentage according to the "RK Festigung" [Reich Commissioner for the Strengthening of Germanism], they are, however, persons of German descent and with German names, as Mr. Middelhaue could establish in a camp near Berlin. It is to be doubted that the branch offices of the sub-office [repatriation office] for Germans living in foreign countries had enough qualified help who could separate these persons capable of becoming Germans again.

2. *Enlisting and employing as eastern laborers of Tartars [Tatars] from the Crimea*

To increase the fighting numbers of the Tartar [Tatar] legions it would be indispensable to return all those Tartars, who have been employed in the Reich as eastern laborers, to their homes before the coming of winter; a similar report to the "GBA" [Plenipotentiary General for Labor Allocation] is being prepared. Besides climatic reasons, the necessity for this return is to intensify the wine and tobacco growths in the Crimea by experienced help and at the same time, to prevent the invasion of Greek and Bulgarian planters and traders. To prepare this return as well as to deal with other Tartar problems, a commissioner [Generalreferant], namely a Crimean Tartar, has been installed by the "ZO." In the meantime, difficulties have arisen because of the effect of the furloughing of Tartar eastern laborers for participation in the Mohammedan festival during the 4th and 5th of October 1942, as well as the procurement of the meat and millet supply needed for this occasion. The authority in these and similar matters will have to be voiced, at the time of their return, by those White Ruthenian Tartars who have been selected for resettlement.

3. *Enlisting and employing as eastern laborers of Ukrainians from Transnistria*

During inspection of the camps for munition workers at Tepchink [Toepchin] (Krateltew) [Teltov District] into which the central office was induced because of an escape which became known to them, it was found that the eastern laborers employed there were enlisted January 1942 in Odessa. They do not come, according to paragraph 1 of the Rulings of the Council of Ministers dated 30 June 1942, under the category of eastern laborers, but will have to be termed, because of the fact that the State [Government General] of "Transnistria" was placed in the fall of 1941 under Rumanian sovereignty, as stateless members of the Kingdom of Rumania. To clarify this point for all times, negotiations have been made with the GBA [Plenipotentiary General for Labor Allocation] and the Foreign Office as well as the Feldzeuginspektion of the Office for General Affairs [Ordnance Inspectorate of the Army General Affairs Office] in the High Command of the Army.

4. Employment of skilled laborers in occupations foreign to their skills

Up until recently, petitions have continually come to the publishers of camp newspapers, to the Reich Ministry for the Occupied Eastern Territories, to the German Workers [Labor] Front, (and in error also to the bureaus of foreign nationals in the Reich) from eastern laborers (men and women) who are in occupations foreign to their skills or inferior to their skills, without the transfer proposals, which were approved by the central office as well as by other offices, having led to success—except in rare cases. Gauleiter Sauckel, who has repeatedly disclosed—the last time at the conference in Weimar on 10 and 11 September 1942—that the “inner arrangement” of the occupational employment would be his next point on the program, does not seem to be informed about the real conditions in which doctors, engineers, teachers, qualified skilled laborers and such are employed as unskilled workers; mechanics as farmers; and farmers as industrial workers. In any case, one of his close associates, the Gauamtsleiter, [Gau Section Leader, Oberregierungsrat] Orr Escher received the information about this, which was given him by Dr. Thiell [Thiele] [on 25 September 1942] in accordance with instructions of the Central Office, with unusual interest.

5. Separation in employment of members of one family

The repeated separation of family members who have come to the Reich as eastern laborers and eastern women workers (married couples, parents, brothers and sisters, and children) seems utterly contrary to the usual customs governing other employments of foreigners. The bringing together of those relatives who have been mistakenly separated during the transport is principally desired just as much as is the employment of family members in the same location. It does, however, in practice encounter some difficulties. In order to make possible at least the transfer of information from both parties, the Reich Ministry for the Occupied Eastern Territories in August 1942, in conjunction with the Reich Main Office and Reich Security Service [SS Reich Security Main Office] has allowed the limited publication of encoded advertisements seeking information. Besides this, an agreement has been made in September 1942 between the central office and the German Red Cross, in accordance with which this [latter] organization will take over the communication between these eastern laborers separated in the Reich, keeping the place of employment secret, however.

6. Disregarding the nationality in employment and billeting

The plan of the Herr Reichsmarschall [Reich Marshal Goering] to create special “Enterprises for the Russians” could not be accomplished as yet an account of reasons of wartime economy. The de-

mands for a joint employment by the members of eastern nationalities, according to their racial background, could not be carried out in practice to any great degree. In addition to the reasons of business, the usual variegated composition of the transports coming from the great realms [large cities] of the Reich Commissariat Ukraine opposed it. Basically, a regrouping according to racial membership might be possible after completion of an examination of this membership which would have to be made in conjunction with the issuance of employment permits for eastern laborers, especially when a group of foremen has been found [formed] among the eastern laborers based on partial pretraining. Independently of the solution to this question, the commissions from the central training office will be striving to effect a rough sifting of the camps according to racial membership, and to house them accordingly in special barracks. The supplying of experienced interpreters for this job and their systematic instruction has begun.

7. Distinctive, mostly insufficient food rations

The inadequate food ration for eastern laborers is important not only in the matter of performance but also politically, since the majority of the help coming from the Occupied Eastern Territories were previously accustomed to better rations. After using up all the food supplies which had been brought along, a general lowering of the ability to work and of the morale was noticeable. The written request to the Herr Reich Food Minister on the matter, to examine the food quotas in respect to the fact that the eastern laborer was in a worse position in the matter of nourishment than the Poles, was answered [in August 1942] by a telephone communication from the respective chief of section, that to his knowledge the Russians were better off than the Poles. With this ignorance of the condition decisive measures could hardly be expected on the part of the Reich Food Ministry. Nevertheless, Gauleiter Sauckel has declared, in Weimar, as a part of his program, that the feeding of the German as well as the foreign laborer inside of Germany would be shortly adapted to the requirements in accordance with their performance—here he supported his program on an utterance of the Fuehrer. In connection with this a conference took place in the Reich Food Ministry on [29 September 1942], in which an approved food quota of the eastern laborer was decided upon. The decree which is being co-signed by the High Command of the Armed Forces and the GBA [?], upon which the “special delivery letter” of 17 April 1942 will be nullified, provides for laborers of all types an additional 1750 grams of potatoes, for workers in heavy industry an additional 200 grams, and for the group to be newly instituted, of “overtime” and “night” workers, a weekly 2600 grams of bread, 300 of meat, and 150 of fat.

Besides this, instead of the tasteless bread made of turnips the usual kind will be delivered in the future. Even though a complete equality of food rationing with the other foreigners should be aspired to, this new measure whose enforcement is imminent, will counteract the intestinal diseases and hunger swellings of the stomach, as well as the sending of bread from relatives in the Ukraine, which cannot be allowed on political grounds.

8. *Partly insufficient, and unjust payment of wages*

The wage adjustments for eastern laborers and eastern women workers must still be considered unsatisfactory, even after the new wage scales [set up] by the ruling of the Council of Ministers dated 30 June 1942 as well as [despite] the lower evaluation of those agricultural workers who are quartered and fed free. The determining factor in keeping the net salary down is the necessity even today of maintaining the natural lower social level as compared to the German laborer, and to protect the German produce market as well as—in the case of transfer accounts—the enterprises in the domain of the Reich Commissariat from an accumulation of surplus purchasing power. The central office took the viewpoint, in the conferences concerned with this matter, that it is far better to keep the wage level, as such, down, than later to lower a nominally higher net salary to about half by means of the forced savings plan, repeatedly proposed by the Reich Finance Minister. The change of the hourly pay scale, as well as pay on contracts and pay by means of premiums is therefore closely connected with the success of the voluntary stamp saving plan, which was installed in September 1942. This, on the other hand, will depend upon the fact that the saved amount, which has been sent to the respective home banks of the relatives in the form of savings books—a system which has finally been introduced by the Herr Reich Commissar in the Ukraine—will at least be redeemable in cash to half of the amount shown, even if no interest is paid on it at the time. A change in the question of wages (considering that this is the first time in bank technological procedure that savings and transfer accounts have been joined together) would have prospects only if an eventual rearrangement does not materially raise the total wage increase of eastern laborers. A throttling measure would otherwise be necessary eventually which would shatter the trust in the honesty of the German social methods and would give irresponsible material to the Soviet propaganda. A way to correctness in the matter of pay within the limitations determined by this viewpoint, could be seen in the proposal of the Reich Trustee Dr. Kimmich, who expounded it in a short report in Weimar on 11 September 1942. In accordance with this a plan for arranging salaries should be carried out by the industries by inserting increasing measures for part time, apprenticeship, and instructional work, to bring into prominence the principle of pay according to

performance, even in the occupied territories. The foundation for the [sliding] pay scale based on this will be the evaluation according to eight categories of difficulty in the performance of work; the use of which would exclude the evaluation of previous preparatory training (in the judging of differences) in favor of the success in performance. The complete stoppage of wages would thereby be abolished with finality and the offering of work premiums be made possible to foreign laborers. This, as Dr. Kimmich characterizes it, "reestablishment of a just salary and contract" will have as an effect a general increase in performance which will be advertised as "The thanks of the German laborer to the combat soldier." Should these principles shortly be made obligatory in all the states [Gau], this would also bring, in connection with the measures of the project of occupational instruction, an improvement to [of] the former Soviet specialist without having impaired the preeminence of the German specialist. The safeguarding of the superiority of the latter is, in spite of the war-time needs, among other things, thereby guaranteed by the fact that the Herr Reich Minister for Armament and Ammunition [Armaments and Munitions] has been able to carry out through the High Command of the Armed Forces in September 1942, that these 500,000 German war industrial [armament] workers, who are going to be inducted during the winter half year, will only receive an eight-week training, after that they will, however, be returned to their key-positions in the plants. How far the coming change of wage structure will affect not only the leading position of the German specialist as opposed to the eastern laborer, but also the relationship between these and the Lithuanian, Latvian, and Estonian workers, is not to be seen in advance without further information. First of all, the Herr Reich Minister of Finance will examine, at the instigation of the Reich Minister for the Occupied Eastern Territories, if and in how far the increase of the so-called "salary equalizing tax" as an addition to the income tax on the Lithuanians, Latvians, and Estonians in the Reich, in spite of the low rate of 15 percent, will in many cases place them worse off than comparable eastern laborers. This would be all the less tolerable as the employment of eastern laborers in the General Territory of Estonia leads up to the opposite problems.

9. *Insufficient equipping of [with] clothes and shoes*

The clothing of almost all eastern laborers, men and women, must be considered as insufficient. Transports were arriving even in the last days of the month of September whose occupants did not carry any winter clothing with them. The recruiting agents seem to leave the workers in the opinion that there is no winter in Germany and moreover, that the eastern laborers would receive everything they need. In view of the coming cold months and of the inadequacy of many quarters, a catastrophe must arise on account of the existing

lack of clothing and shoes, if a successful remedy is not found immediately. The main difficulties in the supplying of missing equipment (which has already led in our [one] large industrial plant to the loss of 10 percent of its employees) lies in the fact that the clothing set aside from the collection of textile goods, does not even come close to covering the demand and that the available booty as well as confiscated goods in occupied territories will not be handed out by the competent management [agencies] without the delivery of the existing ration cards. Since the eastern laborer does not possess the latter, this could then only be carried out if the enterprises would requisition the needed clothing for the German workers and would offer these to the eastern laborers, unfortunately however, deducting it from their wages from time to time. The sending of clothing [dresses], coats, and shoes by the families of eastern laborers by means of individual shipment cannot be carried out without further directives on account of the necessity of delousing the garments at the border, wherefore a measure was proposed after previous negotiations of the central office with the deputy of the Generalarbeitsfuehrer Kretschman/[Kretschmann] at the GBA under the direction of the Reich Ministry for the Occupied Eastern Territories; in accordance with this measure, collective addresses will be sent to the occupied territories by the enterprises in collaboration with the censorship office, and special collection offices set up there. The success of this action must remain in doubt at present. During the meeting in Weimar it was then announced that from January 1943 on, uniform work clothes will be made of cellulose material which, however, will not be of very good quality and would look baggy after a short wear. Independently of this creation of work clothes, which naturally cannot be considered a costume or uniform, the central office has made it one of its tasks to help with the action to provide clothes to help decrease to a minimum the expected lowering of performance, loss of morale, increased escapes, and cases of freezing.

10. *Insufficient supervision of the eastern laborers employed in agriculture*

According to ruling No. 4 of the Deputy General for Labor [Plenipotentiary General for Labor Allocation] of 7 May 1942, the supervision of these Eastern workers and women workers employed in agriculture is delegated to the Reich Food Administration [Reichsnaehrstand]. Practical supervision in the rural areas by the state, regional, [district] and local authorities of the Reich Peasant Leader must be considered as illusory with respect to the lack of knowledge and to the insufficient knowledge [experience] of these people as well as to the fact that the seizing of eastern laborers in the midst of all the foreign workers in the rural areas can only be carried out with difficulty. To inform at least the rural superintendents [plant man-

agers] of the principles which govern the treatment of the eastern laborers, the publication department of the Reich Food Administration has, in accord with the Reich Minister for the Occupied Eastern Territories, sent out guiding instructions for the present enlightenment campaign during the fall quarter. No objections can so far be made against a strict observance of these guiding instructions since, on account of the shortage of labor in the rural areas during the past months, a pampering of the eastern workers and women workers was noticed, which was not only a threat toward the temporary transfer of 200,000 agricultural workers into industry but also in respect to the damage [danger] of a lack of migration into other areas. To intensify the supervision in the rural enterprises, a policy-forming meeting took place in August 1942 with the representatives of the Reich Food Administration during which, among other things, the sending of interpreters by the Reich Ministry for the Occupied Eastern Territory to the Reich Peasant Leader was taken into consideration. Since the Reich Food Administration was only willing to approve, in the latter part of September, the taking over of the payment of special supervision [supervisors] with a knowledge of the language, in spite of exemption from payment of contributions on the part of eastern laborers, and since there is still at the present time no clear settlement of the number and conditions for this, it will be necessary to balance the lack of activity of the Reich's Food Administration with an appropriate initiative action on the part of the Central Office of the Reich Ministry for the Occupied Eastern Territories.

11. *Insufficient recreation*

In spite of repeated efforts for a satisfactory and meaningful organization of the recreation period for the eastern laborer, the German Arbeitsfront [Labor Front] has still not been able to create and carry out a satisfactory recreational program. While the enterprises have organized excursions in groups because of necessity, the recreational programs in the camps have so far lacked a uniform outline. The showing of moving pictures often runs into difficulties since the theaters, which have been created for this purpose, are only accessible to German workers and the eastern laborer could not enter because of the danger of contamination of [by] lice. The daily radio program in Russian and Ukrainian language which, in the beginning, was proposed by the Reich Minister of [Public] Enlightenment and Propaganda, has still not been carried out because of several reasons. The performance of several artists is only possible in exceptional cases among the eastern races because of the existing travel difficulties. What drawbacks and difficulties are connected with this can be shown in the circumstances under which Ukrainian groups of artists, who are now stationed in the Reich after an agreement was made between Gauleiter Sauckel and the Commissioner General of Kiev, are per-

forming. After this group was barely sufficiently housed in an eastern labor camp near Halle for a period of two weeks, a meeting finally took place in the RAM [Reich Ministry of Labor] in which it was decided, upon a suggestion by the representative of the Reich Ministry for the Occupied Eastern Territories, that the National Socialistic organization ["Strength through Joy"] should send three organizational trustees; the Reich Ministry for [Public] Enlightenment and Propaganda, three propaganda trustees; and the Reich Ministry for the Occupied Eastern Territories three political trustees, to Halle. By the combined efforts of these trustees it was finally possible to employ the group of artists, who were made up of three separate groups, in several of the central German States [Gau], during which [time] the management, even in organizational matters, soon went to the member of the eastern office who was sent by the Central Office of the Reich Minister for the Occupied Eastern Territory. Until 30 September 1942, on which day the central office [of the Ministry for the Occupied Eastern Territories] in Berlin sponsored an afternoon reception for the 38 Ukrainian artists, the Reich Minister for [Public] Enlightenment and Propaganda had still not decided upon the amount of wages, which had accrued because of the performances, still less who was to pay for it, so that a temporary solution by using an agent who would carry out the bare essential down payment had to be found. Because of this lack of clarity, the wish of the Deputy General for the Arbeitseinsatz [Plenipotentiary General for Labor Allocation] to retain the group in the Reich during the winter months cannot be supported.

12. *Return under unworthy conditions of eastern laborers and women laborers who are not fit for work*

The carelessness during the enlistment and reception of millions of eastern laborers and women laborers has resulted in the fact that—according to a careful estimate—about five percent of the persons transported into the Reich have proved not to be capable of work. That means nothing less than that about 80 to 100,000 returnees will stream into the Occupied Eastern Territories in the coming days. The dangers included in this returning process can be seen in the fact that this deals with sick, crippled [and] mothers-to-be, as well as such persons whom the enterprises are glad to reject and who, because of that, are not being taken care of. The mood of these returnees is temporarily [necessarily] forced to be anti-German, and nothing has been done, in spite of repeated suggestions in [to] the Reich Labor Ministry to reconcile the returnees with at least a few favorable impressions of Germany. During the latter part of September 1942, a collecting camp in Berlin-Blankenfelde, which was quartered with eastern laborers who were destined for return, was inspected upon the instigation of the central office by a commission consisting of different authorities, at which time revolting conditions were met.

Among other things, a shot was fired by the guard at an eastern laborer who was caring for his natural needs, without the president of the state [regional] employment office, who was present, making any protest against it. All of the camp inmates gave an impression of neglect. Since the returning of these 1,600 persons, as well as a further 4,400 returnees from other camps, could not be reconciled politically with respect to the danger of contaminating their native districts with reports of horror, and since the postponement of a necessary requartering of the collecting camp, could no longer be provided (in the meantime), the chief of the branch offices of the Central Office, Vice-counsel in retirement Miller, Dr. (of Law) Boywidt, and Mrs. Miller were sent at the same time to Brest Litovsk, to stop the transport at least at this point and to carry out, according to the situation, a quarantining of the people, or, belatedly, to take care of them. How necessary this interference was is shown by the fact that this train with returning laborers had stopped at the same place where a train with newly recruited eastern laborers had stopped. Because of the corpses in the trainload of returning laborers, a catastrophe might have been precipitated, had it not been for the mediation of Mrs. Miller. In this train women gave birth to babies who were thrown out of the windows during the journey; people having tuberculosis and venereal diseases rode in the same car, dying people lay in freight cars without straw, and one of the dead was thrown on the railway embankment; the same must have occurred in other returning transports. To end these terrible conditions it is intended to create special transient camps in the Reich area for returning workers, where those who contracted diseases in the Reich will be separated from the chronically sick. They will be sent to an organization caring for the sick. Those finally chosen to return would receive medical and psychological treatment for at least a week. The chief of the Reich health program and his chief of liaison with the GBA, respectively, have approved this central office plan of giving aid to returning workers, which aid should also be extended during transport. The directorate of the German Red Cross wants to share in the execution of this plan by making available trained personnel, among other things. The first of these transient camps for returnees could be established at Bad Frankenhausen in Thuringia where, according to the statement of the local mayor, a suitable area is available.

To solve these and numerous other problems, as well as the removal of the described difficulties and abuses, two things are advised:

I. *Consultation of the Reich Minister with the Fuehrer*, with the purpose of asking him for personal energetic intervention; this conference will have to include, among other things, the following requests as laid down in the note 1 f 5 of 6 June 1942.

1. (*Treatment by the police*) The Fuehrer should beseech the Reich leader of the S.S. [Reichsfuehrer SS] in a personal consultation, to repeal the General Regulations of 20 February 1942, including the supplementary decree of 9 April 1942, *that is, Section A of the General Regulations* ("Laborers from the former Soviet Russian territory") and to replace them, among other things with new regulations which are to be voted upon in conjunction with the G. B. A. [2] and the Reich Ministry for the Occupied Eastern Territory.

2. *Direction of people* The Fuehrer should direct the Chancellor of the Party as well as the Reich Propaganda Office of NSDAP to adjust suitable urgent measures in agreement with the Reich Ministry M. G. A. B. [Ministry of the Occupied Eastern Territory] and respectively with the Z. O. to enlighten those Party members who are handling the supervision of the relations between Germans and foreigners about the scope of the employment of the eastern laborers, and furthermore, to inform the entire German population of the political mission which history has bestowed upon them by the taking in of millions of former Soviet citizens.

3. *The competence of the R. M. f. d. B. O.* [Reich Ministry for the Occupied Eastern Territories]. The Fuehrer should inform the supreme authorities of the Reich, if possible through the Reich Minister and the chief of the Reichs Chancellory, that not only those measures of theirs, which concern themselves with Occupied Eastern Territories, but also those that affect the labor from these territories employed in the Reich, may only be decided in every action, with the Reich Ministry for the Occupied Eastern Territories.

II. Further expansion of the Central Office [of the Reich Ministry for the Occupied Eastern Territories] for member races [eastern peoples] so that as an extended arm of the R. M. f. d. B. O. in the Reich, and as a representative of the foreign people from the Occupied Eastern Territories living here, it can quickly perceive its instructed interests. The following would be essential for this:

1. *Commitment of a special commissioner.* The appointment of a special commissioner of the Reich Ministries provided with specific authority to take care of the interests of the Central Office, should serve especially two purposes: To take an active influence upon the handling of enlistments inside the Occupied Eastern Territories; to carry out definite aims of the Central Office by cultivating a personal contact with Gauleiter Sauckel.

2. *Reinforcing of the branch offices.* The commissions which serve under the chief of the branch offices and which are employed to inspect the camps, urgently need reinforcements to be able to work successfully in thousands of camps. For this purpose about 50 interpreters are needed, beside liaison agents to the country employment [provincial labor] offices and those trustees of the Gau who worked in

an honorary capacity. The chiefs of the commissions need a uniform.

3. *Reinforcing the sections.* The four sections of the Central Office (matters of organization, legal and information service, supervision aid and psychological training) need to be immediately filled by at least six representatives [Referenten]. On account of the avalanche of problems brought to the central office, urgent questions remain otherwise unsolved and hundreds of transactions unsettled in spite of the twelve-hour day and sometimes several hours of night work, as well. Of what far-reaching *importance* it is to see to it that a political use is made of the stay of several million eastern laborers in the Reich (on 8 September 1942 their number already amounted to 1,737,000) can be seen, aside from many other reasons, by a glance at the present condition of the German censored [census] figures. In spite of all measures to Germanize and re-Germanize people who [which] are unfortunately confronted [handicapped] by increased war casualties, the future of the German people—when measured against the breadth of age levels placed on top of each other—is characterized by a population pyramid whose outlines deviate from the biologically normal picture of a bell, if one compares the present curve of the future professionals with the similar curves of the eastern peoples, it will be frighteningly apparent that, especially during the decisive decades after this war, the number of German people in the large areas in the East which will be required for a normal administrative development, will not be on hand. The willingness and cooperation of the eastern peoples is herewith an unavoidable necessity, wherefore the years of committing an army of millions of eastern laborers in the Reich are not only seen from the viewpoint of overcoming the problems concerned but, actively, must be used to create a reliable propaganda army which after its return home will perhaps one day be just as decisive for the German fate in the East as the victory of our weapons.

[Signed] DR. GUTKELCH

**PARTIAL TRANSLATION OF DOCUMENT NI-15254
PROSECUTION EXHIBIT 2208**

**EXTRACTS FROM FARBEN-AUSCHWITZ WEEKLY REPORTS NO. 72 AND
73, FOR THE PERIOD 5-18 OCTOBER 1942, CONCERNING THE FEED-
ING OF EASTERN WORKERS IN THREE CATEGORIES, ACCORDING
TO WILLINGNESS TO WORK**

Weekly Report No. 72/73 for the Period 5 to 18 October 1942

Part II/28/1942

* * * * *

In order to increase their performance, the food supply for the eastern workers was put on another basis, that is, a division into three

groups was carried out. Group two corresponds to the average food ration, group one means group two plus 25 percent, group three means group two minus 25 percent. Thus we have the possibility to feed shirkers with the rations of group three, and persons who are especially willing to work, within group one.

* * * * *

Signed: DR. SAVELSBURG

**PARTIAL TRANSLATION OF DOCUMENT DUERRFELD 1402
DUERRFELD DEFENSE EXHIBIT 382**

**EXTRACTS FROM FARBEN-AUSCHWITZ WEEKLY REPORTS NO. 74 AND
75, FOR THE PERIOD 19 OCTOBER—1 NOVEMBER 1942, CONCERN-
ING DISCUSSION WITH SS OFFICERS ON ALLOCATION OF CONCEN-
TRATION CAMP INMATES, DIFFICULTIES EXPECTED IN THE EMPLOY-
MENT OF INMATES, REQUIREMENTS FOR FREE LABOR, EFFICIENCY
WAGE SCALE, ATTITUDE OF THE CONSTRUCTION MANAGEMENT
TO ITS TASK, AND RELATED MATTERS**

*Weekly report No. 74/75 for the Period from 19 October to 1
November 1942*

* * * * *

SS Lt. Colonel Maurer, SS Captain Schwarz, and an SS Second Lieutenant asked for information on the intended allocation of inmates. As no detailed information could be given on this subject, another conference was fixed for 29 October which, however, could not be held then, as SS Lt. Colonel Maurer was called back to Berlin earlier than expected. The old request was—on principle—renewed, namely, that inmates are only to be employed on the premises of the factory. Moreover, a temporary fence is to be erected around the various places of work wherever possible.

This intimation in itself is an indication of the difficulties which may again be expected in connection with the employment of inmates. It is impossible to avoid the inmates coming into contact with other workers, if their employment is to be a success. Moreover, particularly at the present time, we need free labor which we can dispose freely. By the weekend, 2,100 inmates had arrived in camp IV, who, however, have not been employed so far, as sufficient watchmen were not available. But their employment is to be expected for the coming week.

Conferences between firms on the subject "Increase of output within the tariff agreement for the purpose of the efficiency wage scale."

Those present: President Ordemann and Oberregierungsrat Troschke from L. A. A. [Regional Labor Office] as well as Dr. Simon from the Economic Group Construction Industry.

A number of firms reported on their experience with the efficiency wage scale. It was ascertained that a great number of firms, roughly 60-70 percent of the entire construction enterprise, already use the efficiency wage scale. President Ordemann stated that no firm had been reported as not using the efficiency wage scale. It apparently seemed therefore—as, since 1 September 1942, a fine of RM 50,000 is imposed for failure to adopt the efficiency wage scale—that everything at the building site was in order. He [Ordemann] himself, however, had gained a completely different impression in the course of a personal visit. Even from a layman's point of view one was forced to gain the impression with reference to the working speed that most of the workers were not quite clear about the fact that they were working for the installation of an enterprise, essential both for war and the Reich.

He was of the opinion that this was due mostly to the construction management and the supervision at the building site on the part of the firms, for the proverb says: "Like master like man!" First of all mason foremen, masters, and foremen should set the pace and carry the majority along with them. Therefore it was advisable to offer a premium also to mason foremen to get them interested in the increase of output.

Dr. Simon replied that this attitude would cause a depression, for in spite of all this, it could be ascertained that a lot had been done by construction management as well as by the firms to introduce the efficiency wage scale.

President Ordemann corrected himself, saying that he did not intend to reproach anybody, but only wanted to appeal to the conscience of each one, in order to interest everybody in the increase of output to promote the speedy construction of these works. His statements were to be understood only in this sense.

The undersigned pointed out that most of the firms did not have the same qualified personnel at their disposal as they used to have. Moreover, the building sector lacked skilled personnel for the "study of methods of labor and the organization and calculation of the efficiency wage scale." Moreover, the tenor of the statements made by the president agreed with his statements which he made repeatedly on this point; that is, that with reference to our construction project, we do not seek to look after our private interests, but we merely want to produce as soon as possible the materials urgently required by our soldiers on all fronts. Just like the soldier at the Eastern Front, everybody at the construction site must be prepared to do his utmost.

* * * * *

PARTIAL TRANSLATION OF DOCUMENT NI-8266
PROSECUTION EXHIBIT 1322

EXTRACTS FROM THE MINUTES OF THE MEETING OF FARBEN'S MAN-
AGING BOARD, 29 OCTOBER 1942, CONCERNING A MEETING AD-
DRESSED BY GAULEITER SAUCKEL, PLENIPOTENTIARY GENERAL FOR
LABOR ALLOCATION

*Minutes of the 35th meeting of the Vorstand on 29 October 1942, 09.30
hours, in Frankfurt/Main, Grueneburgplatz*

All members of the Vorstand are present, with the exception of the following gentlemen who are excused: Dr. Ilgner, Dr. Oster, and Waibel.

The minutes of the 34th Vorstand meeting of 11 September 1942 were read and approved. The agenda then took the following course:

* * * * *

7. Miscellaneous

At the request of Geheimrat Schmitz, Mann spoke about an assembly meeting of the Greater Advisory Council [Grosse Beirat] of the Reich Group Industry, on which occasion Gauleiter Sauckel * had given an account of the labor allocation situation, the treatment of foreign workers, payment, and accommodation, et cetera. He furthermore stressed the necessity of establishing new piecework wages, under the aspect of bringing about a "piecework justice."

8. Date of next meeting

The next meeting is to take place on 15, 16, and 17 December 1942; place of the meeting is Berlin.

[Signed] SCHMITZ
[Signed] BRUEGGEMANN

*Sauckel was a defendant in the IMT case.

PARTIAL TRANSLATION OF DOCUMENT NI-11139
PROSECUTION EXHIBIT 1458

EXTRACTS FROM REPORT OF TWENTY-FIRST CONSTRUCTION CONFERENCE ON FARBEN-AUSCHWITZ ON 3 NOVEMBER 1942, CONCERNING PROGRESS OF CONSTRUCTION, PROBLEMS OF PROVIDING BARRACKS FOR WORKERS, RESULTS OF DRIVE FOR WORKERS IN GOVERNMENT GENERAL, INSUFFICIENCY OF GUARDS FOR ADDITIONAL EMPLOYMENT OF INMATES, FARBEN'S DECISION TO TAKE OVER FEEDING OF INMATES IN CAMP IV TO PREVENT INFECTION FROM THE MAIN CONCENTRATION CAMP, AND RELATED MATTERS

[Stamp]

Secret

TA/Bu-Hk

Auschwitz, 14 November 1942 L

IG Works Auschwitz 21st Construction Conference in Leuna on 3 November 1942

Persons present:

from Leuna:

Director Dr. von Staden
Director Dr. Sauer
Director Dr. Strombeck
Senior Engineer Dr. Hoepke
Dr. Braus
Senior Engineer von Lom
Certified Engineer Mueller
Dr. Appel
Dr. Weber
Certified Engineer Loetsch
Certified Engineer Sitzenstuhl
Dr. Zepf
Dr. Frick

from Ludwigshafen:

Director Dr. Ambros
Construction Director Santo
Dr. Eisfeld
Senior Engineer Dr. Mach

from Schkopau:

Dr. Schloettig

from Auschwitz:

Senior Engineer Dr. Duerrfeld
Senior Engineer Faust
Dr. Savelsberg
Senior Engineer Heidebroek

* * * * *

VIII. Status of construction

Faust gives a detailed report. A bulk of 1,281,000 cubic meters has been moved so far. Inclusive of 153,000 cubic meters in the gravel pit, a total of 1,434,000 cubic meters has been removed, which corresponds to approximately 55 percent of the entire mass.

Seventy-three thousand square meters of roads corresponding to 61 percent of the over-all project, and 20 kilometers of track, corresponding to 25 percent of the project, were completed.

A lack of skilled labor for the construction work was felt, and it was not possible to introduce a second shift. Construction operations are progressing in all essential points.

The barracks camp is not yet sufficient. It will have to be enlarged to a capacity of 23,000 beds. Five thousand are to be taken over by the IG works, 2000 by the Montan plant, and 1000 for general expansion.

The shortage of canteens is most conspicuous. The construction of these will start shortly. An attempt must be made to obtain an arrangement acceptable to Auschwitz regarding the assignment of the barracks after their release.

So far, 500 men have been employed in the construction of the settlement, whereby the various firms operated in units. A bottleneck in the construction of the settlement is caused by the shortage of glass. This will also be the reason for temporarily closing up the windows in a number of buildings in the plant area. Artificial light might be used in the workshops.

IX. Allocation of labor

Duerrfeld reports on matters pertaining to the entire staff. As a result of the drive in the Government General, 700 men were brought in. There are not sufficient guards for the allocation of any more inmates. The demands of the concentration camp for the equipment of the inmates' camp are most extensive. In order to prevent the spreading of contagious diseases, the SS will be notified immediately that the IG itself is taking over the feeding of the inmates in camp IV in order to prevent the carrying in of diseases through the transport of provisions from the concentration camp.

Santo reports on the allocation of construction workers, skilled and unskilled, to the construction site, giving particular consideration to the actual requirements. On the basis of his findings, the following workers (skilled and unskilled) were allocated on 30 October:

[Here follows a breakdown by jobs affecting a total of 10,962 persons.]

[Signed] HEIDEBROEK

Enclosure:

Report of Dr. Zapf on river and waste water.*

*Not reproduced herein.

PARTIAL TRANSLATION OF DOCUMENT NI-1048*
PROSECUTION EXHIBIT 1327

LETTER FROM DEFENDANT SCHNEIDER TO DEFENDANTS MANN AND
VON SCHNITZLER, 6 NOVEMBER 1942, CONCERNING SUGGESTIONS
MADE AT A MEETING OF FARBEN'S MANAGING BOARD FOR THE
RECRUITMENT OF FRENCH LABOR UNDER THE INTENSIFIED SAUCKEL
CAMPAIGN, AND REPLY OF DEFENDANT VON SCHNITZLER

Dr. Christian Schneider
Member of the Vorstand of I. G. Farbenindustrie Aktiengesellschaft

Luena Works, 6 November 1942
Telephone Merseburg 3831
[Handwritten]
received 10 November

To:
Consul General Wilhelm Rudolf Mann
Leverkusen
Director Dr. G. von Schnitzler
Frankfurt/Main

Dear Sirs,

During the last meeting of the Vorstand, the suggestion was made that French labor should be obtained for the IG, within the framework of the intensified Sauckel campaign, from those French firms in which the IG holds shares or with which it has some other form of community of interests. It had been mentioned in this connection that the French firms would have to give up 10 percent of their staff in advance.

Our Mr. Mathy, who is working on the allocation of labor at the Ammoniakwerk Merseburg G. m. b. H., ascertained during his recent stay in France, however, that the above assumption is incorrect.

The fact is rather that, at the instance of the Plenipotentiary General for the Allocation of Labor, Sauckel, the Armament Inspectorates are fixing the number of employees to be released by the French armaments firms, while the French Ministry of Munitions gives orders for releases to the V-Works (known in Germany as plants essential to the war efforts (K- und L-Betriebe).

The allocation of French labor released as a result of this measure is being effected by the GBA [Plenipotentiary General for Allocation of Labor] on the basis of requests put in by the German firms through the labor offices. The military administration headquarters [Feldkommandanturen] are in charge of recruiting in France itself.

*Another Farben letter which was registered as a part of this document is not reproduced herein.

In order that existing possibilities of procuring French chemical workers for the IG works may be examined, I should appreciate it if you would let me know—

1. In which French firms IG has financial interests and which firms are therefore involved in the release project.

2. Which IG works, in your opinion, should be considered for the receipt of these workers.

I shall then endeavor to ascertain through Mr. Mathy whether it will be possible to carry out our plan within the framework of the Sauckel campaign.

I should appreciate a reply at the earliest possible date.

With kind regards

Heil Hitler!

Yours

[Signed] SCHNEIDER

12 November 1942

To: Director Dr. Christian Schneider

Leuna Works

Subject: Your letter of 6 November 1942

Dear Dr. Schneider:

There is, as is known, a close connection in the fields of work handled by Frankfurt with the large newly founded company Francolor (stock capital 800 million French francs) in which the IG has a 51 percent interest. The transfer of labor from Francolor to the IG was initiated many months ago. Whole groups (including chemists and foremen) have, in fact, already been transferred to Ludwigshafen in accordance with agreement. Director Dr. Ambros has assumed special responsibility for the care of these French chemical workers and employees and he maintains permanent contact with M. Joseph Frossard, the president of the Francolor, in connection with the question of whether and to what extent further members of the Francolor staff can be transferred. Owing to the fact that armaments contracts of considerable size have of late been placed with Francolor itself, only a limited number of workers and employees can be released to the IG works. Moreover, we personally are directly interested in maintaining dyestuffs production in France insofar as it is compatible with the present coal situation, as our own position would be directly and considerably eased, if a large part of the indirect Wehrmacht dyestuffs requirement in France were met by the French factories themselves.

Thus, in view of the way in which things have worked out with Francolor, it is doubtless most expedient for Ludwigshafen and Oppau to continue to accept as compact groups the labor which can be released by Francolor.

With kind regards
Heil Hitler!
Yours*

Copy to: Consul General W. R. Mann, Leverkusen.

**PARTIAL TRANSLATION OF DOCUMENT NI-15256
PROSECUTION EXHIBIT 2207**

EXTRACTS FROM FARBEN-AUSCHWITZ WEEKLY REPORTS NO. 76 AND 77, FOR THE PERIOD 2-15 NOVEMBER 1942, CONCERNING CONFERENCE AT ORANIENBURG WITH THE INSPECTOR OF CONCENTRATION CAMPS CONCERNING EMPLOYMENT OF INMATES AT FARBEN AUSCHWITZ, POLICE PROTECTION FOR CONSTRUCTION SITE, DISPUTES AS TO PROPRIETY OF ALLOTMENT OF "POHL CONCENTRATION CAMP INMATES" TO FARBEN-AUSCHWITZ, AND RELATED MATTERS

Weekly Report No. 76/77 for the period from 2 to 15 November 1942

Distribution:

Ludwigshafen:	Director Dr. Ambros/Dr. Eisfeld Construction Director Santo Senior Engineer Dr. Mach Certified Engineer Rasch
Merseburg:	Dr. Bueteffisch/Director Dr. v. Staden/Dr. Braus Senior Engineer Dr. Hoepke Senior Engineer v. Lom Certified Engineer Mueller, Electro-plant
Auschwitz:	Dr. Duerrfeld Senior Engineer Heidebroek Commercial Administration (Dr. Savelsberg) Purchase (Schmitt) Accounting office (Frommfeldt) Traffic (Schweizer) Provisioning (Reinhold/Schwarzer)
2 copies:	Personnel Dept. (Dr. Rossbach and Assessor Schneider)
Testing Engineer:	Certified Engineer Walter, Gleiwitz, Augustastr. 10

*This document, a copy of the original, was found in the miscellaneous files in the records building of the Griesheim I. G. Farben Control Office.

III. Gebechem: Breslau Herr Francke
 Katowice Herr Eckelmann

* * * * * * *
5 November

* * * * * * *
Conference of the undersigned with SS Lt. Colonel [Obersturmbannfuehrer] Maurer, Oranienburg, about the employment of inmates on the construction site. On 6 and 7 November, Maurer will be in Auschwitz in order to discuss all details on the spot.

* * * * * * *
13 November

* * * * * * *
Conference with First Lt. of the Rural Police, Bartel, concerning reinforcement of the Rural Police post, Dwory. The post is to be manned partly by mounted, partly by motorized forces and to be equipped with machine guns and hand grenades in order to be able to guarantee any desired safety for the construction site.

* * * * * * *
Signed: FAUST

Weekly Report No. 76/77 Part III/27/1942

Subject: Drawing off of 500 non-German assistant construction workers from our construction site.

Already, during the first days of November, we received the information that negotiations were in progress in Berlin between Gebechem and the Office for Expansion of Armament Production of the Reich Ministry for Arms and Munitions, concerning a handing over of 1,800-2,600 men and women who had been allotted to us by the October 1942 armaments drive. In this connection, the offices of the Reich Ministry for Arms and Munitions seemed again and again to have been possessed by the thought that the allotment of the Pohl-concentration camp inmates [Pohl-KL-Haeftlinge] who have already arrived, and their reinforcement to the strength of 4,000 men which was to be expected, had caused an excess of labor forces on the construction site or would lead to such an excess. Any person who views the labor allocation in Auschwitz on the spot does not need a proof of the incorrectness of such a theory.

We explained the reasons which exist against this opinion clearly and exactly to the labor office as well as to Dr. Ordemann, president of the Regional Labor Office Upper Silesia, but especially also to the representative of the Reich Ministry for Arms and Munitions in Berlin, Regierungsoberinspektor Koelpien, on the occasion of his visit in Auschwitz on 6 November 1942.

In the course of these negotiations, which were conducted nearly without break until 23 November, the Office for Expansion of Armament Production of the Reich Ministry for Arms and Munitions in Berlin, as well as the other offices concerned, had to convince themselves that even when considering the employment of inmates, there could be no excess of working forces employed on the construction site.

The only fact which can be established is that the construction site suffers from an unproportionately great number of workers allocated by the October action, among them very many women and juveniles who were not demanded by us and who cannot be employed at all or only under extreme difficulties.

* * * * *
Signed : SCHNEIDER

**PARTIAL TRANSLATION OF DOCUMENT NI-15256
PROSECUTION EXHIBIT 2207**

**EXTRACTS FROM FARBEN-AUSCHWITZ WEEKLY REPORTS NO. 78 AND
79, FOR THE PERIOD 16-29 NOVEMBER 1942, CONCERNING VISIT
TO CONSTRUCTION SITE AND ALL BRANCH INSTALLATIONS BY DE-
FENDANTS TER MEER, VON KNIERIEM AND AMBROS, WITH DR.
EISFELD, AND REPORT ON ESCAPES AND CAPTURES OF FOREIGN
WORKERS FOR TWO-WEEK PERIOD**

*Weekly Report No. 78/79 for the period from 16 to 29 November 1942
18 November*

After a detailed discussion (with the aid of plans or models) of the entire construction project, the plans of the city, and the present state of the construction, the directors, ter Meer, von Knieriem, Dr. Ambros, and Dr. Eisfeld visited the construction site and all the branch installations. When leaving, Director ter Meer expressed his appreciation and thanks to all persons participating in the construction work. The construction site Ober-Lazisk was visited in the afternoon.

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*Weekly Report No. 78/79
Part III/29/1942*

Key day : 25 Nov 1942

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III. Employment of foreigners

During the time reported on, the following escaped, respectively, were brought back, from among the foreign labor employed on our construction site:

	<i>Escaped</i>	<i>Were brought back</i>
Belgians -----	1	--
French-----	1	2
Croats -----	56	9
Poles from the Government General--	71	2
Ukrainians from the Government General -----	29	--
Eastern workers-----	18	2
	-----	-----
	176	15
	-----	-----
* * * * *	*	*

Signed: SCHNEIDER

**PARTIAL TRANSLATION OF DOCUMENT NI-14532
PROSECUTION EXHIBIT 1987**

**EXTRACTS FROM FARBEN-AUSCHWITZ WEEKLY REPORTS NO. 80 AND
81, FOR THE PERIOD 31 NOVEMBER-13 DECEMBER 1942, CON-
CERNING THE EFFECT OF COLD ON CONSTRUCTION, ANALYSIS OF
EXTENT OF SHIRKING AND RELATED DISCIPLINARY MEASURES,
REPRIMANDS BY SAUCKEL'S OFFICE TO SCHULTZ FIRM FOR FLOG-
GING ON CONSTRUCTION SITE, AND RELATED MATTERS**

*Weekly Report No. 80/81 for the Period from 31 November-
13 December 1942*

Distribution:

Ludwigshafen:	Directors Dr. Ambros/Dr. Eisfeld Construction Director Santo Senior Engineer Dr. Mach
Merseburg:	Director Dr. Bueteffisch/Director Dr. von Staden/Dr. Braus Senior Engineer Dr. Hoepke Senior Engineer von Lom Certified Engineer Mueller, Electro-plant
Auschwitz	Dr. Duerrfeld Senior Engineer Heydebroek Commercial management (Dr. Savels- berg) Purchasing (Schmitt) Bookkeeping (Frommfeldt) Transportation (Schweizer) Provisioning (Reinhold/Schwarzer)
2 copies	Personnel Department (Dr. Rossbach and Assessor Schneider)
Testing Engineer	Certified Engineer Walter, Gleiwitz, Au- gustastr. 10

III. Plenipotentiary General for Special Questions of Chemical Production:

Katowice: Herr Eckelmann

Breslau: Herr Franke

* * * * *

Although up to today, the weather has still been bearable (lowest temperature 5° C) on some days the cold has a devastating effect. It sounds incredible, but it is true, that on one day we had 2,770 slackers, although our works security detachment had seen to it that these people left their barracks. The fire brigade was given the order to put out the wood fires lit on the construction site, since there was a danger that our entire stock of wood would be burnt up. Within half a day they thereupon put out more than 80 fires, using two fire-fighting squads. Wherever it was absolutely necessary, we had coke fire buckets put up, with the result that dozens of people stood around these and did no work. Can one therefore blame a foreman or shaft supervisor for lashing out [zuschlaegt]? In spite of this, this sometimes very salutary use of force has been absolutely tabooed according to the latest directives of the Plenipotentiary General for Labor Allocation [Sauckel], and lately this caused the firm Schulz to be severely reprimanded. This disciplinary punishment was given after a few eastern workers and Croats had been flogged on the construction site. But what is a shaft supervisor to do when, for instance, he finds a shunter asleep at the switch, or an engine driver sleeping on his engine? Quite apart from the fact that the firm Schulz has lost no less than 8 of its engine drivers through the removal of the Italians, it attributes the decrease of the daily production of pyrites from about 2,300 to 1,200 cubic meters not least to the fact that because of this disciplinary measure its shaft supervisors are no longer able to take sufficiently energetic measures.

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Signed: FAUST

**PARTIAL TRANSLATION OF DOCUMENT NI-15253
PROSECUTION EXHIBIT 2206**

**EXTRACTS FROM FARBEN-AUSCHWITZ WEEKLY REPORTS NO. 82 AND
83, FOR THE PERIOD 14-27 DECEMBER 1942, CONCERNING A HUNTING PARTY BY VARIOUS OFFICIALS AND REPRESENTATIVES OF FARBEN ON THE DWORY ESTATE**

*Weekly Report No. 82/83 for the Period from 14 to 27 December 1942
19 December*

Shooting party (with beaters) on the preserve of the estate Dwory with the following gentlemen participating:

General direktor Falkenhahn, Pless
Bergwerksassessor Duellberg, Fuerstengrube
Director Heine, HGW, Brzeszoze
Dr. Riedenklau, with 3 companions from the estate Saybusch
Estate owners Fryda and Tschenin as neighbors of the estate
Bezirkslandwirt [district agriculturist] Hoffmann
SS Lt. Colonel Hoess with 3 chiefs of the concentration camp and 11
gentlemen of I. G. Auschwitz

The following were shot: 203 rabbits, 1 fox, and 1 wildcat.

Herr Duerrfeld was proclaimed champion hunter, with a total bag of 1 fox and 10 rabbits. The hunt supper [Schuesseltreiben] took place in the recreation center "Zum geschliffenen Pokal" [The Crystal Goblet]. A good time was had by all. The result was the best in this district so far this year and will most probably only be surpassed [uebertroffen] by the hunt the concentration camp is holding in the near future.

**PARTIAL TRANSLATION OF DOCUMENT NI-8997
PROSECUTION EXHIBIT 1384**

CORRESPONDENCE OF FARBEN'S LEVERKUSEN PLANT, 5 AND 6 JANUARY 1943, TO THE ATTENTION OF DEFENDANT KUEHNE, CONCERNING CONTAGIOUS DISEASES IN FOREIGN LABOR CAMPS, AND RELATED MATTERS

Leverkusen—IG Works, 5 January 1943

[stamp]

Management Department
6 January 1943
Leverkusen I.G. Works

Direktor Dr. Kuehne, Leverkusen—IG Works

In view of the present cases of contagious diseases in the girls camp [of the Reich Labor Service] as well as in the Polish camp Buschweg, I wish to point out that the construction of the barracks near the Eigenheim [camp] must be expedited.

In the camp for Polish women some of the barracks next to the sick ward are to be cleared now and will immediately be set up as isolation barracks. This is urgent, and immediate action is required. The billeting of the Polish women who are housed in this part is already very difficult. Furthermore, a furnace for all refuse must be set up immediately at a suitable spot behind the Polish women's camp. The rabbit hutches which have been erected by private persons in the gardens behind the Polish women's camp are to be removed immediately and built at some other place, as has already been discussed with

Herr Hoffmann; the grounds behind the Polish women's camp—that is, in the immediate vicinity of the isolation barracks—are to be closed off at a suitable distance.

Camp Buschweg lacks several interior installations of which Herr Meurer will submit a list. There too, suitable hygienic ditches for waste must be provided *immediately*. The present conditions were criticized by the officers who inspected the prisoner-of-war accommodations. The other groups at the Buschweg [camp] also lack these installations.

Our camps are now fully occupied. If, here and there, it would be made possible to crowd more people in, the necessary separation according to nationalities and sexes could no longer be observed. The provision of day-rooms has also become a necessity, where the foreign workers could attend movie programs and where the small music groups and choirs, which have meanwhile sprung up and been encouraged, could meet. In addition, rooms should be set up where language lessons and other instruction could be given. We are always urged by the plants, among other things, to provide recreation for the foreigners.

This usually fails due to the lack of the necessary equipment. Our present installations for the prisoners of war are also insufficient.

At the beginning of this letter, I pointed to the necessity of erecting the Eigenheim camp as quickly as possible. At the present moment there is no possibility of expansion for the above stated purposes.

In my opinion, it is imperative that work should be commenced to make camp Eigenheim habitable, such as drainage, water supply, kitchen, et cetera. A new immediate plan has to be made which must be carried out prior to all other tasks.

I wish to point out that the Public Health Office already intended to quarantine the entire camp, which so far Dr. Wolff has been able to prevent. In agreement with Dr. Wolff and Dr. Feder, a barracks should be erected at a suitable spot where, in case of epidemics, the occurrence of which is quite possible, a fairly large number of sick people could be accommodated. The authorities demand that, in view of the large crowds of people as we have now, the greatest care be taken. *Stringent measures* on the part of the supervising authorities might have *incalculable consequences* as far as the *continuation of production* is concerned. The personnel department—which, after all, is responsible for the care of the foreigners—must take up this matter urgently. We appreciate that a considerable amount has been achieved under very difficult circumstances; however, the campaigns for procuring new foreign workers, which have just started, demand that new measures be taken. We are no longer able to meet the demands for accommodations. Furthermore, it is continually requested that these foreigners should be given an *exemplary* home to prevent

them from loitering and making a nuisance of themselves. The camp management has already great difficulties in supervising these crowds of people.

I finally wish to point out once more that it is of the greatest importance to have barracks ready where people could be housed in case of destruction by air raids. At the present, we still have halls occupied in Wiesdorf—but it must be expected, of course, that if necessary and as far as available, these will have to be evacuated to make room for homeless German people.

The same naturally applies to the existing barracks. At the moment, there are no evacuation possibilities in the entire district here.

I beg you to discuss this matter with the people concerned.

Personnel Department

[Signed] POPP

Copies to:

Director Dr. Wenk

Director Dr. Einsler

[Handwritten]

Director Dr. Meurer

Director Dr. Hackstein

[Handwritten note]

For Director Dr. Kuehne

The various problems were already discussed with the gentlemen in question! Camp Eigenheim will presumably be completed by 1 February 1943. Changes will then be made.

6 January 1943

[Signed] WENK

[Stamp]

Management Department
Leverkusen IG Works

Direktor Dr. Kuehne

Leverkusen—IG Werk

6 January 1943

From the point of view of a physician, the letter of Dr. Popp of 5 January 1943 should be supplemented as follows:

After 5 cases of typhoid fever [typhus] among the foreigners had already occurred in September 1942, a girl from Dueren in the Reich Labor Service [Arbeitsmaid] was taken ill with a fever on 17 December 1942 and, contrary to medical advice, was taken home by the mother on 23 December 1942. On 24 December 1942, she was taken to the hospital where she died, on 30 December 1942, of typhoid fever.

During the vacation granted to girls of the Reich Labor Service, between 23 December 1942 and 3 January 1943, the camp was closed.

The Public Health Office at Opladen advised that a second Arbeitsmaid had typhoid fever and was taken to the Municipal Hospital at Krefeld. The mother reported that as early as 20 December 1942, her daughter had already felt very sick but that she failed to report it and evaded medical inspection in order not to take the risk of being deprived of her trip home for Christmas.

A third Arbeitsmaid was taken ill at Bonn and, according to a report from Bonn, was brought to a local hospital because it was suspected this might be a case of typhoid fever.

A fourth Arbeitsmaid, who had already been admitted to the sick ward prior to the Christmas vacation, started first with an attack of influenza causing high fever, with all symptoms of pneumonia; she failed to fully recover from it and, from an unclarified source, contracted fever anew during her Christmas vacation and ran a temperature when she arrived back here for resumption of her work. In order to establish a clear diagnosis (on 30 December 1942 she had occupied the bed right next to the Arbeitsmaid who had succumbed) she was sent to the Augusta-Hospital in Cologne.

Up to this time, from 12 to 15 Arbeitsmaiden failed to return from their Christmas vacation. In general, advice received by telegram refers to sickness and that medical certificates would follow; as a result, no comments can be made at this time as to the causes for these cases. Dr. Dahm has taken steps to have notices sent to all the physicians treating these girls that cases of typhoid fever had occurred at the Leverkusen camp and that further examinations would be in order should any suspicion along that line prevail; it was also asked that we should be informed of the diagnosis.

Investigations probing conditions in the vicinity are under way. The sick wards have been disinfected; washbowls holding zephirol [germicide] and chloride of lime have been placed in toilets. With a view to find possible bacilli carriers, all the indigenous and foreign personnel working in casinos and in the cafeteria will likewise be examined.

In this connection the order was issued that to permit a transfer to the provisioning installations [Wirtschaftliche Betriebe], a thorough examination for typhus bacilli and contagious diseases is required before acceptance for work is possible. A change-over of foreigners—as practiced hitherto—will no longer be permitted.

So far the source of infection is not known.

At the same time a Polish woman contracted typhoid fever [Typhus]. She was transferred to the hospital in Cologne where she died. There were also recently two cases of typhus fever [Flecktyphus] and quite recently three new cases of typhus fever have been diagnosed.

The competent official physician, Obermedizinalrat [senior official of the Board of Health] Dr. Wildt, at first was planning to enforce a quarantine for all camps housing foreigners and for all camps housing girls of the Reich Labor Service.

When his attention was called to the fact that this involves a total of almost 4,000 persons whose absence undeniably would cause a loss in production, he desisted from such measure for the time being.

These cases prompt me to present once more the urgent request for the creation of an adequate isolation barracks for persons suffering from contagious diseases.

The isolation barracks must also provide accommodation for the admittance of Arbeitsmaiden who are suspected of infections, separate from the foreigners.

The admission into hospitals of persons afflicted with contagious diseases continues to be almost entirely out of the question. The isolation barracks which was promised to me by Obermedizinalrat Dr. Wildt cannot be furnished within the near future. Therefore, a portion of the barracks housing Polish women, adjacent to the barracks of the medical service, must be made available at once; the space in those quarters must be apportioned and equipped for persons suffering from infectious diseases.

The surroundings of the hospital barracks must be cleared of sources of infection; this comprises the elimination of stables which house animals, and the refuse dumps. Already, last summer, the flies coming from these stables and dumps proved an unbearable plague, and they constitute a very important source of infection. Protective screens against flies asked for have not as yet been received.

As I understand, foreigners of our own plant, as well as those from other plants, who are working in the vacuum-drying establishments and at Burscheid, are engaged in the large-scale drying of vegetables.

This drying process is being supervised by Director Dr. Paulmann with whom I am going to have a discussion after his return from his vacation, late this week. Most likely these employees also will have to be medically examined.

In line with instructions given by the official physician, Obermedizinalrat Dr. Wildt, all the girls in the Reich Labor Service will have to report for the first vaccination against typhus on 7 January 1943.

In the morning of 8 January 1943, Obermedizinalrat Dr. Wildt will inspect the camp and the hospital barracks. On that occasion all other questions will be discussed.

[Signed] Dr. WOLFF
Physician in charge

TRANSLATION OF DOCUMENT NI-11085
PROSECUTION EXHIBIT 1500

LETTER FROM DEFENDANT KRAUCH TO DEFENDANT DUERRFELD, 7
JANUARY 1943, REAFFIRMING DUERRFELD'S POSITION AS COM-
MISSIONER FOR THE ESTABLISHMENT OF FARBEN'S ENTIRE
AUSCHWITZ PLANT

The Plenipotentiary for the Four Year Plan
The Plenipotentiary General for Special Questions of Chemical
Production

7 January 1943

I Mineral Oil, A3, Ob/Fr, 2845/43

[Handwritten]
Dr. Eisfeld
Dr. Mach
Santo
Eymann

Your activity as my commissioner

1. To Oberingenieur Dr. Duerrfeld
I. G. Farbenindustrie A. G.
Auschwitz

Dear Dr. Duerrfeld!

As the setting up of the Poelitz installation, managed by you as a commissioner until now, may be considered more or less complete, you will, at your suggestion, be relieved by me from the duties of this office of a commissioner as of the close of the commissioner session of 7 January 1943. In the future, the plant will represent its interests by itself, without the concurrence of a commissioner appointed by me.

In your two-years work as a commissioner you deserved much credit for the setting up of the Poelitz installation and, above all, the comparatively early start of the production is attributable to your work to a decisive extent. I wish to congratulate you on the successful conclusion of your task and express my full recognition and my thanks for your willingness to work at all times and for your performance.

At the same time, I order you hereby to continue to function as my commissioner for the setting up of the whole Auschwitz plant and, in this capacity, to guarantee, by all means, most of all the early start of the most important productions of this work, of which you have been notified separately. I wish to assure you of my personal support in every way in your carrying out of this task. I expect of you that

you will carry out this new task successfully, with the same eagerness and energy which you manifested in your first office as a commissioner.

Heil Hitler!

Signed: DR. KRAUCH

2. Prof. Dr. Krauch/Dr. Ritter
3. Dr. Sauer—Leuna
4. Dir. Dr. Ambros-Ludwigshafen
5. I Chem.
6. Current Copy
7. File Min. Oil A 3

**PARTIAL TRANSLATION OF DOCUMENT NI-11140
PROSECUTION EXHIBIT 1501**

EXTRACTS FROM REPORT OF TWENTY-SECOND CONSTRUCTION CONFERENCE ON FARBEN-AUSCHWITZ ON 21 AND 22 JANUARY 1943, CONCERNING LABOR AND IRON ALLOCATION, TARGET DATES FOR BEGINNING OF PRODUCTION OF VARIOUS ITEMS, PROGRESS OF CONSTRUCTION, AMBROS REPORT ON PROSPECTIVE EMPLOYMENT OF FRENCH AND ITALIAN WORKERS, DUERRFELD REPORT ON ALLOCATION OF CONCENTRATION-CAMP INMATES, RESETTLEMENT OF 40 FAMILIES FROM VILLAGE OF MONOWITZ BECAUSE OF CONSTRUCTION NEEDS, AND RELATED MATTERS

Auschwitz, 25 January 1943 L

TA Bu/Hk

[Stamp]

Secret

*IG Plant Auschwitz 22d Construction Conference at Auschwitz on
21 January 1943*

The following persons were present:

<i>from Leuna:</i>	Certified Engineer Baeu
Director Dr. Christian Schneider	Factory Architect Murr
Director Dr. Sauer	<i>from Ludwigshafen:</i>
Director Dr. von Staden	Director Dr. Ambros
Dr. Langheinrich	Construction Director Santo
Senior Engineer Dr. Hoepke	Dr. Eisfeld
Dr. Braus	Senior Engineer Dr. Mach
Senior Engineer von Lom	<i>from Oppau:</i>
Dr. Appel	Director Dr. Pier
<i>from Auschwitz:</i>	Director Dr. Mueller-Cunradi
Senior Engineer Dr. Duerrfeld	Director Dr. Goldberg
Senior Engineer Faust	Senior Engineer Dr. Schierenbeck
Senior Engineer Heidebroek	Dr. Witzell

The construction conference on 21 January 1943 commenced at 10 a. m. Duerrfeld welcomes the guests, especially the gentlemen of Sparte I, and furnishes general details about the plant. In this connection, questions arising out of the project for the exchange of armament workers [Rue-Tausch-Aktion] and its effects on the staff of the Auschwitz plant are discussed. With the help of tables, Duerrfeld explains quantities of iron demanded and allocated. The funds needed amount to 450 million reichsmarks and are estimated at 15 million reichsmarks a month for the year 1943. The dates fixed for the start of operations, according to the state of affairs today, are as follows:

Methanol	1 September 1943
Carbide factory	1 October 1943
Acetic aldehyde	1 October 1943
Montan-plant	1 July 1944
Iso-octane	15 December 1943
Buna	all production stages in full operation by May 1944

Duerrfeld then, likewise with the help of tables, explains the quantities of iron received, the amount of funds needed, the lost working days, by drawing a comparison between the plants at Boehlen, Poelitz, and Auschwitz, which shows that the iron supplies for the Auschwitz plant are very slow.

Faust reports on the general conditions concerning the building site, the building ground, and the approximately 2,000 hectares of land which has been acquired and of which, at present, 1,000 hectares are under the plough. This will be reduced to 250 hectares when the works have been extended. Up to now, about 3,000 metres of the halls in ready-made concrete construction have been erected. Since the end of 1942, the construction work carried out is as follows:

Excavation:	Moved 1,315,000 metres of earth with 20 dredgers, 140 lorries, and 103 kilometers of narrow gauge rails; gravel, 470,000 cubic meters, of which 10,000 cubic meters have been worked up since September 1942.
Canalization:	2,000 meters of cooling-water and rain-water canals are ready; 12,000 meters of waste-water canals.
Reinforced concrete:	75,000 cubic meters used for construction, of which 10,500 tons are round steel rods.
Roads:	14.5 kilometers completed.
Normal gauge rails:	24 kilometers completed with 60 built-in switches.

Steel construction : The erection of 5,600 tons has been completed.

The cantonment is ready with 17,000 beds, of which 13,000 are in use. This is followed by Braus' report on the coal basis of the Auschwitz plant. After these statements, a detailed inspection of the building site took place. In the afternoon, the conference members formed themselves into groups. The first group inspected the pit "Fuerstengrube," a second group the Bata shoe factory at Chelmeck, and a third group discussed current technical questions.

Continuation of the conference on 22 January 1943, at 8 a. m.

Participants :

from Leuna :

Director Dr. von Staden
Director Dr. Sauer
Dr. Braus
Senior Engineer von Lom
Dr. Appel
Certified Engineer Loetsch

from Ludwigshafen :

Director Dr. Ambros
Dr. Eisfeld
Senior Engineer Mach

from Auschwitz :

Dr. Duerrfeld
Senior Engineer Faust
Senior Engineer Heidebroek

* * * * * * *

3. *Covering manpower requirements*

There are prospects of procuring 1,300 workers by making use of Czech firms. Negotiations are under way with the firm Laminaires at Tréfileries, Paris, for the supply of 2,500 workers. The outcome is rather doubtful as at present the G. B. A. (Plenipotentiary General for Labor Allocation) is carrying through the Rue-Tausch-Aktion [project for the exchange of armament workers] by individual allocations.

Dr. Ambros states that, through his intervention, Monsieur G. J. Painvin gave his assurance to provide 280 workers for Auschwitz; of these already 70 workers and 2 engineers are leaving Savoyan for Auschwitz in the next few days.

Dr. Ambros asks that these Frenchmen be given a particularly good reception. Through groups of firms with whom we are on friendly terms, French workers have already been sent to Ludwigshafen, who were so satisfied with their accommodations, their food, and their work, that their output can be called exceedingly good. Monsieur Painvin expects the French workers who have been sent to Auschwitz to find the same conditions.

After the Italian building workers were withdrawn in December, negotiations were immediately started in the following spring concerning the employment of Italians, but these have not yet been concluded. Faust and Assessor Schneider will negotiate in Rome with

the firm Stoelker, and others. The employment of Italians is only possible in work communities. Faust furthermore reports that probably 1800 Flemish workers are to be expected on loan.

4. *Allocation of inmates*

Duerrfeld gives figures on the manpower employed. Thirty to forty percent are not working on the building site as they are still engaged on preparing camp IV, or else they are ill. By erecting further fences in the precincts of the factory, it ought to be possible to reduce the number of guards. The proportion of guards and employed inmates must be fixed at a ratio of 1 : 40.

5. *Draft for military service*

The familiar decrees also apply to the employees of the Auschwitz plant, so that 10 to 30 percent of the age groups 1906 to 1922 are expected to be called up.

Negotiations for the retention of the age groups liable to be called up still continue at the Reich Office.

* * * * *

8. *Janina mine*

Ambros reports on the state of negotiations, the question of financing and the intended contract terms between the Fuerstengrube and Janina.

9. *Resettlement of Monowitz*

Faust reports that 40 families from the village of Monowitz must be resettled as the construction work needs this ground. He suggests accommodating these families in simple clay houses at Dwory II. It chiefly concerns Poles, whose employment in the plant must remain assured, so that a resettlement in other places does not appear to be expedient.

10. *Priority and top priority programs*

In a subsequent conference between Dr. Eisfeld and Dr. Braus, an agreement was reached that also, in future, one should be guided by the priority and top priority programs according to file memorandum of 11 December 1942 for the allocation of manpower. Since, however, the remaining construction work should not be completely neglected, it was agreed that the construction work management should, if possible, in addition to the priority and top priority programs, start the following work:

Building 767, butol circulation pump construction.

Building 921, butol distillation plant.

Building 922, butol butadiene-oven construction.

11. *Next construction conference* is to be held on 24 March 1943 at Auschwitz.

[Signed] HEIDEBROEK

PARTIAL TRANSLATION OF DOCUMENT NI-8995
PROSECUTION EXHIBIT 1374

LETTER FROM FARBEN'S BERLIN NW 7 OFFICE TO FARBEN'S LEVER-
KUSEN PLANT, 26 JANUARY 1943, ENCLOSING REPORT CONCERN-
ING A LECTURE TOUR OF THE EASTERN FRONT, AND RELATED
MATTERS

IG BERLIN NW 7, Unter den Linden 78

Herrn Dr. Warnecke
Leverkusen—IG Werk

[stamp]
Management Department
Leverkusen—IG Plant
27 January

Our reference: Dr. Fue/Ro/108

Berlin NW 7
Unter den Linden 78
26 January 1943

Subject: VOWI [Economic Research Department of I. G. Farben]
Report No. 4766

After consultation with the Liaison Office Wehrmacht,* we are sending you herewith the report of Dr. Fuerst concerning a lecture tour at the Eastern Front. We suppose that you will be interested in that part of its contents which deals with the views of the Army in respect to the treatment of eastern workers.

Economic Research Department
[illegible signature] [Handwritten]

BY ORDER

[Fuerst]

1 Enclosure

VOWI 4766

[Stamp]
Strictly confidential

[Stamp] Signed: DR. KUEHNE

[Stamp] Signed: WENK

*Report on a lecture tour at the Eastern Front, December 1942, by
Dr. Gerhard Fuerst, VOWI, Berlin*

The tour was carried out within the framework of a winter program of lectures organized by the high command of an armored army in the East for the units under its command. Its purpose was to provide the individual headquarters and the troops with an intellectual stimulus and with food for thought, on top of the regular strength

*See section VII-H, volume VII, this series, concerning the establishment and function of the Liaison Office Wehrmacht.

through Joy functions (which, however, for technical reasons hardly reach the troops involved in actual fighting), and on top of the speeches delivered by the lecturers sent out by the Party. The IG was one of the organizations approached by the Army for this purpose. Thus, being an expert on Russian problems in the Economic Research Department, I was commissioned with a lecturing tour of about three and a half weeks.

My subject was the part played by the chemical industry in the waging of the war, and I particularly stressed the production of raw materials important for war purposes (synthetic ammonia, gasoline, buna, plastics, textile fibers, light metals). Taking the supply situation in the field of natural raw materials as my starting point, I explained, based on the experience gathered during the World War in each field, the necessity of producing substitutes from German raw materials; I also described briefly the scientific and technical processes involved, and I gave—in very general terms, of course—a survey of our present and future supply situation. Within the reliable circle of the various higher headquarters, I also confidentially dealt with the supply situation of the enemy powers in regard to the same raw materials. The subject which interested the audience most was, of course, the Russian economic potential.

* * * * *

The journey in the leave-train, which lasted three days and nights from the frontier onwards and took me through the regions of Army Group Center [Heeresgruppe Mitte] via Minsk, Gomel, Brjansk, to Orel, provided a very impressive view of the wide spaces of the eastern territory and showed the difficulties which the construction and safeguarding of the railroad line has to overcome. I was able to deduce the corresponding proportions from my own experience and reports of fellow-travellers (with the help of a map on which all disruptions of railroad traffic on account of mines and raids had been recorded), and on the basis of reports about the losses of locomotives which are the primary object of the partisans. I was also told many stories about experience and results in connection with methods of safeguarding railways and roads, and with regard to the fight against the partisans. The basic problems are the wide spaces and the natural conditions of the territory, which includes large, marshy, wooded regions in which the band-plague was already rife during the times of the Tzar. The attempt to search this region would require a large number of troops, and there would still always remain possibilities for the native partisans and for red parachute troops to escape, hide, and supply themselves. The length of the supply line from the last railroad station to the front, which must be covered by motor vehicles, horse-drawn [Panje] carts, and now with Panje-sledges, in itself necessitates a very great number of troops for service in the rear. The

Panje-sledge, which has proved superior to all German constructions, is the most important means of transportation, even though it can only take a load of 2-3 hundredweight. The Russian civilian population is used to a great extent for this transport service. At every step one encounters the problem of utilization of Russian labor in order to relieve the German soldier. Long columns of sledges with Russian drivers are accompanied by only a few ordinary privates. Russians remove the snowdrifts; Russians build fences from twigs to safeguard the roads and railways against snow drifts; Russians cut down the trees about two hundred meters to the right and the left of the communication roads in order to make the approach of partisans more difficult; Russians saw and cut wood, et cetera. It is a very impressive experience to watch the morning distribution of work among about 250 Russian civilians in a village two kilometers behind the front. Boys from the age of 10 upwards drive the sledges—the lighter the drivers the greater the loading capacity. Russian women work in the kitchens, the laundry of the various companies is washed and mended in a regimental laundry, straw mats for black-out purposes and for seats and floor coverings are woven, straw shoes and wooden grates, et cetera are made. Every relief means sleep for the troops, of which they are in urgent need in view of the severe guard duty and the existing conditions of operational duties, which cannot be compared with the regular relief methods of the First World War.

Moreover, attempts are made to use the Russian masses to an increasing extent for the fighting proper against bolshevism. Already numerous regiments have been formed from Ukrainians and other Russians from the occupied territories.

They are put into action under a German officer and a few German noncommissioned officers, mainly in the fight against the partisans, but they have also proved very adequate already in the front line. The motive is mainly the good German Army food and the good and just treatment which is given to these volunteers (for example furlough to visit their home place). Once they are in German service, the dread of the treatment to be expected on the part of the Bolsheviks is great enough as a rule to prevent irregularities.

There exists even an autonomous district [Selbstverwaltungsbezirk] of the size of a German Government district which is administrated by a Russian mayor, and this administration includes also the right of putting up military units. The district does not have a German garrison, and the results of the experiment are very satisfactory so far. It saves, in particular, German units. It is true that the experiment is tied up with the personality of the Russian put into power there, who possesses the necessary qualities for such a position.

There are numerous officers who favor the opinion that the use of Russians for fighting Russians is so necessary, viewed in the long run,

that they want the whole treatment of the Russians arranged from this point of view.

I was expressively asked by responsible quarters to point to the fact (within the firm, as far as it is possible to me) that many things, happening in the homeland in the treatment of the eastern workers, cost German blood out there. After all that can be seen and heard at the different occasions, in addition to information received from the functionaries of the SS who are locally in charge and in whose hands the security service is, the most correct conception seems to me that the Russians, at least the rural population (for the industrial workers of the big plants were evacuated together with the plants), if they are no longer under the influence of the Jews and Commissars, are to be considered big children. They are just as unfeeling and cruel as children can be sometimes, but they possess also all the attachment to the family and all the faithfulness and discipline towards the person giving orders, if they feel that he treats them justly. This treatment can very well be severe, if it is just and has good reasons, but given promises must be kept too. There are very few signs of mutual assistance in the sense of our people's community, which fact makes the political leadership of these people only easier.

* * * * *

**TRANSLATION OF DOCUMENT NI-7113
PROSECUTION EXHIBIT 1375**

**CIRCULARS FROM TWO DIFFERENT COMPONENTS OF FARBEN'S LEVER-
KUSEN PLANT TO SUPERVISORY EMPLOYEES, FEBRUARY 1943,
CONCERNING FRENCH PRISONERS OF WAR**

[Stamp]

Received, 8 February 1943

I. G. Farbenindustrie Aktiengesellschaft
Management Department

Leverkusen IG Plant
4 February 1943

To all department chiefs and plant leaders

Re.: French prisoners of war

In all cases, in which French prisoners of war give rise to complaints as regards order and discipline (refusal to work, loafing etc.), the delegate of the works security police for the guarding of prisoners of war, Herr Dederichs, tel. 721 (in his absence the counterintelligence office, tel. 792) is to be notified.

In no case may the plant get into direct touch with the prisoner-of-war camp.

The Directorate
[Signed] WENK

Circular No. 1161

Leverkusen IG Plant, 9 February 1943

To all department chiefs, plant managers, and office supervisors
Leverkusen

Re.: Employment of French prisoners of war

Lately there have been complaints about the way of working and discipline of the French prisoners of war employed here. After having discussed the matter with the base camp, you may reduce the output bonuses (premiums, piecework wages, etc.) of lazy prisoners of war according to their production and behavior. We request you to bring particularly gross breaches of conduct to the notice of the personnel office (Dr. Hackstein) immediately in writing, so that, in agreement with the base camp, special penalties may be fixed. Furthermore, on your recommendation overtime and heavy workers bonuses already approved may be withdrawn. On producing a special pass, soldiers of the guard may enter the grounds of the plant but not the plant itself. By this measure, the prisoners of war will be guarded by the military also within the plant grounds. It is again pointed out that, on Saturdays, as on all other weekdays, those French prisoners of war who do not work later than 14:00 hours on that day, will eat in the camp. For everything else, we again refer you to our circular letter No. 790, personnel office, especially the last paragraph.

[Initials] WK

It is requested that the personnel office be informed in writing *by 1 March 1943* what your experience has been so far with the French prisoners of war.

Personnel Office

[Signed] DR. HACKSTEIN

Circular Letter No. 803

Personnel Office

**PARTIAL TRANSLATION OF DOCUMENT NI-6125
PROSECUTION EXHIBIT 1370**

EXTRACTS FROM THE MINUTES OF VARIOUS MEETINGS OF THE TECHNICAL DEPARTMENT MANAGERS OF FARBEN'S LEVERKUSEN PLANT, 8 OCTOBER 1941, 22 JANUARY 1942, 30 SEPTEMBER 1942, 3 MARCH 1943, AND 19 MAY 1943, CONCERNING THE EMPLOYMENT OF FOREIGN LABOR

Top Secret

*Minutes of a meeting of technical department managers, held on
Wednesday 8 October 1941, at 09:00 hours, in Leverkusen*

Under the chairmanship of Kuehne, the following persons were present: von Heider (Frankfurt on Main), Einsler, Harz, Konrad,

Raspe, Redies, Wenk, Bergdolt, Buchloh, Haager, Klebert, Koester, Leubner, Lock, Lutter, Oehler, Popp, Schwaebel; later Sigwart, Sympher, Wahl, Warnecke, Wingler, Winnacker.

Kuehne mentions the essence from minutes of the director's meetings of other plants, and reports about IG meeting.

* * * * *
Oehler reports about the difficulties of procuring materials and requests utmost conservation, particularly in the consumption of oil, asbestos, leather belting, textiles, and shipping materials.

[Initials] Wa

[Signed] DR. KUEHNE

Leverkusen, 15 October 1941
Management Department
Dr. Wa/Kr

Management Department

Leverkusen, 22 January 1942

Minutes of a meeting of technical department managers, held on 21 January 1942, at 11:00 hours, in Leverkusen

Under the chairmanship of Dr. Kuehne, the following persons were present: Albers, O. Bayer, Einsler, Haberland, Harz, Ludwig, Lutter, Raspe, Redies, Reusch, Schellenberg, Wenk, Apitz, Boehme, Buchloh, Haager, Lock, Popp, Schuermann, Sympher, Wahl, Warnecke, Wingler, Winnacker, Oehler.

Kuehne reports from the directors conference minutes of the other works. Subsequently there is a detailed discussion of all personnel questions. Should further reductions of personnel follow the latest Wehrmacht draft, Leverkusen will not be able to avoid drastic reductions of production. Specially noticeable is the lack of skilled workers in the ships. The loss, too, of commercial employees to the Wehrmacht is higher than the average. This is also the cause why the social security deductions are so high in comparison with other works. If all the facts presented at this occasion are carefully balanced, one will arrive at the conclusion that it is impossible for Leverkusen to transfer people to other plants.

By reason of the situation described, it becomes all the more urgent to further increase the number of foreigners, and to retain those already here. Problems pertaining to foreigners, such as lodging, feeding, and treatment, are clarified.

Harz points out that one of the main difficulties in employing foreigners appears to be the six-months contract, which is too short. This shall be brought to the attention of the competent authorities.

* * * * *
[Initials] Wa

[Signed] DR. KUEHNE

*Minutes of a meeting of technical department managers held on
Wednesday, 30 September 1942, 10 am, in Leverkusen*

Present the following, under the chairmanship of Wenk: Einsler, Konrad, Ludwig, Raspe, Schellenberg, R. Bayer, Bergdolt, Klebert, Koziol, Langenbacher, Lock, Leubner, Hartmann, Schellenberg, Schwaebel, Oehler, Popp, Sympher, Wahl, Warnecke, Wingler, Winnacker.

Wenk submits a review of the work assignment conditions of the Leverkusen plant. The shortage of workers in Leverkusen has increased considerably because of lack of foreign workers; consequently, the production of several important products had to be reduced. The management department has prepared a detailed report about the situation in Leverkusen which was submitted to the different authorities concerned, so that they may realize the consequences resulting from further withdrawal of laborers or from non-allocation of foreigners. [Handwritten marginal note] A. Borman for information 17 October [initial B].

* * * * *

Wenk. The factory building department suffers particularly from the labor shortage, as far as cleaning out of the sewers, and insulation work is concerned.

Possibilities of relieving the situation are being considered.

Winnacker states that the conditions in the labor-assignment and repair field in Hoechst are similar to those in Leverkusen. He emphasizes that the repair question is mainly a materials question, since today the workshops themselves produce several materials (as for instance flanges) and therefore craftsmen are being withdrawn from their actual work.

Leubner suggests the employment of handicapped war veterans. The discussion shows that this is not possible for the time being. Insofar as possible, the people on leave are being recalled.

* * * * *

Leverkusen, 13 October 1942

[Signed] WENK

Management Department
Dr. Wa/Kr

*Minutes of a meeting of technical department managers which took
place in Leverkusen on 3 March 1943*

The following persons were present under the chairmanship of Herr Kuehne: Albers, Bayer, Borgwardt, Haberland, Ludwig, Lutter, Raspe, Schellenberg, Wenk, R. Bayer, Boehme, Buchloh, Drucker,

Hartmann, Koziol, Lock, Popp, Oehler, W. Schmidt, Schuermann,
Seel, Sympher, Wahl, Warnecke, Wingler.

* * * * *

Kuehne. It has to be taken into account that the chemists and engineers of the younger age classes will be drafted into the Armed Forces with few exceptions. In addition, Leverkusen has to turn over a number of chemists to the buna plant in Huels. As the chemists are working under a much greater strain than before the war, due to the lack of labor, the employment of foreigners, the blackout, the questions of provisioning et cetera, et cetera, great difficulties may arise and the scientific work may come to a complete standstill. The unpleasant consequences arising from these facts for the Wehrmacht too, should be pointed out again and again to the official authorities.

* * * * *

Ludwig. The production of Nibren Wax [chlorinated naphthalene] has to be increased substantially because of new fields of application. During the discussion concerning some accidents, a typical case was mentioned, especially serious with regard to the security in the plant. A Pole tried to remove small deposits of Dinitrokresolnatrium [dinitro-cresol sodium] not as it is done usually with water, but with a hammer (in good faith and not intending to sabotage). He caused an explosion which did not have any serious consequences. This case has to be mentioned because the employment of foreigners in plants in which complicated, and inflammable and explosive products are handled, has reached its limits and even may have exceeded it. The difficulties with regard to the supervision and to the language are very great, particularly during nightshifts, during blackouts, and when an air raid is in progress.

* * * * *

[Initials] Wa
Leverkusen, 5 March 1943
Dr. Wa/Kr

[Signed] Dr. KUEHNE

Strictly confidential

*Minutes of a meeting of technical department managers, held on 19
May 1943 in Leverkusen*

Present the following, under the chairmanship of Kuehne: Albers, O. Bayer (temporarily), Einsler, Haberland (temporarily), Harz, Konrad, Ludwig, Redies, Buchloh, Klebert, Koziol, Lock, Oehler, Sympher, Wahl, Warnecke, Wingler, Winnacker, Seel, Christ, Hackstein (temporarily), Schuermann, Schwaebel, Taube.

* * * * *

Warnecke points out again that each factory leader should see to it that under all circumstances every available employee, particularly those of German nationality, should be assigned to work essential for the conduct of the war, so that inspections, which might be expected at any time, will confirm the point of view represented by the factory management. Reference is then made to the draft measures to be expected in the near future. The workers' placement office will, in a few days, recheck the assignments of female eastern workers in order to withdraw them, if possible, from easier jobs and to replace them by German women. The female eastern workers shall, if adaptable, be trained as auxiliary workers.

* * * * *

[Signed] Dr. KUEHNE

Leverkusen, 20 May 1943
Management Department Dr. Wa/Kr

**PARTIAL TRANSLATION OF DOCUMENT NI-15256
PROSECUTION EXHIBIT 2207**

**EXTRACT FROM FARBEN-AUSCHWITZ WEEKLY REPORTS NOS. 90 AND
91, FOR THE PERIOD 8-21 FEBRUARY 1943, CONCERNING VISIT OF
SS LIEUTENANT COLONEL MAURER, HIS PROMISE TO INCREASE
NUMBER OF INMATES ASSIGNED TO FARBEN-AUSCHWITZ, DECISION
TO FENCE ENTIRE SYNTHETICS PRODUCTION AREA IN VIEW OF
LIMITED NUMBER OF GUARDS, MAURER'S PROMISE TO REMOVE
WEAK INMATES, AND RELATED MATTERS**

*Weekly Report No. 90/91 for the period from 8 February to 21
February 1943*

Part I

* * * * *

10 February

Visit of SS Lt. Colonel Maurer. The increase in numbers in camp IV was discussed. SS Lt. Colonel Maurer promised that the number of inmates would shortly be increased to 4,000, possibly 4,500. These great numbers can only be employed behind the fence of the factory or, if the area is fenced in, in view of the very small number of guards. It was therefore decided to fence in the entire synthetics production section. SS Lt. Colonel Maurer further promised that it will be possible to move all the [abgeschoben] weak inmates to achieve nearly full capacity, as compared with a German unskilled worker.

* * * * *

Signed: FAUST

PARTIAL TRANSLATION OF DOCUMENT NI-7110
PROSECUTION EXHIBIT 1376

EXTRACTS FROM THE MINUTES OF THE MEETING OF THE FOOD SUPPLY COMMITTEE OF THE PLENIPOTENTIARY GENERAL FOR SPECIAL QUESTIONS OF CHEMICAL PRODUCTION, 4 MARCH 1943, NOTING THAT ONE OF THE FARBEN PLANTS HAD OBTAINED PERMISSION TO BEAT FRENCH PRISONERS OF WAR FOR LACK OF DISCIPLINE, AND RELATED MATTERS

Meeting of the Food Supply Committee [Verpflegungsausschusses] of the Plenipotentiary General for Special Questions of Chemical Production held on 4 March 1943, at Ludwigshafen.

Chairman : Lt. Col. Kirchner

At the start Kirchner reported that Wiens, Ludwigshafen, has been appointed manager of the food procurement office [Verpflegungsbeschaffungsstelle] in the office of the Plenipotentiary General for Special Questions of Chemical Production. All requirements in regard to food, especially in regard to extra food allocations, should be submitted to Wiens, Ludwigshafen, Department for Provisioning.

* * * * *

Bruex [one of Farben's plants] reported that after negotiations with the base camp, IVe Wistritz, near Teplitz-Schoenau [Teplice-Sanov], it is now also permitted to beat French prisoners of war for lack of discipline, if need be. Negotiations with competent base camps of the individual plants on this subject were recommended. The Secret State Police, in conjunction with the Reich Labor Trustee, have authorized the establishment of an indoctrination camp for foreign workers for Ludwigshafen.

* * * * *

It was decided that, given the approval of Director Dr. Kuehne, Leverkusen, the next meeting of the food supply committee should take place at Leverkusen.

[Handwritten]
to Dir. Dr. Kuehne for information

Copies to :

Director Dr. Kuehne
Director Dr. Brueggemann
Dr. Popp
Major Meurer

Personnel Department
[Signed] DR. HACKSTEIN
9 March 1943

TRANSLATION OF DOCUMENT NI-681
PROSECUTION EXHIBIT 1326

**CORRESPONDENCE OF DEFENDANT VON SCHNITZLER, MARCH 1943,
CONCERNING LABOR ALLOCATION, LABOR RECRUITMENT, AND
RELATED MATTERS**

Dr. F. Bertrams

I. G. Farbenindustrie Aktiengesellschaft

Leuna Werke

Telephone: Merseburg 3831

10 March 1943

To Director Dr. von Schnitzler

I. G. Farbenindustrie Aktiengesellschaft

Frankfurt (Main) 20

Dear Dr. von Schnitzler!

On the basis of your kind letter of the 3d instant. I have prepared an answer to the questions asked by Herr Reinhold Krause, Berlin, using the expressions of opinion of the plants at Ludwigshafen, Hoechst, Leverkusen, and Leuna. I am enclosing a copy of my letter for your information.

Yours very truly and

Heil Hitler

Enclosure

[Signed] BERTRAMS

10 March 1943

Confidential

Herr Reinhold Krause

Berlin SW 68, Alexandrinenstrasse 93/94

Subject: Scrutinizing the present methods of labor allocation

Dear Herr Krause!

Your letter of the 1st instant, addressed to Director Dr. von Schnitzler, Frankfurt (Main), was transmitted to me for direct action. As far as I was able to do in the very short time available, I have made inquiries on the opinion of some of our main plants—among which there is also the Leuna plant to which you sent a letter—and I am giving you in the following the answers to your questions:

1. Who allocates laborers at the present time?

Workers are being allocated to us by the Labor Offices. The requirements notices are sent each month to the Labor Offices and to the Regional Labor Offices. Because until now, immediate requirements of workers amounted always to thousands, the allocations have always constituted a fraction only.

The workers are being allocated to all the plants in a body, unless specific production jobs or limiting projects—especially for offices of the Wehrmacht—make a separate allocation occasionally necessary.

The Arbeitseinsatz [labor allocation] offices of the plant distribute the allocations to the various factories according to the priority rating set by the Plenipotentiary General for Special Questions of Chemical Production or the Economic Group Chemical Industry. While the existing contracts on the allocation of foreign workers by firms (concluded through the mediation of the Plenipotentiary General for Special Questions of Chemical Production) are still effective, *new workers are not being admitted any longer.*

2. Who is participating in the handling of their allocation?

The Plenipotentiary General for Special Questions of Chemical Production [Gebechemie] is participating in the allocation of workers for our sector; in a certain sense also the Economic Group Chemical Industry.

3. How is this participation effected?

Our requests for workers to the Labor Offices are at the same time being sent to Gebechemie. We presume that in cooperation with the Reich Minister for Arms and Munitions, the Gebechemie makes certain suggestions to the Plenipotentiary General for Labor Allocation [GBA].

A great part of the foreign workers are being sent to us by the mediation of Gebechemie. In the countries which come principally into question for the recruiting of foreigners, Gebechemie maintains offices which initiate the procurement *in cooperation with the local Wehrmacht offices* and the *labor allocation offices* (GBA, foreign worker's organizations). The allocation to our plant, however, can only be effected on the basis of the requirements we reported and which were approved by the GBA.

a. Smooth work or friction. If friction, of what kind?

On the whole, the present organization may be said to be able to meet the requirements of present conditions. Friction appeared only when the normal course of the allocation of foreign workers was interrupted by special requirements. In such cases, the workers originally intended to cover the normal requirements were apportioned according to priority requirements. As a result, the case could arise that workers selected according to specific points of view were assigned to entirely different productions (See special report on "Experience with the Arbeitseinsatz [allocation of labor] from France, and suggestions"). It is to be hoped that this defect will be remedied by the new system of procedure.

b. Does good cooperation exist between the various agencies which participate?

There is no reason for complaint as regards the cooperation of the various agencies which participate.

c. Is there any indication of deliberately directing the workers to plants which work according to sound business principles [rationell]?

The Regional Labor Office Westmark expressed its opinion repeat-

edly to the effect that it will allocate replacement workers first of all to plants which work according to sound business principles. We cannot judge to what extent this concept is really being applied because we lack the necessary knowledge in regard to the other plants.

d. Have men with practical experience in industry any influence on the directing of workers?

We do have an influence as regards the distribution of workers according to angles of plant operation, thanks to Gebechemie. By personally cultivating their relationship with the local Arbeitseinsatz [labor allocation] offices, the offices maintained by Gebechemie abroad are in a position to exert a certain influence as regards the selecting of workers who are to be sent to Germany.

e. What suggestions do you have for an improved directing and for the better utilization of workers in your field of industry so as to raise the efficiency?

A raising of the efficiency can only be effected if the quality of the foreign workers improves considerably. This would mean that workers from the chemical industry of foreign countries will be placed at our disposal as far as they can be spared there. Considering the volume of draft calls by the Wehrmacht, as they presently take place and are to be expected for the near future, the production can only be maintained on the present level if there is a fully equivalent replacement for the workers who are thereby being taken from us. The German women can take over only a part of these tasks in the chemical industry. Therefore, it would be necessary to comb the chemical industry in France and Belgium and that the skilled workers who thereby are becoming available will be utilized in the chemical industry.

Enclosed we are sending the report already mentioned under a, which was prepared on the basis of experience with the French Arbeitseinsatz [allocation of labor].*

Heil Hitler!

Signed: BERTRAMS

Enclosure

3 March 1943

Director Dr. F. Bertrams

Ammoniakwerk Merseburg G. m. b. H.

Leuna—Werke (District of Merseburg)

Dear Dr. Bertrams,

Herr Reinhold Krause of the firm of Max Krause and of the firm Erasmusdruck Brueder Krause, Berlin SW 68, Alexandrinenstrasse 93, with whom I have been cooperating for years in recruitment questions for the Reich Group Industry, is sending to me a questionnaire, for possible comments, on "Scrutinizing of present methods of

*The enclosure mentioned was not a part of prosecution's exhibit.

labor allocation," which questionnaire has been submitted to him by President Kehrl.

Herr Krause's letter—going by the manner in which it is drawn up—is addressed not only to me but to a larger circle of persons, so that for me there is not even a moral obligation to express an opinion on it. I am, however, rather surprised that Herr Krause, of all people, is being invited to answer such questions, because on the basis of his own experience in the sphere of labor allocation (merely derived from his own firm, which, to my knowledge is still working along pretty patriarchal lines) he should hardly be able to contribute something authoritative to the proposed subject.

Now I should like to leave it to you, perhaps in agreement with Director Weiss, to decide whether or not to participate in the preparation of material for Herr Krause, and—depending upon what you decide on—I should be grateful to you for giving a direct reply to Herr Krause. As a matter of fact, our IG plants might have a good deal to remark on this; it happens, though, that the plant Frankfurt (Main), Grueneburg, which I control cannot contribute anything to it because, as you know, until now we have employed only workers obtained through intervention of the Labor Office Frankfurt, who either were sent to us because they were registered there, or who, just prior to that, had contacted us for employment and whom we after that employed with the consent of the Labor Office.

With kind regards and
Heil Hitler!

Your

[*Enclosure*]

[Handwritten remark]
Original was sent to Leuna
3 March

Copy

Reinhold Krause

Max Krause and Erasmusdruck Brueder Krause

Berlin SW 68, Alexandrinenstrasse 93/94

Residence: Berlin-Schlachtensee, Hoensbroechstrasse 10

RK/H

1 March 43

Herr George von Schnitzler

I. G. Farbenindustrie Aktiengesellschaft

Frankfurt/Main

Confidential

Dear Herr von Schnitzler,

Re: Scrutinizing the present methods of labor allocation

The Generalreferent in the Reich Ministry of Economics, President

Kehrl,* has given me the assignment of answering the following questions:

1. Who allocates workers at the present time?
2. Who is participating in the handling of their allocation?
3. How is this participation effected?

Statements are to be made only from the point of view of economics, without contacting official agencies.

On account of the urgency, the time granted is short. Therefore, I must make some of my investigations by mail. I therefore, should like to ask you to transmit this letter to the gentleman in your management who handles, in practice, questions pertaining to the allocation of labor, and to ask him to let me have in condensed form information concerning his experience according to the three questions asked above, if possible by 8 March, at the latest by 10 March.

On the third question I would be interested to get an insight into his experience as to the following fields.

- a. Smooth work or friction. If friction, of what kind?
- b. Is cooperation between the various agencies who participate good?
- c. Is there any indication of deliberately directing the workers to plants which work according to sound business principles [rationell]?
- d. Have men with practical experience in industry any influence on the directing of workers?
- e. What suggestions do you have for an improved directing of workers and for a better utilization of workers in your field of industry so as to raise the efficiency?

I am asking the gentleman who works on it to kindly indicate his name and telephone extension number when answering. If, by chance, he should come to Berlin prior to 12 March, I should appreciate his telephone call.

Please accept my best thanks in anticipation for your kind efforts.

With best regards and Heil Hitler!

Yours

Signed: REINHOLD KRAUSE

*Hans Kehrl was Generalreferent in the Reich Ministry of Economics until November 1942, when he became chief of the Raw Materials Division in the Ministry of Economics. Kehrl also had been President of the Chamber of Industry and Commerce of Niederlausitz from 1933 to 1942, hence his title "President."

PARTIAL TRANSLATION OF DOCUMENT NI-15256
PROSECUTION EXHIBIT 2207

EXTRACTS FROM FARBEN-AUSCHWITZ WEEKLY REPORTS NO. 94 AND
95, FOR THE PERIOD 8-21 MARCH 1943, CONCERNING VISIT OF
SS LIEUTENANT GENERAL SCHMITT, ENLARGEMENT OF CAMP IV
BECAUSE OF CONSTANT ABSENCE OF INMATES DUE TO QUARAN-
TINE AND SICKNESS, BILLETS FOR GUARDS, AND RELATED MATTERS

Weekly Report No. 94/95 for the period from 8 March to 21 March 1943

* * * * *

19 March

Visit of SS Lt. General Schmitt* together with SS Lt. Colonel Maurer and SS First Lieutenant Schwarz. On the basis of our letter of 3 March 1943 to SS Lt. General Pohl, in which we pointed out the development up to date of the employment of inmates, SS Lt. General Schmitt, by order of SS Lt. General Pohl, wanted to orient himself regarding the employment of inmates on our construction site. After they had been given a general view of our construction project in the usual fashion, the following was decided in detail about the employment of inmates:

The present number employed is 3517 men. It had been intended to employ 4500 men. In view of the fact that a relatively large number is always absent because of quarantine and sickness, it was therefore decided that, by 1 June 1943 (at the earliest), the camp be built to house 5000 inmates. Eventually, the camp is to be enlarged so that it can house 6000 inmates. If necessary, the billets for the guards are to be newly constructed outside the fence at the western side of camp IV. Details will be decided at once by Mr. Doemming and SS First Lieutenant Schoettel.

Afterwards, SS Lt. General Schmitt inspected the construction site (apprentice home, apprentice plant, camp IV, manufacture of ready-made steel-concrete, buna buildings, especially carbide factory, and Leuna buildings). Extent of the visit: from 1000 to 1230 hours.

* * * * *

Signed: FAUST

*SS Lt. Gen. Walter Schmitt was chief of the SS Personnel Main Office.

PARTIAL TRANSLATION OF DOCUMENT NI-11141
PROSECUTION EXHIBIT 1503

EXTRACTS FROM REPORT OF 23D CONSTRUCTION CONFERENCE ON
FARBEN-AUSCHWITZ ON 23 MARCH 1943, CONCERNING DEADLINES
IN COMPLETION OF PARTS OF CONSTRUCTION, MEETING OF MAN-
POWER REQUIREMENTS, FINANCIAL REQUIREMENTS, USE OF IN-
MATES, LODGINGS, AND RELATED MATTERS

TA Bu/Mk

Auschwitz, 29 March 1943

*IG Plant Auschwitz 23d Construction Conference at Auschwitz
on 23 March 1943 **

SECRET

from Leuna

Senior Engineer Dr. Hoepke
Dr. Braus
Dr. Appel

from Ludwigshafen

Director Dr. Ambros
Construction Director Santo
Dr. Eisfeld
Senior Engineer Dr. Mach

from Auschwitz

Dr. Duerrfeld
Senior Engineer Faust
Senior Engineer Heidebroek
Senior Engineer von Lom
Dr. Savelsberg
Factory Architect Murr,
temporarily present
Certified Engineer Baeu,
temporarily present

Beginning of the inspection of the construction site: 8:00 a. m.

Beginning of the conference: 11:00 a. m.

Deadline schedule:

The deadlines as fixed up to now will be adhered to:

1 October 1943—methanol.

15 April 1943—methanol distillation.

1 October 1943—carbide up to acetaldehyde.

15 December 1943—isobutyl oil.

1 April 1944—Montan plant.

1 May 1944—buna.

The efforts to promote work on the Methanol I building, by postponing other construction work, especially in the buna plant, have succeeded. In order now to promote this work again, some of the construction works for the synthesis plant might temporarily, within the near future, have to be provided with fewer workers. If the

*The initials of the defendant ter Meer appear at the bottom of the first page.

expected 1200 Italians and 800 Czechs arrive, matters can be planned in the buna plant, according to Faust, without any significant withdrawals from the synthesis plant, so that by autumn the buna buildings will be ready for machinery assembly. The contracts with the Italian builders are made out in such a way that 25 to 30 percent of the workers need not be made use of in working combines, but will be readily available. In case the Italians and Czechs do not arrive, this goal must be reached by erecting further fences within the factory premises so that convicts may be used, and assistant laborers who will thus become available may be assigned to other building sites. The railroad superstructure and the power-plant constructions require considerable manpower. It was agreed, as far as the buildings are concerned, that in the methanol section a production of 70,000 tons was assured in all circumstances. Since iron has not yet been set aside for Methanol II, construction work has not yet been carried out there. As before, the guarantee of the deadline for the beginning of the work in the methanol distillation plant on 15 May is of prime importance. With respect to a number of buildings in the buna section, it is once more discussed which constructions should be given priority and in what way the manpower requirements are to be met.

* * * * *

Manpower situation

At present there are about 17,000 workers—of whom 10,500 are engaged in construction work, 1,200 in assembly work, and 2,300 are working in general plants. When using Frenchmen and Belgians, it is disturbingly noticeable that only a very small percentage return from leave.

Drafting for military service

So far, Auschwitz has been affected by the drafting of 28 men. It is agreed that at Ludwigshafen an exchange will be carried out similar to that already in progress in the Leuna works. Auschwitz names 10 men who will be exchanged for first class skilled workers from Ludwigshafen.

Expenditure and financial requirements (Savelsberg)

The investments up to 31 December 1942 were financed as follows:

	RM 124.5 million
New plants (according to credit records)-----	RM 65.8 million
Secondary expenditures for plants according to plan.	RM 14.7 million
Secondary expenditures for plants outside the program.	RM 23.0 million

Stocks on hand.....	RM	12.8 million
Cash	RM	1.2 million
Claims and liabilities Balance.....	RM	7.0 million

Financing

RM 124.5 million

From remittances of IG Berlin and Auschwitz receipts—actual expenditures. RM 112.0 million

Additional advance by IG through the account of the central office. RM 12.5 million

The requirements of funds for the 1st half of 1943 were estimated at— RM 88.0 million

of which: for the 1st quarter of 1943..... RM 37.0 million

for the 2d quarter of 1943..... RM 51.0 million

RM 88.0 million

Payments actually due for the 1st quarter year approximately. RM 36.0 million

New buildings for farms

Heavy losses of stocks laid in for the winter of 1942-43 render the completion of provision stores necessary. The work is scheduled to begin in June 1943, so that the provision stores will, for certain, be ready for use on 1 September.

Laundry

Amount required for construction, about RM 200,000. The beginning of the construction work is to be arranged in such a way that operations may be started in September. A temporary laundry is already in operation.

A major bottleneck is created by the unsatisfactory supplies of roofing paper. The total requirement amounts to 400,000 square meters. Savelsberg will try to increase the very small quotas allowed by means of purchase in Rumania and Belgium.

Employment of inmates

It was arranged with SS Lt. General Schmitt, acting as deputy for SS Lt. General Pohl, that by 1 June the number will be raised to 5,000, and later on, to 6,000.

Workers' bath houses

Santo reports on the drafts. The price, as stated by Leuna, for one emergency bath-house at RM 80 per locker cannot be maintained for Auschwitz, as during the construction work at Leuna, conditions were particularly favorable. The following suggestions have been made:

Standard type: One-storied bath-house with 432 lockers.

Two-storied bath-house with 864 lockers.

Price: Bath-house, one-storied, RM 78,000 equal to RM 33.30 per cubic meter of walled-in space and RM 182.50 per locker.

Bath-house, two-storied, RM 136,000 equal to RM 34.90 per cubic meter of walled-in space and RM 158 per locker.

Thus it appears that, in the two-storied bath-house, the price for the walled-in space will be somewhat higher than in the one-storied bath-house; that, however, the cost per locker will be lower in the two-storied bath-house. It was therefore decided to build two-storied bath-houses.

Lodgings

Santo reports that from now on the normal construction of lodgings is strictly forbidden. The negotiations, as to whether lodgings in the course of construction may be completed, have not yet been terminated. Perret (Gau Housing Commissioner) has rejected the construction of new lodgings at Heydebreck. It was decided to start as soon as possible with the 192 lodgings planned in addition to the 308 plus 22 lodgings which are already included in the scheme. Faust reports that, by the formation of a working combine between an Italian and a German building firm, the extension of the settlement could be rendered possible.

* * * * *

Next conference on construction work on 26 May 1943 at Auschwitz.

[Signed] HEIDEBROEK

Enclosure

PARTIAL TRANSLATION OF DOCUMENT NI-6315 PROSECUTION EXHIBIT 1339

EXTRACTS FROM THE MINUTES OF A CONFERENCE OF THE DIRECTORATE OF FARBEN'S LUDWIGSHAFEN PLANT, 19 APRIL 1943, CONCERNING THE EMPLOYMENT OF EASTERN WORKERS, THE TYPE OF WORK PERFORMED BY EASTERN FEMALE WORKERS, AND OTHER MATTERS

Mail Conference of the Directorate at Ludwigshafen/Rhine on
19 April 1943*

Present: Baumann, Brendel, Buelow, Eymann, Goldberg, Hoffmann, Holdermann, Kessler, v. Knieriem, Krieger, Mair, Mueller-Cunradi, Niemann, Pfannmueller, Pflaumer, Reppe, Santo, Weiss, Weiss K., Wurster.

Excused: Ambros, Pier, Schierenbeck, Stroebele.

* * * * *

*The initials of the defendant ter Meer appear at the bottom of the first page.

The new legal regulations governing the payment of eastern workers are read. As mess fees have at the same time been increased to RM 45 a month, the decrease of expenses of eastern workers has been rendered so negligible that it will fail completely in stimulating their enthusiasm for work. It is decided to take further steps.

At the suggestion of the District Labor Office, the use of male and female eastern workers in our plants has been investigated as we had been threatened with their withdrawal and exchange for women from Lorraine if they were not employed in accordance with the regulations. The investigations had shown that 85 percent were employed on heavy and very heavy manual labor and as alternate shift workers, the remainder being engaged either on special tasks on account of special qualifications, or on particularly unpleasant work in plants involving the use of acids and other dirty processes. Their release is therefore out of the question.

The question of the decentralization of essential manufactures located at one place only is discussed in detail, and suggestions which had been made are considered.

The employment of foreigners in so-called protected plants has been facilitated considerably by an OKW decree of 11 January 1943 and by a decree of the Ministry of Munitions of 7 April 1943, which were read out, the decision now resting largely with the plant leader.

* * * * *

**PARTIAL TRANSLATION OF DOCUMENT NI-14541
PROSECUTION EXHIBIT 2128**

**EXTRACTS FROM FARBEN-AUSCHWITZ WEEKLY REPORTS NO. 102
AND 103, FOR THE PERIOD 3-16 MAY 1943, CONCERNING SS CAP-
TAIN SCHWARZ'S SUGGESTION OF PLACING ONE FENCE AROUND
BOTH THE FUEL AND BUNA PARTS OF THE FARBEN-AUSCHWITZ
CONSTRUCTION SITE AND ALLOWING BOTH INMATES AND
SCHMELT-POLES TO MOVE FREELY WITHIN THIS ENCLOSURE**

Weekly report 102/103 for the period from 3 May 1943-16 May 1943

Distribution :

Ludwigshafen : Director Dr. Ambros/Dr. Eisfeld
Construction Director Santo
Chief Engineer Mach
Merseburg : Director Dr. Buetefisch/Director Dr. von Sta-
den/Dr. Braus
Chief Engineer Hoepke
Auschwitz : Dr. Duerrfeld
Dr. Savelsberg
Dr. Rossbach/Assessor Schneider

II: Testing Engineer D. J. Walter,
 Gleiwitz, Augustastr. 10

8 May

SS Captain Schwarz suggests to put one connecting fence around the fuel and the buna part. He then, together with the guards of the Schmelt-Poles, wants to guard only this fenced-in area, so that the inmates as well as the Schmelt-Poles can move around freely within this enclosure. The commandant as well as the office in charge of the Schmelt-Poles would have to give their views on this question.

* * * * * * *

Signed: FAUST

**PARTIAL TRANSLATION OF DOCUMENT DUERRFELD 1408
DUERRFELD DEFENSE EXHIBIT 388**

**EXTRACTS FROM FARBEN-AUSCHWITZ WEEKLY REPORTS NO. 108
AND 109, FOR THE PERIOD 14-27 JUNE 1943, CONCERNING RE-
QUIREMENTS FOR SKILLED AND SEMISKILLED WORKERS, PLANS FOR
FUTURE ALLOCATION OF INMATES STILL IN QUARANTINE, REAS-
SIGNMENT OF WORKERS AND INMATES ACCORDING TO SKILL,
REQUEST FOR GERMAN SKILLED WORKERS FROM OTHER FARBEN
PLANTS, SABOTEURS, IMPRESSIONS OF MEMBERS OF FARBEN'S
TRAFFIC COMMITTEE ON THE PROGRESS OF AUSCHWITZ CON-
STRUCTION, AND OTHER MATTERS**

Weekly report 108/109 for the period 14 June 1943 to 27 June 1943*

* * * * * * *

22 June 1943

24th construction conference attended by Herr Director Dr. Ambros, Director Dr. von Staden, Director Dr. Sauer, Director Dr. Strombeck, Director Dr. Giesen, Director Dr. Reimann (see separate report). Visit of the chief of procurement office 75 of the Gebechem (for windows and doors, et cetera) Engineer Elias.

23 June 1943

At a labor allocation conference, it was ascertained that the assembly sector will require 1,290 skilled workers and 810 semiskilled workers by the end of 1943. It is provisionally planned to meet this demand as follows:

Up to 3 July, 250 transplanted workers employed in the construction department (but not belonging there) are to be registered and reassigned at once through the Personnel Department. Up to 7 July, a further group of 150 such workers employed in trades foreign to them is to be registered. The newly arrived 1000 inmates cannot be

*All the extracts from the report offered as a part of this defense exhibit are reproduced here.

released from quarantine yet. However, 500 of them may be employed by the firm of Kallenbach at the clearing dump, as this outlying and completely isolated construction site is as good as quarantine. Two hundred of the 500 inmates currently employed by Kallenbach will be assigned as semiskilled laborers to the assembly sector, while the rest will be allocated in the construction sector as a replacement for the workers employed on a job strange to them.

Inmates who are skilled metal workers employed on a different job should, as far as possible, also be registered without delay and transferred to the assembly sector. They are expected to number about 100. In addition, German-speaking Ukrainian and Polish women are to be trained as welders and plastic workers for the assembly sector.

The construction management should furthermore prepare a list of 200 Polish semiskilled laborers to be placed at the disposal of the assembly sector for retraining. The retrainees still working in Merseburg and Ludwigshafen must be directed to Auschwitz.

In this connection, the construction management again refers to its original conditions, according to which the removal of manpower from the construction sector must be accompanied by a statement specifying which operations may be discontinued or slowed down. Such a decision has not been received to date. On the contrary, new requests for construction keep coming in, to mention only the St-Plant, polystal-splitting plant [Polistal-Spaltanlage], switch station 626, laboratories 541, and others.

24 June 1943

Under the chairmanship of Herr Kommerzienrat Dr. Waibel, the 75th Traffic Commission meeting, combined with an inspection of the plant, was held in Auschwitz. Subsequent to the meeting, a conference took place with the special advisers of the Auschwitz works.

The gentlemen of the Traffic Commission were informed about the overwhelming difficulties presented by rail, shunting, and shipping conditions, and this was followed by the request that the various IG factories should do their best to help the Auschwitz factory by providing German skilled workers—transport workers, shunters, possibly also transport foremen and master shunters. The factory representatives were convinced of the great difficulties which the Auschwitz factory had to face, and promised aid in principle.

It was arranged with Herr Ehrhardt that Oberbaurat Duerdoth, with whom IG has concluded an employment agreement, will come to Auschwitz this month to inquire into the entire shunting system and make appropriate suggestions. Parallel to this is Herr Duerdoth's commission to give his opinion on the new factory railroad station project evolved by Herr Niemann in collaboration with Herr Koeniger and Herr Kaese.

Herr Ehrhardt was also requested to make inquiries regarding interception equipment for the detection of railroad attacks. The reason for this is the 15th sabotage act that has recently occurred on Reich railroad lines around Auschwitz. The saboteurs tear up rails and place them crosswise over the tracks, which continually leads to serious derailments and severe disruptions of the entire Reich railroad system.

Moreover, 1,000 Wehrmacht soldiers were meanwhile sent to patrol the railroad network in the Katowice-Auschwitz area; however, it is learned that this is only a temporary measure.

Herr Kommerzienrat Waibel, on behalf of the Traffic Commission, extended his thanks for the hospitality and welcome accorded to them and affirmed that he had been very much impressed by the inspection of the factory and the work achieved in 2 years.

* * * * *

Signed: FAUST

**PARTIAL TRANSLATION OF DOCUMENT NI-11142
PROSECUTION EXHIBIT 1505**

**EXTRACTS FROM REPORT OF 24TH CONSTRUCTION CONFERENCE ON
FARBEN-AUSCHWITZ, 22 JUNE 1943, CONCERNING LABOR REQUIRE-
MENTS, REQUEST OF DEFENDANT DUERRFELD TO DEFENDANT
KRAUCH TO PROTECT AUSCHWITZ AGAINST WITHDRAWAL OF
WORKERS, MEASURES CONCERNING WORKERS FAILING TO RETURN
FROM LEAVE, AIR RAID PRECAUTIONS, PLANT PROTECTION, AND
RELATED MATTERS**

Auschwitz, 2 July 1943 L

TA Bu/Hk

IG Works Auschwitz

SECRET

*24th Construction Conference on 22d June 1943 in Auschwitz **

Present:

from Leuna

Director Dr. Sauer
Director Dr. von Staden
Director Dr. Strombeck
Director Dr. Giesen

from Ludwigshafen

Director Dr. Ambros
Director Dr. Eymann
Senior Engineer Dr. Mach

from Auschwitz

Dr. Duerrfeld
Senior Engineer Faust
Dr. Eisfeld
Dr. Braus
Dr. Savelsberg
Senior Engineer von Lom
Dr. Appel
Senior Engineer Heidebroek

* * * * *

*The initials of the defendant ter Meer appear at the bottom of the first page.

3. Labor requirements and possibilities

The assembly sector still requires about 3,500 men. 500 retrainees who are at present employed in the main works (and are now gradually being transferred to Auschwitz) are still available for replacement purposes.

The negotiations with Bruex regarding the assignment of 1000 men failed to materialize, but will be resumed through Krauch, who will assign a special commissar charged with checking up both construction sites and their labor requirements. Further, 200 Czechs are promised by the Reich Minister for Armaments and Munitions (Speer). Here, Ambros points out the necessity of maintaining in all circumstances close contact with the Todt Organization (Schultze-Fielitz), for the purpose of obtaining through this Reich office adequate assistance in the requisition of workers. Schultze-Fielitz and Colonel Nicolai are coming to Auschwitz at the end of July.

Duerrfeld requests Krauch (by letter) for protection for Auschwitz against withdrawal of workers. As a further measure, Duerrfeld proposes the transfer of 2,000 men from construction work to assembly work, since the condition of the construction site necessitates a proportional correction between construction laborers and fitters in favor of the former group. In this connection, Faust asks to be informed which construction jobs can be suspended in order to reduce the number of laborers in the construction sector in an equitable manner. For this, it will be required to subdivide the development of the construction vertically. Duerrfeld will have the right of decision as to the places where, from time to time, reductions can be made. Faust further points out that he is obliged to divert suitable men in the immediate future from the construction sector to be trained for special assignments in the construction department for example furnace-masons, insulation-workers, laborers who work with acids, et cetera. Especially Poles living in this area are considered for this.

With reference to the SE-operation in June, Strombeck is renewing the contract with Gebechem. Schneider is to contact Landsmann of the Leuna works. An exchange with Ludwigshafen will also be possible. This will concern, however, only individuals of 18 years of age and above. Further it is decided that the junior chemical workers assigned in the main Farben works to Auschwitz are to come to the construction site as soon as possible and be placed as assistant laborers, if possible on the buildings in which they will later be employed.

Discussion on the loss of workers failing to return from leave

Duerrfeld suggests that, in view of the compulsory recruitment in France, the workers be supplied with a clearance from the Armament Inspectorate which will protect them against removal to other German concerns. As a further measure, it is proposed to inform all foreign laborers that further leave will only be granted when subjects

of foreign nations at present on leave have returned. Besides this, Strombeck suggests awards of bonuses. Regarded as being extremely effective is a recommendation to provide every worker travelling to his home country with a printed post card, enabling him to indicate his whereabouts if recruited for another service. In this connection also, Ambros urgently recommends that a connection be established with OT's principal offices, thus assuring adequate support from that quarter. Faust announces that he is expecting a total of 5,000 men, including 1,500 men from the firm of Ritman (France), 300 Czechs, et cetera. On this occasion it is mentioned that a strong decline of efficiency in the construction industry in general is observable. In this connection, Ambros adds that the moral of price demands [Preismoral] in general has greatly deteriorated, to which, however, IG continues to form a laudable exception.

The principle is maintained that the building construction in some points, for example, canalization, must not be weakened, since good weather now prevails and delay in the progress of construction would jeopardize the fitting operations in winter. For this reason also, the necessity remains to get the buna building ready for fitting up by autumn. Further, Ambros will approach the Technical Committee with the object of continuing the allocation of personnel from the main works.

Housing problem

Faust reports briefly on housing. He states that 27 apartments in the settlement and 127 old apartments are occupied. It is to be hoped that by the winter a further 176 apartments in the settlement and another 83 in old houses will be ready for occupancy, so that, altogether, at the commencement of the following year, about 200 apartments in the settlement and about 200 old apartments will be ready to be occupied. Faust takes the opportunity to point out that timber for huts is no longer obtainable. It is then further discussed what possibilities exist of erecting dwellings in the district, as a precautionary measure for bomb-damaged IG employees from the West.

4. Allocation of inmates [Haftlingseinsatz]

Duerrfeld reports that the allocation of inmates is now working much better.

* * * * *

10. State of air defense

Duerrfeld states that 2,000 men are assigned to air defense duty. 27 anti-aircraft guns will be ready by September. Eleven hundred additional men are to be trained for anti-aircraft duty. An anti-aircraft battery is assigned to the SS to amplify their firing power. 126 barrage balloons are likewise promised. In amplification of this, Strombeck reports on construction-technical measures of air-raid precautions, recommending particular care in hut building (no hollow

spaces). He reports on tests with a coating of quicklime on wooden building parts. A coating of water glass solution has likewise proved to be efficacious. Safes are to be bricklined as far as possible. It is important to place a vessel filled with water inside the safes in order to prevent charring of papers by intense heat.

11. Works Security Detachment and self protection [Werkschutz und Selbstschutz]

The Works Security Detachment still continues to be a matter of gravest concern to the management of the construction works. Average age 48 years. Condition untenable. A change is necessary within IG. Strombeck reports on alarm devices in Leuna and the distribution of fire-arms.

* * * * *

Next building conference on 8 September. Special invitations will be issued.

Signed: HEIDEBROEK

**TRANSLATION OF DOCUMENT NI-5915
PROSECUTION EXHIBIT 1342**

FILE NOTE OF THE PERSONNEL DEPARTMENT OF FARBEN'S LUDWIGSHAFEN PLANT, 1 JULY 1943, CONCERNING THE ATTEMPTED ESCAPE OF TWO FRENCH WORKERS, AND RELATED MATTERS

Personnel Department

Copy to:

Nitrogen Dept.

Diol. Dept.

Counterintelligence Officer 1 July 1943

Refusal to work

Today, the two French workers, *Blanc*, Roger (born on 29 January 1924 in Nancy, employed since 23 May 1943 in the Nitrogen Department at Oppau, residing at the community camp V), and *Sies*, Andrée (born on 22 July 1923 in Boussaire aux Chenes, employed since 11 June 1943 in butane distillery, residing at the community camp V), were assigned to us for work by the Gestapo. Blanc left the camp 1 day after his allocation and wanted to return to France without authorization. Sies wanted to walk to France and was arrested on 28 June 1943 in Laumersheim.

I gave today a written warning to the above-mentioned workers and emphasized that, in case this happened again, or in the case of bad conduct, they will render themselves liable to transfer to our labor reform camp [Arbeitserziehungs-Anstalt] connected with the plant.

Considering the fact that just lately Frenchmen repeatedly leave their place of work, we propose to collect besides this, a fine from Blanc and Sies, consisting of 1 day's wage for each.

Signed: F. BRUNCK

TRANSLATION OF DOCUMENT NI-14557*
PROSECUTION EXHIBIT 1965

MEMORANDUM OF FARBEN'S BITTERFELD PLANT, 22 JULY 1943, CONCERNING LABOR ALLOCATION AND CONTAINING HANDWRITTEN STATEMENT BY DEFENDANT BUERGIN READING "FRENCH PERSONNEL GOING ON LEAVE HAVE TO FURNISH GUARANTORS! PRIVATE AGREEMENT WITH SLAVE TRADERS?"

IG BITTERFELD

[Stamp]

Secretariat Bitterfeld

[Handwritten] A 21

Rec'd: 22 July

[Handwritten] 505

[Illegible initials]

Bitterfeld, 22 July 1943

To the Management

Our reference: Personnel Department Tsch/Bu.

Subject: *Allocation of Labor*

We have just determined on the basis of a telephone conversation with Herrn Kauffmann that the prospects for the allocation of more workers look very bad. As a result of the July drive, it will probably not be possible to allocate more than 100 men to the dyestuffs factory and the Bitterfeld plants via the "red slip method." Of these, approximately 2/3 would go to Bitterfeld. It is said that for July, the Gebechem [Plenipotentiary General for Special Questions of Chemical Production] received only a total allocation to the extent of the requirements of the dyestuffs factory and the Bitterfeld plants. Therefore it will not be possible to get more than mentioned above out of the July drive.

Regarding the August drive, nothing is known yet at present. If, however, in view of high priority manufactures, such as tanks, and for the Navy and Air Force, the Gebechem is to get as little in August as in July, then we can only count on a quota which bears relation to our urgent requirements.

Negotiations about covering the requirements of the N-plant have been carried on in the Air Ministry by Dr. Perschmann. Herr Kauffmann is unable to say whether this has also been done in respect to the requirements for our E-metal department.

We suggest that the department heads determine what amounts we will not be able to produce if we get no, or only quite insufficient, allocations of labor, in order to be able to give the Gebechem reasons for the urgency of the allocations.

*Photographic reproduction of this document appears in the appendix.

In view of the fact that during the next months there will not be any relief with regard to labor allocation, it is recommended that it be pointed out again in the next plant discussion [W. B.] that restraint should be used in authorizing leave.

Personnel Department
[Signed] TSCHERTER

[Handwritten note] W. B. [Plant Discussion] French personnel going on leave have to furnish guarantors! Private agreements with slave traders?*

**TRANSLATION OF DOCUMENT NI-8965
PROSECUTION EXHIBIT 1378**

**MINUTES OF A CONFERENCE OF LEADERS OF FARBEN'S LEVERKUSEN
PLANT WITH AN IMPORTANT GOVERNMENT OFFICIAL, 27 JULY 1943,
CONCERNING LABOR ALLOCATION, FARBEN'S INITIATIVE IN REQUI-
SITIONING FOREIGN WORKERS, AND RELATED MATTERS**

Strictly confidential

[Stamp:]
Managing Department
29 July 1943
Leverkusen IG Works

Conference with Plenipotentiary for Construction, Sander, as suc-
cessor to Oberbaudirektor Nadler, Essen, 27 July 1943

Present were: Chief Engineer Finke

Dr. Hackstein

Hahn

Strictly Confidential!

In our attempts to obtain an allocation of labor for our construction projects and our plants, we were referred by the Reich Ministry of Economics to the new Plenipotentiary for Construction of Military District VI, whose headquarters are at Krummen Weg, near Kettwig, and who is competent for labor allocation. We drove there without having a previous appointment and met Sander, who happened to be at his office at the time. We explained to him our wishes and requirements with regard to procuring labor, construction materials, and camp barracks, with installations for housing indigenous and foreign workers, both male and female. Sander promised to help us as far as possible as soon as he had collected all the data and could obtain a clear picture of the demands that had been submitted.

There were enough bricks in the Reich, he said, and 10 million were on the way to the Ruhr district (Leverkusen alone needs 1.6 million). The same was true for cement.

*Defendant Buergin's testimony concerning his handwritten statement is reproduced below in subsection F 6.

He said that the barracks were still being taken care of by the Cologne branch office, but that we should send our applications to him. He was also willing to help us in procuring the kitchen equipment that was still lacking for the camps. He asked us to make a summary of all our requests and submit them to him personally at the beginning of next week after previous appointment. He said he would like to have a list of the building projects still under way, with information on the degree of completion and the immediate requirements of workers. Dr. Hackstein has already made an appointment to call on Monday or Tuesday.

Mention was made that, up till now, none of our applications for the allocation of labor resulted in our being given assistance from any agency, not even from the Plenipotentiary General for Special Questions of Chemical Production. If we had not helped ourselves by requisitioning foreign workers, we would have found ourselves in the greatest difficulties in the most urgent construction projects and most important plants. Nevertheless, the present condition of affairs is such that we must receive assistance by an immediate allocation under all circumstances; otherwise the continuation of these construction projects and plant operations will be endangered. The same conclusion applies to the taking of measures of protection against bomb splinters and to the repairing of air-raid damage.

Sander, who provisionally was appointed by Berlin, claimed to have a large field of competence with far-reaching authority and powers, not only in Military District VI, but also in the bordering military districts. General Erdmann of the Muenster Armament Inspection Office, Plenipotentiary General for Construction Adam of the Todt Organization, Dr. Hupfauer, the Delegate of the DAF (German Labor Front), Berlin, and Sander, constitute the secret Rhine and Ruhr Staff which decides on all important measures relating to construction and operations which must be taken for the war effort in the district mentioned.

Leverkusen, 27 July 1943

Signed: HAHN

TRANSLATION OF DOCUMENT NI-10040
PROSECUTION EXHIBIT 1526

LETTER FROM DEFENDANT KRAUCH TO REICHSFUEHRER SS HIMMLER,
27 JULY 1943, CONCERNING THE FURTHER USE OF CONCENTRA-
TION CAMP INMATES FOR ANOTHER SYNTHETIC RUBBER FACTORY,
AND RELATED MATTERS, AND TWO ORDERS BY HIMMLER OF JULY
1943

1. Letter from Defendant Krauch to Himmler, 27 July 1943

The Plenipotentiary for the Four Year Plan
The Plenipotentiary General for Special Questions of Chemical
Production

Reference: I Chem.Dr.Eck/Ge.

Journal No.: 5617/43 GRs [Top secret]

Berlin W9, 27 July 1943

Re: Rubber Supply

TOP SECRET

4 copies:

1st copy: Addressee

2d copy: Dr. Ambros

3d copy: Prof. Krauch

4th copy: For Dr. Eckell Files

[Handwritten] K-S

To Reichsfuehrer SS and Chief of German Police

Berlin SW 11, Prinz Albrechtstrasse

[Stamp]

Reichsfuehrer SS and

Chief of German Police

Received, 30 July 1943

[Handwritten]1074/43 gRs [Top secret]

30 July

Dear Reichsfuehrer,

My expert assistant, Dr. Eckell, has reported to me on the discussion which he had with you and has prepared the attached notes on it.* I was particularly pleased to hear that during this discussion you hinted that you may possibly aid the expansion of another synthetic factory, which I consider absolutely essential for securing rubber supplies, in a similar way as was done at Auschwitz, by making available inmates of your camps, if necessary. I have also written to Minister Speer to this effect and would be grateful if you would continue sponsoring and aiding us in this matter.

*The notes referred to were not part of the document received in evidence.

As far as the production of kok-saghyz rubber is concerned, I agree with you that we should exploit this source with every possible means (until further notice) in order to secure the necessary amounts of natural rubber, too, in this way—however small they may be now—and thus to ease the demand on buna for those manufacturing processes which can be considered.

You may be assured of the support of my office in these tasks. I see from the course of the work up to now with regard to chemical processing that you, too, have approved of the measures taken for this.

Heil Hitler!
Yours faithfully,
[Signed] DR. C. KRAUCH

1 Enclosure
(Note of 24 July 1943)

2. Order by Himmler, 23 July 1943, Instructing All Higher SS and Police Chiefs to Support Production and Processing of Natural Rubber in their Respective Areas

The Reichsfuehrer SS

Field-Command Post
23 July 1943

SECRET

1. To the Higher SS and Police Chief East.
2. To the Higher SS and Police Chief Ostland.
3. To the Higher SS and Police Chief Vistula.
4. To the Higher SS and Police Chief Warthe.
5. To the Higher SS and Police Chief Central Russia.
6. To the Higher SS and Police Chief Ukraine.

1. The Fuehrer has made me responsible for the largest possible production of natural rubber. At the same time, the Reich Marshal nominated me as his Special Plenipotentiary for all natural rubber matters (9 July 1943).

2. As Special Plenipotentiary, I am sending you the basic organization orders of my office for your information.

3. I expect all the Higher SS and Police Chiefs and the SS and Police Chiefs to support the production and processing of natural rubber in their areas by every means possible, such as—

- a. By assisting the necessary building measures.
- b. By making labor available.
- c. By assisting in transportation matters in order to speed up deliveries as much as possible.

d. By systematically moving the women and children which we will take from the evacuated partisan areas to the state estates where kok-saghyz [rubber] is cultivated, which need these women and children as workers.

e. By backing the personnel charged with the cultivation and processing of kok-saghyz when they make the necessary demands on any offices of the Armed Forces and civil administration concerned.

f. By friendly reception of all officers, agriculturists, chemists, and other personnel working on the production of natural rubber.

g. By providing any other assistance necessary and possible.

[Signed] H. HIMMLER

Copies have been sent to:

Higher SS and Police Chiefs in the East (Krueger, Jeckeln, Pruetzmann)

Main Offices (SS Operational Office; SS Central Office, SS Economic and Administrative Main Office, Main Office Regular Police, Main Office for the Repatriation of Racial Germans, Main Staff Office, Reich Security Office)

Gauleiter Koch

Eastern Ministry—via SS Lt. General Berger

Ministry of Economics—via Dr. Eckell

Speer—via SS Colonel Cliever

Ministry of Food—via SS Major van Swinderen

Lammers—via Ministerialrat Dr. Laue

Governor General Frank—via Ministerialrat Meininger

Reichsleiter Bormann

Major Unger

Lt. Commander Dr. Stahl

SS Major Dr. Caesar

SS Major Laffereetz

Dr. Mayr

Dr. von Rosenstiel

Oberregierungsrat Dr. Murck

[Signed] CUNRADI 15 July

3. Himmler Order, 10 July 1943, Regarding the Clearing of the Population From Northern Ukrainian and Central Russian Areas

COPY

The Reichsfuehrer SS

Field Command Post

10 July 1943

1. Chief Anti-Partisan units.
2. Higher SS and Police Chief Ukraine.
3. Higher SS and Police Chief Central Russia.
4. SS Lt. General Berger.
5. SS Lt. General Backe.

1. The Fuehrer has decided that the entire population is to be cleared out of the Northern Ukrainian and Central-Russian areas, in which guerilla bands are active.

2. Every male inhabitant fit for work will be assigned to the Reich Commissioner for Labor Allocation, in accordance with regulations which have yet to be settled, but with the status of a prisoner of war.

3. The female population will be assigned to the Reich Commissioner for Labor Allocation for work in the Reich.

4. A part of the female population and all children without parents will be placed in our reception camps.

5. The areas from which the population has been cleared are to be placed under the management of the Higher SS and Police Chiefs in accordance with agreements not yet concluded with the Reich Food Minister and the Minister for the Occupied Eastern Territories. These areas are partly to be planted with kok-saghyz and, as far as possible, are to be used for agriculture. The children's camps are to be situated on the periphery of this area so that the children may be available as labor for the cultivation of kok-saghyz and for agriculture.

Final suggestions are to be submitted to me as soon as possible.

Signed: H. HIMMLER

[Marginal note]

Certified True Copy

[Initial] A

SS Sergeant

**TRANSLATION OF DOCUMENT NI-14291
PROSECUTION EXHIBIT 1927**

**LETTER FROM THE SS ECONOMIC AND ADMINISTRATIVE MAIN OFFICE
TO THE HAAF FIRM WITH A COPY TO FARBEN, 31 JULY 1943, CON-
CERNING THE USE OF CONCENTRATION-CAMP INMATES AT FAL-
KENHAGEN, AND NOTING A CONFERENCE BETWEEN DEFENDANT
AMBROS AND SS GENERAL POHL, AND RELATED MATTERS**

The Reichfuehrer SS and Chief of the German Police SS Economic
and Administrative Main Office

Group D—Concentration Camps

Ref. No. D II/1 14/16 So. Hue.

Oranienburg near Berlin, 31 July 1943

[Handwritten]

Re: Use of Inmates

Enclosure to letter, Dy [Dyhernfurth]
dated 27 August 1943

To firm, Max Haaf, Certified Engineer,
Local Construction Management

Attention: Regierungsbaumeister Wuerz
Falkenhagen via Fuerstenwalde/Spree

As a consequence of the conference between the SS Lt. General and
General of the Waffen SS Pohl and Dr. Ambros, the site in Falken-

hagen near Fuerstenwalde was inspected by Dr. Schaefer, Certified Engineer Weirich, and Regierungsbaumeister Wuerz together with SS 1st Lt. Grimm on 20 July 1943.

1. *Quarters.*

The inmates to be assigned (whose number is not to exceed 500) are going to be housed in the barracks inspected by SS 1st Lt. Grimm. The barracks which were inspected will be decontaminated and cleaned first. The equipment necessary for the quarters of the inmates, such as beds, paillasses, closets, tables, stools, blankets, et cetera as well as the entire kitchen equipment (with mess-kits), is to be provided by you. The Concentration Camp Sachsenhausen has, in the meantime, forwarded sectional drawings for the barbed wire fence which is to be set up by you. I am not able to do without this barbed wire because we have to save guards. The barbed wire around the camp is to be electrically charged. This is not necessary for the wire fence around the working site.

The expenses for the required security measures as well as other costs such as heating, lighting, water, and the current expenses for the maintenance of the work camp, will be borne by you. You will provide the necessary quotas.

2. *Clothing.*

The expenses for clothing the guards and the inmates, including maintenance and cleaning, are to be borne by the Concentration Camp Sachsenhausen.

3. *Food.*

The administration of the Concentration Camp Sachsenhausen is paying for the food of the guards and inmates. The preparation, as well as the distribution of the food, is handled by the Concentration Camp Sachsenhausen. The meals will be prepared by a number of inmates assigned for this purpose in the kitchen (which you have already provided).

4. *Payment.*

The daily pay for the inmate laborers assigned there is as follows:

RM 6 for a skilled worker

RM 4 for an unskilled worker

The inmates assigned to the kitchen for the preparation of the meals and to the barracks for maintenance work are paid at the same rate. Inmates who are sick and cannot work, as well as those used in repairing the clothing of the guards and the inmates, do not receive any pay. The inmates, who are sick and will not be able to be assigned to work again, are to be exchanged against able inmate-workers from the Concentration Camp Sachsenhausen.

5. *Miscellaneous.*

Medical care, medicine, payment for hospitalization, et cetera, for guards and inmates will also have to be borne by the Concentration Camp Sachsenhausen. The Concentration Camp Sachsenhausen also pays for the transport of the workers to and from the work camp.

Please confirm these arrangements

Heil Hitler!
Chief of Office D II
[Signed] BAUER
SS Lt. Colonel

[Stamp]

Reichsfuehrer SS and Chief of German Police,
D/II SS Economic and Administrative
Main Office

Copies to: Dr. Schaefer, I. G. Farbenindustrie, Berlin, with request for transmittal to your office Breslau No. 56551.

**TRANSLATION OF DOCUMENT NI-1336
PROSECUTION EXHIBIT 476**

**ORDER ON BEHALF OF DEFENDANT KRAUCH TO CERTAIN PLANT
LEADERS, 9 AUGUST 1943, CONCERNING MEASURES FOR SECURING
THE RETURN OF FRENCH WORKERS BREAKING THEIR EMPLOYMENT
CONTRACTS**

Berlin W 8, 9 August 1943

Plenipotentiary for the Four Year Plan
The Plenipotentiary General for Special Questions of Chemical
Production

[Stamp]
Hiagwerk Brilon-Wald
Received: 16 August 1943 a. m.

Reference: Labor Allocation Bi/Ri.
Journal No. Circular No. 67/43

Re: Measures for bringing back to work those French workers who have been recruited by individual enlistment and have broken their contracts

To: Factories and construction managements within the plant for chemical production for the attention of the plant leader [Betriebsfuehrer] or his deputy.

As from 1 August 1943, my office—Liaison Office of the GBChem in Paris, department Dr. Tittus, Army Postal No. 06661 Wi VII has been put in charge of all cases of breach of contract by French workers recruited by individual enlistment. Dr. Tittus' office will search for workers who have broken their contracts and eventually bring them

back to their place of work if there are really no cogent reasons for doing otherwise. The department will act in connection and cooperation with the Military Commander and the officials under his orders. To make this measure effective it is necessary:

1. To report every breach of a labor contract occurring after 1 August 1943, *immediately* after its detection in order not to lose time.

2. To use a *separate form* similar to the specimen attached for each report.

3. To dispatch at the same time to my department "Employment of Labor" a short memorandum giving the total figure of all the reports sent to Paris; the regional commissioners [Gebietsbeauftragte] should be informed by a copy of the memorandum.

4. Where the local labor office, the Gestapo, or any other authority has previously been informed of cases of escape from work, this procedure may be followed up; but in such cases, a note should be added stating that a report has been made directly to Paris.

The factories and the construction managements will be informed directly by the Paris office of the results of the searches.

Will you please see that reports on workers who break their contract are sent to Paris in the prescribed manner, as quickly as possible, so that the search, which is always a difficult matter, should not be made still more difficult by delayed reports. In the same way, if a French worker should return in the meantime to his place of work, this should be reported to Paris in order to stop further investigations.

BY ORDER:

[Signed] illegible

Enclosure!

[Handwritten]

Mr. Schroeder

Miss Dohle

Please note if necessary

PARTIAL TRANSLATION OF DOCUMENT NI-15253
PROSECUTION EXHIBIT 2206

EXTRACTS FROM FARBEN-AUSCHWITZ WEEKLY REPORTS NO. 116
AND 117, FOR THE PERIOD 9-22 AUGUST 1943, CONCERNING AN-
OTHER VISIT OF SS LIEUTENANT GENERAL POHL TO THE CONSTRUC-
TION SITE, HIS CONTINUED WILLINGNESS TO ASSIST THE PROJECT
IN EVERY RESPECT, AND RELATED MATTERS

Weekly Report No. 116/117 for the period from 9 to 22 August 1943

* * * * *

17 August

Inspection of the plant installations by SS Lt. General Pohl, SS Colonel Baier, and SS Lt. Colonel Hoess of the concentration camp.

The SS Lt. General again showed extremely great interest in the construction project.* This was also shown by the fact that, in spite of his greatly limited time, he paid us a visit. He expressed to us his appreciation for the work that had been done and he repeated his willingness to support us in every respect. Among other things, he promised us 5,000 sets of men's clothing, 2,000 sets of women's clothing, and 300 sets of bedroom furniture for people who have been bombed out. He also promised us, if at all possible, 17 wooden barracks.

* * * * *

*Pohl's earlier visit, of 21 September 1942, to the Farben-Auschwitz construction site is discussed in Document NI-14889, Prosecution Exhibit 2130, reproduced in part earlier in this subsection.

PARTIAL TRANSLATION OF DOCUMENT NI-11143
PROSECUTION EXHIBIT 1509

EXTRACTS FROM REPORT OF 25TH CONSTRUCTION CONFERENCE ON
FARBEN-AUSCHWITZ ON 9 SEPTEMBER 1943, CONCERNING LABOR
REQUIREMENTS, PROBLEMS IN EMPLOYING INMATES, DIFFICULTIES
OF INCREASING STAFF BECAUSE OF SHORTAGES OF LIVING ACCOM-
MODATIONS, EXCHANGE OF WORKERS BETWEEN OTHER FARBEN
PLANTS AND FARBEN-AUSCHWITZ, NUMBER OF REICH GERMANS
AND RACIAL GERMANS EMPLOYED, PLANT SECURITY MEASURES,
FARBEN LOANS TO TOWN OF AUSCHWITZ FOR RESTAURANT AND
HOSPITAL, AND OTHER MATTERS

TA Bu/Hk

Auschwitz, 10 September 1943 L

SECRET!

*I. G. Plant Auschwitz 25th Construction Conference on 9 September
1943 at Auschwitz**

[Stamp]

Office of the Technical Committee

In: 5 October 1943

Present:

from Leuna:

Director Dr. Bueteifisch
Director Dr. von Staden
Director Dr. Sauer
Dr. Weber

from Ludwigshafen:

Director Dr. Ambros
Director Santo
Chief Engineer Dr. Mach

from Auschwitz:

Dr. Duerrfeld
Chief Engineer Faust
Dr. Savelsberg
Dr. Eisfeld
Dr. Braus
Chief Engineer von Lom
Chief Engineer Heidebroek
Dr. Appel

From the Huels chemical plant the following were present at the
meeting on the power station II:

Chief Engineer Dr. Beckmann
Dr. Sellin

I. Arrangement of schedules

* * * * *

II. Situation with regard to iron allocation

* * * * *

*The initials of the defendant ter Meer appear at the bottom of the first page.

III. Labor requirements

There are at present 26,000 persons at the construction site. The present requirements are:

For the construction department-----	3, 200
For assembling-----	2, 600
General -----	400
	<hr/>
	6, 200

Particular bottlenecks are electricians and underground construction workers.

On this occasion the *employment of inmates* was also discussed. There are 6,500 prisoners in the camp, of whom 5,400 are actually employed. The specialists among the inmates must be sorted out more carefully. Duerrfeld reported that at present all inmates are included in the bonus system and that 15 percent receive bonuses. *A very high demand for workers will arise through the necessity of establishing an air-raid protection system immediately.*

An increase in personnel is hampered by the difficulty of finding accommodations. It is to be expected that an additional 1,000 inmates and 1,000 English prisoners of war will arrive. A special problem is the *recruiting of electrical engineers*, which is being discussed at length. It is decided that the percentage of electricians among the 200 foremen to be made available at the suggestion of Director Jaehne by the Technical Commission from the IG parent plants must be kept as high as possible.

IG Auschwitz will offer the IG plants unskilled workers in return for the electricians who are being supplied in excess of the 84 foremen, in conformity with the decision of the Technical Committee.

Summing up the situation, Dr. Ambros points out that no decisive help is to be expected from the IG plants in this field, as additional difficulties are arising for the plants in the western areas as a result of enemy attacks which cannot be coped with sufficiently by the workers available. *Retraining is therefore the only possibility of obtaining more skilled workers for Auschwitz.* Duerrfeld points out that the shortage of electrical engineers makes it doubtful whether all the schedules can be adhered to.

The recruiting of factory workers is also causing difficulties. Induction from the civilian sector is expected to supply 800 women. Protest was made against the measures taken by the Regional Labor Office at Katowice, as a result of which, factory workers for the Heydebreck and Blechhammer plants are to be recruited in the Bielitz district as well.

IV. Wehrmacht induction

In August, Auschwitz has supplied 45 men. The significance of this figure is explained by the following:

A total of 2,825 Germans are at the construction site, of which 40 percent are racial Germans. *Seventeen hundred Reich Germans are therefore, in fact, managing the entire construction site.* Of these, approximately 740 are fit for military service. Altogether, Auschwitz has already supplied 900 men to the Wehrmacht.

In this connection, Dr. Ambros reports that 125 businessmen from the central offices of the IG are to be transferred to the building sites and to the plants; the young ones will go to the Todt Organization. Auschwitz is to receive 60 to 80 men.

V. Supply of current at the start of operations

* * * * *

VI. Power plant II

* * * * *

VII. New production

* * * * *

VIII. Situation with respect to air-raid precautions

* * * * *

IX. Plant Security Detachment and self-protection

The official Plant Security Detachment comprises 146 men, of whom 22 are Reich Germans. The average age could be lowered to 44 years by including the East Silesian Guard [Wachdienst]. In order to strengthen the general security in the district, squads from the militia are shortly to be moved there. These, however, are not to be stationed in the immediate neighborhood of the plant, but are to be quartered in Brzeszcze and vicinity. Buete fish proposes, however, that a part of this militia should be lodged in the neighborhood of the plant and that, in all circumstances, barracks should be vacated for this purpose. The auxiliary Works Security Detachment comprises at present 180 men.

X. Loan to the town of Auschwitz

A loan of RM 100,000 was granted sometime ago to the town of Auschwitz for the financing of the restaurant. The mayor desires to use this credit for the hospital instead of for the restaurant, as the former needs an expenditure of RM 200,000. It has been decided to give, in addition to the loan, an irreclaimable additional sum of RM 100,000 for the equipment of the hospital. Settlement through IG. The question of book entry will be decided by Savelsberg.

XI. The next construction conference is fixed for 10 December 1943 in Auschwitz.

[Signed] HEIDEBROEK

Enclosure

PARTIAL TRANSLATION OF DOCUMENT NI-14549
PROSECUTION EXHIBIT 1990

EXTRACTS FROM FARBEN-AUSCHWITZ WEEKLY REPORTS, NO. 126/127,
FOR THE PERIOD 18-31 OCTOBER 1943, CONCERNING DIRECTIVE
TO REPORT FOREIGN WORKERS, INMATES, AND PRISONERS OF WAR
WHO SHIRK, OBSTRUCT, OR OTHERWISE DO NOT FIT THEMSELVES
"INTO OUR DISCIPLINE" AND POSSIBLE TRANSFER OF REPORTED
PERSONS "TO OUR LABOR REFORM CAMPS"

*Weekly Report No. 126/127 from the period from 18 October-
31 October 1943*

Distribution:

Ludwigshafen: Director Dr. Ambros
Construction Director Santo
Chief Engineer Mach
Merseburg: Director Dr. Buetefisch/Director Dr. von Staden
Chief Engineer Dr. Hoepke
Auschwitz: Dr. Duerrfeld
Dr. Eisfeld
Dr. Braus
Dr. Savelsberg
Dr. Rossbach/Assessor Schneider
II: Engineer Dr. Walter, Gleiwitz, Augustastr. 10

19 October 1943

* * * * *

4. All foreigners, inmates, or prisoners of war who are notorious shirkers, who obstruct, are too slow, or who, in any way, do not fit themselves into our discipline [nicht in unsere Disziplin fuegen] are to be reported at once and are possibly to be transferred to our labor reform camps [in unsere Arbeitserziehungslager einzuweisen].

* * * * *

Signed: FAUST

TRANSLATION OF DOCUMENT NI-8999
PROSECUTION EXHIBIT 1379

EXCHANGE OF CORRESPONDENCE BETWEEN THE KRAUCH OFFICE
REPRESENTATIVES (BELGIUM AND NORTHERN FRANCE) AND FAR-
BEN, AND EXCERPT FROM MINUTES OF FARBEN TECHNICAL CON-
FERENCE, SEPTEMBER AND OCTOBER 1943, CONCERNING SANITARY
CONDITIONS OF BELGIUM WORKERS EMPLOYED AT FARBEN'S
LEVERKUSEN PLANT THROUGH A BELGIAN FIRM

1. Letter to Farben, 20 September 1943

The Commissioner of the Plenipotentiary General for Special Questions of Chemical Production at the Central Order Agency* in Belgium and Northern France, *File No. XII / vN/Kroe.*

Brussels, 20 September 1943
24, Avenue de l'Astronomie

[Stamp]
Directorate Dept.
24 Sept. 1943
Leverkusen IG Plant

[Stamp]
Secretariat
General Affairs
24 Sept. 1943

To the I. G. Farbenindustrie Aktiengesellschaft
Leverkusen/Rhine

Subject: Employment of the firm Swannet & François, Antwerp

Today Mr. Swannet, together with his confidential agent [Vertrauensmann] from Leverkusen, called upon me and the latter reported on the conditions in the Belgian camp there.

Swannet & François have about 120 of their people working with you. The barracks where these people are housed are infested with insects and rats, especially in the Eigenheim-Manfort Camp. Repeated complaints by the confidential agent, and also by the firm Swannet & François, have so far met with no success. I have been informed that typhoid fever [typhus] has allegedly broken out. One workman of the Belgium firm has already died, another one fell ill with typhoid. Of the whole body of foreign workmen, about 25 percent are said to have contracted typhoid. The workmen on leave refuse to return to their old place of work as they are afraid of being infected by sick workmen and as they feel an aversion against the camp to which they are assigned. The confidential agent furthermore stated that medical care for all foreign workers is administered by only one physician, Dr. Feder, who is naturally overburdened to such an extent that careful examination and treatment of the patients is impossible. The majority of the orderlies in the infirmary are for-

*The Central Order Agencies (Zentral-Auftragsstellen) allocated raw materials, distributed orders, and supervised the manufacture of combat material in factories in occupied Europe.

eigners (e. g., Poles), with whom there is difficulty in making oneself understood.

I ask for an immediate investigation with respect to the sanitary conditions of the camp for the necessary steps to be taken in order to have the cause of these grievances removed. As regards the medical care for the workmen, I also ask for an investigation as to whether and in how far these complaints on the part of the firm are justified and for alleviation of the situation if need be.

I await your detailed report on this matter.

Heil Hitler!

BY ORDER :

[Signed] VON NEUFVILLE

[Stamp]

The Commissioner of the Plenipotentiary General for Special Questions of Chemical Production with the Military Commander for Belgium and Northern France. Brussels

Copies to:

Be/Duesseldorf

Dr. Sternberg

Swannet & Francois

[Handwritten note] Copy to Mr. Hallweg. Please discuss with Dr. Haberland [initials] Wa

2. Excerpt from Minutes of Farben Technical Conference 27 September 1943 at Leverkusen

Flemish Camp

The complaints about insufficiently sanitary conditions in the Flemish camp appear to be entirely attributable to the Flemish confidential agent employees, who wishes to create dissatisfaction among the employees. The western foreign workers are more negligent and dirtier than the Russians in the camp.

Directorate Dept., 12 October 1943

Wi

Copy to: Dr. Popp

2045

3. Farben's Reply to Gebechem letter, 29 September 1943

To the Commissioner of the Plenipotentiary General for Special Questions of Chemical Production at the Central Order Agency in Belgium and Northern France, Brussels

24, Avenue de l'Astronomie

29 September 1943

Employment of the Firm Swannet & François, Antwerp

We acknowledge receipt of your letter dated 20th inst. and state that, based on the alleged shortcomings in our camps for foreigners, a thorough investigation was carried out. We were forced to note during this that the report tendered by your confidential agent is in some respects grossly exaggerated, and entirely untrue in others.

The fact is, that, in our camp Eigenheim-Manfort, 11 diagnosed cases of typhoid [Typhus] have occurred. Due to medical measures immediately adopted, considerable control of the disease was effected and only two cases of typhoid proved fatal. The other patients are recovering. On the occasion of a surprise inspection by two doctors of the Health Department, the camp's sanitary arrangements were described as perfect by both. To date, daily disinfection of all the camp's latrines is still practiced and in the camp general attention being paid to meticulous cleanliness.

The Belgian firm's confidential agent reports further that the barracks accommodating the western workers were infested by vermin and rats. However, in the camp Eigenheim, with an accumulation of several thousand foreigners, it is difficult to avoid vermin entirely since the cleanliness of the western workers, in particular, leaves much to be desired. On the part of the camp's administration though, everything is being done to limit this nuisance. Some barracks are fumigated each week and the camp leaders ensure that there is the maximum of cleanliness, not only in the living quarters but also in the camp area.

Prompted by your report, we questioned numerous inmates of the camp, western workers as well as Poles, and these confirmed unanimously that a plague of rats was not in evidence in the camp. Nevertheless, in order to prevent such a plague, rat poison is to be laid down at various places in the camp.

As mentioned previously, our camp administration complains bitterly of the western workers' lack of cleanliness. In spite of lectures and repeated admonitions, it repeatedly happens that some of the western workers, being too lazy to avail themselves of sanitary facilities, prefer to relieve themselves in the immediate vicinity of their living-quarters in violation of the strictest prohibitions; further, food left-overs are simply thrown out of the window instead of being emptied into receptacles provided for this purpose. Naturally, such lack of cleanliness attracts vermin and rats, and it can only be ascribed to the camp-management's alertness that no major plague has as yet descended on the camp. In spite of these occurrences, the camp's general state of health can be described as good. Cases of sickness fluctuated between 1.5 and 1.7 percent during the past months, which shows that the standard of medical care for the entire foreign labor community is high. The morale of the inmates of camp Eigenheim,

can on the whole also be described as good. This can be concluded from the inmates' letters to their families, in which their food and their off-duty facilities—movie performances et cetera—are praised, and no complaints about bad treatment or housing are made.

We cannot understand the aversion felt to our camp by the Belgians of the Swannet & François concern as expressed in your letter of 20th inst., but we assume that this is to be attributed to circumstances beyond our control. We noticed in many instances that the Belgians have made considerable use of their stay in Germany by engaging in extensive black market activities, for which their frequent home-leaves proved extremely useful. They returned with tobacco, coffee, and other scarce commodities, which formerly fetched—in Cologne in particular—exorbitant black market prices. Owing to Cologne's destruction and other difficulties (for example, tightened regulations for changing reichsmarks into Belgian francs, reinforced border control), black market operations were rendered difficult, if not impossible. In our opinion, the loss of these incidental profits is the motive behind these complaints which are being voiced at this late date, since neither the confidential agent nor the representatives of the Swannet & François concern have approached us with any complaints whatsoever during the past 4 months.

Heil Hitler!

I. G. Farbenindustrie Aktiengesellschaft

Signed: DR. HABERLAND

Signed: as deputy Dr. WARNECKE

Copies to: Dr. Sternberg, Office of the Plenipotentiary General for Special Questions of Chemical Production in Duesseldorf
[handwritten]

Dr. Popp
Hollweg

4. Gehechem Office Reply to Farben, 4 October 1943

The Commissioner of the Plenipotentiary General for Special Questions of Chemical Production at the Central Order Agency in Belgium and Northern France

Brussels, 4 October 1943
24, Avenue de l'Astronomie

To I. G. Farbenindustrie Aktiengesellschaft
Management Department
Leverkusen/Rhine

Subject: Employment of the Firm Swannet & François, Antwerp
Ref.: Your letter dated 29 September 1943-Z/Be.

I have noted your communications of 29 September * with interest and I thank you for your efforts in eliminating unsatisfactory con-

*Reproduced immediately above.

ditions in Camp Eigenheim-Manford 11. I will contact the firm Swannet & François on this matter.

By order :

Heil Hitler,
[Signed] VON NEUFVILLE

[Handwritten]
copies to:
Dr. Popp,
Herr Hollweg

[Stamp]

The Commissioner of the Plenipotentiary General For Special Questions of Chemical Production with the Military Commander for Belgium and Northern France. Brussels

[Initials] WK

**PARTIAL TRANSLATION OF DOCUMENT NI-11144
PROSECUTION EXHIBIT 1511**

**EXTRACTS FROM REPORT OF 26TH CONSTRUCTION CONFERENCE ON
FARBEN-AUSCHWITZ ON 10 DECEMBER 1943, CONCERNING LABOR
REQUIREMENTS, MILITARY CONSCRIPTION, EMPLOYMENT OF IN-
MATES AT BRANCH CONSTRUCTION SITES AT FUERSTENGRUBE AND
JANINA MINES, FOOD SITUATION, AND OTHER MATTERS**

TA Bu/Hk

Auschwitz, 2 January 1944 L

*IG. Auschwitz Works 26th Building Conference of 10 December
1943 at Auschwitz*

SECRET!

Present :

from Leuna:

Senior Engineer Dr. Hoepke
Dr. Weber

from Ludwigshafen:

Director Dr. Ambros
Director Dr. Eymann
Construction Director Santo
Senior Engineer Pusch
Senior Engineer Dr. Mach

from Auschwitz:

Dr. Duerrfeld
Dr. Eisfeld
Dr. Braus
Senior Engineer Faust
Dr. Savelsberg
Senior Engineer von Lom
Senior Engineer Heidebroek
Dr. Appel
Senior Engineer Mueller

I. Deadline situation

* * * * *

II. Iron situation

* * * * *

III. Number of specialists and factory workers required

The need for electricians was discussed in connection with deadline questions. Duerrfeld explains the diagrams of the over-all utilization of 29,000 people on the construction site. A discussion ensues concerning the possibility of accelerating the utilization in the plants of specialists released from the construction sector. Faust explained that *requirements in the construction sector will have passed their zenith by May-June*. Any transfer of Polish workers from the building sector to the plants, therefore, must only be made on a modest scale and consideration must be given to the fact that the construction work for buna alone still needs a very large number of workers. (After the departure of the construction firms and their German specialists it is necessary to recruit local Polish workers for repair work as well. According to Dr. Einfeld's statement, present conditions make it impossible to operate the plants safely, since there are not enough executives.) Ambros states that he is trying to have Huels and Schkopau exempted from the SE drive so that these works can give up their operational specialists to Auschwitz instead of to the Wehrmacht. The most important factor continues to be the prevention of any weakening of the construction department through withdrawal of specialists and unskilled workers before the following construction work has been completed :

1. In the buna plant.

Auschwitz 916 aldol factory
917 aldol distillation
942 contact factory
921 butol distillation
850 Montan plant switchboard
856 glycol building
854 oxide factory
922 butadiene factory

2. In the synthesis sector.

Auschwitz 706 sieving installations
730 compressor building
739 compressor building
767 circulation pump construction

Duerrfeld further adds that local Poles must be sent to the training camps which are now empty in order to be trained as operational workers for the technical department.

The number of accidents is still below the average for professional unions.

IV. Conscription

Auschwitz has lost 967 persons up to now. Duerrfeld explains what professional groups were affected in the SE III drive through conscription and it was seen that a great number of foremen had been conscripted as there are no unskilled German workers or easily replaceable specialists on the building sites.

V. Employment of inmates

It is endeavored to obtain 7,200 inmates for employment. Inmates are also being employed in the branch construction sites at *Guenthergrube* and *Janina*.

VI. Electric power

* * * * *

VII. Air-raid protection

* * * * *

VIII. Plant security detachment

* * * * *

IX. Food situation

Savelsberg reports about difficulties about to arise from the poor potato harvest and which can only be overcome by a changeover to turnips and legumes, et cetera. Fats have been secured. Potato stocks will last until the end of April.

[Footnote in original: We were able to store a considerable quantity of sauerkraut]

The gardens and the farm have been informed that they should supply spring vegetables early at the beginning of the warm season. On Christmas, the staff was given an ample special allocation. Late in autumn, a fishery and a poultry farm is to be established. These complement each other very well. Ambros will discuss the matter with Stroebele and will use this occasion to emphasize the desire of the Auschwitz works for better relations between farm and works.

X. Monetary expenditure

* * * * *

“HEIDEBROEK”

TRANSLATION OF DOCUMENT NI-7569
PROSECUTION EXHIBIT 477

LETTER FROM DEFENDANT KRAUCH TO KEHRL, 13 JANUARY 1944,
CONCERNING THE EFFORTS OF THE KRAUCH OFFICE IN THE PRO-
CUREMENT OF FOREIGN LABOR, PRISONERS OF WAR, INMATES OF
CONCENTRATION CAMPS, AND RELATED MATTERS

13 January 1944

Distribution:

- | | |
|--------------------------|---|
| 1. Addressee | CK/G |
| 2. Professor Krauch | 1364/43 |
| 3. Dr. Ritter | Your letter dated 22 December 1943 |
| 4. Lt. Colonel Kirschner | Your reference: RoA [Raw Mate-
rials Department] 00/22.12. |
| 5. Labor Allocation | |
| 6. Dr. Adolf Mueller | Labor Allocation |

To the Chief of the Raw Materials Office in the Reich Ministry for
Armaments and War Production, President Kehrl
Berlin-Wannsee, Am Sandwerder 23

Dear President Kehrl,*

In your letter, dated 22 December 1943, you pointed out the importance of close cooperation between your office and mine with particular reference to the allocation of labor. Of course I fully agree with your point of view. It is most gratifying to find *that your officials are giving strong support at the Armaments Office to my applications for manpower for the execution of tasks formulated in close agreement with your planning office.* The aims of your Raw Materials Office are identical with the endeavors of my office: to ensure that the chemical factories under my supervision attain the highest possible level of production and that factories under construction are completed and equipped as soon as possible.

Only my office, however, is in a position to deal with the distribution of labor allocated for the various sectors under my supervision, or with the allocation to individual works of manpower demands made by the Wehrmacht, because this requires detailed information about the plan as a whole and the position in individual factories.

I was not aware of *any misunderstandings or even mistakes which are supposed to have occurred in the course of negotiations conducted in the past directly between my office and the Armaments Office;* should matters of any importance be involved I should be obliged if you could let me have further details.

May I be allowed to point out, however, that the efforts of my

*Hans Kehrl was a defendant in the Ministries Case. Kehrl was chief of the Planning Office of the Central Planning Board, chief of the Planning Office of the Reich Ministry for Armaments and War Production, and chief of the Office of Raw Materials in the Reich Ministry of Armaments and War Production. See vols. XII-XIV, this series.

office in such matters as the procurement of foreign labor within the restriction set on the initiative of the individual employer by the Plenipotentiary General for Labor Allocation and the employment of certain classes of manpower (prisoners of war, inmates of concentration camps, prisoners, units of the military construction companies etc.), have had an effect upon the speed of progress of chemical production, and upon that production itself, which must not be underestimated. I consider that the initiative displayed by my staff in the procurement of labor, a virtue which has proved its worth in the past, must not be repressed in the future.

Heil Hitler!

Yours,

Signed: DR. KRAUCH

Distribution of copies:

Oberregierungsrat Pukall

T

T3

T1

T5

**TRANSLATION OF DOCUMENT NO-1905
PROSECUTION EXHIBIT 1513**

LETTER FROM OSWALD POHL, CHIEF OF THE SS ECONOMIC AND ADMINISTRATIVE MAIN OFFICE, TO FRITZ KRANEFUSS, SECRETARY OF HIMMLER'S CIRCLE OF FRIENDS, 15 JANUARY 1944, CONCERNING REQUESTS OF THE DEFENDANT KRAUCH FOR CONCENTRATION CAMP INMATES AS EMPLOYEES FOR CHEMICAL INDUSTRIES

Copy
K1

[Stamp]
Personal Staff, Reichfuehrer SS
Archives
File No. Secret/1959
Berlin, 15 January 1944
Lichterfeld-West
Unter den Eichen 126-135

Chief of the SS Economic and Administrative Main Office
D II/1 Az [Auschwitz]; 14 Ma./F., Journal No. 668/44 Secret

SECRET

Subject: Inmates for the chemical industry
Re: Your letter dated 7 January 1944 Az: Kr/Ki

To: SS Colonel Fritz Kranefuss
Berlin C 2, Schinkelplatz 1

My dear friend Kranefuss!

I have received your letter of the 7th of this month with the further request lists of the Plenipotentiary General for Special Questions of Chemical Production and want to let you know that it is not possible

at the present time to start new labor units. In the list of requests, various wishes are expressed which, however, have already been fulfilled for some time. These are:

1. I. G. Farbenindustrie A. G., Auschwitz, Upper Silesia. There, inmates have been employed [eingesetzt] since April 1941. At present 5,300 inmates are employed.

2. Low-temperature carbonizing plant [Schwelanlage] at Jawischowitz, Upper Silesia. In the low-temperature carbonizing plant Jawischowitz, inmates have been used since July 1942. Originally 1,000 inmates were provided for this as is also specified in the list of requests that is now being sent. The labor unit was, however, enlarged. Already 1,300 inmates are employed.

3. Luranil—[Baugesellschaft] and Anorgana G. m. b. H., Dyhernfurth.* For Dyhernfurth a total of 2,700 inmates altogether are agreed upon who also will be sent. Now 450 inmates are employed there.

A considerable number of inmates are still needed to fill the labor allocations needed for the most urgent final stage of the armament program—that will decide our victory—of the Reich Ministry of Armaments and War Production as well as the Reich Air Ministry. In view of this fact I cannot fulfill further wishes for the present.

I will, however, keep the lists of requests here and will come back to this matter as soon as a possibility for allocation [Einsatz] will exist.

I ask you to inform Professor Krauch of this.

Heil Hitler!

Your

Signed: POHL

*These were two firms in which Farben held a controlling interest.

**PARTIAL TRANSLATION OF DOCUMENT GAJEWSKI 34
GAJEWSKI DEFENSE EXHIBIT 46**

**LETTER FROM FARBEN'S MUNICH CAMERA PLANT TO THE MUNICH
PRISON, 12 JANUARY 1944, CONCERNING THE CONTINUED EMPLOY-
MENT BY FARBEN OF POLISH WOMEN SHORTLY TO BE RELEASED
FROM PRISON**

I. G. FARBENINDUSTRIE AKTIENGESELLSCHAFT

Our ref. : Lgg/Se. Camerawerk
Agfa Camerawerk, Munich
Munich 9
Tegernseer Landstrasse 161
12 January 1944

To the Munich-Stadelheim Prisons
Attention : Magistrate Gerst
Munich 9, Stradelheimerstrasse 12

Subject: Conscription for Labor of Polish women released from
prison

With reference to your discussion with Senior Engineer Ziegler, we wish to inform you that we have proposed to the Regional Armament Office that the Polish women who will be free after serving their sentence should be allowed to continue to be employed in our plant. Today, we received information from Major Wagner, Regional Armament Office Munich, that the Regional Armament Office approves the continued employment of these women by us and intends to propose conscription for labor to the Labor Office in agreement with the Secret State Police [Gestapo]. We were asked to hand in immediately a list of the names of those Polish women who are being released from prison in January and February, stating the day. Then the Regional Armament Office will effect conscription for labor on the days mentioned.

We should appreciate it if you would let us have the aforementioned list.

Heil Hitler !
I. G. Farbenindustrie Aktiengesellschaft
[Signed] LINGG
[Signed] illegible

**TRANSLATION OF DOCUMENT NI-3825
PROSECUTION EXHIBIT 1404**

**LETTER FROM FARBEN'S MUNICH CAMERA PLANT TO THE MUNICH
LABOR OFFICE, 20 JANUARY 1944, CONCERNING THE ASSIGNMENT
BY LABOR DRAFT OF POLISH CRIMINAL PRISONERS BEYOND THEIR
PRISON SENTENCE**

I. G. Farbenindustrie Aktiengesellschaft, Munich 9
Camerawerk

Sch/3/B

To the Munich Labor Office
Munich 15, Thalkirchnerstr. 54

20 January 1944

**Labor Conscription of Polish Criminal Prisoners Completing Their
Prison Terms**

According to information from the board of the Munich-Stadelheim prison, it is possible to extend the assignment to us of Polish criminal prisoners with prison sentences up to 6 months by means of labor conscription. As the conscription of labor is your task, we are transmitting to you attached list made available to us by the Stadelheim prisons with names of twelve Polish women due for release in February who are at present employed by us. We request you to decree the drafting for labor of these women and to inform the board of the penal institution Stadelheim as well as us as soon as possible.

Heil Hitler!

I. G. Farbenindustrie Aktiengesellschaft

Copy to
Board of the Stadelheim prisons

PARTIAL TRANSLATION OF DOCUMENT NI-6151
PROSECUTION EXHIBIT 1363

EXTRACTS FROM THE MINUTES OF A MEETING OF THE TECHNICAL
MANAGEMENT OF FARBEN'S HOECHST PLANT, 24 JANUARY 1944,
SIGNED BY DEFENDANT LAUTENSCHLAEGER CONCERNING FARBEN'S
REFUSAL TO RELEASE WOMEN FOR STREETCAR LINES, HOPES FOR
INCREASED EMPLOYMENT OF FOREIGNERS, AND INSTIGATION OF
SS MEASURES AGAINST FOREIGNERS NOT RETURNING FROM LEAVE

I. G. Farbenindustrie Aktiengesellschaft, Frankfurt (Main)-Hoechst
No. 203

*Minutes of the Meeting of the Maingau Technical Management, held
at Frankfurt-Hoechst, on 24 January 1944*

[Stamp]
Dispatched,
2 February 1944
Management Dept. T

Present Messrs: Lautenschlaeger
Engelbertz
Fehrle
Giesler
Roth
Struss
Winnacker
Gebhardt
Hagenboecker
Hilcken
Hirschel
Absent Messrs: Jaehne
Lange

* * * * *
The Gauleiter has requested the release of women for the streetcar
lines in Frankfurt. For this purpose, the labor office has asked for 75
women who are working full time, which request we had to refuse,
however.

Gebhardt reports that, from 1 February 1944 on, the operating
firms in Belgium are again allowed to hire workers, and it is hoped
that it will lead to an increased employment of foreigners. It is in-
tended that—at our instigation—the SS take measures against the
foreigners who do not return from their leaves.

* * * * *
Frankfurt-Hoechst, 31 January 1944
Dr. Hi/H

[Signed] DR. LAUTENSCHLAEGER

TRANSLATION OF DOCUMENT NI-13512
PROSECUTION EXHIBIT 1845

FILE MEMO OF RITTER AND DEFENDANT DUERRFELD, 3 FEBRUARY 1944,
CONCERNING A DISCUSSION IN KRAUCH'S OFFICE AT WHICH
KRAUCH, AS PLENIPOTENTIARY GENERAL FOR SPECIAL QUESTIONS
OF CHEMICAL PRODUCTION, GAVE INSTRUCTIONS THAT AUSCHWITZ
EXCHANGE 300 BRITISH PRISONERS OF WAR FOR 150 RELEASED
GERMAN SOLDIERS, AND RELATED MATTERS

Dr. Due/Kb

Berlin, 3 February 1944

[Handwritten]

Taken care of

File under D. Doorer

Labor Allocation Buna

File Memo

Re: Discussion in the office, Berlin on 2 February 1944

Transfer of 300 assembly workers from Auschwitz to Heydebreck

Present:

[Handwritten]

Prof. Dr. Krauch Hoko—highly concentrated nitric acid

Dr. Ritter (about 98 to 99 percent) for PSV

Dr. Duerrfeld [powder and explosives processing]

The following facts were under consideration:

1. Gebechem [Plenipotentiary General for Special Questions of Chemical Production] must give priority to speeding up the Hoko-[highly concentrated nitric acid] plant at Heydebreck.

2. For this purpose, Prof. Dr. Krauch has ordered the transfer of 300 assembly workers (English prisoners of war) from Auschwitz to Heydebreck.

3. Dr. Duerrfeld has stated that he would not answer for this transfer since all the schedules for buna and diglycol would break down.

Prof. Dr. Krauch states that assistance *must* be given to Heydebreck and that the schedules of the Hoko- plant are presently even more important than buna and diglycol. After considering the amount of sacrifices to be made by Auschwitz for this, Prof. Dr. Krauch gave the following instructions:

(1) In order to overcome the continuous lack of labor, Heydebreck must establish a large concentration camp as quickly as possible following the example of Auschwitz and the mining installations which are being built in the labor district of Auschwitz.

(2) In order to render the quickest possible assistance, Auschwitz will hand over 300 English prisoners of war to Heydebreck *as quickly as possible* and, in return for this, will receive 150 German released soldier craftsmen (fit for employment and fit for employment in

garrison on home front) *from the Plenipotentiary General for Special Questions of Chemical Production, during February.*

(3) As soon as he has returned to Auschwitz, Dr. Duerrfeld will apply to the PW camp for the transfer for this purpose. The division, according to trained assembly workers and unskilled workers, is to be in the same ratio as that of the total number of Englishmen in Auschwitz.

(4) Dr. Ritter, together with Herr Guenther, will see to it that priority is given to Auschwitz in the allocation and enrollment for service of the released soldiers. Auschwitz is entitled to choose these according to occupational and physical suitability out of the total of 3000 persons available to the Plenipotentiary General for Special Questions of Chemical Production for SE replacements, with priority over all other agencies requiring them.

The Plenipotentiary General for Special Questions of Chemical Production will bear with the delay in the schedules for buna and diglycol which will occur in spite of this arrangement.

Signed: DR. RITTER

Signed: DR. DUERRFELD

Distribution:

Prof. Dr. Krauch/Dr. Ritter
Dr. Ambros
Lt. Col. Kirschner
Dr. Baasch
Dr. Wengler
Certified Engineer Obenaus
Dr. Duerrfeld

PARTIAL TRANSLATION OF DOCUMENT NI-14169
PROSECUTION EXHIBIT 1877

EXTRACTS FROM A LETTER FROM DEFENDANT TER MEER IN ITALY TO
DR. STRUSS, CHIEF OF THE OFFICE OF FARBEN'S TECHNICAL COM-
MITTEE, 7 MARCH 1944, CONCERNING PROCUREMENT OF ITALIAN
LABORERS FOR WORK IN GERMANY

The Plenipotentiary General for Italy of the Reich Minister for Arma-
ment and War Production

The Plenipotentiary for the Chemical Industry

Milan, 7 March 1944

Fore Buonaparte 16

Tel: 17451-4

tM/D

To Director Dr. Struss

with letter to IG Farbenindustrie Aktiengesellschaft

Office of the Technical Committee

Frankfurt (Maine) 20, Grueneburgplatz

Dear Dr. Struss,

After a journey made more difficult by heavy snowfall we arrived
back in Como and Milan on schedule. I want to write to you im-
mediately about some urgent questions which should be dealt with
quickly.

Procurement of Labor for Germany

This question is, of course, of immediate interest, and Herr Dr.
Ambros, particularly, is asking for assistance for Auschwitz. I had
promised the latter that I would find out as soon as I arrived here how
the matter stands and that I would report about it. Unfortunately,
I am not able to do this at the moment since no final decision has yet
been made about the recruitment of chemical workers. The Referent
concerned of the Plenipotentiary General for Labor Allocation with
the Staff for Armament and War Production, and Lt. Colonel Kirscher
and Dr. Deichmann are trying to issue a final decree about the
compulsory recruitment of chemical workers during the course of this
week. As soon as the wording of this decree is definite, I will see
that you get a copy of it. I myself have up to today not yet been able
to contact the three persons mentioned above.

Perhaps you could telephone Messrs. Wurster and Ambros to give
them this provisional information.

* * * * *

In anticipation of your kind letter I remain with best regards,

Your

[Signed] DR. FR. TER MEER

3. As regards the question whether under these circumstances any construction workers at all should be released for the fighter plane [Jaeger] program by the Plenipotentiary General for Special Questions of Chemical Production, it was decided to carry out releases as planned. According to this, 4,200 men are to be released from chemical and light metal industries (including 1,700 concentration-camp inmates from Auschwitz), 2,000 men from the gunpowder and explosives industry [PSV-Pulver-und Sprengstoffverarbeitung], and 6,200 men from Estonia. Sixteen hundred men have recently been transferred to the fighter plane program from various construction projects. The question whether the 1,700 concentration camp inmates from Auschwitz should be stricken from the list of men to be transferred is to be decided in consultation with the Fuehrer's Headquarters. The 100 men from Schkopau, proposed for transfer, are to be transferred, if at all possible, to the adjacent Leuna works.

(Decision to be communicated by Dorsch to Ritter and Plenipotentiary General for Special Questions of Chemical Production)

The effects of the transfer of 6,200 men of the Baltoel [company] from Estonia are to be investigated in the near future. Extent and date of transfers is to depend on result of investigation. Basic decision on the whole problem of transfers to be requested from Fuehrer's Headquarters.

(Investigation of effects of Baltoel transfers together with: Sennewald, by Plenipotentiary General for Special Questions of Chemical Production; report to Planning Office for decision by Planning Office and Dorsch.)

4. Any transfers from construction sites of the production plan for the chemical industry apart from those specified in the final list must be prohibited. Herr Dorsch is to issue orders accordingly to the branch offices of the Construction Office; corresponding orders to be given to the Jaeger Staff.

(To be discussed by Schoenleben and Obenaus.)

2. Extract from Memo Concerning Necessary Measures for Restoration of Damaged Hydrogenation Plants [Place and date partly illegible] May 1944

General prerequisites for the restoration of damaged hydrogenation plants

1. Decision whether any transfers from the Plenipotentiary General for Special Questions of Chemical Production to the Jaeger program should be effected under these circumstances; whether it would not be better to make the necessary changes, in order to repair damages and strengthen air raid precaution, within the office of the Pleni-

potentiary General for Special Questions of Chemical Production.

Transfer of 1,700 concentration camp inmates from Auschwitz to be postponed on account of Speer/Krauch inquiry; transfer of 100 men from Schkopau also postponed because of propinquity to Leuna.

2. Answer to the question: how to obtain machine assembly men? Brabag-Zeitz and Boehlen, for example, have already asked for approximately 450 trained metal workers each. Use of engineer units would seem indicated. Total strength of emergency squads of the Plenipotentiary General for Special Questions of Chemical Production in all hydrogenation plants number no more than 350 men, including 200 men from Leuna, who can not be touched.

3. Does not the breakdown of the hydrogenation plants call for similarly drastic measures as have been taken, for example, in the case of ball-bearing production? (Operation Schweinfurt or Kessler.)

4. Instruction should be issued to the Plenipotentiaries for Construction to lift the construction ban in exceptional cases such as air-raid damage and to supplement air-raid precaution measures. Abolition of questionnaires and seniority numbers. There must be no delay in construction work.

5. Inclusion of the repair program and air-raid precaution scheme in the Jaeger program scale of priorities is to be investigated.

a. With regard to obtaining construction workers, it was suggested immediately to release 20,000 men (construction workers) in Italy on OT terms—employment in Reich—for recruitment by the Plenipotentiary General for Special Questions of Chemical Production;

b. That 10,000 Italian members of the armed forces be detailed immediately for work in the German armaments industry;

c. That executive powers in Italy be strengthened immediately by the incorporation in Italian police units of 10,000 German police officials in order to ensure that the present recruiting campaign in Italy should bear fruit.

**PARTIAL TRANSLATION OF DOCUMENT NI-14560
PROSECUTION EXHIBIT 1964**

**EXTRACTS FROM A LETTER TO DEFENDANT BUERGIN, 14 JULY 1944,
NOTING THAT SIX RUSSIAN WORKERS HAD BEEN HANGED FOR
BOLSHEVIST PLOTS**

I. G. Farbenindustrie Aktiengesellschaft Bitterfeld

Bitterfeld, 14 July 1944

Director Dr. E. Buergin

(17a) Donaueschingen Hotel Zum Schuetzen

Dear Doctor,

Inclosed we are sending you a part of the mail which came in the
meantime and inform you on this occasion of the following:

* * * * *

In the *Eastern Workers' Camp* 6 Russians have been hanged by the
Gestapo for Bolshevist activities.

* * * * *

We wish you a fine vacation and with kind regards,

Heil Hitler!

I. G. Farbenindustrie Aktiengesellschaft

[Signed] LANG

[Signed] W. FREY

Enclosures*

Registered

*Enclosures not reproduced herein.

**TRANSLATION OF DOCUMENT NI-8964
PROSECUTION EXHIBIT 1393**

**LETTER FROM FARBEN'S LEVERKUSEN PLANT TO KRAUCH'S REICH
OFFICE FOR ECONOMIC DEVELOPMENT, 25 AUGUST 1944, CON-
CERNING RECRUITMENT OF EASTERN WORKERS**

Reich Office for Economic Development
Department: Labor Allocation for Herr Pompe
Berlin W 9, Saarlandstr. 128

Herr Dr. Warnecke
Directorate Department
[Stamp]
Directorate Department
26 August v 1944
Leverkusen-IG Plant

Subject: Teletype No. 13481 dated 23 August 1944 Allocation of East-
ern Workers

The eastern workers arranged for have not yet arrived. We
urgently require those workers. Please continue your efforts for the
allocation of these eastern workers.

Dyestuffs factory, Leverkusen plant, Personnel Office
Leverkusen IG Plant
25 August 1944

**TRANSLATION OF DOCUMENT NI-13517
PROSECUTION EXHIBIT 1846**

**LETTER FROM OSWALD POHL, CHIEF OF THE SS ECONOMIC AND AD-
MINISTRATIVE MAIN OFFICE, TO DEFENDANT KRAUCH 11 SEPTEM-
BER 1944, CONCERNING THE BASIS FOR THE OPERATION OF AN
OIL SHALE PLANT AND AGREEMENT BETWEEN POHL AND DEFENDANT
KRAUCH**

To the Director of the Reich
Office for Economic Development, Professor Dr. Krauch
Berlin W 9, Saarlandstr. 128.

Re: Oil Shale Works Wuerttemberg

Dear Professor Krauch:

The content of your letter of 1 September 1944 surprised me some-
what, because in important points it does not correspond to the agree-
ments reached in our conference. In the enclosure, I am forwarding
in duplicate the result reached in this conference, and request you
to show your agreement by signing the two copies.

In consideration of your pointing out that even after the plants
are ready for production, they should be operated first by the Oil

Shale Research Company in order to guarantee the ability to operate [Betriebsfaehigkeit], I have already disclaimed in the conference the immediate taking over of the finished plants. On the other hand, however, I consider it necessary to set a date on which the taking over by my company should take place. For this reason, I have provided in the agreement, for the time being, May 1945 as the deadline for taking over. It is understood that I shall agree to a change of this deadline if it should become apparent that at that point the technical conditions should indicate that a handing over of the plants by Oil Shale Research Company to my company is inadvisable.

Heil Hitler!

(Signed) POHL *

SS Lt. General and Lt. General of the Waffen SS

Berlin, 11 September 1944

Agreement between the Reich Office for Economic Development and the Reichsfuehrer of the SS and Chief of the German Police, SS Economic and Administrative Main Office [SS Wirtschafts-Verwaltungshauptamt] Regarding the desert ["Wueste"] program

1. After the oil shale works are ready to operate, the safeguarding of their ability to produce shall be a common task of SS and RWA [SS and Reich Office for Economic Development]. The SS is represented by the German Shale Oil Company [Deutsche Schieferoel G.m.b.H.], Erzingen near Balingen in Wuerttemberg, which is under the supervision and administration of the Reichsfuehrer of the SS, SS Economic and Administrative Main Office.

2. Management, and connected with it technical responsibility, lies with the German Oil Shale Research Company [Deutsche Oelschiefer Forschungsgesellschaft m.b.H.] which has been charged with it by the RWA.

3. The German Shale Oil Company shall aid the management to the best of its ability; in particular inmates [Haeflinge] will be furnished as laborers.

4. The Reich Office grants the German Shale Oil Company an option to all ten plants of the "Wueste" program which may not be exercised before 1 May 1945. It is left to the German Shale Oil Company to decide whether it wants to exercise the option for all plants or only for some of them.

5. As far as the option is exercised, the plants will be transferred from the Reich Office to the German Shale Oil Company. It is left then to the discretion of the German Shale Oil Company to what degree it wants to make use of the cooperation of the German Oil

*Pohl was the first-named defendant in the Pohl case, Volume V, this series.

Shale Research Company. The German Oil Shale Research Company will, as far as possible, give to the German Shale Oil Company the specialists which have been used by it to run the plant to the date of taking over the works.

6. Regarding the question of financing in the taking over of the plants by the German Shale Oil Company, a contract will be signed (before the taking over) which will correspond to the contract existing now between the German Shale Oil Company and the Deutsche Revisions- und Treuhand A. G.

[Signed] DR. C. KRAUCH

Reich Office for Economic Development

[Signed] POHL

SS Economic and Administrative Main Office

Lt. General of the SS and Lt. General of the Waffen SS

**TRANSLATION OF DOCUMENT NI-6851
PROSECUTION EXHIBIT 1406**

**LETTER FROM FARBEN'S MUNICH CAMERA PLANT TO DACHAU CON-
CENTRATION CAMP, 18 OCTOBER 1944, CONCERNING THE TRANS-
PORT OF INMATES FROM RAVENSBRUECK CONCENTRATION CAMP
WHO HAD BEEN SELECTED FOR EMPLOYMENT BY FARBEN OFFICIALS,
AND RELATED FILE NOTE**

1. Letter from Farben Camerawerk Munich, 18 October 1944

I. G. Farbenindustrie Aktiengesellschaft, Munich 9

Camerawerk

To the Headquarters of Concentration Camp Dachau

Department for Labor Allocation, 13b Dachau near Munich

18 October 1944

Concentration camp inmates—Transport for exchange of inmates
from Ravensbrueck

The transport leaving Ravensbrueck on 13 October with inmates that were selected by our engineers Maier and Sachs was to comprise 260 Dutch women.

We have determined in the meantime that the number of inmates who were transferred with this transport amounts to only 250 persons, of whom 63 women were not selected by us.

These 63 women belong to several nationalities, that is: French, Yugoslav, Polish, Russian, and Czech women.

We shall examine these women as to their suitability for employment but must reserve the right to put them at your disposal should they prove unsuitable.

Heil Hitler!

I. G. Farbenindustrie Aktiengesellschaft

Signed: LINGG

Signed: as deputy DR. SCHULZE

Copy to:

Armament Command

Att.: Captain Hungesser

2. File Note of Farben Camerawerk Munich Personnel Department,
1 October 1944

Munich, 1 October 1944

File note

Subject: Transport of Dutch concentration camp inmates

SS-Captain Stirnweiss came in this morning and reported that, according to information from the concentration camp Dachau, the transport consisting of 260 Dutch women should arrive any day. The arrival depends on the transportation situation.

The 200 Polish women who are to be released must be returned to Ravensbrueck. The same freight cars shall be used for this purpose. Herr Stirnweiss will start the necessary negotiations with the Giesing railroad station at once.

Personnel Department

[Signed] Illegible

Copies to:

Dr. Lingg

Plant management

Camp command

Plant Security Detachment

Provisioning department

TRANSLATION OF DOCUMENT NI-14300
PROSECUTION EXHIBIT 1929

CIRCULAR OF FARBEN'S LURANIL CONSTRUCTION COMPANY, 30
OCTOBER 1944, CONCERNING THE EVALUATION OF FORCED
LABORERS

Luranil Construction Company Ltd

Dyhernfurth/Oder, 30 Oct 1944 Kr

[Stamp]

Luranil Commercial Department

Received: 3 Nov 1944

Answered:

Circular to all construction firms of the Dyhernfurth plant

Re: Evaluation of forced laborers [Verrechnung von Zwangsarbeitern]

In view of the increased efficiency by the inmate-workers, effective 1 August 1944, the average rate per hour will be—for each skilled inmate laborer, RM 0.65 (70 percent compared with German laborers), for each unskilled inmate laborer, RM 0.35 (50 percent compared with German laborers).

In order to speed up the construction, each of the firms is to assure increased production by taking appropriate measures. Proposals and suggestions for increasing the productivity of the inmate laborers are to be submitted to the construction management.

Todt Organization—Construction Management. Luranil-Construction Company

[Handwritten:] To Prokurist Zinser

TRANSLATION OF DOCUMENT NI-14294
PROSECUTION EXHIBIT 1931

LETTER FROM A SUBSIDIARY CONSTRUCTION FIRM TO FARBEN'S
LURANIL CONSTRUCTION COMPANY, 10 NOVEMBER 1944, CON-
CERNING THE EVALUATION OF FORCED LABORERS

[Stamp]
Luranil Commercial Dept.
Received: 19 December 1944

Construction Firm Wilhelm Beck

Architectural & Engineering Office—Bricklaying and Carpentering—
Joinery—Lease of Scaffolding

Breslau 13,
Charlottenstr. 25

[Stamp]
To: Luranil-Baugesellschaft Luranil Baugesellschaft m. b. H.
Dyhernfurth/Oder Construction Site Dyhernfurth
Received: 15 November 1944
Re: Circular concerning the evaluation of forced laborers [Verre-
chnung von Zwangsarbeitern]

Unfortunately we did not receive your circular until yesterday.

We wish to inform you that we do not agree with your statements in this circular concerning the increase of efficiency of the prisoner, and that we object to this statement.

We grant you that in some types of work it is possible to increase efficiency and altogether, it is possible to employ the inmates usefully. This holds true for such construction sites where it is possible to use the inmates in groups which are constantly supervised; for instance, in making reinforced concrete blocks. As soon as the inmates are, however, not constantly supervised, their production is terribly low and sometimes does not even amount to 20 percent of the production of an average worker. But it is not possible to have jobs during which each inmate is constantly under supervision. This particularly applies to construction above ground, also to air-raid precaution projects in already existing buildings, and to the transport of building materials, et cetera.

It is absurd to estimate the capacity of skilled workers employed on construction above ground as 70 percent of that of an average worker. Until now we have not had one single really trained bricklayer or carpenter, who was an inmate, assigned to us on any of the construction sites. The amount of work done by an inmate who claims to be a bricklayer or carpenter, can at the most be compared with that of an apprentice in his second year of training.

Statements such as those made in your circular of 30 October generally lead to false conclusions and only lead to the result that schedules which have been based on such calculations of capacity cannot be adhered to and that construction plans are approved as being practicable which, in actual fact, can never be carried out.

We also wish to object to your intention of putting a measure into force by your circular of 30 October which is to be valid as of 1 August that is, three months previously. It is impossible to conduct business in an orderly manner when regulations are issued with so much delay.

Heil Hitler!

[Signed] Illegible

[Handwritten] Dr. Schaefer

**TRANSLATION OF DOCUMENT NI-14297
PROSECUTION EXHIBIT 1930**

**LETTER FROM ANOTHER OF THE SUBSIDIARY CONSTRUCTION FIRMS
TO FARBEN'S LURANIL CONSTRUCTION COMPANY, 11 NOVEMBER
1944, CONCERNING THE EVALUATION OF FORCED LABORERS**

[Illegible Stamp]

To Luranil-Baugesellschaft m. b. H.
Dyhernfurth/Oder

E. Hegerfeld

Industriebau-Gesellschaft m. b. H.

Dyhernfurth/Oder, 11 Nov. 1944 He/We

Re: Evaluation of forced laborers [Verrechnung von Zwangsarbeitern]

We have received your circular of 30 October and wish to inform you that the efficiency rates given by you (skilled inmate laborer, 70 percent compared to German laborers; unskilled inmate-laborers 50 percent compared to German laborers) are not being reached on our construction site. We reserve further comment on the above matter.

Heil Hitler!

E. Hegerfeld

Industriebaugesellschaft m. b. H.

[Signed] Illegible

[Handwritten]

Dr. Schaefer

Zinser

TRANSLATION OF DOCUMENT NI-4038
PROSECUTION EXHIBIT 1405

LETTER FROM FARBEN'S MUNICH CAMERA WORKS TO DACHAU CON-
CENTRATION CAMP, 2 DECEMBER 1944, CONCERNING THE EM-
PLOYMENT AND PRODUCTIVITY OF FEMALE CONCENTRATION-
CAMP INMATES

I. G. Farbenindustrie Aktiengesellschaft, Munich 9

Camera Works

To Commandant's Office Concentration-Camp Dachau
13 b Dachau/Upper Bavaria Sch/2/W

2 December 1944

*Employment and productivity of the female concentration-camp
inmates during the month of November*

I. *Inmate employment*

a. Scheduled number: 560 female concentration-camp inmates.

b. Number actually employed in production: 451 female concentra-
tion-camp inmates.

II. *Inmate productivity*

Daily working time 10 hours. Owing to an air raid on
27 November 1944, production was interrupted from 27 November
1944-30 November 1944.

III. *Inmate output*

a. Object of production: time fuze 30; manufacture of parts and
assembly.

b. As still in breaking-in period, quantity production fluctuating.
The inmates share to the extent of about 50 percent in the total output
of the above-mentioned product.

I. G. Farbenindustrie Aktiengesellschaft Camerawerk

Personnel Office

Signed: DR. SCHULZE

PARTIAL TRANSLATION OF DOCUMENT NI-2972
PROSECUTION EXHIBIT 481

EXTRACTS FROM THE AFFIDAVIT OF DEFENDANT KRAUCH, 22 JANUARY 1947, CONCERNING HIS FUNCTIONS AS PLENIPOTENTIARY GENERAL FOR SPECIAL QUESTIONS OF CHEMICAL PRODUCTION IN THE PROCUREMENT OF MANPOWER AND RELATED MATTERS ¹

AFFIDAVIT

I, Carl Krauch, born on 7 April 1887, residing at Heidelberg, Im Lindenried 23, herewith state under oath the following facts of which I have personal knowledge:

1. I was a member of the NSDAP since 1937, Chairman of the Supervisory Board of I. G. Farbenindustrie from 1940 until April 1945, the Plenipotentiary General for Special Questions of Chemical Production within the framework of the Four Year Plan from July 1938 until April 1945.

2. In my official capacity as Plenipotentiary General for Special Questions of Chemical Production I was the highest authority in passing judgment regarding the allocation of labor for the individual plants of the chemical industry. This labor included (in addition to German workers) foreign workers, prisoners of war, and inmates of concentration camps. The Reich Labor Ministry would send me the labor requisitions of the individual plants for final decision. I had the authority to either accept the full number requested, or to decrease it if a check revealed that the requested number was too high. It was my responsibility to allocate the correct amount of labor necessary to accomplish whatever production program was involved. The Reich Labor Ministry kept me posted on the available number of workers. Frequently I would be informed that, for example, so and so many thousands were to arrive from Belgium or from Russia and that these were available to the chemical industry. The total number of workers employed in the chemical industry amounted to approximately 400,000.

3. I am the originator of the "Karinhall Plan," erroneously known as the "Krauch Plan." The purpose, among others, of this plan was to bring foreign workers into Germany on a voluntary basis. I also made the suggestion to General Thomas through Herr Kirschner that Russian prisoners of war be brought into Germany in order to employ them in the armament industry.² This occurred in the year 1941 when hundreds of thousands of Russian prisoners of war were living in Poland and Russia under terrible conditions.

¹ Krauch discussed some of the statements made in this affidavit during direct examination by his counsel. See extracts from his testimony, reproduced below in subsection F 1.

² Letter of Kirschner to General Thomas, deputy to defendant Krauch, 20 October 1941 (EC-489, Pros. Ex. 473) reproduced above in subsection D.

4. I was aware of the fact that from the year 1942 on, workers were recruited in occupied countries on an involuntary basis. The Plenipotentiary General for Special Questions of Chemical Production had permanent representatives in Paris, Brussels, The Hague, Amsterdam, Milan, Yugoslavia, Greece, and Bratislava, whose primary function was the recruitment of labor for Germany on a voluntary basis. After the German labor allocation authorities [Arbeitseinsatzbehoerden] recruited French workers involuntarily, the local representatives of the Plenipotentiary General for Special Questions of Chemical Production together with the plants, made train escorts available.

5. The transfer of labor to Germany as a part of the Francolor arrangement came under my jurisdiction as Plenipotentiary General for Special Questions of Chemical Production. I am aware of at least one case in which transports of workers brought in under the plan for recruiting foreign workers were in transit for weeks. The workers were hungry, tired, freezing, and without sufficient clothing.

6. It was my intention to use prisoners of war for construction rather than production work. I saw prisoners of war at work in Heydebreck and Gendorf. My office was informed that prisoners of war were taken from chemical plants and used to work on fortifications. In at least one instance, I negotiated directly with the armed forces [Wehrmacht] in regard to prisoners of war whose working conditions I wanted to improve.*

[Paragraphs 7 and 8, here omitted, discuss the employment of concentration camp inmates at Auschwitz. See subsection F 1, below]

9. Handloser, Mueller, Eckardt, and Loehr were my representatives in the offices of the Plenipotentiary General For Special Questions of Chemical Production in Paris, Belgium, Milan, and Yugoslavia, respectively. They traveled frequently to examine labor conditions. They belonged to IG and their salaries were paid by IG.

10. The welfare of the foreign workers employed by I. G. Farben was part of the responsibility of the Vorstand. Christian Schneider had the primary responsibility as chairman of the Social Welfare Commission [Sozialausschuss]. I discussed labor conditions with Christian Schneider. Whenever the foreign workers in individual IG plants were underfed, their efficiency was impaired. I visited plants throughout the entire chemical industry, and one of the first steps was always an inspection of the foreign workers' quarters to ascertain their living conditions.

11. I had the natural feeling that the use of foreign workers by force was not lawful. The detailed legal international agreements were not known to me to this extent.

*This paragraph is discussed in the extracts from Krauch's testimony reproduced in section F 1, below.

I have read the above statement consisting of three pages in the German language, and declare that it is the full truth according to the best of my knowledge and belief. I had the opportunity to make changes and corrections in the above statement. I have made this statement voluntarily without any promise of reward, and I was not subjected to any compulsion or threat.

[Signed] CARL KRAUCH

Nuernberg
22 January 1947

E. Affidavits and Testimonies of Prosecution Witnesses

1. AFFIDAVIT AND TESTIMONY OF ARNOST TAUBER

α. Affidavit

**TRANSLATION OF DOCUMENT NI-4829
PROSECUTION EXHIBIT 1455.**

AFFIDAVIT

I, Arnost Tauber, civil servant in the Czechoslovakian Foreign Office, after having been informed that I am liable to punishment by making false statements, hereby declare the following under oath voluntarily and without having been subjected to any duress:

1. I was arrested on two occasions. The first time in May 1939 for the distribution of illegal leaflets. I was imprisoned for 77 days. In September 1939 I was arrested for the second time in the course of the hostage actions and brought to Dachau by way of the jail at Pankratz, and from there to Buchenwald. From Buchenwald I was transferred to the main camp at Auschwitz in October 1942, and a week later I was sent from there to Monowitz with the first transport. I remained at Monowitz until August 1944, when I was transferred to Treblinka.

2. In Monowitz usually 400 prisoners slept in one block. The block was provided with facilities for 162 prisoners. In 1943, up to 3 men slept in one bed.

At that time 2 tents with an approximate capacity of 800-1000 prisoners were also erected. Each of these tents had a large exit and one small hatch-window. In case of fire (and the danger of fire existed constantly because the tents contained straw) not many men would have been able to save their lives. The I. G. Farben was responsible for the billeting.

3. At the beginning of the year 1943, the I. G. Farben took over the provisioning of the Camp Monowitz. During the first few days of the taking-over, the food improved only slightly. It was generally insufficient and did not contain any fat at all. It consisted of 1 liter

of watery soup, boiled from unpeeled potatoes and other ingredients which were not wholesome, so that cases of abdominal typhus began to appear in Camp Monowitz as the result of the food. In the morning we only had coffee, in the evening 375 grams of bread and an extra allowance of 8 grams of margarine. On some days we received twice the amount of margarine.

This food was absolutely insufficient for our existence in view of the work which was demanded of us at the IG buna plant. Many prisoners died as the result of undernourishment and insufficient clothing.

The weight of some of my fellow prisoners at the I. G. Farben plant at Auschwitz dropped to 35-44 kilograms. The average weight was 55 kilograms.

Duerrfeld, the manager of the I. G. Farben plant at Auschwitz, was definitely informed about the bad food conditions. He tasted the soup on one occasion in the spring of 1943 in my presence. He praised the soup and I asked him whether he was serious about it and he said: Well, it can be improved.

4. The IG buna camp listed 30,000 deaths during the 3 years of its existence while it had at the most 10,000 inmates. I obtained this information from prisoners who were employed in the orderly room at Monowitz and who had to be correctly informed about these things as for instance, Stefan Hymann.

5. The heaviest work which I had to accomplish in the buna plant, was to carry cement bags weighing 100 lbs. at double time. This work, which was enforced by the Kapos, was carried out on the initiative of the foremen and was a general custom. I myself was supposed to carry two cement bags simultaneously at double time.

If a prisoner collapsed at work, he was kicked and beaten in order to determine if he was still alive. If he was dead, the body-carriers would either come right away or he would be carried back to the camp at night on the shoulders of his comrades.

A large percentage of the deaths was also caused by accidents, insufficient protective clothing, and insufficient safety measures provided by the I. G. Farben plant at Auschwitz.

6. The foremen or the building contractors were empowered to evaluate the working efficiency of the prisoners according to their own judgment. If the prisoner attained a working efficiency of 75 percent, and the foreman made a note of this on the work slip, then the prisoner was punished in the evening at the camp through beatings with canes. They were foremen who sometimes marked down only a working efficiency of 20 percent. The foremen were very well informed about the consequences of a bad efficiency evaluation. The foremen also frequently threatened that the prisoners would be gassed because they did not accomplish enough work. In this connection, I particularly remember foreman Wittig.

7. In wintertime there was hardly a detail where daily cases of freezing did not occur. During a severe winter day, 30 deaths were nothing out of the ordinary. The deceased had to be carried past the buildings of the IG plant management. It was quite impossible for Duerrfeld not to have seen this. Duerrfeld furthermore inspected these details and therefore must have been aware of the frequent changes in personnel.

8. The I. G. Farben did not only have knowledge of the atrocities, which were taking place but it took an active part in them. I personally saw how Chief Engineer Faust beat several prisoners with a club because the moving of loaded wagons in road construction did not function as he desired. I know that it was Chief Engineer Faust, because I inquired for his name. Master carpenter Wittig of detail 19, as well as the foreman Richter, frequently beat the prisoners.

9. Upon the suggestion of the IG plant management, excavation of unexploded bombs was only carried out by prisoner details under the direction of a fireman. Prisoners were used because they represented worthless material. Sometimes the easiest available detail was used for this work, but special details were also used. Fatal accidents occurred as a result.

10. Hygienic conditions at Monowitz were bad. The sewage system was insufficient, the garbage pits overflowed, the water was contaminated so that official warnings against the drinking of water were issued.

11. Up to the year 1944, sickness for more than 2 weeks was not authorized. After 1944, up to 6 weeks were authorized. It was explained that the I. G. Farben would pay only 2 weeks, respectively 6 weeks, for the sick prisoners. For this reason regular selections were carried out every 14 days by the camp physician.

Furthermore, not more than 5 percent of the workers at the IG Auschwitz were allowed to be at the infirmary. If this number was surpassed, a selection took place, and those who were selected were taken to Birkenau to be gassed. A sickness report was sent to the plant management of the I. G. Farben. Furthermore the gassings were discussed with the foremen at the shop-unit.

12. Foreign workers, who violated regulations while at buna [plant], were sent to a reform training camp [Erziehungslager] for about 2 months (correction camps). The reform camp consisted of 12-14 huts and was a separate camp at Monowitz. It had an infirmary, but the treatment in the reform camp was even worse than at Monowitz. The transfer to the reform camp became effective upon a foreman's recommendation.

13. In July 1944, I stressed the fact, in the name of the so-called Beskide Committee of Liberation that, due to the advance of the Soviet forces, we could soon count on being occupied by them. We asked Duerrfeld to surrender the plant and the camp without a battle.

A letter of the same context was sent to the SS. We stated that in case of noncompliance with this proposition on the part of the employees of the I. G. Farben, all employees would have to take the consequences. The sole result of this letter was that a search for its writer was instituted.

I have carefully read the affidavit consisting of three pages and countersigned it with my own signature. I have made the necessary corrections in my own handwriting and countersigned them with my initials. I hereby declare under oath, that I have made this statement according to my best knowledge and belief and said nothing but the pure truth.

[Signed] ARNOST TAUBER

Sworn to and signed before me this 3d day of March 1947 at Prague by Arnost Tauber known to me to be the person making the above affidavit.

[Signed] BENVENUTO VON HALLE

U. S. Civilian AGO D 432532

Office of Chief of Counsel for War Crimes U. S. War Department

b. Extracts from the Testimony

EXTRACTS FROM THE TESTIMONY OF ARNOST TAUBER ¹

DIRECT EXAMINATION

MR. MINSKOFF: Mr. Tauber, will you state your name for the record? Your full name.

WITNESS TAUBER: Arnost Tauber.

Q. Your residence?

A. Prague.

Q. And nature of your employment at the present time?

A. I am a civil servant of the Czechoslovakian Foreign Office.

Q. With respect to the affidavit [Document NI-4829, Prosecution Exhibit 1455] ² that is presently before this Court and which was signed by you on 3 March 1947, do you have any corrections you wish to make on it?

A. Yes.

Q. Will you state those, please?

A. I want to point out that under paragraph 3 of my affidavit where, in the second to the last sentence, I speak of an extra allowance of eight grams of margarine, eight grams is a typographical error and should be corrected to read: "an extra allowance of about twenty five grams" which corresponds to about one-half tablespoon. A further correction in paragraph 5, where I speak of the fact that I myself was

¹ The complete testimony is recorded in the mimeographed transcript 7, 12 November 1947, pages 3535-96.

² Reproduced immediately above.

supposed to carry two cement bags, simultaneously at double time, which weighed 100 pounds. That is not correct. I only say how other prisoners carried two cement bags of 100 pounds each.

Q. Are there any other corrections?

A. Nothing else to be added to my statement.

Q. That is all for the prosecution. We are ready for cross-examination, sir.

PRESIDING JUDGE SHAKE: The defense may cross-examine.

CROSS-EXAMINATION

DR. SEIDL (counsel for defendant Duerrfeld): Witness, from your affidavit which has been offered by the prosecution, I see that you were a prisoner in camp IV and apparently worked for I. G. Farben in Auschwitz. I should like to ask you, when were you arrested for the first time and what was the reason?

A. I was arrested for the first time on 13 May 1939 for distributing illegal leaflets.

Q. Is it true, if I assume that these leaflets were apparently inciting revolt against the German occupational authorities in the Protectorate of Bohemia and Moravia, or that the contents were similar?

A. The contents, of course, were directed against the National Socialist system, obviously.

Q. Were you given a trial or were you released?

A. The Nazi system didn't put people before a trial and I didn't get one either.

Q. Witness, you did not answer my question.

A. I did. I said I didn't get one either.

Q. You were released?

A. I was arrested and I was under arrest for 77 days and on 26 July 1939, I was released.

Q. From your affidavit I see that in September 1939, you were arrested again, and then you were sent to various concentration camps. What concentration camps were these, please?

A. Dachau, Buchenwald, Monowitz, and Treblinka.

Q. And when did you come to Monowitz?

A. On 28 October, 1942.

Q. Now this camp Monowitz, or this camp IV as the chart behind you says—how long had it existed then?

A. We were the first inmates who moved into this camp.

Q. Do you know, Witness, that this camp IV, as it was no doubt called, was first of all intended and built as a camp for free foreign workers?

A. I don't know that.

Q. Then you were sent to Treblinka on 4 August 1944, is that right?

A. Yes.

Q. May I conclude that it happened repeatedly that prisoners were sent from camp IV to other camps? Can one draw the conclusion that a transfer from one camp to another was nothing unusual? Please answer the question with "yes" or "no."

PRESIDING JUDGE SHAKE: You have asked two questions now. Wait a moment and let the witness catch up.

Mr. Witness, do you understand the questions that counsel propounded to you?

A. Yes.

PRESIDING JUDGE SHAKE: You may answer, if you know.

A. Generally, there were different causes that were necessary for inmates to be transferred to another camp. Generally, one cannot speak of any transfer of inmates from camp IV to another camp.

DR. SEIDL: But, Witness, I must put to you that you yourself, in August 1944, were transferred from Monowitz to Treblinka.

A. I said generally. That means that it was not a normal circumstance. I should like to add, if counsel is thinking of a particular transfer of inmates, then I believe, in 1944, all Czechs were transported to Germany.

Q. Then, obviously, there were security reasons because, with the approach of the Eastern Front, perhaps the Reich Security Main Office feared that there might be some difficulty?

A. I cannot judge that exactly. In my opinion they were economic reasons.

Q. Witness, are you aware that, at approximately this same time, the Poles in camp IV were also removed to the Reich because of the approach of the Russian Front? Did you hear of that?

A. Yes, but I emphasize once more that I don't believe that it stood in connection with the approaching Russian Front.

Q. But you know of the fact?

A. Yes, I know of the fact.

Q. Witness, do you also know that the big concentration camp Auschwitz, toward the end of the war, included about 40 to 50 labor camps which were assigned to various industrial firms near this camp in eastern Upper Silesia?

A. I cannot give you the number. I don't know whether it was 40, 10 or 20. I know that such camps existed.

Q. Do you also know that all these labor camps, or subsidiary camps as you call them, which belonged to the concentration camp Auschwitz, from September 1943 on, were consolidated as an administrative district, Auschwitz III? Did you hear of that?

A. I cannot remember exactly.

Q. You cannot remember?

A. No.

Q. The result of this reorganization was that the main concen-

tration camp Auschwitz was called Auschwitz I. The concentration camp Birkenau was called Auschwitz II, and all the labor camps were called Auschwitz III. You did not hear about that?

A. I know that the Monowitz camp was known as Auschwitz III.

PRESIDING JUDGE SHAKE. Counsel for the defense, a rapid examination of the affidavit indicates that you are going into considerable detail about matters that are merely incidental so far as the affidavit is concerned. We ask you to please exercise care to stay within the confines of the affidavit.

DR. SEIDL: I shall leave this subject of the organization and go on to another point.

Witness, did you yourself work in the IG plant and, if so, how long? I'm not thinking of camp IV, but of your work in the plant.

A. The entire time.

Q. I see.

A. With the exception of about 3 or 4 days when I was ill.

Q. Now, may I ask you where, what construction sites or what firms you were working with, and what details you belonged to, as far as you can still remember?

A. I began as a cement carrier in Hall No. 820. Later, I came into the shoemaker's shop in the employees' camp. Later I worked as a painter with the Burbank firm.

Q. What was the name of the firm?

A. Burbank. Subsequently, I worked in the paint plant of Farben. That was, I believe, building 423, but I can't remember exactly. That terminated my activity in the Monowitz camp.

Q. You mentioned a firm, witness, where you worked. May I conclude from that that the employer was not necessarily the IG in all cases, but the 150-200, or even more, firms which worked in Auschwitz in building this plant.

A. I believe it is decisive who the firm is who gives the mission, and that was Farben.

Q. But the fact is, that this firm had its men and its foremen, no doubt, engineers, et cetera, who supervised the work?

A. Under supervision and control of Farben.

Q. Of course. But, first of all, I merely wanted to know, Witness, supervision of the work on the spot was in the hands of the foremen or engineers of these various firms?

A. With the firm of Burbank. That is true.

* * * * *

DR. SEIDL. Witness, before the recess you testified about the working hours. Is it true that there was a noon recess of an average of 1 hour in the plant?

A. That varied. In the winter of 1942-43, there was no lunch hour. Later, I believe it was a ½ hour, and in 1943-44, there was 1 hour.

Q. In the course of time, conditions improved considerably, is that true?

A. I can not say that.

Q. I am referring only to the working hours and the noon recess.

A. Yes.

Q. Now, Witness, you also made statements in your affidavit about the number of people accommodated in the living blocks. Can you remember how many barracks were finished in camp IV in October 1942, when you arrived as one of the first to enter the camp?

A. About three—three blocks.

Q. Do you still say that if I put to you that, according to our evidence, there were 25 barracks finished at that time?

A. That's not correct.

Q. How many barracks were finished in the year 1944? That is, when you left camp IV?

A. About 58 or 56.

Q. Now, Witness, how many persons on the average were there in one such barracks, under normal conditions?

A. As far as I remember, 160 or 163 beds had been provided, with the assumption that each inmate should get one bed for himself.

Q. Witness, you said that in 1944 there were 58 or 56 barracks finished. I want to tell you that, according to our evidence, there were only 54.

A. That may be.

Q. Now you say in your affidavit that, on the average, there were 400 inmates in such a barracks. If we take this figure of 400, Witness, and multiply it by 54, which was the number of barracks, do you know what number we get? I'll tell you. 21,400. (sic) Do you mean to say that at any time — whether it was 1943 or 1944 makes no difference — there were 21,400 inmates in camp IV, or don't you want to correct your statement and tell us that this was a mistake?

A. Those are two questions that you are putting to me. I want to answer the second one first. As far as I remember, the maximum number was about 10,600 or 10,500 inmates in the camp. There may be a difference of a few one way or the other. The first question is only a theoretical question. One cannot divide the number of inmates by the number of barracks and then get a certain coefficient. At a time when there were only 25 barracks, there were 7,000 to 8,000 inmates in the camp. There were various blocks — the so-called living barracks were called blocks — which were occupied by various numbers of inmates. The barracks, that you have said numbered 54, contained, among others, clothing rooms, the best achievement that we had there, which was the camp brothel, and kitchen barracks. I could give you other figures which you would have to subtract from this number of 54.

Q. I don't want to interrupt you, Witness, but if you subtract, let us say, 10 barracks from this 54 or 58, we still have a number left which is more than big enough to admit of the conclusion that at times there may have been some over-crowding, but that there was no question of having 400 inmates per barracks.

A. I cannot agree with you. I said that there were various numbers of people in the barracks. There were the so-called Reich German barracks, which contained 80 men per building. There were barracks of Hungarian Jews, who were transferred from the tents to barracks, where there were 400 to 420 in one such building. I should like to point out once again that you cannot calculate this mechanically. Furthermore, it is generally known that the camp fluctuated in numbers of inmates and that, at a time when there were about 25 or 35 barracks, there were 6,000 or 7,000 inmates in this camp.

* * * * *

DR. HOFFMANN (counsel for defendant Ambros) : Witness, first of all let me tell you that I do not intend to cross-examine you in the customary sense. I merely want some clarification on a few points in this affidavit. If you will be kind enough to follow me, under No. 3 in this affidavit, on page 131 in the German book, you said: "At the beginning of the year 1943, I. G. Farben took over the provisioning of the Monowitz camp." May I ask you who was in charge of the food before that?

A. As far as I know, the food came from the concentration camp Auschwitz, from the central camp.

Q. And then, after 1943, was the cooking done in the camp?

A. Yes.

Q. Who was in charge of preparing the food?

A. The inmates, under the supervision of the SS. I believe the chief cook was a man from the German kitchen.

Q. But the SS was in charge?

A. The distribution was determined by the civilian cook from the plant. The prisoners did the work, and there was also an SS chief cook who was in charge of the prisoners' kitchen.

Q. Witness, this is merely an assumption on my part, but is it not possible that this SS kitchen chief might have put some of the food which the prisoners were supposed to get into his own pockets?

A. I never worked in the kitchen; I can't answer that.

Q. I would be interested in knowing whether the prisoners talked about such things. Did it get around?

A. I believe — and this is my personal opinion, not based on any concrete facts — that the SS, as such, was well nourished, and that it was not necessary for them to take anything from the inmates.

Q. I merely want to clarify the discrepancy between the number of calories set by the Ministry of Economics — or whoever set it — and

the amount that you actually got. Something must have happened to this food, because there is no doubt a discrepancy existed between what was ordered and what was received.

A. I never checked the calories contained in our food. It may be that on paper there were 2,500 calories, but I don't think that is important at all. It is important that the people were as thin as flies at their place of work. I cannot tell you whether the kitchen chiefs stole any food or not.

MR. MINSKOFF: May it please the Court, the witness could not be qualified to testify with respect to any discrepancy between figures which are not in evidence and testimony he has already given.

PRESIDING JUDGE SHAKE: Well, the question has been answered. It is probably within the scope of cross-examination. We will not strike it out. You may ask another question.

DR. HOFFMANN. Witness, can you tell me whether, after 1943, anyone in charge of distributing food or anyone of the kitchen personnel belonged to I. G. Farben?

A. I believe in the distribution of bread there was a man from Farben—and in the kitchen.

Q. You cannot give me the names?

A. As an inmate I very rarely had occasion to find out the names of the employees of Farben. The relationship between Germans and the inmates was not such as to permit mutual formulae of politeness.

Q. But how did you know that they belonged to I. G. Farben, Witness?

A. Because they were civilians, and it was said that they had been sent from the plant kitchen.

Q. But you know that only from hearsay?

A. I saw them, but of course they didn't carry a sign "Farben" on their uniforms; I was merely told that they had been sent from the plant kitchen. I myself got the bread for the block one time, and in the place where the bread was stored, I saw myself how a civilian, who was said to come from the plant kitchen, supervised the distribution of bread.

Q. But the possibility that this man belonged to some other agency cannot be excluded?

A. I believe it must be excluded, because private persons had no access to a concentration camp.

Q. Then may I ask you—I am rather new here in this case, and I will have to ask you: Was this camp IV a concentration camp?

A. The official title was "labor camp."

Q. Yes; but it was a concentration camp and belonged to Auschwitz?

A. Yes. The name itself says "camp IV." It was a part of the camps which Farben had erected for their labor slaves and, as such, it belonged to the Farben camps as camp No. IV. The inmates, by

reason of an agreement between Farben and the SS, which I do not know, consisted of prisoners.

Q. Witness, one thing is certain—concentration camps, in the sense as we unfortunately know them today, were kept only by the SS. If you say camp IV was a concentration camp, then it must have been part of Auschwitz and it must have belonged to the SS.

A. I have to be a little more explicit. The National Socialist government gave me an opportunity to become acquainted with a number of concentration camps. If I compare Monowitz with Buchenwald or Dachau, then I cannot put them all in the same class; for in Monowitz constructive work was done, or was supposed to be done. The customary chicanery of the SS — I might remind you of Dachau, where we were pricked with needles, and other pleasantries — was not generally carried out in Monowitz. However, the first part of the inmates consisted of former prisoners of German concentration camps.

Q. But I can tell from your words that there was a difference between an actual concentration camp and this labor camp?

A. Yes, in the structure of the camp, and, partly, in the type of treatment — but not in the effect.

Q. May I now ask who supervised and guarded you in Dachau—I know it was the SS. Who supervised and guarded you in camp IV?

A. Within the camp it was the SS; outside of the camp, as far as work was concerned, the civilian employees of the individual firms and of Farben.

Q. Just a moment. I don't want to forget my question. Within the camp it was the SS?

A. Yes.

Q. Now, according to everything that I have experienced in these trials here, I believe I can say with a certain degree of justification that within the camp Monowitz the SS did not let its rule be contested; it exercised it alone.

A. I said previously that I did not know the agreement between the SS and Farben, and I cannot judge whether Farben knew when a prisoner was kicked or when he was killed; whether that was done with the approval of Farben or not. But I can assume that human beings who had eyes and, perhaps, a heart saw what happened. I don't have to tell you here what Farben was; they certainly had enough influence — or they would have had enough influence — to influence the treatment.

Q. Witness, I can tell you that this is perhaps a question of judgment. The SS was already the most powerful factor under the National Socialist regime, and whether individual members of I. G. Farben would have succeeded in combating the SS is another question. I merely want to observe that actually the guarding within the camp was in the hands of the SS. I don't want to hurt your feelings which

you have against other people, since you had to work there. I don't want to go into conditions in the camps, since that concerns the SS; but I would like to discuss with you conditions outside of the camp. Will you please tell me when you were outside of the camp?

A. During the daytime.

Q. Yes, during your working time.

A. Yes, working hours.

Q. Or any other time?

A. No, including the way to the working place and from the working place, which depended on the distance of the detail from the camp.

Q. Who escorted you from the camp to the place where you worked, or did you go alone?

A. From the camp gate to the entrance to the plant, I believe it was H Street, for about 300 meters, there was a so-called file of SS-people, a cordon of SS-people. That means that there were SS guards at distances of about 20 meters on both sides of the road. As soon as we entered the terrain of the plant, we were without any SS guards, since the entire plant was surrounded by a chain of guards from the Werkschutz and the SS.

Q. Then when you entered the plant you were no longer supervised by the SS, is that right?

A. Yes.

Q. I know from other trials that during work in economic concerns, SS-men were present in the room while the prisoners were working. Was that the case with you?

A. No. I am speaking of my own working detail now. The SS checked the detail about once or twice a week. They stayed about 10 or 15 minutes. They went from one detail to another on motorcycles. There was no direct contact during the work in those details which were within the plant. There were details — they were called field details [Aussenkommandos] — not within the plant, where SS guards were charged with supervision, but not of the work, only guarding the prisoners.

Q. Then you worked freely within the plant terrain? That is to say, not under the direct supervision of an SS-man or any other policeman, but when you were at work you were actually without supervision?

A. Without any uniformed guards.

Q. What do you mean by that?

A. Without SS supervision, but we had foremen and assistant foremen, and superior and subordinate kapos, and they all guarded each other and us.

Q. Now, another question. I have been told that there were various private firms which received prisoners from the camp — not I. G. firms, but other firms. Was that so in your case, that you belonged to another firm, or did you work directly for I. G. Farben?

A. I have already mentioned previously—and I will recapitulate what I said—how I worked in camp IV. When I carried cement, I worked directly for Farben. In the shoemaker's shop, I worked directly for Farben. As a painter, I worked for the private firm of Burbank, and as a so-called calculator, for the paint shop of I. G. Farben—

Q. As a calculator, you had inside work, sedentary work?

A. I had a roof over my head.

Q. Was that not work which had to give you, of necessity, a certain amount of freedom? I don't want to hear anything else, but of necessity it was connected with a certain amount of freedom? I would assume that as calculator you had a certain power of decision.

A. Please, might I ask you to define your question a little more? What do you mean by power of decision?

Q. Tell me what you did as calculator?

A. I had an adding machine and I figured out the dimensions of the various objects which had to be painted.

Q. I see. And you did this from what time?

A. According to the season of the year. I believe in the summer from 6:30 to 4:30 or 5:00. There may be a discrepancy of a half hour or so. And in the wintertime, I believe from 7:30 to 3:30. It is true, however, that in the room where I worked there was a German foreman who had me under his eye.

Q. And how did this German foreman act toward you?

A. He took notice of me. He never hit me, but he never did me any favor or gave me even a piece of bread, although he knew how we suffered. I can give his name.

Q. May I ask what was the proportion of such positions in closed rooms? What was the proportion of inside work to outside work?

A. I do not understand your question.

Q. Witness, what percentage of the prisoners had to work outdoors and what percentage could work indoors?

A. I have to give you that chronologically. Until 1942, there was no prisoner who worked inside within the plant area. In 1944, at the time when I left the camp, that was the beginning of August 1944, I estimate about 3, 4, or perhaps 5 percent.

Q. Who did not work outdoors, you mean?

A. Who did not work outdoors. There were a number of working details, maybe 200, of which perhaps 30 details worked under a roof. But those details that worked inside were only three or five or ten or fifteen men strong. But for the heavy work, cables, painting, scaffold work, there were details of about 150 to 300 men, who worked outdoors all the time.

Q. Now, Witness, how could one get an inside job? Did the prisoners who were in special need get this easier work?

A. I would have to describe to you the organization of the concentration camp.

Q. Normally, one would assume that the stronger people would be given the heavy work to do and the weaker people would be given the sedentary work.

A. That is quite true, normally, but a concentration camp is not normal. It would be necessary to describe the entire structure and organization of a concentration and labor camp.

Q. Witness—

A. I shall speak only of myself, of how I succeeded in getting work there. I was a so-called old inmate. I had been imprisoned since 1939. My comrades and I, who shared the same fate, who were imprisoned in 1939, were the first who came to Monowitz. I believe it was 405 men strong, the first transport that arrived there. Those few of those 405 who did not succumb to the harsh events of the first few weeks were given key positions in the camp, and by virtue of these key positions the old inmates, in part, succeeded in being given inside work.

Q. May I ask you, Witness, who was responsible for this method? Did the SS determine the assignment?

A. In Farben, in the SS, there was a labor commitment [office] that was directed by an SS noncommissioned officer who had some inmates for manual labor at his disposal. The labor commitment of the prisoners was only a small segment of the entire labor commitment of Farben and, as far as I know, labor commitment reports were submitted daily to the central office, the central office for labor commitment of Farben.

Q. But, Witness, you cannot exclude the possibility that the decision as to where each prisoner was to go was decided by IG?

A. I can't exclude it?

Q. Yes. You consider it possible, I mean, that the SS determined where each prisoner was to go.

A. You said I. G. before.

Q. That was a mistake.

A. I could give you a concrete example. Let us say that a certain detail requested 20 plumbers in the camp. There was a file index in the labor commitment office of the camp, in which the professions of the inmates were entered. It was a function of the SS to find 20 plumbers in this card index and to assign them to a certain detail.

Q. May I ask you, if the SS was to send 20 plumbers and had only 19, then they declared some one quite at random, a quite unqualified person, a plumber and put him in this detail?

A. Partly. Plumbers perhaps are not such a special profession. Let us say that chemists were requested. If there was no chemist, then none was sent.

Q. Well, now, may I assume that they wanted 20 people for heavy cable work. They were picked out by the SS, weren't they?

A. They were picked out from those who did not have any special profession on record.

Q. But they were picked out by the SS?

A. Yes, the SS.

* * * * *

2. AFFIDAVIT AND TESTIMONY OF NORBERT WOLLHEIM

a. Affidavit

TRANSLATION OF DOCUMENT NI-9807 PROSECUTION EXHIBIT 1476

AFFIDAVIT

I, Norbert Wollheim, presently living at Wakenitzerstrasse 34 b, Luebeck, having been informed that I shall be subject to punishment if I make a false statement, herewith testify under oath voluntarily and without duress:

1. On 8 March 1943, my wife, myself, and my son, age 3, were arrested by the SS in Berlin during the last big anti-Jewish drive. After spending several days in the collecting camp Grasse Hamburgerstrasse I was transported to the concentration camp Auschwitz, together with my family. On arriving at the station at Auschwitz, I was separated from my wife and child and have not seen them since.

The whole transport from Berlin consisted of about 1,000 people; about 220 men, mostly young men capable of working, were sorted out and sent to concentration camp Monowitz in trucks from the station in Auschwitz.

2. In camp Monowitz we were met by the SS, the camp elder [Lageraelteste] and several block elders, and taken to a washing hut. In front of the washing hut we were lined up in fives and then allowed to enter in groups. On entering the hut, all valuables had to be thrown into a suitcase standing there and guarded by the SS. After that we were forced to hand in all our civilian clothes, except the shoes, and our personal papers. Our heads were shaved then. After that we were taken to the collective bath and disinfected. Only during that process did we hear from other inmates who had been there longer that we were in the concentration camp Auschwitz, which was part of an IG plant. If we wanted to survive we would have to be prepared to do the heavy work required from us by the I. G. Farben.

3. Concentration camp Monowitz consisted of approximately 20

barracks at the time when I arrived there in March 1943. As I found later, they were all quite full. Hardly any inmate had a bed of his own. The total of inmates at that time was about 3,000 prisoners. We went to work for the first time in the IG plant already the day after we arrived, having all been registered and tattooed. My own prison number is 107,984.

The plant, at that time, was still in the stage of construction. There were scarcely any streets. The building, except for those in which the directors and senior foremen worked, were mostly unfinished. As initiation, as was the general rule, we were given only the hardest and most strenuous work, such as transportation and excavating work. I came to the dreaded "murder detail 4," whose task it was to unload cement bags or constructional steel. We had to unload the cement from the arriving freight cars all day long at a running pace. Prisoners who broke down were beaten by the German IG foremen as well as by the kapos until they either resumed their work or were left there dead. I saw such cases myself. I also remember seeing a Dutch prisoner commit suicide by throwing himself in front of a moving train before the eyes of the German IG foremen during the first day there.

I also noticed repeatedly, particularly during the time when the SS accompanied our labor unit themselves, that the German IG foremen tried to surpass the SS in brutalities. It also happened that German IG foremen incited the kapos to take the good shoes from the new arrivals and keep them for themselves. It was also a rule that the inmates had no working safeguards, for example iron had to be moved without the proper leather for the purpose, bricks had to be loaded without any suitable protection for the hands, et cetera.

I also remember well that German IG foremen, even on days when it froze, made the kapos order the prisoners to take off their coats (if they had any) in order to speed up the work.

I myself was sent to a skilled labor unit as a welder in the summer, 1943. It was a common practice to give the prisoners the dirtiest and most dangerous tasks, although all the time we worked there we had hardly any protective equipment.

Examples: As welder I had to work for months without any welding goggles, until I finally managed to "organize" a pair for myself. The prisoners who were E-welders did not get any milk while the German E-welders were given milk. The German IG foremen who were the immediate supervisors knew perfectly well about all these things. The IG inspectors, who made regular inspections of the entire site of the I. G. Farben, knew these things. We were particularly afraid of these inspectors because we knew them to be fanatical Nazis who used every occasion of unsatisfactory work to make a report to the office of the SS command post (SS Scharfuehrer [Staff Sergeant] Rackers).

4. In September 1943, after the armistice was signed between Badoglio and the Allies, approximately 1,200 British PWs, who had been (in captivity) in Italy before, were brought to the I. G. Auschwitz to a special camp next to ours via the Stalag [base camp] Lambsdorff and were assigned to work in the buna plant. The prisoners had taken part in the African campaign and most of them had been captured at the capitulation of Tobruk. During the days of Italy's capitulation, a few had managed to get through to the Allies: the rest was taken to Germany by the German Wehrmacht. We were strictly forbidden to have any contact with the English PWs. At the beginning of October 1943, I managed for the first time to contact a group of English PWs, thanks to my knowledge of the English language. In spite of the strict regulations against it, this was possible—with the exercise of sufficient caution—because at that time the SS guards were only stationed around the plant itself. The PWs openly confessed their sympathy for us. I later found from the conversation that most of them were skilled workers by trade and had been assigned to the armament plant buna against their will and therefore in violation of the Geneva Convention. They worked on assembly, production of methanol, et cetera. The contact between the PWs and myself became closer in time and towards the end it was a personal friendship. When for technical reasons, it became necessary for the PWs and concentration-camp prisoners to work together in technical departments, it was possible to exchange news and information regularly. That way the PWs were able to keep me informed daily of the BBC news from London, for they had a secret receiving set in their barracks, and I, on my part, translated for them the German Army news bulletins [Wehrmacht communiqués] I heard. I received newspapers from several German foremen of the Mannesmann tube factory in Berlin, who were favorably disposed toward me. Their views leaned mostly towards socialism and democracy, as I noticed when working with them. With these foremen and the English PWs I also constantly exchanged all the news which I myself was able to report about the life in the camp, such as our poor living conditions, our poor clothes, selections which had been made, or individual executions.

I knew from my relations with the English PWs that illegal connections existed between their main camp Lambsdorff and Switzerland, and it was the objective of my circle of friends, which included, for example, the chief of the political department in Monowitz, the present Oberlandespraesident Unikower, to report all news to other countries which might inform them about our position. One of the main reasons for this was because most of us did not expect to survive the end of the war.

The English PWs purposely showed passive resistance in their work, although the German foremen often tried to drive them to work faster.

They offered such resistance, although they knew that nearly all German foremen carried weapons. I know that during an argument between a German foreman and a PW, the prisoner was shot after a short argument.

5. The name Duerrfeld was well known to the concentration camp prisoners as the name of the plant manager. He was seen occasionally during inspection visits in the IG plant, sometimes also when we marched into the camp. I myself saw him at least three times next to SS 1st Lieutenant [Obersturmfuehrer] Schoettl at the block leader's house watching the marching. On such occasions, he had the best opportunity to see the state of health in which we were and the obviously dilapidated condition of our clothing. On almost every occasion when we marched in, people who had fallen ill and those who had broken down during work, as well as people who had died, were carried into the camp on primitive stretchers, so he must have become aware of this situation.

Duerrfeld is the man who caused orders to be given to the German foremen to drive the concentration camp prisoners to the greatest possible work output. Through my friend Paul Simon from Bruenn [Brno] (prisoner's number 135,322) who, as manager of the chemical works camp had connections with Duerrfeld's secretariate (central building 820) through a woman of German race [Volksdeutsche] from Czechoslovakia, I learned that such orders were issued in two cases. The first time was in the summer 1943; the second time was at the beginning of September 1944 in connection with the psychological results of military operations in the Vistula River area. In these orders, the Germany foremen were directly asked to make a report at once to the SS headquarters if they observed any case of idleness, or negligence of work. Duerrfeld knew that such reports would mean the severest punishment, even death, for the prisoner concerned.

I have carefully read every one of the four pages of this affidavit and signed them myself. I have made the necessary corrections in my own handwriting and signed them with my initials and herewith testify under oath that I have told the full truth in this affidavit to the best of my knowledge and belief.

[Signed] NORBERT WOLLHEIM

Sworn to and signed before me this 3d day of June 1947 at Hamburg by Norbert Wollheim, Luebeck, Wakenitzerstr. 34 b, known to me to be the person making the above affidavit.

[Signed] BENVENUTO VON HALLE

U.S. Civilian AGO No. 432532

Office of Chief of Counsel for War Crimes, U.S. War Department.

b. Extracts from the testimony of Norbert Wollheim

EXTRACTS FROM THE TESTIMONY OF NORBERT WOLLHEIM ¹

DIRECT EXAMINATION

MR. MINSKOFF: Mr. Wollheim, what is your full name?

A. Norbert Wollheim.

Q. Where do you reside?

A. In Luebeck.

Q. With respect to your affidavit which is now in evidence as Document NI-9807, Prosecution Exhibit 1476,² are there any corrections or additions you wish to make at this time?

A. I have to state that under number 4 it reads that I had a connection with the leader of the political department of Monowitz, the present Schwerin Oberlandespraesident, Unikower. Unikower was the first clerk of the inmates in the political department, and not the leader of the political department. That could only have been an SS-man.

Q. Are there any further corrections or additions?

A. No.

MR. MINSKOFF: Very well. The prosecution has no further questions.

PRESIDING JUDGE SHAKE: The defense may cross-examine the witness.

CROSS-EXAMINATION

DR. SEIDL (counsel for defendant Duerrfeld): Witness, when did you go to the camp IV with the Farben plant in Auschwitz? Can you give me the date?

A. I arrived in Auschwitz on 11 March 1943.

Q. How many inmates were there already in camp IV when you arrived?

A. About 3,000 inmates.

Q. In your affidavit you state that when you arrived you were received by the SS, the camp elder, and a few block elders. Is it true that the camp and the block elders were themselves inmates?

A. Yes, that is correct.

Q. You had certain functions in the administration of the inmates, didn't you?

A. Yes, by order of the SS.

Q. Of course, by order of the SS. How many barracks were there at the time in camp IV when, in March of 1943, you arrived there, that had been completed, and in which inmates lived?

A. About 20 barracks.

¹The complete testimony is recorded in the mimeographed transcript, 13 November 1947, pages 3700-3718.

²Reproduced immediately above.

Q. You say that the barracks were over-crowded, Witness. Can you remember how many inmates, approximately, were housed in one of these barracks?

A. The normal number was about 130 to 140. When I arrived, and later, up to 240 and 250, and sometimes more, were stuffed into these barracks.

Q. Other witnesses have testified that the normal capacity was 165. If I put to you now that if this figure is multiplied by 20, one arrives at the number 3,300, would not the barracks space have sufficed?

A. No. That is clear. The barracks also included administration, clothing and kitchen barracks.

Q. How many barracks would you have to subtract for this purpose?

A. At least six to eight.

Q. Did you yourself work in the plant site of Farben, Witness?

A. Yes.

Q. May I ask you for what length of time?

A. With an interruption of about 3 months—during my entire stay in Auschwitz.

Q. You were in Auschwitz, until—

A. Until 18 January 1945, when Auschwitz was evacuated.

Q. For what firms did you work in the plant site?

A. Only with Farben.

Q. You misunderstood my question, Witness. I wanted to ask in what construction sites in this plant you worked. In the carpentry shop, in the bookkeeping department, cement carrying or where?

A. I was, first of all, used—just as all new arrivals were used—for the transporting of iron and cement, which was called the murder detail, detail 4. Later I was used as a welder in hall 797—that is, the subsidiary building of the department for high-pressure synthesis. There I worked as a welder up to the end, with a short interruption of 3 months, when I worked in the camp itself as a welder.

Q. How long did you work in the cement detail, Witness?

A. About 3 months.

Q. How long approximately was the route that the inmates had to traverse when they carried the cement bags?

A. That depended on where the trains stopped and where the cement was to be taken. Generally, one can say the distance was about 300 to 500 meters, in my estimation.

Q. You spoke of trains just now, Witness. Might it be correct if I tell you that on the plant site, itself, there were 100 kilometers of railroad tracks?

A. I cannot say that, since we inmates were not permitted to wander freely about the plant site, and therefore I could never estimate the number of kilometers.

Q. But you saw yourself that very many transports were done by mechanical means and not only by inmates?

A. No, I perceived that more work had to be done by hand than by mechanical means, at least at the beginning.

Q. You worked as a welder, then?

A. Yes.

Q. Were there many inmates occupied as welders or in similar occupations in the Farben plant?

A. In the beginning, none at all. In the beginning, everybody who was physically able was used for the most difficult and heaviest physical labor. Later, they tried to pick out the skilled workers. There were not very many welders. At least, welders who were inmates.

Q. You probably are not a welder by profession, either?

A. I learned welding in 1938 in a special course.

Q. At any rate, the welder's job was much easier and more pleasant than many other types of work, especially carrying cement?

A. No, in certain respects it was more difficult. We did not have any protection, and especially it was difficult because the German foremen gave us the most dangerous types of work, and especially without any safety devices, belts, and so forth.

Q. Witness, you just now mentioned the German Farben foremen. Don't you know that Farben as such is a chemical firm, and that the construction of the plant itself was of course not carried out by Farben, but by 200 to 250 construction firms?

A. But the patron saint of all those firms was Farben, and I myself was employed by a firm which was immediately subordinate to Farben.

Q. When you say that the person who gave this assignment was Farben—then you are right. But if I put to you that there were many foremen who did not belong to Farben, but to all those other construction firms, then you will have to admit that?

A. I had nothing to do with them. I was only occupied at work in Farben enterprises.

Q. But you certainly must have noticed that other firms were working there?

A. Yes, of course.

Q. Under No. 2 in your affidavit, you state that you only noticed, when you arrived that you were in the concentration camp Auschwitz. May I assume that you meant that you were in labor camp IV, Monowitz, which, of course, belonged to the concentration camp Auschwitz? Is that correct?

A. I learned that only when I was in the camp itself.

Q. You say further on that German Farben foremen forced the kapos to give the order to the inmates to take off their coats. Could the Farben foremen give orders of this nature to the kapos, or isn't it true that such orders could only be given to the kapos by the SS?

A. No, it occurred repeatedly that the foremen themselves gave directives, which by reason of the strong position they had were construed as orders by the kapos, and which these kapos could not evade, since otherwise the foremen would of course have reported the kapos to the SS.

Q. While you were working as a welder in the Farben plant, were you outdoors or indoors, or did that vary?

A. I was in a semiclosed hall, summer and winter, which was made a little habitable by us so that we could work there. These Farben foremen didn't worry about that; on the contrary, any comfort we created for ourselves was not welcomed by them.

Q. In those semiclosed halls, were there only inmates, or were there also German workers or foreign laborers?

A. There were German workers, foreign laborers, and partly, also, British prisoners of war working there.

Q. Then practically they were all the laborers who were working in the plant of Farben mixed up there.

A. Yes, that was because I was doing specialized work which not every inmate could do.

Q. Then the conditions for the German workers, as far as working place is concerned, were the same?

A. I beg your pardon. The German workers did not work regularly in the same spot in which I worked. They only were there temporarily, especially to supervise us. The German foremen had their own breakfast and dining rooms. They had their own clothing rooms, and they could stay in their rooms for hours to warm themselves in the winter time, which we could not do.

Q. How long were the working hours, Witness? When did you arrive at your working place, and when did you leave there?

A. The working hours varied. In the summer they were longer than in the winter. In the summer we began around 7 o'clock, and we finished our work between 5:30 and 6 o'clock.

Q. And how about the winter time?

A. In the winter, as soon as darkness permitted us to march out from the camp, and in the evening as soon as darkness permitted us to march in.

Q. Were your working hours longer than those of the German and other workers, or was there any difference, or not? Isn't it true, that in the winter time, the prisoners left their place of work sooner and began later than the other workers?

A. No. Our working hours were partly longer and especially the inmates were forced to work on Saturdays and Sundays, which was, of course, not the case regularly for the German and civilian workers.

Q. Witness, is it not true that very many inmates worked voluntarily on Sundays in the plant because they would rather stay there than in camp IV, where they were supervised by the SS?

A. That depended. It didn't make any difference where you were beaten, and where you were hungry, whether in the plant, or in the camp.

Q. When you were working in the plant as a welder, where were the SS men who guarded you? Were they in the plant, or were they stationed around the fence of the plant?

A. The chain of guards was around the plant. The control itself was carried out in the camp by uniformed guards and also by guards who were in civilian clothes. The supervisors of Farben unquestionably reported matters to the SS in this case.

Q. Witness, you say "unquestionably." Is that an assumption on your part, or did you make positive observations?

A. Unfortunately, my observations were very positive.

Q. In what respect?

A. If a Farben supervisor was not satisfied with the tempo of the work, he reported that to the SS command and that meant severe punishment for the individual inmate or for the detail. I experienced that myself, not in my detail, but in other details.

Q. If you experienced that in other details, then you must have been told about it. Isn't that right?

A. No, I saw it myself.

Q. What did you see? I cannot possibly imagine what you saw.

A. I saw how a neighboring detail was checked. The result of this check was not satisfactory to the supervising Farben agent. He reported that to the SS command post. The SS Hauptscharfuhrer Rackers had this detail called out in the evening and he punished the inmates.

(Recess)

* * * * *

Q. Witness, before the recess you mentioned that in the IG plant itself, controllers of the IG went about and made reports. We are interested in getting to know these names, and I should be grateful to you if you could name some of these controllers.

A. Unfortunately I am not in a position to do that because the controllers, just as rarely as the SS, did not introduce themselves to us by name.

Q. You then said that foremen of the IG, and probably foremen belonging to other firms, had issued directives to the kapos, et cetera. Can you give me the name of any of these foremen who made themselves conspicuous in that connection?

A. The foremen with whom I had dealings within my sphere of work was Obermeister Mueller, from block 779, high pressure syn-

thesis, and the man who was subordinated to him, called Dietrich.

Q. And both of them were foremen of the IG?

A. Yes, this was the high-pressure synthesis plant directly subordinated to the IG.

Q. In which way did these foremen maltreat the inmates? Did you see anything in that connection?

A. I said that they repeatedly asked the kapos and the foremen to speed the work; and furthermore, whenever, in winter, we lit a stove, and whenever they were witnesses to such a procedure, they made reprimands to the kapo—which meant that energetic steps were taken against us.

Q. But you did not yourself see these foremen beat any inmates?

A. I saw that foreman Dietrich repeatedly beat inmates and whenever my work led me into other departments I found that there German foremen belonging to the IG were beating inmates. When I was not yet a welder, I was repeatedly kicked on my buttocks, by a German foreman, when unloading cement. I also saw that other inmates, comrades of mine, were treated in the same way.

Q. Witness, do you know or have you ever heard of the fact that, from the plant management, there was a strict prohibition, valid for all IG employees and all other employees, against beating anyone, irrespective of whether the person was an inmate or any other worker?

A. I cannot remember any such directive, but if any such directive had existed it was never adhered to.

Q. You furthermore said that the inmates wanted to warm themselves at the stoves. Is it true that in the plant hundreds of such stoves were erected during the winter, and that inmates could be seen frequently warming themselves at these stoves?

A. Now and again little stoves were erected by the inmates themselves, but inmates could only warm themselves whenever no IG controller, German foreman, or SS functionary were present.

Q. In another passage of your affidavit, you say that the inmates were strictly prohibited from taking up any contacts with the British prisoners of war. Am I correct in saying that the inmates were not only prohibited from talking to English prisoners of war, but that they were not allowed to speak to anyone at all? They were not, for instance, allowed to speak with German workers or any other foreign workers?

A. Naturally, there was such a prohibition in existence, but it was not kept, in the same way as many other directives which were issued by the IG management or the SS.

Q. Witness, do you mean to say that this prohibition was issued by the IG management? Would you not agree with me that we are here concerned with a prohibition which obviously emanated from the SS?

A. I don't know who issued that decree, and it is really of no im-

portance as far as its practical execution is concerned. I know that this prohibition regarding British prisoners of war was not kept by many people, as, for instance, myself, and that intentionally.

Q. In your affidavit you go on mentioning the foremen of the Mannesmann Roehrenwerke [tube factory] at Berlin, whom you saw treating inmates well. Is it not true that there were many foremen, foremen belonging to the IG and also of many other firms, who assisted the inmates in many ways?

A. *Cum grano salis*. It must be said that most of the foremen of the IG were very much opposed to the Jews and the inmates. I only mentioned the exceptional behavior of the Mannesmann Werke people because the foremen who worked there mostly came from Berlin, and since I myself was born in Berlin, it was quite easy for me to establish contact with them, and I discovered that they were sympathetically inclined towards me. Probably they did not go through this investigation procedure which the I. G. Farben used for all its employees.

Q. Is it not true that also other firms from Berlin were active in the IG plant?

A. I did not maintain any contact with them.

Q. I only mention the Siemens-Schuckert Werke, A. E. G. Allgemeine Elektrizitaets-Gesellschaft, for example, and other big plants.

A. I did not maintain any contact with them at all.

Q. But you knew that such firms were there?

A. I knew that also other firms were working in the plant area.

Q. Then you corrected your remarks about Unikower and you said that we were not concerned there with the head of the political department. You wanted to say that he was active in the office of the political department?

A. Yes.

Q. Was he the head of the office there?

A. He was the first inmate clerk in the political department. He actually had nothing to do with the office itself.

Q. Do you know how many clerks were active in the political department? I am referring to inmates.

A. I only know of three who worked there at the time Auschwitz was evacuated.

Q. Can one conclude from that, that inmates were active in very important positions, and that it is entirely incorrect to say that inmates were only used for hard labor?

A. Even work as a clerk in the political department consisted of hard labor. It was a conspirative work, and the men working there often risked their lives whenever they tried to see to it that inmates were saved from the SS to whom these inmates had been reported. I myself am acquainted with many cases where such clerks saved the

lives of my comrades, and that cannot be regarded as an easy task at all.

Q. Do you know that, for a long time, the entire wage office in the IG itself had clerks which were inmates of camp IV?

A. Personally, I do not know anything about that since I had no contact with the wage office.

Q. At the end of your affidavit you mention that Dr. Duerrfeld himself issued directives to German foremen to drive the inmates to the greatest possible work output. You referred in that connection to two directives.

Did you see these directives yourself? Or were you only told about them.

A. Since I, myself, was not a German foreman, I could not see these directives. I stated in my affidavit that this report regarding the directives came to me from a reliable source, and I had confirmation regarding that matter from what German foremen themselves told me and from what others told me and because of the practice which I saw myself in the year 1944.

DR. SEIDL: I have no further questions to the witness.

PRESIDING JUDGE SHAKE: Is there to be any further cross-examination of this witness?

DR. HOFFMANN: Witness, in your affidavit you say that inmates were beaten by IG foremen and by the kapos until they either started work again or remained, lying dead, on the floor. You said, "I, myself, saw such cases." So far, no witness has testified here as having seen an IG foreman beat an inmate to death.

Are you, in your testimony, only referring to kapos? Or do you actually mean to say that you saw—

MR. MINSKOFF: May it please the Court, objection is made to this type of questioning.

PRESIDING JUDGE SHAKE: That question is not improper. The objection is overruled:

DR. HOFFMANN: I am asking you, Witness, did you see an IG foreman beating an inmate to death? Where did you see him do that, and will you please describe it? Or is the formulation of your sentence not quite correct; perhaps you only wanted to refer to the kapos?

A. No, I saw personally—it was during the first week after our arrival at Auschwitz—that kapos as well as IG foremen were beating inmates. I remember exactly that at camp IV such a case occurred where an I. G. Farben foreman, together with a kapo, were beating an inmate—I think it was a Jew from Holland—until he was dead. We, ourselves, when marching to the roll call, brought this dead inmate into the camp of Monowitz.

Q. Do you still know which foreman that was?

A. I must say again that no German foremen nor any SS-men introduced themselves to us when we came to Auschwitz.

Q. Well, how could you recognize that he was an IG foreman?

A. Because of the fact that he did not wear a uniform, as we did; furthermore, because of the fact that the building where such work was carried out was expressly designated as an IG building.

Q. May I put to you that according to my information, hundreds of other firms were working on the plant. Therefore, it can be possible that you are speaking of a foreman belonging to another firm. Could one not say that you are right that the employer was I. G. Farben, but the foreman to whom you refer may not have been an employee of IG? Would you say that with certainty?

A. I can say it with certainty. In this building where this case occurred there was only the IG responsible because I heard by conversation how the kapo received his work slip, and he then referred to German foremen; and on that work slip I. G. Farben was mentioned, and no other firm.

Q. Witness, was this foreman a German?

A. Yes.

Q. How do you explain that? You are a German and that foreman was a German. How is it possible that a normal human being, as this foreman must have been, could do an act like that? I assumed that he had the benefit of the same education as you or I—

A. Counsel, I don't have to explain to you the psychology of national socialism. The German foreman was a German. He belonged to the master race; he was a National Socialist. I myself was a Jew; therefore I had no civilian status. I was only a number; and I do not want to describe to you now how we were designated there.

Q. But Witness, you would agree with me that this national socialism ideology regarding the master race was not accepted by all Germans? You just said there were foremen of the Mannesmann-Roehrenworks, who did not act like that at all.

A. Counsel, we are now dealing with the famous problem of the collective guilt or individual guilt.

Q. Witness, I really do not want to go into that. I only want to say that it cannot be assumed that the IG management gave an order to beat inmates to death; that cannot be assumed, can it?

A. Counsel, why did they then use inmates to erect their plants at Auschwitz, and why did they bring us to Auschwitz from all parts of Europe in order to give our blood there for years and years, and lose our relatives?

Q. I have put a very clear question to you. Do you believe there was a directive or a permission by the management of the IG permitting foremen to beat inmates to death? Yes or no?

A. Whether such a permission or whether such a directive existed or not makes no difference at all. The fact is that German foremen were beating inmates. They beat everyone, whether they were intellectual or manual laborers; whether they were people coming from Germany, Holland, Russia, Poland, or wherever they came from.

Q. Now in conclusion, do you believe that that was a consequence of the National Socialistic ideology which was inherent in these people?

A. It was not only a consequence of a National Socialistic ideology, but also a consequence of their personal attitude. These persons knew that they could give play to their brutality, that they could play their game of the master race there, and that they were assisted in that from all sides, including the heads of the German State.

Q. Witness, I know that you could not complain to the SS; that is why I do not want to ask you about any right of complaint; but was not the fact that you were under the supervision of the SS of decisive importance for what happened?

A. Counsel, if there had not been thousands of people who became members of the SS, there would not have been any concentration camps, and had there not been thousands of Germans who could be misused by the I. G. Farben for their plant in Auschwitz, then tragedies like that in Monowitz could not have come about.

Q. Another question, Witness. Could one see at the very beginning how things were going to develop? Let us take a case of an architect who designed this plant.

A. I do not quite understand your question, Counsel.

Q. With reference to the conditions which you have described, could one understand them only when one was actually there at the construction plant?

A. Every person who went through the plant with open eyes, and everyone who had any human feelings within him was in a position to observe these matters, knew to what results this treatment in the I. G. Farben plant did lead.

The defendant Duerrfeld himself could see it when he attended our march into the Camp Monowitz on repeated occasions. This march was not like a parade of well-nourished soldiers, but it was really a parade of mourning.

Q. A final question, Witness. What should the plant management have done? In other words, had they wanted to—

MR. MINSKOFF: I object to that question, your Honor—as to what the IG should have done.

PRESIDING JUDGE SHAKE: That objection is sustained. It is going into the field of speculation. If it becomes pertinent to determine that question, the Tribunal can only determine it from facts that are established in evidence, and will have to draw its own conclusions.

It is hardly a subject for the expression of opinion of an expert, let alone a layman.

The objection is sustained.

MR. HOFFMANN: Your Honor, this brings me to the end of my cross-examination.

PRESIDING JUDGE SHAKE: Thank you. Is there any further cross-examination of this witness? There being no request, we shall ask the prosecution if there is any redirect examination?

MR. MINSKOFF: No, your Honor.

PRESIDING JUDGE SHAKE: Then, Mr. Witness, you are excused and the Marshal will escort you from the box.

3. AFFIDAVIT AND TESTIMONY OF CHARLES J. COWARD

a. Affidavit

COPY OF DOCUMENT NI-11696
PROSECUTION EXHIBIT 1462

AFFIDAVIT

I, Charles Joseph Coward, 133 Chichester Road, Lower Edmonton, London, herewith declare under oath the following facts:

1. I entered the British Army on 16 June 1937. I was captured on 25 May 1940, serving at that time with the 8th Reserve Regimental Royal Artillery. My rank was that of Battery Sergeant. After having gone through different Stalag camps, I arrived in Auschwitz in December 1943. Auschwitz was under the supervision of Stalag No. VIII B. The camp at Auschwitz at which we lived was E 715. It was one of the camps grouped around the I. G. Farben plant at Auschwitz.

At the time when I came to Auschwitz, about 1,200 British prisoners of war were working for I. G. Farben. Toward the end of 1943, our camp held 1,400 British prisoners of war. At the beginning of 1944, British prisoners were sent to Heydebreck and Blochhammer and about 600 British prisoners of war remained at Auschwitz.

2. The concentration camp was on IG grounds just across the road from us—not 320 yards. I could look into the camp; I could hear screams as I walked past. However, although I could see the camp, I very rarely saw anybody walking around in it. We could hear shootings taking place, sometimes 5 or 6 a week. The shots coming from the camp sounded as close as if they had come from our own camp and would wake us up.

Often the British lads would throw cigarettes or other things over to the inmates. The inmates knew that if they attempted to leave their work and pick up what was thrown, they would get at the very

least a good hiding. On one occasion I recall seeing one of our boys toss something over to one of the inmates and as the inmates stooped to pick it up, a big, stout foreman pulled his revolver and shot him.

3. Having been selected by the Chief Red Cross Trustee, Regimental Major Lowe, for the position of Red Cross Trustee for our group, I was able to move about without too much difficulty. My functions as trustee included all matters relating to the welfare of the British prisoners of war such as the issue of clothing for the International Red Cross, British and American Red Cross, and the distribution of food parcels.

One day one of the inmates told me that there was a British ship's doctor among the inmates in the IG concentration camp. He said that the ship on which the doctor had been was torpedoed and the doctor, being a Jew, was separated from the others who were captured by the Germans and brought to the concentration camp. The doctor was not permitted out on work details, but he had managed through this inmate to get a note to me, asking me to write to his sister or daughter in Sunderland, England, and to notify the authorities. I wanted to get in touch with this ship's doctor and arranged with one of the guards, for some cigarettes, to let me swap clothing with one of the inmates and to march into the camp with the inmates. At 6:00 in the evening I dirtied myself and fell in with the inmates and marched into the concentration camp itself. We went straight away to a sort of a wash room and from there into the barracks. We were not allowed to walk around. There I found wooden beds, three tiers high. These beds, which would not have been comfortable even for one person, had to accommodate two or three inmates. As a result, it was practically impossible to sleep since, if one man was in a reclining position, the others would have to sit up or lie over him. I remained in a sitting position the whole night and was dead tired. Each one could get a little sleep if they changed positions; but if the slightest noise was made, the guards would come in. The tiers of beds were lined up and down the whole room. In the middle there were about three tables where they would fight to get their bit of soup. They got their soup in the evening and nothing else. This particular night it was potato soup. We had been counted when we marched out of the factory but were also counted when we came into the camp. When the inmates were counted, the other chaps would hold up the dead for counting purposes. Some were held up the night I was there. One of the reasons they stood the dead men up for roll call was to draw their rations. In the morning the kapos would come around to see that everybody was up and would kick or beat anybody who had not gotten up. Those who could not get up were just carted away.

When we got back to the factory, I swapped back the clothing with the chap whom I had made the exchange and gave him a few cigarettes.

I had not succeeded in contacting the ship's doctor who was in a different part of the camp.

4. On the pretext of writing to my father (who was dead), in care of William Orange, I could get out about a half dozen letters a week to let the people in England know what was going on. I figured that I could pass the censors that way, and at the same time get the information to the War Office. In my letters I sent information that I thought had military value and I also wrote about the conditions of work for the civilians and the inmates, as well as the British prisoners of war. I wrote giving the particular dates on which I had witnessed thousands arriving and marched to the concentration camp, I used to inquire of the people in Auschwitz where the next batch was coming from. In my letters I would say that 600 arrived from Czechoslovakia, so many from Poland, et cetera. The turnover was in the hundreds of thousands. You could not count them. The majority of them went into the camp next to us.

5. My work as liaison man and trustee gave me access to surrounding towns, including Auschwitz. Also I came into contact with Farben officials. For example, during the first 10 days I was there, I received complaints from our men about the food and conditions of work. The majority of them were laying cables and their clothing was not really good enough for the work they were doing. Particularly since this was the middle of the winter. I investigated the complaints myself and saw they were justified. I got back to the camp and explained to my chief the necessity for extra supplies, and I also spoke to the Germans and asked to see the directors of I. G. Farben regarding clothing. I was always put off, saying I should see the contractors, and the contractors would say that material had already been ordered.

6. Of course the treatment of the British prisoners could not be considered even in the same class with the treatment of the other groups, particularly the concentration camp inmates and the Russians. With respect to clothing, for example, the concentration camp inmates wore a striped pair of pajamas and wooden shoes; that was all the clothing they had. They would sleep in it, work in it, eat in it; there was no change of clothing. Whatever clothing of value they had when they came to the camp was taken away from them in exchange for the striped pajamas. Although I had heard that conditions were bad, I at first did not believe it. I made it a point to get one of the guards to take me to town under the pretence of buying new razor blades and stuff for our boys. For a few cigarettes he pointed out to me the various places where they had the gas chambers and the places where they took them down to be cremated. Everyone to whom I spoke gave the same story—the people in the city of Auschwitz, the SS men, concentration camp inmates, foreign workers—everyone said that thousands of people were being gassed and cremated at Auschwitz, and

that the inmates who worked with us and who were unable to continue working because of their physical condition and were suddenly missing, had been sent to the gas chambers. The inmates who were selected to be gassed went through the procedure of preparing for a bath, they stripped their clothes off, and walked into the bathing room. Instead of showers, there was gas. All the camp knew it. All the civilian population knew it. I mixed with the civilian population at Auschwitz. I was at Auschwitz nearly every day. The population at Auschwitz was fully aware that people were being gassed and burned. On one occasion they complained about the stench of the burning bodies. Of course all of the Farben people knew what was going on. Nobody could live in Auschwitz and work in the plant, or even come down to the plant without knowing what was common knowledge to everybody.

Even among the Farben employees to whom I spoke, a lot of them would admit they knew about the gassing. Others who were pretty scared to say anything would admit that they heard about the gassing but then would say it was all propaganda. I am sure that Duerrfeld who was always walking around the factory knew about the gassings and the burnings. It would be utterly impossible not to know. Everybody knew from the civilians to the top dogs. It was common talk. Even while still at Auschwitz we got radio broadcasts from the outside speaking about the gassings and burnings at Auschwitz. I recall one of these broadcasts was by Anthony Eden himself. Also, there were pamphlets dropped in Auschwitz and the surrounding territory, one of which I personally read, which related what was going on in the camp at Auschwitz. These leaflets were scattered all over the countryside and must have been dropped from planes. They were in Polish and German. Under those circumstances, nobody could be at or near Auschwitz without knowing what was going on.

7. The British prisoners of war were treated better than any other nationality working at IG Auschwitz. Still many incidents occurred which cost the lives of our prisoners of war. One German noncommissioned officer used to threaten to shoot all of us. He would beat British prisoners of war at the I. G. Farben plant or at the camp. At times it happened that IG civilian workers used to beat some of our prisoners.

In the winter of 1943-44, a civilian foreman of I. G. Farben ordered five prisoners of war to climb an ice-covered iron girder. Under the circumstances it was almost impossible to climb the girder, especially since the men did not have the proper boots. The men refused to obey the order. Thereupon the German guard shot and killed one of the five British prisoners of war. Even though, as I mentioned before, the British prisoners of war were treated far better than any of the other groups, nevertheless even the British boys did not have too easy a time. A number of our lads were sent to Sosnovitz to the Straflager [penal

camp] for not working hard enough or for refusing to do the work ordered. One British prisoner of war dropped dead from exhaustion while working in the IG factory. On one occasion one of our boys was beaten by a civilian. I went out to work with that group in order to see how they were treated. It was then that I witnessed how the civilians were treating the other inmates. Unlike the British prisoners who were mistreated only occasionally, the inmates were mistreated all the time. They were beaten on the slightest provocation and often without any provocation at all. One time I saw several civilian employees of the Farben firm beat six inmates while they were working in the factory while three or four other civilians looked on. They beat them with pieces of iron and wood for not doing their work properly. They were beaten badly and left to lay on the ground. I complained to the German officer who visited the camp and told him that it was upsetting the morale of the British prisoners of war. He said that the inmates deserved it and that if they did not get beaten, they would be hard to control.

The food distributed to the British prisoners of war at IG Auschwitz would not have been sufficient if it were not for the fact that we consistently received British and American Red Cross parcels.

Another thing I want to mention is that the British prisoners of war were not permitted to use the air raid shelters in the IG plant. I complained to Duerrfeld about this. He was very abrupt and said that a place was being allotted. The place we could use instead of an air-raid shelter was locked so that we would have to get the guard to get us a key before we could get even that protection. The inmates had no air-raid shelters of any kind, and the foreign workers were marched out into the fields.

8. The inmates had to work at everything — refinery, loading railway trucks, acetylene welding, bricklaying and concrete work. I saw them carry 100 wt. cement sacks. The men were in very poor condition but nevertheless they tried to do the work even though it required more strength than they had. They could not slow down because the foreman and the kapo were always around. I saw dozens of occasions on which a civilian foreman kept hitting and hitting an inmate until he just fell down and could not get up. On many, many occasions I saw civilians and kapos strike an inmate down with a piece of wood and then kick him. They would just let him lie there — sometimes all day. At night some other inmate would pick him up and carry him. On a bad winter day, it was not unusual to see 5 or 6 inmates being carried in on the shoulders of other inmates, or being supported under their arms. I saw one inmate knocked out in the morning, and when I came back in the afternoon he was still lying there. I should say he was dead.

9. Farben was responsible for its inmates and could not help knowing what was happening to them. One day I asked the Farben people if it were possible for me to make a collection of castoff clothing such as socks and old boots and send them into the camp. They said "No. The IG people are looking after the inmates. They are our responsibility." I tried to explain that it would not involve any contact, that I would give the things to their man who, in turn, could distribute them among the other inmates. My suggestion was turned down flatly with the answer that it would look bad if Farben could not supply the necessities.

I have carefully read each of the five pages of this statement and have placed my initials at the bottom of each page thereof. I have made all corrections in my own handwriting and have initialed each such correction. I do hereby declare under oath that the foregoing statement is the truth, the whole truth, and nothing but the truth, so help me God.

[Signed] C. J. COWARD

Sworn to and signed before me this 24th day of July 1947 at London, England

[Signed] BENVENUTO VON HALLE
U. S. Civilian AGO 432532
Interrogator

b. Testimony of Charles J. Coward

TESTIMONY OF CHARLES J. COWARD¹

DIRECT EXAMINATION

MR. MINSKOFF: What is your full name, Mr. Coward?

WITNESS COWARD: Charles Joseph Coward.

Q. Where do you reside?

A. 133 Chichester Road, Lower Edmonton, London N 9.

MR. MINSKOFF: The prosecution wishes at this time to introduce in evidence Document NI-11696, as Prosecution Exhibit 1471.

May I make a correction?

PRESIDING JUDGE SHAKE: Yes.

MR. MINSKOFF: This affidavit is already in evidence as Document NI-11696, Prosecution Exhibit 1462.² It appears here in book 75, on page 47 of the English, and 70 of the German.

MR. MINSKOFF: Mr. Coward, with respect to Exhibit 1462, your affidavit, are there any corrections or additions you wish to make?

¹ The testimony is recorded in the mimeographed transcript, 13 November 1947, pages 3679-3691.

² Reproduced immediately above.

A. Paragraph 1 we read through, and it states my rank was that of Battery Sergeant. I wish to make it clear that it should read "Battery Sergeant Major."

Q. Are there any other corrections or additions, Mr. Coward?

A. No, I do not think so.

MR. MINSKOFF: No further questions from the prosecution.

PRESIDING JUDGE SHAKE: The defense may cross-examine.

DR. DRISCHEL: Mr. President, I have only a very few questions.

CROSS-EXAMINATION

DR. DRISCHEL (counsel for Defendant Ambros): Witness, it is remarkable that you state in your affidavit that for a few cigarettes you saw the gas chambers in Auschwitz and the crematoria. Can you tell us where that was in the city of Auschwitz?

A. To my best belief the gas chamber and crematorium, as it was known, was about 50 yards from a railway station at the far end of, I think the name was Monowitz.

DR. DRISCHEL: Excuse me, Mr. President, I could not hear the translation.

Q. Did I understand you to say that you saw the gas chambers in Monowitz?

A. No, not actually in Monowitz, no. Where the station was at Auschwitz, you see—I very likely misunderstood your question. At Auschwitz there was a railway station, you see, and about 50 to 100 yards from Auschwitz there was a siding where they used to bring the civilians, you see; and about 20 yards on the other side of this siding was where this particular guard took me and showed me the place.

Q. Witness, could you please indicate that to us on the map that is behind you? I don't understand where these gas chambers are supposed to have been. If you will be kind enough to turn around you will see a map of Auschwitz.

PRESIDING JUDGE SHAKE: Just a moment. Witness, please, I have to remind you that you cannot testify away from the microphone, but you may stand up, take your time and look at the map as much as you wish, but before you answer the question please sit down again and talk into the microphone.

A. Very good, sir.

(The witness examined the map)

WITNESS COWARD: The city of Auschwitz, there [indicating]—Whereabouts is the station, farther over? You see, the station is not marked on the map, is it?

PRESIDING JUDGE SHAKE: Mr. Witness, you will have to do your own testifying; we can't furnish it to you.

A. I see. Over there where the railroad is indicated the building, I should say, was about 20 yards from there [indicating].

PRESIDING JUDGE SHAKE: Perhaps, Counsel, you had better direct a specific question that will enable the witness to testify without indicating manually what he is talking about on the map. We can't get that into the record.

DR. DRISCHEL. Yes, I understand. I can define by question by saying that you, Mr. Witness, are of the opinion that these gas chambers and crematoria were located in the vicinity of the station of the city of Auschwitz. That is the way you described it previously. Did I understand you correctly?

A. That is correct.

Q. Then I merely have to put to you that they certainly were not there, because if they were any place they were in the concentration camp. However, you couldn't know that.

PRESIDING JUDGE SHAKE: That may go out; that is a statement and not a question.

DR. DRISCHEL: Then may I ask you a question in this way. Were you in the concentration camp of Auschwitz itself?

A. On one particular occasion I was in the concentration camp, yes.

Q. I mean not in Monowitz, but in Auschwitz.

A. Well, Lager VI was about 200 yards away from the camp which we knew as the concentration camp.

Q. If you will turn around once more and look on the map—do you then mean that camp which is about 200 meters next to camp VI, which is called camp IV on the map?

(The witness examined the map)

A. The numbers 11 and 12 which are indicated on the map is the camp that I have stated.

Q. Very well. Then I understood you correctly that you were never in the main camp of Auschwitz, which is on the lower left-hand side of the map, because you said that you were in the camp which is a few hundred yards next to camp VI.

A. That is correct.

Q. Then, Mr. Witness, is your description in the affidavit at least not very misleading?

A. I do not think so. The figures indicated 11 and 12 were known to us as the concentration camps, and when I mentioned about the gas chambers or crematoriums, I mean to infer that I had visited what was shown to me to be a gas chamber some distance from the railway station at Auschwitz.

Q. Now I am completely confused. You mean to say that you did not see any gas chambers in camp IV, Monowitz, but that in the city of Auschwitz, near the railroad station, that is where you saw the gas chambers?

A. That is correct.

Q. And do you still maintain your description if I put to you that in the city of Auschwitz there certainly were no gas chambers?

A. In the city of Auschwitz there were no gas chambers, I agree, but some distance away from the city itself—the city itself was about 2 miles from the station.

Q. I believe, Witness, if I may ask you once more, that even in the vicinity of the railroad station you could not have seen any gas chambers. Perhaps you are mistaken.

MR. MINSKOFF: The prosecution objects to that line of questioning, if Your Honor please. It is perfectly clear that it is only the names that the witness doesn't know. He has pointed with his finger on the map to these various places all along.

PRESIDING JUDGE SHAKE: The objection to the last statement that counsel made is sustained because it was not a question, it was a statement of counsel.

You may ask another question.

DR. DRISCHEL: My conclusive question in this regard is this. Were you ever in the main camp of Auschwitz, which is at the lower left-handed corner on the map?

A. No, sir.

Q. Thank you. One more illustrative question. You said that you went to town every day and that the people in the town, the SS men, the concentration-camp inmates, and the foreign laborers, told you that thousands of people were being gassed in Auschwitz. May I ask you this, witness? You went into the town as an AWOL without leave? Isn't that right?

A. I was privileged to visit lots of details, and at Auschwitz I could always travel to Auschwitz for the purpose, whenever it was possible, to buy a few razor blades or boot polish. All I had to do was report to the guard room at Lager VI or Lager VIII, as the case may be, and a guard would be allotted to me.

Q. Do you speak Polish?

A. A little, sir, a few words or phrases like "Poniemaje Polski," and so forth.

DR. DRISCHEL: Thank you. I have no further questions.

PRESIDING JUDGE SHAKE: Is there further cross-examination of this witness?

DR. HOFFMANN (counsel for defendant von der Heyde): Witness, I merely wanted to ask you this. Do you consider it possible that the guard in question, who told you that these were the gas chambers, might have lied to you?

A. I don't think so. I mean, everybody I came into contact with knew what was going on. He had no need to lie to me. I mean, he would gain nothing by lying.

Q. But perhaps he wanted to earn cigarettes, in an easy way.

A. Well, in those particular times, I mean, we did not have to give the Germans cigarettes every time. They were actually fed up with the whole business. You see, they wanted—well, it came to a time when they spoke the truth. There was no doubt about it, I mean, whatsoever.

Q. Do you speak German, Mr. Witness?

A. Yes, I have a fair knowledge, not a great deal. I have been home 2 years, and I have forgotten a lot, but I can still get by with the amount of German I do know.

Q. One more question. How were you treated generally?

A. Well, for myself, I should say as a prisoner of war, very fair. I had no complaints actually at Auschwitz in the manner in which I was treated.

Q. Do you believe that the plant management in Auschwitz also gave your other comrades the same treatment, as far as they were English prisoners of war?

A. There were some cases of ill-treatment to British prisoners of war, but in my case, no, because, as I was a trusted man, and assigned by the British Red Cross to my job, they sort of acknowledged that, you see, and would not dare to insult me very much because they knew I had the power to complain to Geneva.

Q. You also had this power to complain for your other comrades, didn't you?

A. Oh, yes.

Q. And therefore one would have to assume that in any case of unjust treatment of your other comrades the same would have happened?

A. Will you repeat that please?

Q. I mean, witness, that one must assume that, if you learned that your comrades were treated badly, you would have reported that to Geneva, and that, for that reason alone, one was careful in the treatment of your comrades?

A. Yes, I am not complaining. You must understand, I am not complaining about the treatment accorded to the British ranks.

DR. HOFFMAN: Thank you. I have no further questions.

DR. HELLMUTH DIX (counsel for defendant Schneider): I have only two short questions. Did you ever have any visits of the protective power, or of Red Cross representatives in Auschwitz?

A. Yes. Twice we had members of the Swiss Delegation visit Lager VIII, also Lager VI.

Q. When was that, approximately?

A. The last occasion was round about, I should say—I do not wish you to pin me down to the exact time—I should say around about June.

Q. When these delegates of the Swiss Commission arrived, were the general conditions in Auschwitz that you have described discussed with them?

A. Well, although we spoke with the Swiss Delegation—I spoke on quite a few matters regarding inmates—but the German officers that were there, they could also understand English and would try to push me away from it.

Q. What prisoners are you now speaking of? You said “prisoners.” There are quite a few.

A. When I say prisoners, I mean the British ranks.

Q. You could not speak about the other conditions?

A. Oh, yes, I tried to get it across as best as I could about how it would eventually—not knowing when the war would end, of course—how it would eventually affect the morale of the British ranks—the treatment accorded to the inmates.

Q. And what did the Swiss Delegation do or say as a result—in your presence?

A. They took one or two notes, but it seemed to me as if they were actually, I am sorry to say it, actually helpless to alter any conditions whatsoever in Auschwitz.

DR. DIX: I have no further questions.

PRESIDING JUDGE SHAKE: Any further cross-examination?

Dr. Trabandt for Dr. Duerrfeld?

Q. Mr. Coward, you said that at one time you were in camp No. IV, that you stole your way in, is that right?

A. That is correct, sir.

Q. That you procured prisoner’s clothing through cigarettes, and thus you could get in? Is that right?

A. No, I did not procure the clothing in that way, sir. I made arrangements with one of the inmates to change clothing with him, because I had a reason for doing so.

Q. The prisoners had their heads shaved. By reason of your hair cut did you not become conspicuous?

A. It so happened, sir, that whilst I was in Auschwitz my hair was very, very short for health reasons, and I should imagine that it would be rather hard to distinguish between me and the inmates.

Q. Yes, but you probably looked healthier and had a better appearance than the inmates. Wouldn’t you be recognized because of that?

A. Well, I don’t think so, though I must say I was perhaps a million percent more healthy than the inmates. I don’t think they were looking to see whether a man was healthy as he went from work.

Q. Well, you didn’t go to work but you came from work, and you were probably checked when you came into the camp. Didn’t they notice you by reason of your different appearance?

A. I don't think so. As I stated, they were not looking for healthy men to march into the camp. Also, I had the assistance of about three other inmates who sort of protected me, inasmuch as I was in about the second row, you see, and when we were counted—the guard that counted us didn't look at every man to see if he were English, Irish, Scotch, or Welsh. He would have had to be a real magician to see that I was English among those people.

Q. Very well. You were in one of the barracks in which the inmates lived. How many beds were there in this barrack? Can you estimate that?

A. Yes. I should say in that particular barrack that I walked into, I should say very roughly about 200 to 250 beds. They were three tiers high, and it seemed as if thousands marched into this room, because when I got into the barracks the man who was acting as a sort of guardian to me led me to the second tier, but although the inmates were not very strong I am afraid I missed the boat there and I had to sit up half the night.

Q. We want to understand each other correctly. I don't want to know how many places there were where one could sleep, I am asking you for the bedsteads, how many bedsteads were in this barrack?

A. I am sorry. I should say roughly about 200 or 250.

Q. Very well. Did you see any other pieces of furniture in these barracks? Were there many places to sit, stools or chairs?

A. No. There were no stools or chairs to sit on, but there were in this particular barrack this particular night—I am telling you what I saw—that there were three tables. Of course, I never took notice, but as there was insufficient bed space, I mean a bed could have been put where this particular table was, it struck me at the time very funny.

DR. TRABANDT: Thank you, that is enough.

PRESIDING JUDGE SHAKE: Any further questioning, Gentlemen? If not, is there any redirect examination?

REDIRECT EXAMINATION

MR. MINSKOFF: Just one question, Your Honors. With respect to the British prisoners of war, did you personally ever make complaints to the management of I. G. Farben?

A. Oh, yes, Sir. I had contact with Dr. Duerrfeld and his, shall we say, undermanagers. And Dr. Duerrfeld very often visited Lager VI, once with a group of officers, and on this particular occasion—I don't know the ranks of these particular officers, but I sort of imagine they were of very high order, because they tried their utmost to keep us British prisoners away from them—I managed to go to the canteen and force my way in by bluff and complain to all the people that were there.

Q. What was the nature of the complaints you made?

A. On this particular occasion, it was regarding bedding, blankets. They had issued us some blankets in Lager VI that were made out of, I suppose you say were such that if you happened to move in bed at night you tore it. Even if you would shake the blanket, the blanket would fall to pieces, and the guards or the supervisory officer there, the German officer, they made a particular visit to the rooms to see that everything was all right; he would complain about the wanton, as he called it, destruction of the blankets.

MR. MINSKOFF: That is all. Thank you.

PRESIDING JUDGE SHAKE: Anything further?

RECROSS-EXAMINATION

DR. SEIDL (counsel for defendant Duerrfeld): Witness, in what camp were you, in No. VIII or No. VI?

A. In both Lagers, Lager VIII and Lager VI.

Q. Is it correct that both Lager VIII and Lager VI were guarded by the German Wehrmacht and that the entire administration of these camps was in the hands of the German troops?

A. Not the administration, sir, only for discipline. The administration came from Dr. Duerrfeld. The orders that were sent to us were in German and in English and signed by Dr. Duerrfeld. So, therefore, Dr. Duerrfeld was the man that we naturally took to be the boss of the show.

Q. Witness, what did these orders refer to that you mentioned just now? What were the contents of these orders? Did you see these orders yourself?

A. Oh, yes, I had them in my office. I had a sort of office where I placed all the orders that came through, even if they were in German, so that every British rank in the camp could see them. One order I can recollect was an alteration in the time of the British prisoners of war proceeding to work. It had been altered from half past six to half past five in the morning.

Q. Witness, but you personally and the other prisoners of war could be given orders only by the German officers who had power of command over the prisoners of war? Is that right?

A. Oh, no sir. If any German civilian—I beg your pardon, when I say German civilian I mean any civilian that was a member of I. G. Farben—could walk in our camp and give orders. I mean he was authorized—he had a pass to show that he was one of the people that was in charge of us.

Q. Can you remember the rank of the German officer who was the commander of the prisoner-of-war camp? Was that a captain, a major, or what?

A. A lieutenant, sir.

Q. Do you remember his name?

A. I am sorry, no.

DR. SEIDL: I have no further questions.

PRESIDING JUDGE SHAKE: Anything further, Gentlemen?

Mr. Witness, you are excused, and the Marshall will escort you from the witness stand.

4. AFFIDAVIT AND TESTIMONY OF ERIC J. DOYLE

a. Affidavit

TRANSLATION OF DOCUMENT NI-12388 PROSECUTION EXHIBIT 1518

AFFIDAVIT

I, Eric James Doyle, after having been warned that I will be liable to punishment for making a false statement, herewith state the following under oath of my own free will and without coercion.

1. I was born 20 July 1907 at Surrey, England, and now reside at 56 Cambridge Drive, Lee, London, England. I am employed as a clerk. I entered the Army on 1 September 1939. On 21 June 1942, I was captured at Tobruk while serving as a private with the Royal Army Service Corps attached to the 22d Armament Brigade. I was brought from Tobruk to Italy, then to Germany, and to Upper Silesia on 16 September 1943.

2. I was attached to Stalag VIII B, Lamsdorf, Commando E 715, IG Auschwitz. The camp was already built when I arrived. It had been a German civilian camp and consisted of wooden huts with 16 to 22 persons sleeping in most of the rooms. There were no mess halls, but instead, there were tables in the center of the rooms on which to eat. The camp was guarded by German Army sentries. There were no guard towers but the camp was surrounded by barbed wire.

3. After about 3 weeks, I was assigned to a work detail. We had the impression that if we did not volunteer for work, we would be forced to work in the mines. I. G. Farben foremen [Werkmeister] came into the camp and assigned certain work to us. I worked as a laborer, mostly carrying pipes which were quite heavy.

Some British prisoners of war worked where petrol was being produced. We were aware that under the Geneva Convention we did not have to work in connection with war products. When we complained about this, Rittler, a German noncommissioned officer, said that the Geneva Conventions were two-guns, so at the threat of a gun there was no choice. [sic]

4. The condition of the concentration camp inmates was deplorable. I used to see them being carried back at night, dead—from exposure, hunger, or exhaustion. The concentration camp inmates did heavy,

manual labor such as carrying steel girders, pipes, cables, bricks and sacks of cement weighing about 100 pounds. As a rule the inmates weighed less than the cement sacks. I have seen the inmates shuffle, trying to make it in double time but unable to do it, and I have seen them collapse. The inmates would just lie there until it was time to go home. Often they were beaten to try to get them on their feet again. I have seen inmates carrying cables and up to their knees in mud, with one of the big husky foremen beating them. If they fell down the others would walk on them. They did not seem to have any sense of feeling at all. The inmates were not permitted to help one another, such as to pick up those who had collapsed.

We were allowed to warm by the fire but the Jews would be kicked if they were caught doing it. They were so far gone that they would stand over the fire and their gloves could be burning and they would not know the difference. Their condition and treatment was so bad that it is impossible to explain it to people in England; they just don't understand that people could be treated like that.

There were beatings and hangings in the Lager. We would see the chaps hanging up in the gate of Lager IV, and the prisoners had to walk underneath them. I saw those bodies myself; working parties passed under the gate while walking to work. There were beatings all the time. Another form of punishment was depriving the inmates of their food ration.

5. The concentration camp inmates had their hair shorn close and wore round, blackberry caps, thin striped jackets, trousers and overcoats, wooden or canvas shoes. I have also seen them with hand shoes [gloves]—the mitten type—but I don't know if they were issued. They were very poorly clothed for winter. I saw bad cases of frost bite while working. They suffered from many kinds of skin diseases and lice.

The inmates were skin and bones. Each day they got one quart of thin, watery soup and half a ration of bread—about 250 grams. We were issued soup at noon but gave it to the inmates whom I should say were all starving to death. We would have to line up the bowls because the inmates would fight to get the watery soup. If the German civilians saw us give the soup to the inmates, they would kick it over.

6. I recall in particular the case of a lightweight fighter whom I had seen fight in about 1938. In 1943 I saw him as an inmate in Auschwitz. He was on the same working party as myself. I never saw a bigger wreck of any kind. I should say he had both arms broken, his shoulders were bowed like an old man, and he looked to be about 50 years old. I would not have recognized him if I had not known it was he. He disappeared and I don't know what happened to him. There were quite a lot of cases of disappearance like that.

7. We heard about the gas chambers so often that we just had to believe they existed. It got to be a general impression—as common as regular dinner conversation. I discussed the gas chambers with German civilians. I never heard of any of the German foremen who protested against the gassing. The others were in favor of gassing—provided it was for Jews. They looked upon killing Jews as killing vermin. We were not permitted to talk to the inmates but managed to do so anyway. I was told by quite a number of inmates that if they were sick for more than 5 days, they would be sent to the gas chambers.

One foreman boasted about having seen Jews arrive for gassing, 100 to the railway wagon, standing because there was not enough room to sit down. It was too much trouble to take the inmates out so a gas pipe was put into the wagon. He also told us about the Jews walking into the gas chambers.

8. I think it was utterly impossible for Duerrfeld to walk around at Auschwitz and not be aware of the conditions which existed there. Every day the concentration camp inmates carried back to the camp at night fellow inmates who had collapsed. In the winter the inmates were mostly supporting each other going back to the camp, and the strongest usually carried someone. I saw those things often. It was absolutely impossible that Duerrfeld could not have noticed. We passed the administration building each night and some of the inmates passed on the same road as we did.

9. I would think the life expectancy of a concentration camp inmate at Auschwitz would be about 2 or 3 months. I knew of a Pole at Heydebreck who was caught stealing from one of our fellows. He was imprisoned at the Straflager [penal camp] at Auschwitz for 2 months. When he came back he was a wreck; they nearly killed him, and that was only in the Straflager.

I have carefully read each of the four pages of this declaration and have signed them personally. I have made the necessary corrections in my own handwriting and initialed them and I declare under oath that I have given the pure truth to the best of my knowledge and conscience.

[Signed] ERIC JAMES DOYLE

Sworn to and signed before me this 14th day of November 1947 at Nuernberg, Germany.

BENVENUTO VON HALLE
U. S. Civilian
AGO 532432

b. Testimony of Eric J. Doyle

TESTIMONY OF ERIC J. DOYLE ¹

DIRECT EXAMINATION

MR. MINSKOFF: What is your full name, Mr. Doyle?

WITNESS DOYLE: Eric James William Doyle.

Q. And where do you reside?

A. In London.

PRESIDING JUDGE SHAKE: Mr. Prosecutor, please, what is the exhibit number of this document, please?

MR. MINSKOFF: I am sorry, Your Honors. This is Document NI-12388 and the prosecution offers it in evidence as its Exhibit 1518.²

PRESIDING JUDGE SHAKE: And it will go in Book 75 also?

MR. MINSKOFF: That is right, Your Honor.

PRESIDING JUDGE SHAKE: Go ahead.

MR. MINSKOFF: With respect to your affidavit, Prosecution Exhibit 1518, are there any corrections or additions you wish to make at the present time?

A. Nothing further.

Q. That is all for the prosecution. The witness is with the defense.

CROSS-EXAMINATION

DR. SEIDL (counsel for Defendant Duerrfeld): Witness, when did you come to Auschwitz?

A. 18th of September, 1943.

Q. Behind you there is a map. Would you please be kind enough to turn around and to tell me in what camp you were and whether you remained in that same camp? Please speak into the microphone when you answer.

A. Camp VIII. I remained there the whole time I was there.

Q. You never were transferred to Camp VI?

A. No.

Q. How many prisoners of war were in this Camp VIII?

A. Approximately 1,200.

Q. The camp was under the administration of a German Wehrmacht officer, is that correct?

A. Yes.

Q. Your medical care was taken care of by two English medical officers, is that also correct?

A. That's true.

¹ The testimony is recorded in the mimeographed transcript, 17 November 1947, pages 3920-3927.

² Reproduced immediately above.

Q. You also had an opportunity, through the mediation of the Red Cross, to receive parcels from home, isn't that also right?

A. Yes.

Q. You say in your affidavit that you had to work in mines if you did not volunteer for work. Who told you that?

A. That was given out by the foreman [werkmeister] who came in to sort the men into different details.

Q. You do not know the name of this foreman in question, do you?

A. No.

Q. What did you have to do in the Farben plant yourself? What work did you have to do?

A. Carry pipes, heavy pipes.

Q. Were there any other workers in this detail besides prisoners of war?

A. Yes, eight or nine nationalities.

Q. Then you worked together with these other workers?

A. Yes.

Q. And the prisoners did the same kind of work, is that right?

A. On that particular detail, yes.

Q. Witness, do you know that at no time of the operation of Farben in Auschwitz they ever produced gasoline?

A. I remember them having a celebration for the first gasoline produced.

Q. You want to claim that this was gasoline and not methanol?

A. Yes.

Q. And you maintain that even if I put to you that at no time did Farben produce any gasoline in Auschwitz.

A. I am not a chemist, but motor cars ran on it.

Q. What kind of work did you do besides carry pipes in the Farben plant in Auschwitz?

A. Fitting them.

Q. And at that time again prisoners and other workers were used jointly, is that right?

A. Yes.

Q. Then I may say that the prisoner workers did the same type of work as did the prisoners of war and other workers in Farben, is that right?

A. No.

Q. Where was the difference?

A. There were several kinds of workers in Auschwitz. Prisoners of war, civilian workers brought from other countries—I don't know whether they volunteered or what they did. There were also the inmates of concentration camps, "Lagers," who were working under close supervision and we didn't work with the workers of these Lagers but they were working all around us.

Q. You also stated that prisoners collapsed in the Farben plant at Auschwitz. How many such prisoners did you see who collapsed?

A. Many.

Q. Witness, can you give me an approximate figure—five, ten, or twenty?

A. Counting all those I saw being carried home after the work was finished, I should say hundreds.

Q. During what period of time was that? How long were you working in the Farben plant as a prisoner of war?

A. From September until April 1944.

Q. That is September 1943?

A. September 1943.

Q. Until April 1944?

A. That is correct.

Q. Did you yourself ever come to camp IV in which these prisoners lived?

A. Only outside of it.

Q. Is it correct that there was a street running between the camp IV, and the Farben plant on which large traffic moved?

A. Would you repeat that, please?

Q. I wanted to ask you, Witness, whether you still remember that south of the Farben plant, and in the immediate vicinity of the north of camp IV and the PW Camp, there was a big road with a lot of traffic on it, which led to the east, and which you had to cross when you wanted to enter the Farben plant?

A. There was a road, yes, the other side of the main wire, I think, on H Street.

Q. Did you see personally how prisoners were hanged in camp IV?

A. I saw three men hanging in the gate of camp IV approximately in February 1944.

Q. Do you know why these prisoners were hanged?

A. I didn't know there had to be a reason.

Q. Then I want to tell you that it happened repeatedly—two or three times—that inmates were hanged because they murdered their fellow prisoners.

MR. MINSKOFF: We object to that testimony.

PRESIDING JUDGE SHAKE: The objection is sustained. Ask another question.

DR. SEIDL: You say that these inmates had been hanged immediately on the gate, the entrance to camp IV. Is it true that this spot could easily be seen from the road?

A. Yes, quite easily.

Q. Did you yourself ever speak to a member of Farben, an engineer, or a foreman, about the gas chambers that you mentioned?

A. Yes.

Q. Can you give me a name, particularly the name of a foreman of Farben with whom you spoke?

A. He was an immediate foreman, I don't know his name, Rother, or something like that.

Q. What did that person tell you, Witness?

A. He seemed to think that the inmates of the Lager were just nothing at all—

Q. Please excuse me, Witness, if I interrupt you. I do not want to know what he seemed to think, but I want to know what he told you.

A. The exact words?

Q. As far as possible; at any rate, give me the sense of what he said as far as possible.

A. The people were no further use to Germany as workers, and therefore they must make room for new workers.

Q. You say that, in your opinion, the concentration camp inmates had a life expectancy of 2 to 3 months. Does this expression "life expectancy" come from you, or who told it to you?

A. Every word in there comes from me.

DR. SEIDL: I have no further questions.

PRESIDING JUDGE SHAKE: Is there any further cross-examination of this witness?

DR. GIERLICHS (associate counsel for defendant Schmitz): Witness, I have one question in regard to the hangings that you mentioned. You say that you saw those four corpses from the gate of the camp. Can you describe that to me a little more clearly?

A. Quite easily. There were three, not four, and the men were hanging on the beam over the gate, suspended, I think, possibly 15 feet high, quite easily to be seen from the road on which I was walking.

Q. Did I understand you correctly that there was an arch over the gate of the camp and that these dead bodies were hanging in the arch of the gate?

A. Either an arch or a support, and they were hanging from that. They went directly over the gate.

Q. You maintain that assertion, Witness, even if I put to you that the exit of camp IV had nothing over the gate, that there was no arch, that it was a double fence, and that on the outside of the two fences there was a gate that opened and it did not have anything over it? Is it possible, then, that you are mistaken?

A. Not possible.

DR. GIERLICHS: Thank you.

I have no further questions, Mr. President.

PRESIDING JUDGE SHAKE: Any further cross-examination?

(No response)

Any redirect?

MR. MINSKOFF: No redirect.

PRESIDING JUDGE SHAKE: Then the witness is excused.

(Witness excused)

5. AFFIDAVIT OF DOUGLAS T. FROST

COPY OF DOCUMENT NI-11692
PROSECUTION EXHIBIT 1480

AFFIDAVIT, 16 JULY 1947, OF DOUGLAS TILBROOK FROST, BRITISH PRISONER OF WAR IN GERMANY, CONCERNING THE TREATMENT OF CONCENTRATION CAMP INMATES AT FARBEN'S AUSCHWITZ PLANT, AND RELATED MATTERS*

I, Douglas Tilbrook Frost, 43, Ash Grove, Stapleford, Nr. Nottingham, England, do hereby declare under oath the following facts:

1. I was born 15 April 1912 at Nr. Nottingham, England. I entered the Army in November 1939, and was captured on 9 April 1941 near Tobruk. At the time I was signalman in the 5th Battalion Tanks. I was brought first to Italy, then to Germany and finally to Auschwitz. After about a week I, together with about 30 or 40 others, was assigned to swamp work gathering reeds. Shortly thereafter, I started working in the I. G. Farben factory at Auschwitz. I continued working there until I was injured, in January 1944, and was sent to Lamsdorf. I was later freed by the Americans.

2. The IG plant at Auschwitz covered approximately 6 sq. kilometers and was built entirely by slave labor. The Germans who were there were in a supervisory capacity. There were 10,000 to 15,000 Jews, about 22,000 others of all nationalities, particularly Russians and Poles.

3. Of all the persons working at IG Auschwitz, the Jewish inmates had the worst time of it. I was very friendly with them and often spoke to them. The impression I got was that at least half of the inmates would never again be fit to go back to civilization because of the deteriorated mental and physical condition they had reached. Their clothing consisted of striped pajamas and for shoes they had wooden clogs. The food was very poor. They would ask us for our soup. This soup which we gave them was so bad that we couldn't drink it ourselves.

In spite of their poor condition, which was obvious from just looking at them since their skin was a dirty gray and body was

*The defense waived cross-examination of this affiant and of most of the other former British prisoners of war whose affidavits were received in evidence.

purely skin and bones, they nevertheless were given hard jobs to do, such as carrying rails around and pieces of machinery.

4. No inmate was allowed in the camp who was sick. The weak and the sick would be destroyed. The inmates in the camp always told us about this and personally I recall many cases where inmates whom I had known just disappeared and didn't show up again. As a matter of fact, the inmates were so frightened of being sent to the gas chambers because of illness or injury that they would often come to work hiding their cuts and sores rather than report sick.

The German civilians often threatened the inmates that they would be gassed and made into soap. We were told that quite a few times by the inmates and I personally heard the German civilians make those threats many times. Also I heard the Germans joking among themselves about the same thing. I didn't take it seriously at first but later I wondered whether it might not be true after all. Though I have no personal knowledge, I got the impression that the manufacture of soap from inmates was being done at Auschwitz by rendering the fat from the gassed bodies.

5. As a result of the starvation diet of the inmates, their living conditions and the hard work they had to do, I often saw them collapse and fall down while working in the factory. On other occasions I would see two or three inmates being carried by. They looked very bad. My impression was that their chances of recovery would be pretty thin. Apart from the work, the Jews received various forms of corporal punishment. I recall one case where one was hit over the head with a pick by a kapo. One of the usual punishments was to make the inmates carry bricks wherever they went, for each slight infraction. Sometimes an inmate would carry as many as 5 or 6 bricks. These he would have to take wherever he went, to eat, to sleep, everywhere. Also, just to amuse themselves, the Germans would ride their bicycles and have inmates trot behind them wherever they went, as dogs.

6. In addition to the I. G. Farben foremen and other officials at Auschwitz, every once in a while big-shots from the main firm would come down to the plant. In my opinion nobody who worked at the plant or who came into the plant on business or inspections, could avoid discovering the fact that the inmates were literally being worked to death. They had no color in their faces whatsoever. They were practically living corpses, covered with skin and bone, and completely broken in spirit. Everyone who was there knew that the inmates were kept there as long as they turn out work and that when they were physically unable to continue, they were disposed of.

I have carefully read each of the two pages of this statement and have placed my initials at the bottom of each page thereof. I have made all corrections in my own handwriting and have initialed each

such correction. I do hereby declare under oath that the foregoing statement is the truth, the whole truth, and nothing but the truth, so help me God.

[Signed] D. T. FROST

Sworn to and signed before me this 16th day of July 1947 at Nottingham, England.

[signed] Benvenuto von Halle
U. S. Civilian, AGO 532432
Interrogator

F. Testimonies of Defendants

1. TESTIMONY OF DEFENDANT KRAUCH

EXTRACTS FROM THE TESTIMONY OF DEFENDANT KRAUCH ¹

DIRECT EXAMINATION

* * * * *

DR. BOETTCHER (counsel for defendant Krauch): Now, the first question in this new main subject, Doctor. The prosecution charges you, from your activity during the war, that as Plenipotentiary General for Special Questions of Chemical Production you participated in the slave labor program. How did it come about that you, as Plenipotentiary General for Special Questions of Chemical Production, had to deal with questions of labor?

DEFENDANT KRAUCH: An important point in the development program of the Karinhall Plan ² was, next to the procurement of material, also the making available of the necessary experts and workers of the program. Just as in the case of material, I had to express my expert opinion whether the requirements and the requests that the various firms made to the offices were justified.

Q. Your statement indicates that your activity as Plenipotentiary General was already exercised before the war to a certain extent.

A. That is correct.

Q. For what reason did it become necessary that official agencies should, already before the war, quite generally concern themselves with questions of labor allocation?

A. Already before the war a scarcity of skilled labor had arisen in various specialized fields in view of the manifold programs that were present, so that in this field as well—as I was able to point out this morning—the classification of certain priority stages had already been executed, by reason of which the available manpower was dis-

¹ Further extracts from the testimony of the defendant Krauch are reproduced in subsections VII C5a, F3, G7a, H4a, 17a, L3a, N5b, above, volume VII, this series.

² Concerning the Karinhall or Krauch plan, see subsection VII G, volume VII, this series.

tributed. Industry had taken the course—because of the difficulties in getting experts, of retaining their own experts by occupying them with other work, so that, when certain orders arrived in their plants, they could use these people whom they had held in reserve in this way.

The agencies and authorities responsible for the allocation of manpower investigated this state of affairs and, in some cases, they asked for an expert opinion from my agency.

Q. You just mentioned the expression “stages of priority.” Already this morning we discussed this. Tell quite briefly whether, in the labor question as well, you were able to determine these stages of priority or not?

A. The case was exactly the same in the procurement of labor. I was able to make suggestions, but the decision was in somebody else’s hands.

Q. Was it true that you could allocate workers to certain construction plants, that you could actually say, “One thousand workers will be sent to a particular construction”? Or could you not say that?

A. I could not do this. I could only examine the requests that came in from the firms and I could give my opinion whether this was in order, justified or not. The actual employment and commitment of these workers was done, of course, by the labor offices that had to do this work.

Q. To whom did your expert opinion go?

A. When there were no workers and when workers had to be transferred from other areas to the area in which they were needed, my expert opinion went to the Reich Labor Ministry, which had the top decision to make in questions of labor.

Q. We can show this to the Tribunal with the aid of a document introduced by the prosecution, Document NI-1237, Prosecution Exhibit 457,* Document Book 21, English page 109, German book page 196. Did you find this letter?

A. Yes, I found it.

Q. By whom is it written and to whom is it addressed?

A. It comes from the Plenipotentiary General for the Construction Industry, Inspector General Todt, and it is addressed to the Reich Labor Ministry, attention State Secretary Syrup.

Q. What can we see from this letter.

A. They speak about the so-called Krauch Plan for which 13,000 workers are lacking at the present time. “There are a little over 100 construction plans. I asked Dr. Krauch to send you, [without delay] State Secretary Syrup, a list of the construction projects ordered according to labor regions, and I ask you that you give the correspond-

*Letter from Todt to the Reich Ministry of Labor, 31 August 1939, reproduced earlier in subsection VII G5, volume VII, this series.

ing directives to the Regional Labor Offices." From the document it can be seen very clearly that I was able to make suggestions, that I could make propositions, that I could express requests; but that the allocation of the manpower was done by the Reich labor agencies.

Q. What was the nature of your cooperation with these labor allocation agencies? Please describe the two main problems which existed in this connection.

A. First of all, I had to give an expert opinion about the justification of the request that was made. Then I had to take an influential part in the distribution of labor and the allocation of labor, according to the stages of priority.

Q. It might have happened that workers reported to you voluntarily or that you knew that labor was available. Could you then employ these workers in special construction projects?

A. No, I could not do that. That was only possible through the Reich labor agencies that had to do with this work, that is, labor offices and district labor offices.

Q. Very well. You say then that you had to give expert opinion and that you had to make suggestions. We have here the same problem with which we already dealt when we discussed the question of your suggestions about material allocation, your suggestions about definite projects. It is the question whether your suggestions were always complied with, or whether there were other agencies which were over you, and which could deviate from the suggestions and issue new, different directives.

A. That was certainly the case. I can give you the person of the Plenipotentiary General for the Construction Industry [Fritz Todt], who certainly was able to have construction projects under my charge paralyzed without any of my objections being paid any attention.

Q. Can you again refer to documents in this connection which the prosecution has submitted?

A. Yes.

Q. Then please turn to Document NI-7571, Prosecution Exhibit 480,* Book 22, English page 44, German page 53. Do you have that document?

A. Exhibit 480?

Q. Yes. Please tell me briefly what this is.

A. These are negotiations about taking away certain construction workers from the chemical industry for the so-called Jaeger program which was classified at the time as being of first priority rating and which was promoted by Speer. In this document they speak of a large number of workers who were taken away from my construction proj-

*Extracts from a memorandum of 16 May 1944, reproduced in part in subsection D above.

ect and which would have to be made available to the fighter plane program.

Q. If I understood you correctly, this was an intervention in suggestions which you had made for the development of your chemical program?

A. That is quite correct.

Q. A similar document is Document NI-7572, Prosecution Exhibit 479,¹ Book 22, page 41 of the English, and would you look at that as well in order to describe a similar event?

A. A number of construction projects are named in this document in which construction workers had to be taken out for carrying out the fighter plane program. The PSV Program [Powder Explosives Program] in Estonia is mentioned, a number of factories, the Carbid Werk [Carbid Chemie] Fuerstenberg, Parschwitz—Nitrogen, and so on, are mentioned.

Q. Very well. That is sufficient for the purpose. A third example from a previous time, also during the war—that is Document 1457-PS, Prosecution Exhibit 460,² in Document Book 21, on page 145. This is a compilation from the files of Colonel Thomas. Could you please express yourself generally as to what can be seen from this document?

A. In numerous cases, it is pointed out that for the execution of the various programs the manpower available is not sufficient, and that it is necessary to shift the various programs around, which would have to be done according to the priority rating that they have been given.

Q. Could you give us the figures that you have underscored so that the record will show, when your statement is investigated, what you meant exactly?

A. Under No. 19,³ the question of the increase of the iron and steel quota in the powder and explosives plan is discussed; a memorandum is to be drafted for the continuation of the program.

Q. Perhaps you could read entry No. 15,⁴ which expressly states "Labor"?

¹ Letter from Krauch to Speer, 12 May 1944, on withdrawals of construction workers from projects of the Chemical Production Plan, not reproduced herein.

² This document, an index to 93 documents drawn up in connection with General Thomas' preparation for a history of Germany's military economy, is not reproduced herein as such. However, the two entries expressly mentioned in the ensuing testimony are set forth below in footnotes.

³ Entry No. 19 reads: "*Memorandum on discussion of General Thomas with Prof. Krauch and Chief of Army Ordnance Office [HWaA] General Becker on 17 December 1939.* The matter of increase in iron and steel quotas for the 'Krauch Plan' (Powder and Explosives) was discussed. Result: Memorandum to the Fuehrer is drafted for the purpose of inducing a decision on the future execution of the munitions program."

⁴ Entry No. 15 reads: "*Memorandum on discussion of General Thomas with Minister Funk and State Secretary Posse on 7 November 1939.* General Thomas sets forth that the present manner of managing the war could not continue because the Wehrmacht gets neither the necessary experts nor the necessary labor. Minister Funk refuses to submit a memorandum on the situation to the Fuehrer."

A. Yes, General Thomas points out that the present type of armaments industry could not be continued since the Wehrmacht does not receive the necessary capacities and not the necessary manpower.

Q. You can testify and you know that from this question of manpower you were influenced as to the expert suggestions which you had to give?

A. Yes.

Q. Another problem which is of importance here. This has to do with your activity in the field of so-called deferment ratings for workers. Please, in order for the Tribunal to understand the problem correctly, first of all tell me what the expression "UK"* means, the deferments for workers.

A. "UK" is a certificate that declares the worker to be indispensable.

Q. Could you explain it a little further?

A. The particular expert is so important for his particular job that he cannot be spared for service in the Army; that he cannot be drafted into the Army.

Q. Was this very simple to do, to have a man deferred? Could the firm simply state that a certain worker is important, and "I want to stay here, I don't want to go to war"?

A. Of course that was not so simple, because the competent Armament Inspectorate [Ruestungsinspektion] reserved for themselves the right to check all these cases.

Q. Somebody had to give an expert opinion about this?

A. Yes.

Q. Were you the man who had to give this expert opinion, or perhaps persons that you had delegated?

A. Of course, only for those cases which had to do with development projects of my office I was consulted; that is, my office was consulted. "We have a number of requests for deferment [here, are they] justified? We ask your expert opinion on this matter." My office then dealt with this and worked on the subject.

Q. Did you have the right to make decisions whether a certain worker or expert or skilled worker or employee should be or should not be deferred?

A. Of course I did not have this right to make [final] decisions. That was the affair of the military. The decision of the Armament Inspectorate was involved also, which was, of course, made up of officers of the army.

Q. Again here a question in conclusion. How were your expert opinions complied with? How did people follow your suggestions?

*Originally "UK" was the abbreviation for "untauglich fuer den Kriegsdienst," literally translated as "unfit for war service." Later it was also used for "unabkoemmllich fuer den Kriegsdienst," which may be translated as "indispensable, subject to occupational deferment."

A. I endeavored, of course, to have as many German workers retained in industry as possible, for only in this way could a smooth running of the production be safeguarded. The regulations about the drafting of workers for the army became intensified in the course of the war—and especially in view of the heavy losses on the Eastern Front—and they became extraordinarily severe, so that the majority of the deferment applications were rejected by the Armaments Inspectorate, despite my people's recommendations.

Q. This is what you have to say generally about the question of labor commitment. I shall now come specifically to the labor allocation of foreign workers. Explain your fundamental position to this question: How did it come about that foreign workers were used? What were your ideas on this subject?

A. The idea to employ so-called foreign workers came into the picture very soon after the various countries had been occupied; after Holland, France, and so on, had been occupied. The industries there were paralyzed for a large part. In Germany, we were notoriously short of workers so that very soon we recruited foreign workers for work in Germany. The employment of foreign workers was something that was quite customary in Germany also during peacetime. We knew the so-called eastern migrants (people from Poland), who were employed in Germany in agriculture in large numbers and who earned their living there. In a similar way, we also thought of using these people for work in Germany since they were free abroad.

Q. How was this handled actually? Could you make the attempt to recruit certain individual workers, or how did you do this?

A. The individual recruitment of workers by my offices was not customary, and it could not be done since it was always the affair of the particular labor agency responsible for the recruitment and distribution of labor from abroad.

Q. When you say "labor agencies," you mean those authorities of the Reich Ministry of Labor, isn't that right?

A. Yes.

Q. And is it also correct that you were quite outside of these authorities which were designated as agencies of the Reich Ministry of Labor?

A. That is right.

Q. What was your activity in this matter? Did you again have to make suggestions?

A. Yes.

Q. Please describe this a little more in detail.

A. After these countries had been occupied, I came back to a suggestion which I had already tried out years ago during my work in Ludwigshafen. The plant at Oppau had been completely destroyed by a serious explosion in 1921, which caused the death of more than

six hundred persons at the time. We had to deal with the serious question of reactivating this plant as soon as possible in order to find work for the people working there once more. The engineers in charge had set themselves a deadline for the reactivation of this plant, and they said that it would take 1 year, since a lot of new workers had to be recruited and made available to the factory only for the purpose of reconstructing the plant. About twenty thousand workers were needed. At that time I had the idea to get these people to come to work for the plant in a different way and so to have the plant begin operation even earlier. For this purpose, I went to Cologne, where I spoke to the Director General of the BAMAG [Berlin-Anhaltische Maschinenbau A. G.], a certain Baurat Lechler, who was a very intelligent person, and I asked him, "Is it possible that you, with your staff of construction workers, could come to us at the construction site at Oppau and take over certain parts of the reconstruction independently, so that the I. G. Farben enterprise with its own shops does not have to execute this part of the construction work itself? It is, of course, clear that you have other work to do at the present time, which you have to get rid of or have someone else do. Can you include the sum of money which you will lose by doing this and include it in this sum which we will have to pay you, and how high is this amount of money?" He calculated, and after a few hours he arrived at an increase of about thirty percent, which he would have to ask in addition. I told him that in view of the necessity and urgency with which we had to reactivate the plant, this amount was bearable. After the plan had been discussed, I inquired of a number of other plants to which I was able to give this example of the BAMAG. Everybody generally agreed with me and already during the next few days the workmen arrived from the various firms at the site of the disaster in Oppau and they started work on the reconstruction of the plant. In this way we were able to move up the time limit of 1 year which our engineers had fixed, and to have it reduced to 3 months. After 3 months, the plant began to operate, and a few months thereafter, it had reached its full production capacity, so that it was not necessary to dismiss the workers during this emergency and to have them idle.

Q. Now where is the bridge of ideas to the matters which you made about the commitment of foreign workers in 1941?

A. It was of course very normal for me to repeat the same idea and to go abroad to construction firms and to ask them, "Are you ready to take over a certain construction or installation work with your workers as an independent firm? You will be paid for this work just as would be a German firm that is given a similar job to do."

(Recess)

Q. Dr. Krauch, we left off yesterday when we discussed the question of the foreign workers who worked in German industry during the war and, at the end, you described how you undertook reconstruction of the destroyed Farben factory in Oppau in 1921 by way of a new system and that this new system consisted of getting certain firms to contract for certain work, such as installations, sewerage systems, and so forth; that you got them there as a whole with all their works and their staff. You told us about this as a preparation for those measures which you now caused to be taken, on your own initiative, during the war. Now, tell us the adaption of this, your idea, to your activity during the war in regard to the foreign workers?

A. When the question of employment of foreign workers became acute, I decided to send representatives of my office to the countries concerned in order, first of all, for them to speak to the employers to see whether they would be ready to have their workers come to Germany under similar conditions. The gentlemen returned and reported to me that in the various countries abroad they had found full agreement with this plan by the employers. I then negotiated with the plants and pointed out this suggestion to them. First of all, my people again negotiated with the foreign firms and got them in touch with the plants concerned. The factories then concluded agreements and contracts with the firms for definite types of construction, installations and other work, and the foreign employers signed these contracts and then came with their staffs of workers to the various construction sites.

Q. Could you force the foreign firms to conclude these contracts?

A. Of course I could not do that. I had to first get the approval of the necessary labor offices, competent for those particular construction sites where these workers were supposed to be employed.

Q. Dr. Krauch, I believe you have skipped one step and you have not understood my question correctly. I had asked you whether you could force the foreign firms, who took their staff of workers with them, to conclude such a contract.

A. I could not do that in any case.

Q. The question that belongs to this is the following. Could you order the German firm, concluding a contract with the foreign firm, to conclude this contract?

A. I could not do that either.

Q. Then in conclusion, I may say that all your mediation extended only to voluntary work and was done on a voluntary basis?

A. That is absolutely correct.

Q. Can you give us the names of a few of your associates whom you charged with this voluntary commitment of firms?

A. A few names are a certain Dr. Handloser, a Dr. von Schelling, a Dr. von Nebel, Dr. Eckhardt, and so on. I, of course, preferred those gentlemen who knew the language of the country concerned.

Q. What did such a contract look like—a contract concluded between the foreign firm and the German firm? Only very briefly since we have a sample of such a contract as a document.

A. I should like to quote, as an example, the electrical installation work of some construction. An installation firm in France had been given the order from a certain other firm to undertake to do the work for an over-all sum that had been agreed on beforehand, and to install equipment in certain constructions. The firm appeared with its staff of workers at the construction site. They had their own office there which took care of the workers and which paid them.

Q. What was the position of those foreign workers? Who was the employer?

A. The employer remained just as it had been before—their old firm.

Q. Did they also pay their wages?

A. Yes, they also paid the wages.

Q. What was the advantage of such an arrangement for the foreign workers?

A. There were various aspects. The care for the workers remained the same as they had been used to in their mother country. The workers received their payment in foreign currency so that they had the possibility to send their salaries home to their families.

Q. Did these contracts also provide for vacations, housing and feeding?

A. These contracts, of course, contained agreements about regular vacations and also agreements about feeding, housing, and so forth.

Q. Very well.

I shall corroborate that by the aid of documents, Mr. President.

Did these contracts become popular—were you successful with these contracts?

A. I believe we were very successful for many more firms reported for work than we could use.

Q. Did these contracts also become popular with the workers who were thus employed with you?

A. You can certainly say that, for the workers always tried to get their dependents—their wives or relatives—also to work in Germany under similar contracts.

Q. Can you give a figure to the Tribunal which would give an idea of the number of workers that were employed in Germany by reason of such agreements?

A. I think that 20,000 to 25,000 workers worked on this so-called voluntary employer basis on construction sites under our care.

Q. One step further: In the spring of 1942, Sauckel was appointed as the Plenipotentiary General for Labor Allocation. First of all, tell the Tribunal very briefly who Sauckel was?

A. Sauckel was the Gauleiter of the Gau Thuringia and he was generally considered as one of the—let me call him—the most energetic Party members and followers of Hitler.

Q. Why did they appoint a special Plenipotentiary General for Labor Commitment [Allocation]?

A. In the armament field, a scarcity of manpower had become more and more evident, and Hitler was probably not satisfied with the methods which the Reich Ministry of Labor used for the recruitment of labor. They seemed not energetic enough for him.

Q. Sauckel carried the same title as you did. He was also a Plenipotentiary General. What were his authorities and how did they differ from yours?

A. Sauckel was given immediately very strong plenipotentiary powers—plenipotentiary powers also for other Ministries which I never received, so that when he was appointed he got a very powerful position with the government and he used this position ruthlessly.

Q. I do not want to discuss the individual measures that Sauckel instituted; that will be done at another time during the trial. I merely want to ask you what influence Sauckel's appointment had on those measures which you have just now described as the firm employment basis.

A. You could say that it now became more difficult immediately. Sauckel was not in agreement with the methods used by us, but nevertheless this did not prevent me from continuing my work as far as possible in the same manner and method despite the resistance offered by the labor office of Sauckel's.

Q. What policy did Sauckel pursue?

A. Sauckel noticed very quickly that the program with which Hitler had charged him could not be carried out with the methods used up to that time, and therefore he started all kinds of new suggestions.

Q. Please give me the cue and the motto under which Sauckel worked.

A. It was the compulsory and obligatory service for foreign countries.

Q. Tell me what you mean by this obligation for service, or drafting for work. What do you mean by that expression?

A. That drafting for labor was a regulation which we had already known in Germany during the First World War. According to this draft the individual citizen no longer had the right to seek employment according to his own decision or to seek any service according to his own choice. He was now instructed to follow the regulation of the government which put him to work as it saw fit.

Q. And this idea was now applied and initiated in the occupied territories?

A. Yes, according to the example which had already been in existence in Germany before and according to which every citizen was placed under this service draft, regardless of his position.

Q. Did you have anything to do with working out and drafting these laws?

A. I had nothing to do with drafting and executing these laws.

Q. As you said, you continued your methods despite orders of the government to the contrary, and you got workers on the basis of the so-called firm employment?

A. Yes.

Q. Were you successful in this?

A. I was able to do this very well. I turned to my offices abroad. They got in touch with the agencies of the Plenipotentiary General for Labor Allocation, Sauckel. They asked them for the number of workers assigned to construction sites of the Plenipotentiary General for Special Questions of Chemical Production according to the proper priority rating. They negotiated with the firms in question. And finally they presented the agencies of the Plenipotentiary General Sauckel the number of workers that they had recruited in this way. They were then counted up towards the quota which the Plenipotentiary General had originally issued.

Q. Then after the question of employing foreign workers had become acute, there were two types of workers in Germany; Germans, on the one hand, or voluntary workers; then, foreign "involuntary" workers—let us call them by the name used by the prosecution, that they were working under force—and then there were also those foreign workers who came to Germany voluntarily.

A. Yes.

Q. When you gave your expert opinion that workers were necessary for certain places, did you then request a certain type of workers?—Do you understand my question?—Did you say, for instance, I want drafted workers? Or did you say, I want voluntary foreign workers? Or did you say, I want German workers?

A. About the choice and the type of workers assigned to me I could not make any decision. I could only say, in my opinion a certain amount of workers are needed. I could say either skilled or untrained workers. I need so many. Or I could say, the plant needs so many carpenters, so many locksmiths, and so on.

Q. In order to clarify this very well, then, you could not request a certain type of worker, be it under the aspect of forced or voluntary labor?

A. No, by no means. It was of course my opinion that I preferred voluntary workers, and I always tried to get as many voluntary workers as possible.

Q. What was your attitude as you have described just now according to which, as the prosecution asserts, you had to employ "slaves"? Why didn't you refuse this, either by protest or by resigning your position?

A. In regard to the first, the protest, I always had the opinion—and I believe that I have demonstrated that sufficiently with the authorities concerned—that I preferred the German workers most of all.

Q. Give us your reasons for that.

A. The reason was the type of work the chemical industry had to do; the activity of the worker as compared to other industries is rather responsible. The plant manager has to rely very much on the good will of his workers, and I can only expect him to have this good will if I employ him in a decent and humane way. Through a simple mistake in his work he might cause some sort of an explosion, with consequences that we could not even measure, without my being able to make the worker responsible and call him to task for this explosion. If he wants to damage the plant he might sabotage it and cause a disaster, which he could easily do and which he probably would want to do if he didn't like the type of employment or wanted to protest against the circumstances of employment. And I still would be able to find no reason for making him responsible for that at a later time. Such cases—and I can judge this from my activity as plant manager during the First World War—arose very frequently at that time, since during the First World War many foreign workers were imported from Belgium and were employed in Germany. That was done at the suggestion of Walter Rathenau, made by him at the time to the Minister of War.

Q. Perhaps you will go on with answering my question: Why you did not protest against it? Why did you not refuse to do this after you had stated that, from your own inner sentiment, you were not in agreement with the drafting for work?

A. I believe the reasons for that were that the country was at war. Millions of its sons were fighting at the front, just as those of other countries. They died there for the Fatherland. Everybody had to offer his life because the laws so demanded, and the man at home as well, even if he was in a modest position, had to do what the country demanded from him. It is certain that I might have evaded my duty. I might have fled to Switzerland, perhaps, and gotten into a safe place. But I had to take into account that my own sons were at the front, as simple soldiers in the front lines, and I didn't hear anything from them for months. I had to count every day as a possible time when I might receive a report that either one or the other might have been

killed in action. I believe that it would have been an undignified act and that my sons would have considered it as such if, in such a situation, I would have thought of my own small life first. Perhaps a second aspect entered into the consideration. I knew that my country was about to enter the most difficult period in its history, and it was not at all my intention to desert my country in this difficult position. After all, I was attached to this country more than if it had been under happier circumstances. I just meant that I did not want to leave this country.

Q. Thank you very much Dr. Krauch. Well, this was your psychological attitude. On the other side, however, there was an order to utilize these workers as they had been drafted by the labor offices. Tell me whether you could have worked against this order without making yourself liable to punishment?

A. I could not act against this order. I was only able and I tried to improve conditions for those human beings who had to work under these circumstances.

Q. This now touches upon the question of the so-called care for the workers, the welfare of the workers who were working on construction sites under your charge.

Your Honors, I shall deal with this problem only very briefly with very few questions since I am able to offer detailed material in documents. But I do not wish to discuss all this with Dr. Krauch.

Well, Dr. Krauch only a few fundamental questions. First, did this welfare of the workers belong in the scope of your authority?

A. No, it did not belong within my authority. That was somebody else's job.

Q. How did you come about to care about this at all? What were the reasons for that?

A. The reason was that I felt obliged to see to it that people who had come on my suggestion, after all, from foreign countries and who were working in Germany now, that they worked according to my ideas; and to control that, to see to it that it was done.

Q. To whose competency did the social care or welfare of the workers belong?

A. It belonged first of all to the competency of the plant leader [Betriebsfuehrer] under whose direction the people worked.

Q. Please tell me quite briefly what you understand by plant leader?

A. Plant leader is the director of a plant who, according to the labor law issued by the National Socialist government, is responsible for the social care and welfare of the workers.

Q. Was there anybody else besides the plant manager who was responsible for the social care and welfare?

A. Yes, there was. First of all I should like to point out the work of the Labor Front, which was initiated by Hitler very early for the social welfare of the workers.

Q. Were there any other authorities which dealt with this question?

A. Other authorities were the Trade Inspectorates and Commissions which had to investigate disasters and accidents. There were state authorities which had to discuss a certain disaster or accident with the plant [management] and who had to discuss the measures which might be initiated to prevent such accidents in the future.

Q. For humane considerations, you also added your own authority to these already existing agencies which dealt with the question. After all, we know conditions in Germany. Did the people who were so far charged with authority accept you, or did they object to your authority?

A. The people whom I had charged with this work, of course, got along fine with the plant managers and directors, who were very glad to get their advice. Conditions, however, with the Labor Front were much more difficult. They were not at all amenable to having anybody tell them what to do, so that we got a lot of trouble and friction with this particular authority, the Labor Front.

Q. Tell me in detail and very briefly; give me a summary about the scope of your social care and welfare of the workers.

A. First of all, it extended to care for feeding and housing of workers concerned. I picked out certain plants which were exemplary in this regard and then I chose other plants which had not so much experience in this field, and I pointed out these better conditions to the worst plants to try to get them to institute the same good conditions in their enterprises.

Q. Did you charge a certain commission for this work or maintain a permanent body to do this work?

A. Yes, I called them the Food Commission [Verpflegungskommission] since they tried, if there was any scarcity of food, to try to buy food abroad where such food was not rationed as yet, to buy that for the foreign workers, and also they tried to buy clothing, and shoes. I don't think I have to go into any more detail.

Q. From your answer, I merely would like to pick out the designation, Food Commission. You did not give the entire activity of that Commission, actually?

A. No.

Q. They did more than just taking care of food; isn't that right?

A. I don't know how the name Food Commission came about, but they did have to do all kinds of other things that were concerned with the care of the workers.

Q. You said that you also concerned yourself with the amount of salary that the foreign workers received. Can you tell me anything about that, briefly?

A. We tried, of course, to secure for the workers salaries from the firms which had recruited the workers, salaries satisfactory to the workers. These salaries were sometimes a little in conflict with those generally accepted in Germany at the time—that is to say, they were higher than the ones in Germany at the time. My staff tried to keep these salary groups on the fixed basis by giving all kinds of benefit payments, increases for families, and so forth, so that the workers actually did receive the exact payment agreed upon in the contract.

Q. I should like to discuss with you three fundamental examples for your social care and welfare and for your personal intervention. You told me at one time about a certain case which belongs here, in Schkopau. Tell me briefly what Schkopau is and then explain what you did there.

A. Schkopau was the first buna factory which Farben erected. Of course, just as any other plant did, so did this plant also have to deal with difficulties, because the social installations, hospitals, and so on had to be erected. And with the scarcity of building materials the necessary machinery did not arrive on time, and all kinds of difficulties arose, so that Dr. Ambros asked me one time to make available the assistance of the Leuna works, which was 6 kilometers away from the plant, and that I should make available to him machinery, hospital equipment, and so on. I discussed the affair at the time with the Leuna plant manager, Dr. Schneider, who of course was ready to grant any aid and assistance.

Q. Did conditions then become better?

A. Yes, Schkopau then became very well directed as far as social welfare was concerned.

Q. As a second example, I mention Heydebreck. What is Heydebreck?

A. Heydebreck is a plant which manufactured iso-octane gasoline and nitrogen also, which was constructed during the war by Farben. Somewhat difficult conditions had arisen there, too, and I saw that when I visited the plant at one time. I talked to the man in charge who was responsible—that was a man from Ludwigshafen, whose position approximately corresponded to Mr. Ambros' position. It was Dr. Mueller-Cunradi, who died a short while ago. He seemed somewhat dissatisfied with his expert on welfare questions who had not yet gained enough experience in treating workers and treating welfare questions of workers. The conditions there were perhaps particularly difficult because this plant had many foreign workers; it had no expe-

rienced Germans as did other Farben plants on whom it could rely. Dr. Mueller-Cunradi asked me to be of assistance to him in procuring an older man for him who might have more experience in this field than the one presently working there. I was able to recommend a certain gentleman to him whom I knew personally. That was the personnel expert in the Ministry of the Interior who was considered as being not quite reliable to the Party and who, therefore, had to resign from his position there. Dr. Mueller-Cunradi appointed this gentleman upon my suggestion, and I could very soon convince myself when I visited this plant at a later time that the conditions remarkably improved.

Q. A third and last example has to do with the name of the Russian scientist Androsow, who brought a number of his fellow country men with him and for whom you cared very extensively. Please, just give me the outlines of this incident. We have documents about it.

A. One day, General Stapf came to me, the Chief of the Economic Staff East, who had to deal with economy in the eastern territories. He pointed out to me that in Kharkov a lot of misery was existing among the scientists who were working in the universities of that area. Nobody cared for those people, he said; nobody could use them, they were not skilled workers. If they were perhaps skilled workers they might, perhaps, have been taken to Germany where they would have earned their living, but in this way, as he saw it, they were slowly starving with their families. He asked me, since he knew that I always was greatly concerned with science, whether for humane considerations I might not give some assistance to this group of people. I remembered one of my former associates in Farben, a certain Dr. Androsow, a former officer of the guard in a Russian regiment, who had been made a prisoner of war during the First World War and whose family was murdered in the rebellion that arose after the war, so that he had decided to stay in Germany and study chemistry, and after he concluded his studies we found out that he was a very able chemist. He then entered the services of Farben. The man was able to speak German and, of course, also Russian, and I sent him to Russia where he took care of these particular professors. It was rather interesting for me to get a true picture about the sentiment of the Russian people after the occupation, but this belongs in another place.

Q. Dr. Krauch, tell me what Dr. Androsow in conclusion told you to do, and then you may proceed.

A. He made the suggestion right away to get these people to work in Germany and to have them work in the institutes of industry, but the professors made a condition that they wanted to take their families along with them and not leave them in Russia since otherwise they would starve. By a conversation that I had with General Stapf, who agreed with this idea, I was able to get these professors with their

families to come to Germany, where they were fully employed in some plants of the chemical industry, and where they were satisfied and where they were doing very satisfactory work. This Dr. Androsow came to my mind again after I had looked at the Heydebreck plant. The Heydebreck plant and the Blechhammer plant, which however did not come under Farben, employed many eastern workers, Russians, because it was close to Russia. When I inspected the plant I noticed that the Russians, who were otherwise generally described as good workers, stood around their working places very sadly without working so that I felt that these people were missing something. Housing and feeding was very fine as I saw personally, but something else was lacking. Therefore I used Dr. Androsow's services for work in these two plants. He arrived very soon after he had found his countrymen there and made suggestions to institute a number of cultural establishments there, churches of the Russian Orthodox Church, institutions of schools, kindergardens, care for the women who had nothing to do, for the sick people, care by Russians instead of care by foreigners, and I had the feeling that Androsow brought great benefit in this community. After 9 months, I inspected this same construction site once more and I found a great difference and improvement in the sentiment and feeling and morale of these people.

Q. These three fundamental examples of your social welfare for the workers suffice and I shall now come to conclude this subject and put certain things to you which the prosecution charges you with in particular. First of all turn to Document NI-7110, Prosecution Exhibit 1376,* in Book Number 70, the English page 63, and the German page 120. This is a report of a meeting of the Food Committee that you mentioned, about a meeting of the fourth of March 1943. In this report on Page 3, it is stated "Bruex Report." That is on Page 3 at the top.

A. Yes, I found it.

Q. "Bruex reported that after negotiations with the base camp, IV e Wistriz near Teplitz-Schoenau, it is now also permitted to beat French prisoners of war for lack of discipline, if need be. Negotiations with the competent base camps of the individual plants on this subject were recommended." The question I have now is, did you know this report and if so, what did you do against it?

A. I do not believe that I saw this report. This was a typical report, as many of them arrived in my office. Usually when reports came in, I had a summary of them made by the department chief who reported the most essential points to me. I cannot remember that I had anything like that ever pointed out to me. I believe that I can

* Reproduced in part in subsection D above.

say that if I had known this, I would certainly have done something against it, for it would not have been in keeping with my ideas.

Q. Please keep this document in front of you. Immediately afterwards, on this same spot, it says "The Secret State Police, in conjunction with the Reich Labor Trustee, have authorized the establishment of an indoctrination camp [Lager zur weltanschaulichen Schulung] for foreign workers for Ludwigshafen." And my question is, are these the so-called "correction camps" ["Erziehungslager"] of which the prosecution speaks sometimes. What was your conception of these?

A. I assume that these are the education or correction camps of which I had heard, but about the operations of which I had no personal knowledge. Such education or correction camps were instituted by the Gestapo, as far as I know, and they were being directed by the Gestapo. I don't think that it was ever permitted to inspect such a camp.

Q. In your opinion were these state orders against which you could not have objected or protested?

A. Yes, correct.

Q. The prosecution offered Document NI-5765, Prosecution Exhibit 371,* in Document Book 70, Page 21 of the English—

A. Is that Document 371? I don't have that document.

Q. Excuse me, this is Document NI-5765, Prosecution Exhibit 1371, in Document Book 70, and you can see already from the document book that it should be 1371. In this document it is pointed out—one of your circular letters is pointed out—about the commitment and treatment of foreign workers. What have you got to say about this circular letter?

A. This circular letter is very comprehensive—if I may summarize its contents. I stress in it the fact that we should see to it that the foreign workers be treated in a dignified and decent manner. Especially the foreign workers. Such reports, of course, arrived very frequently and it was my request to the visitors, that is my officers in the plants, always to care about the social welfare of the workers and to report to me about it if anything was objectionable. On the other hand, and this happened much more frequently, to point out improvements and innovations which might be of benefit to other plants.

Q. Another document in regard to your attitude of social conditions of foreign workers; the prosecution submitted a circular letter of 9 August 1943 about measures which refer to the repatriation of French workers—about the deportation back into Germany of French workers who had broken their contracts. This is Document NI-1336, Prosecution Exhibit 476, in Book 22, on the English page 29,

**Ibid.*

on the German page 34. Please look at it and give me your idea about it.

A. It can be seen rather clearly from this document that it was not sent out on my initiative, but that it was an order of the Plenipotentiary General for Labor Allocation, Sauckel. This directive had to be issued upon the order of Sauckel.

Q. Were things done according to this circular letter—that is to say that those workers who had broken their contracts were reported to the Gestapo?

A. The officers of my agency did not report any of these people to the Gestapo.

Q. You did not comply with this order then. Did you issue a directive to the contrary then?

A. I was in the somewhat peculiar situation, that I did not comply with a certain order merely by not passing it on. I passed the order on, but the agency to which I passed it on I gave the instructions to work according to my ideas so that the agency which might have been punished for not complying with the order actually could not be punished.

Q. Dr. Krauch. I am sorry to say that it is not quite clear. You passed on an order to the effect that these workers who had broken their contracts should be called to task. Then you said that nothing was to be done on the basis of this order.

A. Yes.

Q. Why did your associates believe that they were protected by you if they did not comply with the order of Sauckel?

A. My associates knew very well what my ideas were on this order. I was, of course, not able to issue a contrary order over the telephone or through the mails. If I had done so the S. D. or the Gestapo who surveyed every telephone conversation that I had would have come and arrested me, probably. My ideas could only be made known to my associates in an indirect way.

Q. And what was your idea?

A. It was that the plants would only receive replacements if they could say some workers did not appear at their places of work and then the Labor Office would say "Well, did you report the fact that this man escaped? Did this report arrive at the hands of the Gestapo?" And then the plant must say, "Yes, we turned it over—we passed it over to the office of Dr. Krauch" and what my office did with it they did not have to know.

Q. Another case. Document NI-8964, Prosecution Exhibit 1393,* Document Book 70, the English page 129 and page 293 of the German. This is a letter of the Leverkusen plant to your department of Labor

*Reproduced in subsection D above.

Allocation in which Leverkusen says that you should continue your efforts about the allocation of eastern workers. Have you found this document?

A. Yes, I have it here. It is directed to the Department of Labor Allocation, Herr Pompe. I believe this letter is a typical example for the fact that my labor allocation [department] was only an transitory [intermediary] agency. I merely passed on these requests to the agency that had to make the decision about it.

Q. Very well. Now seems to be the opportune moment to discuss your own affidavit in which you deal with the question of the commitment of foreign workers. This is Document NI-2972, Prosecution Exhibit 481,* in the Document Book 22, English page 47 and German page 58. Have you found it?

A. Yes, I have.

Q. First of all you say under Number 2 that you were the highest authority for the distribution of manpower in the various plants of the chemical industry. I have two questions on this point. First of all—the question for the individual plants of the chemical industry—I understood you up to now that you only were to take care of those workers that had to do with your activity in special questions of chemical production, that is the four well known fields of minerals, buna, and so on.

A. That is correct, and later the field of nitrogen was added to these four fields, and also the yeast production. These were additional fields that I have to mention. But your question is, of course, quite justified. I did not have to deal with all of the chemical industry, but only those parts of the chemical industry for which I had authority and competency by reason of my appointment as Plenipotentiary General.

Q. Who was responsible for the rest of the chemical industry?

A. The competent Reich Office Chemistry under the Reich Ministry of Economics, which was later called Economic Group Chemical Industry.

Q. My second question refers to your expression in the affidavit, the distribution, an allocation, of labor. You explained things to us here by saying that the labor allocation agencies, the labor offices, were responsible for labor allocations and that you could only render your expert opinion. Please tell us about that.

A. You are quite correct. I had only to render expert opinions. I had to explain whether the requests coming from certain plants to the labor office or the Gau or regional labor office were justified, or whether they had to be changed.

Q. Tell us something about how you can reconcile this apparent contradiction.

**Ibid.*

A. I think my phraseology was somewhat inaccurate. I was not paying particular attention to this point.

Q. You say further, that besides German workers, there were foreign workers, prisoners of war, and concentration camp inmates all included in this manpower. The question of prisoners of war and concentration camp inmates I shall deal with later. At this time, I merely want to ask you if there is not a contradiction here, with your assertion that you had no influence upon the requesting of certain types of workers.

A. It is to be understood in the sense in which you have just now described it.

Q. Under paragraph 4 of this affidavit you say that representatives of your office accompanied transports of workers on their trips to Germany. From other documents, I can prove to you that not your representatives accompanied them, but representatives from individual plants accompanied these workers.

A. Dr. Boettcher, that is correct. I myself made a restriction in this paragraph which you did not read just now. I add at the end "together with the plants." That is the last line. That is to be understood to mean that representatives of the plants went to the countries concerned, who then took care of the recruited workers and who accompanied them on their trips to Germany.

Q. What was the point to have plant representatives accompany these transports of workers?

A. The trip [often] lasted a few days. In the meantime, the people had to be taken care of. They had to be fed. They had to be put into the proper trains, for otherwise the people would have gotten lost, since they did not know the language of the country. So that for welfare considerations, it was quite proper to have these people accompanied by others who knew the conditions.

DR. BOETTCHER: I can now turn away from this subject of foreign workers as far as you know anything about it, and turn to the question of prisoners of war.

(Recess)

Q. Dr. Krauch, we are starting a new chapter, and I am referring to the question of the treatment of prisoners of war, and their commitment in the economy [industry] (during the war) within the chemical sector of which you were in charge where prisoners of war were being employed. Would you please be good enough to tell us whether you particularly requested the commitment, and instigated the commitment of prisoners of war into plants in which you were in charge?

A. In no way at all. This originated from a directive from the Reich Labor Office, as well as from a directive from the Armament Inspectorate which determined the employment of prisoners of war. Personally, I exercised no influence at all, whether or not prisoners of war were being employed. It was simply an order.

Q. The prosecution has put to you a letter of your associate, Kirschner, directed to General Thomas. This letter is dated 20 October 1941, and it was submitted as Document EC-489, Prosecution Exhibit 473.* You will find it in Book 22, English page 12, German page 12 too.

Did you find the letter?

A. Yes. It is before me.

Q. Would you please be good enough to define your attitude towards it?

A. I must point out that at the time this letter was written, I was considerably ill. I was suffering from pneumonia in both lungs, and Kirschner was the first one who received the doctor's permission to see me.

It was a matter of course for me to ask him how things were going outside, how the military situation was progressing—he was an officer—and what the situation reports from the East were, and so forth.

He told me that a number of heated battles were going on, and that millions of prisoners of war had fallen into the hands of the German Wehrmacht. He furthermore said that one was no longer master of the problem, that when these huge, unexpected masses of prisoners of war were captured, it was a problem of how to care for them. He said that they were all crowded into camps, and that it was impossible to get the reserves of food in time into the camps so that the regrettable situation had arisen where thousands of prisoners of war had to starve in such camps.

I naturally replied the following: "Is it not possible to help these unfortunate people? Why does one not undertake the following? Since one has brought these prisoners of war into the camps, one could just as well bring them into Germany and have them used in the economy, which can certainly better cope with problems of food, and so on and as a result the fate of these people would be considerably alleviated."

This was the basic thought which prompted me when I addressed Kirschner in that way. This, at the same time, was the basic thought which prompted Kirschner to direct this letter to General Thomas.

Q. Were you at the time aware of the regulations concerning the prisoners of war within the armament industry as the result of the Geneva Convention, the Hague Rules of Land Warfare, and so forth?

A. I was not aware of these regulations. I did know, however, that within the organization of the OKW, there were certain agencies which were exactly informed about the regulations of the Geneva Convention, et cetera, and who, according to such regulations, had

**Ibid.*

to steer the employment of prisoners of war. Just for example; for instance, 17 prisoners of war were allocated to a plant upon the orders of the labor office, an officer from the OKW, who was especially assigned to this task appeared—this officer belonged to the organization Stalag [PW camp administration] this was the organization in question—the officer would then proceed to settle with the plant leader all questions concerning housing, food, and the actual labor allocation which may be important in this connection. It was he who determined where the worker could possibly be committed according to the regulations of the Geneva Convention, but that was not all. Repeatedly and rather regularly, plants were visited by this officer from Stalag. It was he who controlled whether the orders he had given to the plant were being adhered to, and whether the prisoners of war were being used for purposes which were not in compliance with such orders given.

Q. If I understand your statements correctly, you have stated that your own suggestion was based upon humane considerations, and that with respect to the employment itself, the OKW was the agency which determined it.

A. That is what I said with my own words.

Q. Was a directive issued to use prisoners of war as workers in your plants?

A. Yes.

Q. This directive is contained in the documents submitted by the prosecution. I am referring to Document EC-194, Prosecution Exhibit 1287,* Document book 67, English page 10, German page 9.

It is the order by the Chief of the High Command of the Armed Forces dated 31 October 1941, concerning the use of prisoners of war in the war industry.

I have a question to put to you, Dr. Krauch, in that connection, with respect to the connection between your instigation and this order. Do you assume that this order by Hitler was issued upon your initiative and your suggestion?

A. I am not sufficiently conceited to believe that.

Q. Would you please give us your reasons for that, basing yourself upon the period which had elapsed?

A. The gap in time between the letter of Kirschner to Thomas and this decree by Hitler was, as far as I can remember, 8 to 10 days. We know, and I am sure it is similarly true of other countries, that official channels take up a considerable amount of time. Before a letter, passing through the various Ministries, could get to a certain office, 3 to 4 weeks had to elapse. I think it is entirely out of the question,—merely from time considerations—that any influence of my letter can become apparent upon this order by Hitler.

**Ibid.*

Q. Can you recall any proof that the same question which concerned you was also concerning other personalities?

A. I believe that this was a question of general interest. The use of prisoners of war in the war industry represented nothing new. During the First World War I was the plant leader at the Leuna works. For the very same purposes for which prisoners of war were being used in this instance, English, French, Belgians and Russians were used there.

Q. In order to substantiate your opinion, would you please get hold of Document EC-200, Prosecution Exhibit 472,* Document Book 22, English page 10 and German page 10. Would you please define your attitude towards that document, very briefly?

A. May I ask you, it is Document 472, is it?

Q. Yes, Document 472.

A. There are only two pages there. What page are you referring to?

Q. I direct your attention to II, after the Fuehrer's speech of 3 October 1941.

A. In this report notation by the department chief, and I assume it is the OKW, it is stated that the entire Continent had to be used for German war industry. All available labor had to be utilized in that respect. Then there are a few sentences. "It is therefore absolutely important and it is impossible to do that unless we have the use of Russian civilian workers and prisoners of war."

Q. And what do you conclude from that letter?

A. I conclude from it that there was an order coming from the highest levels to use prisoners of war.

Q. And in what proportion to your suggestion does that stand from the point of view of time?

A. Well, very shortly thereafter. It must have been a matter which had already been previously prepared.

Q. Dr. Krauch, I think you misunderstood me. I am now referring to the time relationship between your suggestion and the Fuehrer order.

A. Eight days.

*This document (not reproduced herein) is a copy of an unsigned memo of the Armament Office Dept. IV. The paragraph which is hereinafter discussed by the defendant Krauch follows: "II. According to the speech by the Fuehrer of 3 October 1941, the entire European Continent must be exploited for the German war economy. In the first place, the utilization of all available workers is concerned by this. According to WFSt/L [OKW Operations Staff, National Defense Section] only a small contribution to the extension of the war economy can be made by the planned reorganization of the Wehrmacht. It is therefore impossible to cover the actual labor requirements unless we use Russian PW's and civilian workers (see encl. 1 and 4). The experiences we have had up to now have shown that, among both the Russian PW's and the Ukrainian civilian workers, a considerable reservoir of skilled labor is available."

Q. I am interested in showing that the suggestion to employ prisoners of war dates back to the 3d of October, as can be seen from Document 472.

A. I beg your pardon; I haven't seen the date. I can see now that the date was the 4th of October which means that it is even a date before my own suggestion.

Q. Let us now turn to the question as to where and in what manner prisoners of war were being utilized in your plants on the building [construction] work?

A. They were used for building [construction] and installation purposes.

Q. Do you know anything about their having been used in production?

A. The employment of labor in production, as I have previously stated, was not under my charge but rather under the charge of the Ministry of Economics.

Q. A few individual questions in that respect. The prosecution charges you, with respect to the minutes of the Aufsichtsrat meeting of 30 May 1942¹ where Geheimrat Schmitz, in connection with the Vorstand report referring to the year of 1941, has stated that the scarcity of labor must be overcome by the prolongation of work days and by the commitment of women, prisoners of war, and foreigners. Would you please take a position in that regard?

A. What Geheimrat Schmitz has said in this instance was a generally known fact. It actually came into effect in the year of 1941, a time when such usage was generally known.

Q. With reference to the question, did you discuss the question of the admissibility of the employment of prisoners of war in detail, or was the opinion represented that such a matter was up to the OKW to decide?

A. I believe that Geheimrat Schmitz said nothing more than what you have quoted here. All participants in this meeting knew that the care for prisoners of war was a matter of the OKW.

Q. In your affidavit, Document NI-2972, Prosecution Exhibit 481,² of the 22d of January 1947, you say, under paragraph 6, that prisoners of war were withdrawn from the chemical industry and used for construction of fortifications. Would you please define your attitude in that respect?

A. This use of prisoners of war for construction work certainly did not come under my charge. This referred to a directive of the Gauleiter who issued this order in agreement with the Army authorities concerned. Neither I nor the plant in question could do anything against the issuance of any such order.

¹ Document NI-6100, Prosecution Exhibit 1313, reproduced in part, in subsection D above.

² *Ibid.*

Q. I shall now leave this chapter and I shall turn to the last point regarding the so-called slave-labor program. I shall now turn to the problem of the employment of concentration-camp inmates. I should, first of all, like to say quite generally that I am not asking you for a general statement with regard to this problem, but that I am asking you quite clearly and concisely to take up position with respect to the facts asserted by the prosecution. Firstly, would you please take position with respect to a question which was particularly emphasized by the prosecution—that is, that the area where the new buna plant was to be erected was chosen in consideration of the fact that concentration-camp inmates would be available there?

A. I believe that every technical expert who has to deal with such questions is no doubt aware that in the choice of any such building area the consideration of workers is never decisive. The choice is contingent upon other considerations. I should only like to mention the proximity of coal with respect to transportation difficulties, the proximity of water—and the chemical industry uses water particularly. In some cases the proximity of lime. In other cases, the proximity of salt, and so forth. And, of course, the soil is important, too. It is very difficult to erect a large plant in the mountains. These are the considerations which are decisive for the choice of any such building area. Workers can be moved from one place to another. One can erect settlements for them, but the other very important conditions for the plant, such as coal and other things, are very important and they have to be taken into consideration. In other words, such consideration as I have just mentioned are decisive.

Q. It is your opinion, to the best of your knowledge, that such conditions like coal and water only were decisive for the choice of Auschwitz?

A. This is my absolute conviction.

Q. Now, the employment of concentration-camp inmates starts in Auschwitz with the well-known decree of Goering of 18 February 1941. This decree was submitted as Document NI-1240, Prosecution Exhibit 1417.* Would you please get hold of this document, look at the decree, and then tell us something about it? I draw your particular attention to the subject "Measures of Population Policy."

A. As I have already previously mentioned, the labor question was a question to be solved in every problem of construction. Unless there were workers, a plant could not be erected and could not go into operation. Decisive problems such as coal supply, water supply, and so on, had been studied satisfactorily and it was now important to solve the labor question because, although there was no scarcity of human beings, there was always a scarcity of workers who could come into question for the building and erection of a large-scale industrial plant.

**Ibid.*

It was general usage with I. G. Farben, something which had been practiced long before that date, to connect with the erection of factories a very general settlement policy, as a result of which it was possible for the IG to bring chemical workers from their main plants to the respective areas and use them there as the nucleus for the new plant to be erected. This problem had to be solved and that, no doubt, was the purpose of this decree by Goering.

Q. How did it come about that this decree was especially directed to Himmler?

A. Himmler had been appointed by Hitler as Reich Commissioner for the Strengthening of Germanism. It was to him that such population policies and settlement policies were subordinated and he was the one to decide.

Q. Did Auschwitz belong to this territory?

A. Yes.

Q. Had Himmler, in that connection, already approached you with respect to the problem of employment of concentration-camp inmates?

A. Yes, that had happened a considerable time before that date, but naturally had nothing to do with the question of Auschwitz, which was then not yet acute.

Q. Would you please be good enough to describe this situation briefly?

A. It was Himmler's idea, which he transmitted to me through the mediation of Kranefuss,* to erect plants of the SS through the work of the inmates of his concentration camps. The question which he directed to me through Kranefuss meant to ask me whether it was possible to use chemists and engineers from the chemical industry for such plants, whether I could put such workers at his disposal who could then undertake the tasks of directing the building and operation of a plant. It has to be kept in mind that the SS would naturally be fully in charge and be fully able to dispose of the concentration-camp inmates employed in such plants. I replied to Kranefuss that I considered this thought as being absolutely untenable. I said that I would personally refuse to employ a man behind whom, so to say, a policeman would be standing with a rubber truncheon and who would hit him occasionally. I said that this was entirely out of the question in a chemical factory. The worker and the plant management have to be connected with a situation of utter confidence and faith, and indeed under such circumstances it would be entirely unbearable for the plant manager from a human point of view. I could never expect other human beings, other chemists and engineers, to do

*Fritz Kranefuss, secretary of the Himmler Circle of Friends, a close associate of Wilhelm Keppler, and a member of the Supervisory Board of BRABAG. See section V, volume VI, this series, which contains materials from the record of the Flick case on the Himmler Circle of Friends and related matters. Keppler was a defendant in the Ministries case, (vols. XII-XIV, this series).

something which I would not do myself. This was the opinion which I uttered to Kranefuss for Himmler's attention. I deemed it necessary to inform other gentlemen of the chemical industry about my attitude on this point in case Himmler would try to contact them through the SS on this point. Himmler, however, did not do so. According to my knowledge, the entire matter was dropped at the time.

Q. This referred to a quite general idea of Himmler's. Why was the decree issued by Goering and why was it necessary in February, 1941?

A. Goering was extremely interested in the building of this particular plant, moved by purely technical military reasons. Buna was particularly important for the aviation because of the huge tires of airplanes. The air force was to be considerably expanded. There was a general scarcity of buna and, in addition, the buna plants already erected by the IG were, from a strategic point of view, very unfavorably located. Schkopau was near Merseburg, Huels was in the Ruhr territory, Ludwigshafen was on the Rhine. These were the three plants which, up to then, were in operation and which were all within easy reach of enemy air forces and bombings. The attack on London, which then was carried out by the German air force, had resulted in a failure. Goering probably had expected that reprisals would be taken by the British, as a result of which these very vital plants were particularly endangered. He particularly, as chief of the air force, who was responsible for these matters, had to take care that no interruptions occurred in buna production as a result of the destruction of the plants, and he had to see to it that another plant, a fourth buna plant, would be erected at a place which was strategically better located.

Q. That will suffice as to Goering's interest.

Now, Goering issued his decree. Why were copies of this decree sent to you?

A. Copies naturally were first sent to the minister [sic] in charge in the Ministry of Labor; State Secretary Syrup. Then copies were sent to the chief of the Armaments Ministry under whose charge was the building permission to be issued for such a plant. I have to mention here, by the way, that no building, no plant of the Karinhall Plan* could be erected without permission having been received from the Chief of the Armaments Ministry, who, after all, controlled all the building material as well as all the building workers who were employed in Germany. It was up to Todt's initiative, and he was in a position to stop an erection project if it seemed necessary to him because of the scarcity of labor and material. We have sufficient examples in that respect.

*Concerning the Karinhall or Krauch Plan, see subsection VII-G, volume VII, this series.

Q. I should merely like to clear up a doubt which may possibly arise with respect to translation. You said that copies of that order were directed to the Reich Labor Ministry.

Why were copies directed to you?

A. This building project, buna, had to be included within the framework of the Karinhall Plan. I had to tell the IG that the labor question had been settled through Goering's decree and that therewith one could start the construction of the building project.

Q. Who had to decide with respect to the employment of concentration camp inmates?

A. The decision regarding the employment of concentration camp inmates rested naturally with Himmler. He had to act according to Goering's order.

Q. Was it possible that you or the IG could take up a position with respect to Goering's decree or Himmler's execution, or, expressed differently: Was it possible for you to refuse to work with concentration camp inmates, something which, after all, would have been in compliance with your inner attitude which you have explained to us before?

A. This was naturally out of the question. It was an order. We were confronted with an emergency situation, an order decreed by the government which had to be executed under all circumstance.

Q. Would you please very briefly indicate, in order to clarify this matter, whether penal regulations were in existence with respect to this matter, and what punishments could be expected by those persons who would potentially oppose such an order?

A. Any act to the contrary would have immediately been interpreted as sabotage to economy or war economy and would have resulted in a sentence of death.

Q. And now let us turn to another question. You have spoken about this problem in your affidavit of the 13th of February 1947. This document was submitted by the prosecution as Document NI-4033, Prosecution Exhibit 1420.* One may perhaps be of the opinion that the description which you gave us in this affidavit was somewhat different from the description you have given us now. Would you please speak about that?

A. Dr. Boettcher, I don't know what passage you are referring to. Would you please name the passage?

Q. I am referring to paragraph 9 of your affidavit.

A. Paragraph 9 reads: "When the SS (Kranefuss) approached me respecting the employment of concentration-camp inmates, I refused it, because the conditions of employment for the prisoners seemed

*Not reproduced herein.

to me unworthy of human beings." I think I have already explained this sentence before. I continue to read—and I quote: "Thereupon the Auschwitz buna plant received from the Ministry the information that it was intended to assign concentration-camp inmates to the Auschwitz IG buna plant." It looks now as if my first expression was connected with the concentration-camp inmates' assignment to the buna plant. I think that I have cleared up sufficiently that that was not the case, and that this was a matter which had already been previously prepared and arranged.

When I was interrogated at the time, I couldn't remember the connection clearly. The employment of concentration-camp inmates in Auschwitz was carried out upon Goering's decree, of which we have just spoken.

Q. We have heard General of the Waffen-SS Wolff with respect to this question.¹ Did Wolff's statements remind you of these events?

A. Yes, that is quite true.

Q. Would you please tell us briefly, in order to maintain the context, what Wolff actually had said?

A. As far as I remember, Wolff stated that Himmler endeavored to erect a fats factory in Auschwitz with the help of concentration-camp inmates. He said that the directive to use concentration-camp inmates for the buna plant was issued through the Ministry of Labor. I think that is the content of Wolff's statement. Incidentally, I don't have it before me.

Q. To what subject does this paragraph 9 of your affidavit refer: "Thereupon, the Auschwitz buna plant received from the Ministry the information that it was intended to assign concentration-camp inmates—"

A. That is quite clear. After the decree had been issued by Goering, the agency which was responsible for the supply of labor for the plants—and this was the Ministry of Labor—had to inform the plant how this question was to be solved.

Q. You yourself transmitted this order by Goering?

A. Yes.

Q. Is this transmittal represented in the Document NI-11086, Prosecution Exhibit 1422?²

A. Yes. That refers to the decree which Himmler had issued, who now had to give all further orders. This decree which had been sent to my office, too, was transmitted to the plant in charge of the construction.

Q. I should now like to continue with the discussion of your affidavit, the document NI-4033, page 65 of the English text; it is Ex-

¹ SS Lt. General Karl Wolff, Chief of Himmler's Personal Staff appeared as a prosecution witness. His complete testimony is recorded in the mimeographed transcript, 15 December 1947, pages 4598-4624.

² Reproduced in subsection D above.

hibit 1420, Document Book 72, page 105 of the German. Under paragraph 3, you say, and I quote: "I. G. Farben could not be forced to the construction of a buna factory. The Reich Minister of Economics approached them with the proposal in this matter." Would you please explain that?

A. I believe that this statement is based upon theoretical lines; in other words, the I. G. Farben could have theoretically declined. Theoretically, one can also decline military conscription in case of war. What happens to the person concerned is another matter entirely. I think that is how I meant the statement at the time I gave it.

Q. What do you mean "at the time"?

A. Yes, at the time I was interrogated by the interrogator I stated that an order had arrived from the Ministry with respect to the construction of this plant, and I must point out that the IG was the only factory which could have built a buna plant. There was no one else who was in a position to construct any such plant.

Q. At the time you made this statement, was it your opinion that an order by the Ministry of Economics was not exactly present before you, but would have reached you had the IG declined?

A. Yes.

Q. Well, in the meantime you had ample opportunity to study the documents, and I should like to draw your attention to the documents which were submitted by the prosecution, namely Document NI-11781, Prosecution Exhibit 1408,¹ and Document NI-11112, Prosecution Exhibit 1413.² Do you have these exhibits?

A. Yes.

Q. Would you please state your position in the sense of my question? Would you please tell us whether or not this was an order by the Reich Ministry of Economics?

A. It becomes clearly apparent from these documents that the Ministry of Economics already at this point had ordered the construction of the factory.

Q. From what facts do you conclude that statement?

A. "I ask you to immediately start with the construction of the third plant, the care of which will be in charge of the GB Chem [Plenipotentiary General for Special Questions of Chemical Production] and of the Reich Office for Economic Development. With reference to the plant in Silesia, I ask you to carry out the basic negotiations on financial and site questions immediately in order that the plant may be satisfactorily built."³

Q. Dr. Krauch, I don't think you have to read so much. Just quote the first sentence of the letter of the 8th of November 1940.

¹ *Ibid.*

² *Ibid.*

³ Document quoted is NI-11781.

A. It says here very clearly: "In the conference which took place in my Ministry on 2 November 1940 under the chairmanship of Dr. [State Secretary] von Hanneken, the final decision was made to expand the buna plants up to 150,000 tons per year."¹ It becomes clearly apparent from this document that the building of these constructions was ordered by the Ministry of Economics.

DR. BOETTCHER: One more sentence, Mr. President, and that will bring me to the end of that question.

Q. Dr. Krauch, you said quite correctly that this building project was ordered. Now, would you please look at Exhibit 1413?

A. Yes.

Q. Paragraph 1, second sentence.

A. The IG would at the same time * * *

Q. No, No. You are not getting the right passage. "The site suggested by IG for the third buna plant, Ludwigshafen, was approved, and * * *" I am passing to the decisive sentence now, "For this purpose the IG had to find an appropriate site for a fourth plant in Silesia."

DR. BOETTCHER: Mr. President, I think, Your Honor, that I shall need 20 to 25 minutes to conclude my examination after the recess, and I ask for your indulgence for having transgressed beyond the time limits stated.

PRESIDING JUDGE SHAKE: Very well. In order that we may understand what you have in mind, is it your purpose, then, to call another witness and to postpone the cross-examination and the further examination of the defendant Krauch until a later time?

DR. BOETTCHER: Yes, Your Honor. I should like to ask for your permission in that regard. I have calculated that around 2 o'clock I shall be in a position to call the witness Milch² and after him the witness Schieber.³ At first, in order to avoid misunderstanding, I shall hear Krauch until the end which will bring me up to 2 o'clock.

PRESIDING JUDGE SHAKE: Very well.

DR. BOETTCHER: Then I shall call my witnesses.

PRESIDING JUDGE SHAKE: Very well; the Tribunal will rise until one-thirty.

(Recess)

DR. BOETTCHER. Dr. Krauch, I shall now submit to you, after I have dealt with details of the question of commitment of concentration-camp inmates, a fundamental question. When you employed concentration-camp inmates, for Auschwitz, did you do anything on your

¹ Document quoted is NI-11112.

² The complete testimony of Erhard Milch is recorded in the mimeographed transcript, 15 January and 5 March 1948, pages 5296-5347; and 8535-8550. Milch was the sole defendant in the Milch Case. See vol. II, this series.

³ The complete testimony of Walther Schieber is recorded in the mimeographed transcript, 14 January 1948, pages 5259-5295.

own initiative in the sense that you actually asked that these inmates be employed?

A. No, I did not do that. I even refused and tried to prevent the employment of these concentration-camp inmates.

Q. Can you prove that with the aid of a document which the prosecution itself submitted? I draw your attention in this connection to Document NI-11113, Prosecution Exhibit 1414.* Have you that document?

A. Yes, I do.

Q. What is this document?

A. It is a file note about a conference with me, which was drafted by Dr. ter Meer.

Q. When did this conference take place?

A. Just a minute—the report is made on 6 February 1941. On 10 February 1941—and the conference took place on 6 February 1941.

Q. That is to say, before Goering's order was issued?

A. Yes.

Q. Now I draw your attention to the end of this document, of this file note, where you also discuss the question of workers for Auschwitz with Dr. ter Meer. What do you see there?

A. It says here that it is intended in connection with the settlement of German laborers in Auschwitz to contact Reichsfuehrer SS Himmler as soon as the first plans for the buna plant have been completed.

Q. What is your conclusion?

A. I conclude that it was intended to speak with Himmler about the settlement of German workers, which was to be done. When we wanted to get clarity on this point we had asked a Dr. Goernert as to his opinion on this point.

Q. "When we wanted to get clarity on this point"? Do you then mean yourself and myself? Whom do you mean?

A. Of course, I meant "us".

Q. Well, who is Dr. Goernert?

A. Dr. Goernert was the chief of Goering's special train, which meant that he was always in the close proximity of Goering.

Q. What did Dr. Goernert remind "us" of?

A. He reminded us of a conference which took place between Goering, State Secretary Syrup, and Armament Minister Todt, in which the labor question for Auschwitz was discussed in particular.

Q. Did this conference take place in Goering's special train?

A. Yes, it did.

Q. What did Goernert say, briefly?

A. He said that Goering wanted to mediate and make a compromise between the viewpoint of Himmler with regard to the labor procure-

*Reproduced in subsection D above.

ment for Auschwitz, which wanted to settle concentration-camp inmates, and the viewpoint of Krauch, who wanted to use the population already there, and to get German skilled workers into the plant as well.

Q. Very well. Now, we shall come back to your affidavit which the Prosecution has submitted; that is Document NI-4033, Prosecution Exhibit 1420.

A. Dr. Boettcher, I do not have the document, but perhaps I know its contents.

Q. Yes, that is Exhibit 1420. It is quite a simple question. We really do not need the document. You say that the Vorstand of Farben was informed about the question of the employment of concentration camp inmates? May I ask you whether you participated in one of these Vorstand meetings?

A. As I have repeatedly explained here, from 1936 on I no longer attended Vorstand meetings, and therefore it is only an assumption of mine.

Q. Very well. From your own knowledge, you cannot say anything about the information that was given to the Vorstand about the commitment of concentration-camp inmates?

A. No, in no way could I do that.

Q. Now I have one final question with regard to this affidavit. Under [paragraph] No. 13 you say that the Farben buna plant Auschwitz was responsible not only for housing but also for feeding and control of concentration camp inmates, and the supervision of the inmates. How does this statement of yours conform with that of the witness Pohl whom we heard a few weeks ago here in this courtroom, and who told us that the feeding, housing, and supervision of the concentration camp inmates was exclusively the affair of the SS?

A. Pohl's opinion is certainly correct, but what I can confirm is that the construction of barracks, the housing of the concentration camp inmates, was drawn up by Farben, and that, besides that, Farben as a whole had to furnish the means for their feeding. But, as we found out, the supervision of this camp, the distribution of the food, was done by the SS.

Q. This clears up the questions about this point and I shall now come to something else. The prosecution charges you especially with having appointed the codefendant Duerrfeld as a commissioner for Auschwitz. May I ask you and point out to you to support your memory, Document NI-11085, Prosecution Exhibit 1500.* Please tell us what the appointment of such a commissioner actually meant?

A. The appointment of commissioners was necessary for every new plant that was constructed. For Auschwitz it was the chief engineer, Dr. Duerrfeld. The duties of such a commissioner, or commissar,

*Reproduced in subsection D above.

were to give me a guarantee that the building materials were properly distributed. He was, so to speak, obligated to me as a trustee, since I, of course, could not control it myself, to see that all the material that had been allocated actually was used for the purpose originally intended and that they were not used for something else. Besides that, he also had to order on his own initiative, for reasons of expediency, the machinery necessary in such a way that the production and completion of the plant was safeguarded at the proper time. Those were his duties.

Q. Did the appointment of Duerrfeld as commissioner for Auschwitz have anything to do with the settlement of the labor question for Auschwitz?

A. Duerrfeld's appointment as commissioner had nothing to do with the settlement of this question.

Q. Then one could not compare this with the Russian expression "commissar" which is very often understood to mean supervising the workers to do more work.

A. It has nothing to do with that. It is really more the function of a trustee. That would have been a better expression than commissar or commissioner.

Q. A further detail. I now want to discuss with you the letter which Pohl wrote to Kranefuss on 15 January 1944, which is Document NO-1905, Prosecution Exhibit Number 1513.* Have you that document?

A. Yes, I do.

Q. First of all the initial question. Tell us briefly, who was Kranefuss?

A. Kranefuss was an important member of the Vorstand, as I have already stated in my examination of the previous day, of the BRABAG—the Vorstand of the BRABAG. At the same time, he held the rank as an officer of the SS.

Q. This letter in front of you deals with questions of labor employment, labor commitment. How did it come about that Kranefuss should concern himself with questions of this labor commitment?

A. Since Kranefuss was a member of the Vorstand of BRABAG he was interested in getting labor assigned, since the four large gasoline plants of BRABAG were under his direction, and they employed many people.

Q. Were the questions of the labor commitment especially acute when this letter was written?

A. The questions of labor commitment had become especially urgent around 1943 and 1944, when this letter was written. Because of the serious losses on the Russian front, the OKW now started ruthlessly to draft German workers, who had thus far been deferred, from the

**Ibid.*

industry. Kranefuss, on his own, tried to comply with these requests of the Army. We, however, were of the opinion that it was absolutely necessary to retain the German workers in those plants in which they were working, so as to safeguard the operation of the plant. Because of this, the officials under my jurisdiction had differences of opinion with him, who, on behalf of the security of the Army, also urged on the commitments in other plants of the Plenipotentiary General. My gentlemen told me that he, Kranefuss, considered the fact that we retained these people as sabotage of the Army. When my people told him that we were not even able to satisfy our own requirements of labor and manpower, he turned to Pohl and he asked him whether concentration-camp inmates were available for the plants of the Plenipotentiary General for Special Questions of Chemical Production. As I can see from documents, from letters which Pohl wrote to Himmler and Kranefuss, I found that Pohl did not make available anybody from the concentration-camp inmates for our purposes since all these people were urgently needed for the armament industry.

Q. Please answer the question. Does this letter of Kranefuss to Pohl originate from a personal initiative or from an order that you gave?

A. Kranefuss did not get any order from me. He acted on his own and as he saw fit.

Q. Did you ever deal directly with Pohl at any time, who, after all, was competent for the question of labor commitment of concentration-camp inmates?

A. I never discussed the question of labor employment of concentration inmates with Pohl.

Q. Another letter important in this connection is the letter written by you to Kehrl on 13 January 1944. That is Document NI-7569, Prosecution Exhibit 477.* Do you have that document?

A. Yes, I do.

Q. Who is Kehrl?

A. He was the chief of the Planning Office in the Armaments Ministry at the time, who dealt especially with all questions of my office. I had to make all requests for material and workers to him for his approval.

Q. What was the reason for you to write this letter to Kehrl?

A. In the Armaments Ministry there was a special department for labor procurement, and complaints had been launched with Kehrl in this department that my office and I still concerned ourselves and tried to get voluntary workers from abroad. This office of Kehrl which took care of the requirements of the armaments industry as well, was interested in seeing to it that my efforts for the voluntary employ-

**Ibid.*

ment should be stopped so that the armaments office itself could dispose of these laborers on their own.

Q. Did you dictate this letter to Kehrl personally?

A. No, I did not write it or dictate it myself.

Q. I do not want, because of such a statement, that anybody might think that you would try to shake off responsibility for these letters. Therefore, please tell me quite generally how mail was handled in your office, and how letters were dictated and written in your office.

A. Generally, all letters were dictated by the experts concerned. In some cases they were submitted to me for my signature, if I was available and if I was present. That can be seen from the letterhead generally in which my initials would then be written in, C. K.—that meant that I would have to have the letter submitted to me.

Q. But that does not mean that you dictated the letter.

A. No, it does not mean that.

Q. Please tell us something about the intentions which your expert wanted to pursue with this letter.

A. We were, of course, interested in maintaining our type of labor procurement—that is to say the form of voluntary recruitment—and thus we had to overcome resistance of the aforementioned Armaments Ministry, which wanted to take this method and this possibility away from us. Thus, we had been pushed into defensive positions. We wanted to maintain our method, and at that time, the various offices wanted to push on the shoulders of certain agencies which were not strong enough, the responsibility for certain negotiations. It was the time when we all expected that the war might not be concluded in the manner in which we had hoped, so that the agencies wanted to be covered against any reproaches. Thus the letter is more or less a defensive letter of my office.

Q. Does it have anything to do with your fundamental influence about the procurement and the commitment of concentration-camp inmates?

A. No, certainly not.

Q. I now turn to a third letter. That is a letter of yours of 27 July 1943 to Himmler. Document NI-10040, Prosecution Exhibit 1526,* Document Book 79, English page 53, and page 50 in the German. Do you have that letter?

A. Yes.

Q. That is Exhibit 1526. Please, what is the contents of this letter and tell us your opinion about it.

A. The following incident is concerned here. One day I was called up on the telephone by Minister Speer, and he said to me that in Himmler's headquarters a conference would be held about the development of the kok-saghyz plant.

**Ibid.*

Q. What is this kok-saghyz plant?

A. That is a plant which contains a certain milk juice which has rubber-like characteristics and which is suitable for starting material for rubber production. There were experiments that had already been made in Russia, which, however, were later found to have been terminated by the Russians, now that the Russians had started producing rubber synthetically by way of buna. That had not been known to us as yet, and Himmler, who had studied agriculture, was interested in building up his own rubber production with the aid of his organization. He had planned to cultivate thousands of acres in Russia with this kok-saghyz plant and to build up his own rubber production under the supervision of the SS. This, of course, brought him into certain opposition with the German Ministry of Agriculture, State Secretary Backe, since for the cultivation of this plant a very valuable quality of soil was needed, on which otherwise sugar beets and wheat and other agricultural products could be grown. Therefore, Backe objected to this cultivation. As Speer reported to me over the telephone, Hitler had stated that he was in favor of the cultivation of this kok-saghyz plant, and a conference of the experts should take place in Himmler's headquarters, where the question of the cultivation of the plant should be finally settled. Speer had assumed that these plans were not sound and, therefore, he asked me—since I had already told him over the telephone that it would not be my desire to go to Himmler's headquarters—to send an expert to represent me at this conference. I sent the expert for buna, a certain Dr. Eckell, and I asked him to go to this headquarters to be present at the conference. There were a number of other agriculturalists, scientists, and other experts present. In this discussion Dr. Eckell could show that it would be much more economical to produce buna synthetically, since for the purification of the kok-saghyz juice it would be necessary to build new plants, so that altogether, figuring upon tons of finished products that could be extracted from kok-saghyz, five to six times as many workers would be needed in order to get an equal amount of rubber. Himmler had taken an interest in this question during the conference; and then, after the conference, a personal conversation took place between Dr. Eckell and Himmler. In this conversation, Himmler finally decided to give up the kok-saghyz experiments and he stated, at that time, that it seemed more expedient to him now to put workers into the construction of new buna plants rather than into these kok-saghyz plants. I must mention here that the construction of a new buna factory was not planned at that time. It was not even under discussion. We had not even started with our plant in Ludwigshafen as yet. The buna plant in Auschwitz was still far removed from that day and it was to operate at a later time, so that all our attention and all our efforts had to be turned to these

plants. Only 1 year later was the construction of the buna V factory discussed, after the Allied airmen had bombarded the buna factories one after the other so that the production had been reduced considerably. Now the military demanded an underground buna factory to safeguard and secure production. At that time the planning of a buna factory was undertaken, but it was never executed; it always remained in the planning stage.

Q. How do you evaluate the peculiar clause that you used. "I welcomed especially that as a result of your conversation with Dr. Eckell you might possibly aid the expansion of another synthetic factory by making available concentration-camp inmates"? How do you explain this somewhat peculiar phrase?

A. That is only a polite term of speech. I see that Dr. Eckell wrote this letter. He just wanted to be polite and say I was very glad that you saw my point of view that the buna gained from synthetic processes is the proper way and that concentration-camp inmates are employed there. This is what he wanted to say.

Q. But you do not want to have this phrase understood that you wanted to take any initiative in procuring these workers?

A. Certainly not, because I did not have any reason to take any initiative since buna plant V had not yet even been discussed, at that time.

Q. I turn from these letters and come to a new subject which might be entitled, "Undignified treatment of concentration-camp inmates." Did you know anything about such undignified treatment of concentration-camp inmates?

A. No, I did not know anything about it. As I have already stated in my interrogation, a radio report from abroad had become known to me that very bad conditions existed in concentration camps in Poland.

Q. Did you investigate these reports at any time?

A. Of course I concerned myself with these reports.

Q. Whom did you ask, or where did you get your information?

A. I turned to two officials in my office, of whom I knew that they had connections with the SS. One of them was my deputy, Dr. Bauer, who was a member of the SS himself, and the other was an Assessor Mueller, who was a member of the SS and also a member of the SD. I told them of this report of which I had heard, and I asked them to investigate it. I turned specifically to these gentlemen because I had to assume that they had sufficient connection with the SS in order to find out more details about it. Both these gentlemen returned to me after a little while and told me that it was a lie of the foreign propaganda service. They told me that the concentration camps were regularly inspected by commissions of the International Red Cross, just as the prisoner-of-war camps were inspected, and these commissions concerned themselves with all incidents in the camp. If they had any objections then they could make these, and they would be investigated,

and they would be remedied. From the First World War I knew that the International Red Cross had earned great merits for itself for taking care of all prisoner-of-war camps—not only in our country but also in Russia where the name Ella Brandstroem was mentioned again and again. I believe that she took care of and visited about 7,000 German prisoners of war in Russia, and she served in this way the International Red Cross.

Q. We can leave this subject, and I now come to your visit in Auschwitz in particular. Did you ever visit the Auschwitz plants?

A. Yes, in the summer of 1943 I was in Auschwitz—one time.

Q. Were you there alone, or were you accompanied?

A. My deputy, Dr. Ritter, was in my company. In addition to that, State Secretary Koerner* also went along, and Ministerialrat Steffler also went along in his company.

Q. Please describe your visit in Auschwitz very briefly. What did you see and where did you go?

A. We heard a lecture about the development of the plant. The project of the plant was discussed, the significance of the various buildings was explained. Dr. Ambros was present at this discussion, the engineer in chief, Dr. Duerrfeld gave the lecture. The next day an inspection of the plant was undertaken. It took place in a large company. I usually was not accompanied by a large staff when I inspected plants. I generally went around with the engineer in charge alone, in order to get an unprejudiced impression about the conditions of the construction site.

We had previously entered a high building which gave us a good vantage point over the entire plant. From there I had seen various construction sites where concentration-camp inmates were working, as we could see from their clothing, from afar. I had resolved on that day, particularly, to see the manner in which concentration-camp inmates were working, and how they were treated. I therefore split up from the guided tour, and Duerrfeld and I entered the various construction sites to see how these people worked, not only from the outside but I also went inside into the buildings.

The impression which I gained was absolutely unobjectionable; it was a good impression. I remember that we ascended by way of ladders. I could see the people, about 15 men, who were concentration-camp prisoners, who worked there without any supervision. There was no German foreman there. They were just there working as any other German worker would have done.

They were interested in their work; they looked well fed and well clothed. I saw other places of earth construction. I remember that

*Paul Koerner was Permanent Deputy of Goering as Plenipotentiary for the Four Year Plan and Chief of the Central Office of the Four Year Plan. He was a defendant in the Ministries case. (See vols. XII-XIV, this series.)

a young concentration-camp inmate joined us at a little distance; apparently he wanted to hear what we were discussing. I permitted him to come along. I saw a man who approached him, and afterward I asked who that man was. I found that he was a so-called kapo. The young concentration-camp inmate was about 19 or 20 years old, and the kapo reproached this concentration-camp inmate and he reprimanded him probably and then the concentration-camp inmate returned to his work laughing. This gave me the impression that he did not take this reproach of the kapo very seriously.

I then visited an apprentice workshop with Dr. Duerrfeld where young concentration-camp inmates of about 16 or 17 years were working, where they were trained in installation work, as is generally done in an apprentice shop. I had a very healthy impression of these young people. They were interested in their work. The general impression which I carried away from this construction site—and you must remember that I went there especially to look at the activity of the concentration-camp inmates, because I had not done this up to that time—the impression I carried away was absolutely good.

Q. A few individual questions. Did you see SS guards at the construction place?

A. I did not see one SS-man in the plant.

Q. Where did you see SS-men?

A. At the entrance to the plant I saw a few SS-men but I had the impression that they were put there because they knew that a few representatives and officials from the state were arriving.

In the company of State Secretary Koerner there was also the Gauleiter of that district, Bracht, with his staff, so that the SS-men stood at the gate in order to salute us, more or less.

Q. Did you inspect the Monowitz camp, the camp in which the concentration-camp inmates working for Farben, were housed?

A. No, we did not inspect that camp. They talked about it. I asked how these people were housed. Duerrfeld told me that they were housed just as all of our other foreign workers and German workers were housed. In order to check this, I asked him how much the housing of one man cost. There was a certain fixed rate that I knew. The price of housing had risen from 600 to 1,200 marks because of the increase in the price of building material.

Duerrfeld told me that the average price for housing a man in this camp amounted to 1,200 marks. That was the exact figure which was necessary for the other plants to house one man. I also talked to Duerrfeld, and asked him whether we should inspect that camp, and Duerrfeld said that the workers were all working at the construction site so that I would only see the empty barracks and the beds, if I went there.

Since I had heard that they were in the same condition as in the other camps which I knew, therefore I waived the inspection since I was short of time and I had to go on that afternoon.

Q. Did you see the Auschwitz concentration camp itself?

A. Yes, I saw the outside plants of this camp. The gentlemen had pointed out to me that the camp contained excellently equipped workshops, in which work was done for the buna plant in Auschwitz. I was interested to see these workshops. Therefore, after the inspection of the plant was completed, we went to the Auschwitz camp proper.

There an SS leader, a low-ranking SS officer, received us, and he stated to us that an inspection of the workshops on that day was not possible, since the officers in charge of the concentration camp were not present. They had been called away for a conference, and if I remember correctly they had been called to Berlin, and he himself could not give us permission without the approval of these gentlemen—approval for the inspection. However, he said that he could show us certain outlying factories, very well equipped agricultural enterprises, so that we were led there, and I looked at these stables, agricultural tools and so on. That did not take very long. Then I returned to the exit and said goodbye to all of the gentlemen who had inspected the other plants.

Then I had shown to me the area where the fields and other farms that were worked on by the concentration-camp inmates were located. I myself know something about agriculture and therefore I could get a proper picture about the condition of this enterprise, and I must say that the farms were in good shape.

Q. The prosecution charges that you must have known that ten thousands of people were burned in Auschwitz. Will you please tell us your opinion about that?

A. I knew nothing about the destruction of human beings in Auschwitz.

Q. Didn't anybody point out connections on this question so that you might make conclusions?

A. No, apart from this one radio report, which, however, concerned camps in Poland, nothing like that happened, and I did investigate that report, which, of course, was not corroborated to me.

Q. Duerrfeld states in one of his affidavits, or at some other spot, that the question of a crematory was discussed with you.

A. Yes, that was discussed upon my own instigation. When approaching the plant from afar, I saw a very high chimney which was not smoking, and when we approached the camp I had asked Duerrfeld whether any other plants were in the vicinity of the camp, whether perhaps Krupp had also built in the vicinity.

Duerrfeld answered that I had probably seen the chimney of the crematory. When I described to him what the chimney looked like,

and described the conditions under which I had seen this chimney—I remember it exactly now—we found that when approaching the camp, I had taken a wrong route, and that therefore I had lost touch with the vehicles preceding the column. I had deviated too far to the north, and I saw immediately that this chimney was not a chimney of the Farben plants, because our chimneys had a special construction, and therefore, I found right away that we were on the wrong route.

I made the driver turn the car around and on the proper street I found the other vehicles which were waiting for me. When I told this to Duerrfeld, he explained to me that this was a superphosphate plant that was no longer in operation, and the chimney I had seen was from this superphosphate plant.

Q. Did Duerrfeld give you any explanation for the presence of a crematory?

A. Yes, I asked “why does this camp need a crematory,” and Duerrfeld said, “You must take into account that this camp is constantly filled with 100 to 120 thousand human beings. A city of 100 to 120 thousand people has a crematory of the same size for people who die there; this is just the same as they have in any other city.”

Besides that he told me that in the Auschwitz concentration camp very serious typhus epidemics had broken out, which resulted in the deaths of thousands of people who were then burned in this way.

Q. When dealing with the problem of foreign workers, we talked about the social care and welfare of these people by you. The question I have in this connection is whether you also concerned yourself with the social care and welfare of the concentration-camp inmates.

A. That was impossible in this case, because the SS, under whose jurisdiction the camps were, would not have permitted us to interfere in their measures in any way, and they even prohibited our visiting and inspecting these camps, so that an outsider could not possibly have even gained an impression about it.

Q. Did you hear anything about alleged bad conditions in the Monowitz concentration camp?

A. I knew nothing about this. I knew that the camp was close to the Farben plant. I also knew that the camp was directed by two excellent plant managers, two names I want to give you here. Dr. Ambros, one of our most able chemists, and Dr. Duerrfeld, an excellent engineer. Both are gentlemen whom I certainly expected to have the necessary understanding to do the necessary things to take care of their workers.

Therefore, I saw no reason for doubting the proper social care and welfare at the camp in Monowitz.

Q. Also not in the case of the concentration-camp inmates that were working there?

A. Yes, not even for them did I doubt that the care was proper.

Q. In this connection, we once talked about a fundamental case in which abuses were reported to you, that you immediately investigated, as you said, at the time. Would you please describe this to the Tribunal, very briefly?

A. That is correct. In Wuerttemberg at a certain spot, experiments had been made to get, from the shale which was found in that vicinity, the oil that could be extracted. That was an old problem for Wuerttemberg, which was known to us for quite a while, since I come from Wuerttemberg.

All experiments in regard to this problem had not had any success up to that time. A very able official of my plant, surprisingly enough, made a very simple suggestion to solve this problem technically, and this suggestion interested me intensely, so that we decided to build an experimental station there. The experiments carried out there satisfied us completely.

If I was informed correctly, the French Government has also carried out these experiments and are now building a plant.

Q. May I interrupt you to shorten this. A plant for oil shale was built. It was started, it began to operate, and concentration-camp inmates were employed.

A. It was a little different, Dr. Boettcher. As a result of the experiments, it was decided that plants should be constructed, on that basis, and of course, it was obvious that the plant manager, Dr. Sennewald, should be charged with operating these plants which the SS and O. T. staffed with personnel and which was financed by the Armaments Ministry.

For this purpose, a large number of concentration-camp inmates were made available by Himmler. Dr. Sennewald looked at these conditions before the plant started to operate, and he visited me in Berlin and reported that he had seen a large number of concentration-camp inmates there, who were in a pitiful condition; that in no way was there any provision made for the feeding of these people, and they were housed very poorly.

We were now writing October as the date—we were approaching winter. The people were living in tents on the ground. He, Dr. Sennewald, could not do anything to intervene. On the other hand, he said, however, that he had to report this to me, in order to get my counsel, as to what he should do in this case. He said that he was quite clear in his mind that this was an affair which had nothing to do with me. Moreover, if I pursued this affair, I might get into difficulties, and therefore, he said that he had had misgivings as to whether to approach me on the matter.

I answered him and said, "That is no consideration for me. I cannot hold the opinion that this is none of my business; that I have nothing to do with this; that I can wash my hands of this matter.

I cannot do that. I hear that people are suffering, people are in distress, and it is my simple duty, as a Christian to help these people." I said to Sennewald, "Go to Oswald Pohl immediately and explain to him that you have reported to me about these conditions; that I became very excited, and that I considered these conditions as a shame upon civilization, of the lowest type; that on the next day I would go to Schoenberg, and would personally convince myself and draw my own conclusions and take all of the responsibility for it." I was quite clear as to what the consequences would be.

I would have gone to Goering from Schoenberg. I would have reported to him about it. Goering might have explained to me, as he did on another occasion, quite removed from this incident, and he would have said: "I understand your humane considerations completely, but that is a matter which has nothing to do with me."

Then I would have gone to Himmler himself, and I would have told him the same thing that I had explained to Pohl; that this was a shame on civilization of the lowest type; that I would undertake steps to inform the International Red Cross about it, so that it might have a possibility to intervene.

Q. What was the result of the step which Sennewald undertook with Pohl which was, after all, undertaken on your order?

A. Sennewald returned and said that my words, which he had transmitted to Pohl literally, had impressed Pohl very seriously. Pohl had instructed him to tell me that I should calm down. He would immediately go to Schoenberg himself and see that these conditions were remedied immediately. I then said to Sennewald: "Nevertheless, I want to go to Schoenberg myself." Sennewald told me that he wanted to recommend to me not to do this. He had the impression that my words had had such an effect on Pohl that the latter would certainly do something about it. I then instructed Sennewald to be present when Pohl visited Schoenberg and to convince himself what measures Pohl had undertaken. Sennewald went there, returned the day after the next and reported to me that Pohl had really done something; that persons responsible for these conditions had been removed and dismissed immediately and replaced by others. The persons would be tried before a court and, as Pohl assured him, they would be punished severely. Pohl had ordered immediately, so Sennewald said, that a carload of medical equipment should be sent there after he had found that no medical supplies were available for the treatment of the people, some of whom were seriously ill. Pohl had ordered that the food rations should be increased immediately; that the building of barracks should be started so that when winter approached, the concentration camp inmates could be properly housed.

As a result, I asked Sennewald to report to me fortnightly whether the measures ordered by Pohl were actually executed and how the condition of these inmates had been changed. This was done regularly every 2 weeks and I was able to convince myself with the aid of these reports that the conditions of the inmates had actually improved as far as housing and feeding was concerned. I myself intended to go there, but, unfortunately, I could not do this at Christmas time because I was sick, and on a trip which was later planned, I had to be taken to a hospital and then the end of the war approached.

Q. I merely want to clarify two things. It was not a plant that was operated by Farben?

A. In no way.

Q. Secondly, the actions described by you were not in the scope of your competency but were done spontaneously by you?

A. That is correct.

Q. A question in conclusion: Do you know of any other abuses in the case of labor commitment of concentration-camp inmates?

A. No. This was the one case of which I gained knowledge.

Q. A short point that I want to discuss with you because the prosecution charges you with it. It has to do with the phrase Central Planning Board. We have already talked about this. Just tell us, quite briefly, what it was?

A. This Central Planning Board was an institution which Speer had founded after he had been charged with the direction of the Armaments Ministry after the death of Todt. In the Central Planning Board there was Speer himself; Field Marshal Milch was there, and later, the Minister of Economics Funk, and State Secretary Koerner, so that Goering should be informed about the proceedings of these meetings. Practically, the Central Planning Board had to take care of directing raw material allocations and the armaments industry. One might easily say that it was charged with all of industry.

Q. You were not a member?

A. No, I was not a member of the Central Planning Board.

Q. Were you consulted for sessions of the Central Planning Board?

A. I was invited twice or three times when questions of our construction projects were discussed in the Central Planning Board meetings and only stayed there as long as these questions were discussed.

Q. Can you remember the contents of one of these few meetings?

A. I believe one of these conferences dealt with the buna project, Auschwitz, in which the plant management of Auschwitz requested German workers for the plant.

Q. What was the result of this meeting?

A. There were also allocations for other chemical plants and it was generally approved.

* * * * *
CROSS-EXAMINATION
* * * * *

MR. SPRECHER: We will then pass to the topic of slave labor, as the prosecution has described it, Dr. Krauch.

First, Dr. Krauch, I have a rather simple matter. At page 5208 of the English transcript, Dr. Boettcher, in talking about some Gestapo requirements with respect to an "Erziehungslager" at Ludwigshafen, translated, or called that in the German, a "Lager fuer weltanschauliche Schulung," a "camp for ideological training," which we don't accept to be the same whatsoever. Now, let me ask you the question. I am not talking about a Party ideological camp for indoctrinating Germans to be Nazis, or anything similar to that. I am talking merely about an "Erziehungslager," a disciplinary camp for workers. Is your answer the same with respect to that? You don't know anything about the erection of any such disciplinary camps in connection with Farben work camps—in connection with Farben foreign workers?

DEFENDANT KRAUCH: I myself never saw such a correction camp or disciplinary camp in my various inspection trips to the plants. I knew that various measures were employed in order to reward workers who worked very well, by instituting a premium system.

Q. That is another topic. Dr. Krauch, did you know that a substantial number of the concentration-camp inmates, particularly those who worked at the Farben-Auschwitz plant, were of Jewish extraction?

A. Yes, I did know that.

Q. In view of the propaganda and the incitement which had been conducted concerning Jews in Germany from 1933 until 1940, did you think that the German guards and the SS officials at Auschwitz were really treating the Jewish inmates generally in a human way?

A. I do not assume that the SS treated these Jewish workers very humanely. For that reason it seemed better to me for these Jewish prisoners to work in an industry where humane treatment for them was guaranteed.

Q. You have heard considerable indications by your—by some of the defense counsel in the cross-examination of witnesses, that Farben had no responsibility in connection with the treatment of these people. Do you still maintain your testimony now?

A. I do still maintain my testimony, for I knew that these inmates were not supervised by SS guards in the plant but by foremen of the various firms and of I. G. Farben. I believe I stated that on direct examination. I convinced myself that that was true when I inspected the plants.

Q. When was the last time that you passed upon the establishment of a separate concentration camp which was situated close to one of your so-called G. B. Chem plants?

A. I personally saw that in Auschwitz. I know that towards the end of my activity, beginning with the spring or May of 1944, quite a few concentration-camp inmates were employed. This was not done through me, however, for I no longer had anything much to do with these labor questions. That was done by the commissioner who was appointed at the time, who took over my activity, and who had quite different plenipotentiary powers from mine.

Q. Well, do you remember the last concentration camp which you recommended be set up as a separate concentration camp near one of the G. B. Chem plants? If you don't remember it, why, just say so.

A. I do not remember.

Q. Now, apart from Monowitz at Auschwitz, how many special concentration camps, or branches of concentration camps, were set up to furnish manpower for construction projects within the so-called "K Plan"—Karinhall or Krauch Plan? How many special concentration camps?

A. I cannot say.

Q. Do you recall any case where you and representatives of your office in Berlin made decisions that a separate concentration camp was to be established to furnish manpower to a G. B. Chem plant? Do you recall any instance?

A. No.

Q. Do you recall any instance where you made a decision that prisoners of war were to be transferred from one G. B. Chem plant to another G. B. Chem plant? Any instance?

A. I do not remember any specific instance. I do remember that this occurred, if I am informed correctly, also in the case of concentration-camp inmates. This is in answer to your previous question.

Q. You have now recalled that you did make recommendations to establish separate concentration camps?

A. No, not at all.

Q. Well, will you answer my last question again, then? Do you recall any case where you made a decision that prisoners of war were to be transferred from one G. B. Chem plant to another? And I am speaking in terms of a hundred people, of 200 people or 300 people, not one or two or six.

A. I do not remember any particular instance, but I believe that something like that did happen.

Q. Do you recall approximately how many times you made such orders for transferring prisoners of war from one place, from one G. B. Chem plant to another, and approximately how many prisoners of war were involved in these transfers?

A. I was not able to take such a step independently. I had to accept instructions that the Armament Ministry considered such a step essential and that it was necessary, at the request of the Armament Ministry to undertake such a step.

Q. You mean you never took the initiative to suggest the transfer unless this actual transfer had been suggested to you by the Armaments Ministry?

A. Yes, that is right.

Q. I show you Document NI-13512, of which I do have sufficient copies, your Honors. That will be marked as Prosecution Exhibit 1845* for identification. The document for this is not long. I will let you read all of it before I ask you any questions.

Now, first, Dr. Krauch—

PRESIDING JUDGE SHAKE: Just a moment. You had better wait until he has had an opportunity to read it.

MR. SPRECHER: Oh, I am sorry.

Q. Have you finished reading it? You tell me when you have finished reading it.

A. No, I haven't finished it yet.

I have read it now.

Q. Now, first, can we agree that AZ stands for Auschwitz and HE stands for Heydebreck in this document?

A. Yes, I believe that's right.

Q. Now, would you look at paragraph 2? The English indicates that you ordered the transfer of 300 English prisoners of war from Auschwitz to Heydebreck. Is that true?

A. That's true. I have to describe this incident. It occurred in February 1944. The Armament Ministry demanded that the glycerine plant which had been constructed at Heydebreck should be furthered and promoted by all means and that, for that purpose, it was necessary to increase the inadequate number of workers at Heydebreck even, as is said at the end of the letter, if buna and diglycol should be delayed—and for that purpose, workers should be transferred from these places to the Heydebreck construction site. This letter, which contains the record of a meeting, describes the situation.

Q. Now, at that meeting you and Dr. Ritter and Duerrfeld were present, copies went to some additional gentlemen, including some people from your labor staff and to Dr. Ambros—the defendant, Ambros. Was this project to set up the separate concentration camp at Heydebreck accomplished, or was it not? That is mentioned under paragraph 1, where it is mentioned that “after considering the amount of sacrifices to be made by Auschwitz for this, Professor Krauch gave the following instructions:” I am talking about instruction 1. Do you recall that concentration camp was not set up at Heydebreck?

*Reproduced in subsection D above.

A. It says here "KL camp." Those camps were usually called "KZ camps." Perhaps this "KL camp" means "prisoner-of-war camp." Generally only KZ camps were spoken of, not KL camps.

Q. Are you seriously suggesting that KL camps were generally known to you as prisoner-of-war camps or as concentration camps, Dr. Krauch?

A. I assume so from the sentence, because I know that concentration camps were generally called KZ camps in the German. I don't remember what prisoner-of-war camps were called, but these were prisoners of war. It says English prisoners of war at the top. They could not be sent to a concentration camp but to a prisoner-of-war camp, a KL camp.

Q. Do you know whether or not, in fact, concentration-camp inmates were transferred from Auschwitz to Heydebreck?

A. Whether they were transferred to Heydebreck at the time, I do not know. During my visit to Heydebreck in the autumn of 1943, I did not see any concentration-camp inmates in Heydebreck.

DR. BOETTCHER: Mr. President, there seems to be a discrepancy in the translation. The German text speaks about a KL camp, "KL Lager," but in the English text the expression "large concentration camp" is used, which is not at all used in the German text.

MR. SPRECHER: Dr. Boettcher, can you tell us your view of what "KL Lager" means?

DR. BOETTCHER: I am not on the witness stand.

MR. SPRECHER: We will stand by our position unless it is shown to be the contrary, and the Tribunal will have to—if necessary, we will have to get an expert in. We understand that "KgL" was used for "Kriegs," or war-prisoner camp, whereas "KL" stood for concentration camp.*

Now, we will pass from that document.

In your direct examination on January 14th, you mentioned that you took some steps to help concentration-camp labor in an enterprise in Wuerttemberg, where oil was extracted from oil shale. Could you tell us whether the enterprise to which you referred in your testimony was the "Deutsche Schieferoel, G. m. b. H."—the German Shale Oil Company—which is at Erzingen near Balingen in Wuerttemberg? Was that the plant?

A. No. This German Petroleum and Shale Company was the experimental station; it was only an experimental station, not a plant at all. The workers concerned here, these concentration-camp inmates, were employed in the later installations of the plant itself, for which

*The prosecution later introduced documents from Farben correspondent showing that the abbreviation "KL" in those documents referred to "concentration camp." The documents in question [NI-13781, Prosecution Exhibit 1848; NI-13782, Prosecution Exhibit 1849; NI-13783, Prosecution Exhibit 1850; and NI-13784, Prosecution Exhibit 1851] are not reproduced herein.

a special company had been formed. They were to be used in these plants, rather.

Q. You testified that you were of the opinion that this was really nothing of your business, but as a humanitarian matter, you became involved. Is it not true that you signed contracts with Oswald Pohl with respect to some of the SS projects in the oil shale field, where it was stated in the contract that concentration-camp labor would be used and that you were to see that the management technically was proper? Is that correct?

A. That is correct. Oswald Pohl wanted to establish a connection, a company, between the Reich Office and the SS, for the establishment of these plants, and I rejected this for reasons which have been elucidated sufficiently. I did agree that the experts who performed these experiments should grant their aid and assistance when these plants of the SS began to operate. Pohl requested—he did not demand, he asked—that these persons should enter the service of the SS, but I refused that as well.

Q. But you did sign contracts with him of the kind I suggested, is that correct?

PRESIDING JUDGE SHAKE: He has answered that for you.

Q. Now I show you document NI-13517, which will be marked as Prosecution Exhibit 1846* for identification, and I refer you particularly to the attached contract. Is that typical of the type of contract which you entered into with Oswald Pohl, concerning this oil shale?

A. You ask whether this was typical of contracts which I concluded with Oswald Pohl. I did not conclude any typical contracts with Oswald Pohl; I can give you an explanation of this letter. Oswald Pohl says: "Your letter of the first of September 1944 surprised me somewhat because in essential points it did not correspond to the agreements which we reached during our conversation." It is true that it did not correspond to the agreements reached in our conversation, and I was able to point out to Pohl that a distortion had been made of what I had agreed to. And Pohl then said that this distortion which did not agree with my opinion had been carried out in his own office. Therefore he tore up this letter and the contract.

Q. The contract you have before you was torn up?

A. Yes, that's right. That's correct. And Pohl stuck to what I told him during our first conversation; I have already told you that.

Q. If it was torn up, Dr. Krauch, why does your signature appear at the bottom, along with Pohl's signature? Why did you sign it if you were going to tear it up after while?

A. May I see that once more? I read only the first letter.

Q. Of course.

*Reproduced in subsection D above.

PRESIDING JUDGE SHAKE: Mr. Prosecutor, since the witness desires some time to look at the document, might we not recess now and take this up after the recess?

MR. SPRECHER: That is satisfactory.

PRESIDING JUDGE SHAKE: We will rise at this time.

(Recess)

THE MARSHAL: The Tribunal is again in session.

MR. SPRECHER: Dr. Krauch, you had asked to see the agreement again. Is that the agreement you tore up?

A. It is not that agreement. This was the agreement as it was drawn up, which corresponded to how I thought the collaboration should be. May I ask to keep this document for one moment? I shall refer to it later.

The agreement states quite clearly how I imagined the later work to be handled. The German Petroleum Research Company—

Q. Dr. Krauch, I am not asking you for a complete explanation of the document. As I suggested, I am merely asking you if this is the document which you tore up or not.

A. This document was not torn up because it was in accordance; but may I give a brief explanation?

MR. SPRECHER: Mr. President, I leave it up to you. I don't think it would be responsive.

PRESIDING JUDGE SHAKE: Well, it is rather dangerous thing to hold a witness to a categorical answer if he says that that does not convey what he is trying to say. I think it only fair to the witness, within brief limitations, to permit him to make his explanation; and he may do so.

MR. SPRECHER: Proceed. The President has said you should proceed.

A. This agreement was distorted by the SS in their comments. There is a sentence here, according to which the Petroleum Research Company was to give technical aid and possibly permit their people to enter into the so-called Oil Shale Company. Pohl had requested at the time that people of the research company should be taken over en bloc, which I refused to do. He then asked, if any had the intention of joining whether I had any objections—and I replied "I cannot prevent it, but that man would leave my services." That was what they distorted and that was the matter which Pohl tore up. The agreement continued to exist.

Q. Then the agreement, insofar as it talks about the fact that your office had a common task with the SS in making ready the operation of this plant, remained in effect? Is that true?

PRESIDING JUDGE SHAKE: Mr. Prosecutor, doesn't the agreement speak for itself?

MR. SPRECHER: I think so, Mr. President.

PRESIDING JUDGE SHAKE: That, perhaps, is the answer to it.

MR. SPRECHER: Did you sign other contracts with Pohl?

A. No.

Q. This is the sole contract you signed with Pohl?

A. Yes.

Q. Now, a new subject. Within 6 months after the invasion of Poland, that is as early as February 1940, were you not informed that the recruiting of Poles to work in Germany was behind schedule by several hundred thousands, that it appeared likely that there would be difficulties in recruitment in Poland, and that thereupon, it would be unavoidable to give the occupation army authority and directive to cause, by force, the necessary number of workers to be transported to Germany—February 1940?

A. At that period of time, it was still my impression that recruiting of foreign workers was done on a voluntary basis, as was said in all press releases by the German Government in German papers.

Q. Now, Dr. Krauch, I won't ask you any further questions. I will show you the document immediately, Document NG-1408. I have ample copies in the German and the English.

PRESIDING JUDGE SHAKE: To save time, Mr. Prosecutor, may that be marked as Document NG-1408, Prosecution Exhibit 1847* for purposes of identification?

MR. SPRECHER: Yes, your Honor. Just a minute. I have some difficulties with the total mechanical problem here.

PRESIDING JUDGE SHAKE: Yes.

MR. SPRECHER: I am sorry, I don't have English copies, your Honors. There has been some mistake, but there are plenty of Germany copies.

Q. Well, Dr. Krauch, this is a letter which forwards the protocol of the sixth meeting of the Generalrat, the General Council, of the Four Year Plan, in March 1940, to certain people who participated in the General Council meeting of February 1940. And you will note that six of the state secretaries who were in various Ministries subject to the Four Year Plan are mentioned on the distribution list, among others Paul Koerner and all the top secretaries.

Now, although fifteen people are mentioned on the distribution list, only twelve participated in the actual meeting. Among those twelve was Dr. Krauch, is that right?

PRESIDING JUDGE SHAKE: If you are asking him as to the fact, that is proper; but if you are asking him what the document shows, it speaks for itself.

MR. SPRECHER: I am asking him if he now recalls that he was at that meeting on 3 February 1940.

PRESIDING JUDGE SHAKE: He may answer.

*Reproduced in part in subsection D above.

MR. SPRECHER: Dr. Krauch?

A. Yes, that is true.

Q. Now, with respect to the speech which Minister Backe, the Minister of Agriculture, made, I would like to have you turn over to the heading, where it speaks about securing the next crop, on page 7 of the mimeograph which you have before you.

And then, did you notice that it states that it is very doubtful if the 700,000 planned workers could be obtained by April 1st—only 400,000 had been procured by March 1st, probably would be procured by March 1st, and therefore it is probable that the German Army would have to step in and bring these people forcibly from Poland?

Look at page 6, paragraph "b", if you are in any doubt. Do you recall Dr. Backe mentioning the fact on page 6, in paragraph "b"?

A. Yes. I do not remember that particular passage, but State Secretary Backe makes a suggestion here—which does not mean by a long shot that it was actually carried out—he says literally: "If, as it appears likely, there will be, in the Government General, difficulties at the labor recruiting offices in the recruiting of civilian Poles, it will be unavoidable to give the Occupation Army authority and directive to cause, by force, the necessary number of workers to be transported to Germany."

Now, that is only a suggestion on the part of the State Secretary, which does not mean by a long shot that it was actually carried out.

Q. In the same year—1940—were you aware that many Polish laborers were being brought to work in chemical plants, for example, in Germany? That is to say, in industry as well as in agriculture?

A. That is quite true, but that was done long before the First World War. Each year hundreds of thousands—I think 700,000—Polish workers came to Germany voluntarily to do what we call seasonal work in agriculture and industry.

Q. Well, after you heard Minister Backe state this in February, did you believe that by the end of the year 1940 these Polish workers were still coming voluntarily?

A. Yes, that was my belief.

Q. That meeting was under the chairmanship of Paul Koerner, who was Goering's first deputy in the administration of the Four Year Plan, is that correct?

A. Koerner was first deputy in the administration of the Four Year Plan. Goering, as long as I participated, never attended these meetings.

Q. Koerner usually supervised the General Council [Generalrat] meetings of the Four Year Plan, is that right, and not Goering?

A. That is what I wanted to say.

Q. Did you sometimes make inspections of chemical plants with Koerner?

A. Yes, I did.

Q. Did the Generalrat continue to sit until the time the Central Planning Board was established, or did it sit later? The Generalrat of the Four Year Plan.

A. Yes, the meetings of the General Council were discontinued later on.

Q. At the time of the Central Planning Board, about March or April of 1942?

A. Quite true.

Q. Before that time, the Generalrat contained the principal Ministers, the principal State Secretaries from the various Ministries which fell within Goering's general jurisdiction as head of the Four Year Plan, is that correct?

A. They weren't Ministers. They were the "Dienststellenleiter"—those in charge of the agencies of the Four Year Plan.

Q. But many of them held their position—in the Reich Ministry of Economics, like—

A. Landfried.

Q. Landfried, yes. And in the Reich Ministry of Labor, like Dr. Syrup. Is that right?

A. Yes.

Q. Just so we understand one another.

Now, did your office lay before Kehrl—Kehrl became the head of the Planning Office of the Central Planning Board about September or October 1943, is that correct?

A. That's quite true.

Q. Did your office lay before Kehrl's office—the Central Planning Office of the Central Planning Board—proposals with respect to both labor and manpower supplies, as well as raw material supplies, so far as they affected the G.B.Chem field?

A. The office would pass on such suggestions as came from the industry, giving their expert opinion, to the Armaments Planning Office (Kehrl) and that office prepared studies for the Planning Office under Kehrl, is that right?

A. Yes, they gave their expert opinion.

Q. Now, Document NI-7569, Prosecution Exhibit 477,* which is a letter from you to Kehrl—that's in Document Book 22, English page 33, German page 36—you will recall that Dr. Boettcher mentioned that letter to you in direct examination—you asked Kehrl to give you further details if he should discover any misunderstanding or mistakes which had occurred in negotiations between the Armament Office and your office with respect to manpower allocation. Now, I ask you if Kehrl ever replied to your proposal by giving you

*Reproduced in subsection D above.

any details which showed any conflicts that had arisen because of mistakes that your office had made?

A. Mr. Sprecher, may I ask you to show me the document once again? I don't know it by heart [Document handed to witness].

Q. If you will look at the last paragraph, please.

I repeat my question, Dr. Krauch. Did Kehrl ever respond to that?

A. I can't tell you whether he replied. I don't think so.

Q. Now, did Kehrl's office continue to give strong support at the Armament Office to the applications for manpower which were executed closely with the Planning Office, as you state in that same letter? Did Kehrl's office continue to give you support?

A. Yes.

Q. Did your office receive the general reports from the Planning Office of Kehrl concerning the final decisions which had been for all the main branches of German industry with respect to manpower and labor allocations and raw material allocations, as well?

A. No, we did not receive them. We received only those things which were our own concern.

Q. How does it happen that your office issued circulars to the G.B.Chem plants with respect to general questions as to how labor was to be allocated and how the forms were to be made out, etc.?

A. That was done at the orders of the Ministry of Labor or the Plenipotentiary General for Labor [Allocation].

Q. Didn't you use any initiative of your own in connection with improving the efficiency of the procedures that were then existing?

A. No. I took the initiative only to have the methods made more humane.

Q. When you made suggestions or recommendations, as you call them after 1941 or 1942, did you not feel that there was a relation between your suggestion or recommendation that a new project be approved and the fact that more foreign laborers would be drawn from their homelands into Germany?

A. It was not possible for me to exert any influence on the programs for the armament industry. They were not known to me. I knew only the sector which I was to deal with, and there the requirements for workers did not increase.

Q. How many foreign workers were employed in the G.B.Chem plant in 1943 and 1944?

A. In 1943 and 1944 I am sure there were more than 100,000.

Q. I'm quite sure of that also. Were there not more than 200,000?

A. If you include the development of buildings, but there I couldn't give you the exact figures because those workers were under the building firms, not the plants proper.

Q. Can you tell us what the percentage of eastern workers as against western workers was in the G.B.Chem plants under your jurisdiction in 1943, let's say?

A. As I see it, I'm sure that there were more eastern workers than western workers.

Q. Did you cause studies to be made where you saw what the relative percentage of western, eastern, concentration-camp, and prisoners-of-war labor was in the G.B.Chem plants?

A. I didn't understand your question.

Q. Did you cause studies to be made so that you became aware of the percentage of the various types of foreign laborers which were employed in the G.B.Chem plants?

A. Yes, I'm sure that was done.

Q. Now, you have testified that the labor offices of the G.B.Chem in foreign countries assisted you in recruiting voluntary workers for G.B.Chem plants. Dr. Krauch, isn't it a fact that some of the very certificates which your representatives in foreign countries forwarded showed on their face whether or not the particular workers in question was voluntarily, allegedly voluntarily, or compulsorily recruited?

A. I'm sure that was quite generally established.

Q. That was necessary because the treatment that the man would receive in the plant would be different, depending on whether he was voluntary or involuntary? Or what was the reason for that?

A. I don't think so. He simply had to be registered by the labor office in question. The labor office had a certain quota of workers. As the recruiting of voluntary workers was done without the labor office, the labor office had to know how large a percentage of the quota had come in as voluntary recruits, so that they need not supply any more workers.

Q. But I am talking about the reports from your representatives in foreign countries to the G. B. Chem plants which state that in a certain shipment there are so many allegedly voluntary workers and so many involuntary workers who are coming for that plant.

A. I am sure they did that. They said such and such firms have made such and such contracts.

Q. Was it usual to refer to a special recruitment drive for foreign workers as the "Italian Action" or the "First Sauckel Action in France"? Do you remember that?

A. I believed that the firms volunteered to offer workers from their own sector. It was scarcely necessary to put on a big propaganda campaign.

Q. Well, to get down to specific cases—did you expect that the "Sauckel Action" in France in 1942 would bring manpower relief for your mineral oil program?

A. No, I thought that for the mineral oil program one could continue on a volunteer basis just as well as before.

Q. Didn't your office receive reports that thousands of laborers in 1942 were being made available to your office for distribution to the mineral oil plants of the G. B. Chem?

A. I think so.

Q. Is it your contention that those were voluntary workers?

A. They were workers who came under the labor conscription law passed by the French Vichy government. We had the same labor service in Germany. Whether you follow such an obligation voluntarily or involuntarily is up to the conduct of the individual.

Q. Well, the Frenchman didn't have very much opportunity, after the Vichy government passed this law, as to whether he came to the firm which brought him to Germany for you, or not, did he? He didn't have much choice after that law.

A. Under that law it was not possible, either in Germany or in France, to choose one's place of work. That was not possible for a German worker either.

Q. You mean the French workers were under the same compulsion to report to the labor office and be assigned, whether to Germany or whether to France. He had no more choice in the matter, is that right?

A. That is correct.

Q. Now, did these foreign firms which did recruiting for you and brought blocks of workers to Germany at your suggestion—did these foreign firms inform you as to whether or not these people came to work for them because they were forced to work, or didn't they report to you about that?

A. I think that the workers liked to go to the foreign firms, because there they were given contracts, which they liked better than doing any compulsory work on the basis of the Vichy law of compulsory work in Germany.

Q. In 1944, Dr. Krauch, when German officials were recruiting Italians forcibly in large numbers, were you aware that there was great resistance by the Italians to this recruitment and that the Italian Police did not sufficiently insure the recruitment of these workers, so that a decision was made that thousands of German Policemen be sent to Italy?

A. I know that that was a suggestion on the part of the labor authorities down there.

Q. Quite apart from who made the original suggestion, you were one of six persons who were present when it was agreed in Germany that ten thousand German Police officials were to be sent to Italy to guarantee the recruiting campaign in Italy, is that not correct?

A. I was present at that meeting, without expressing my opinion or making any comment. As far as I know, not one of these ten thousand policemen was actually sent to Italy.

Q. In connection with the early plans for employing Russian prisoners of war in the German armament industry, why did you consider that General Thomas, chief of the Military Economics and Armaments Office of the High Command, was the right man for the further development of this idea with respect to employing Russian PW's? Why did you think that Thomas was the right man, as Kirschner said in the letter which you have already discussed before the Tribunal?*

A. I don't think that I named Thomas myself. I did not write the letter. Kirschner did. I described that at that time I was ill at home and heard of this affair and was interested in helping these people. That was my motive. To whom this was passed on or what happened afterwards was not of much interest to me at the time.

Q. Well, did you tell Kirschner that you thought Thomas was the right man to participate in this suggestion which, as you say, you thought, was to help the Russian prisoners of war by working the German armament industry?

Did you personally tell Kirschner that you thought General—

A. I don't think I said so. I think Kirschner drew that conclusion.

Q. Now, General Thomas died recently, so he can't come here. Is it not true that General Thomas was the highest officer of the High Command in affairs of military economy and was subordinate to no one other than Keitel?

A. That is correct.

Q. Dr. Krauch, you were aware, from the beginning, that foreign workers were to be used in the so-called PSV, that is the powder and explosives production program were you not?

A. I knew that, yes.

Q. And also prisoners of war? Is that correct?

A. As far as PSV was concerned, I did not know. But it's entirely possible that that was done.

Q. Just a moment. Dr. Krauch, we have marked as exhibits next for identification, Prosecution Exhibits 1848, 1849, 1850, and 1851. These are all documents which were directed to concentration camps, and our staff has just drawn them from the file. I will ask you if you can find on them anything which would lead you to believe that K. L. does not stand for Konzentrationslager—concentration camp—Mauthausen, Buchenwald, Auschwitz, Natzweiler, whatever the case may be. I think you can possibly tell by just looking at the headings which show the addresses.

*Kirschner's letter to General Thomas (Document EC-489, Prosecution Exhibit 473), dated 20 October 1941, reproduced in subsection D above.

A. That might have been the customary term used by those people. All I can tell you is what sort of terms we used to use, and all I remember is that in the case of concentration camp inmates one spoke of concentration camps, K. Z. camps.

Q. Well, suppose I show you a document where at Auschwitz, Farben people were talking about K. L., and see if that term wasn't also used there for concentration camps. That is NI-11132,¹ which is in Document Book 73, page 80 of the English and page 145 of the German.

PRESIDING JUDGE SHAKE: What is the exhibit number, if you have it?

MR. SPRECHER: 1440. Exhibit 1440.

MR. SPRECHER: Dr. Hauptman will show you the whole paragraph.

A. That is correct. From the Heydebreck document, where reference is made to prisoners of war, I concluded that a camp would be established which would be a prisoner-of-war camp. But if it says so here it's quite correct. I myself always spoke of K. Z.—concentration camps.

MR. SPRECHER: No further cross-examination.

* * * * *

2. TESTIMONY OF DEFENDANT TER MEER

EXTRACTS FROM THE TESTIMONY OF THE DEFENDANT TER MEER ²

DIRECT EXAMINATION

* * * * *

DR. BERNDT (counsel for defendant ter Meer): We now turn to the question of the employment of foreign workers in Germany. Did German industry employ foreign workers, Dr. ter Meer?

DEFENDANT TER MEER: The employment of foreign workers, as I remarked a short while ago, was practiced even before the outbreak of the war to a certain extent. I myself am from the Rhineland. In my father's factory there were always Dutch construction workers working in the construction trade. Near the frontier there, that was quite customary. I remind you of the fact that there was an official here from the Reich Ministry of Labor, Stothfang,³ who, if I am not mistaken, testified that during normal times there were approximately one million foreign workers employed in Germany, the larger part of them probably in agriculture. Under the special circumstances of the years 1938 and 1939, when unemployment had been done away with in Germany, a large number were working in industry.

¹ Reproduced in part in subsection D above.

² Further extracts from the testimony of defendant ter Meer are reproduced in subsections VII C5b, E3, G3, I7, J4, K3a, L3d, M3, and O7a, volume VII, this series, and in subsections VIII C6, D3, D6, and E4 above.

³ Walther Stothfang's testimony is recorded in the mimeographed transcript, 13 November 1947, pages 3722-3742.

Q. Did Farben also employ foreign workers?

A. Do you mean before 1939?

Q. No, after 1939.

A. Of course, certainly, after 1939.

Q. Who housed these foreign workers?

A. Generally the foreign workers were housed by the firms themselves, the plants.

Q. Did you at any time hear anything about the working and living conditions of these foreign workers in the plants.

A. Certainly, when I visited the plants or when my colleagues came to Frankfurt, this was discussed; therefore, I know how the housing generally was.

Q. And how was it?

A. One can say that generally the housing of the foreign workers was initially in rented halls or inns or such places; that later barracks were constructed; and that still later, the majority of the foreign workers and also a part of the so-called conscripted German laborers lived in barracks.

Q. I have to come back once more to what you said previously. You said the plants themselves housed these workers. Who took care of these foreign workers there?

A. The Personnel Department did that.

Q. Personnel Department. Who were the chiefs of these personnel departments? Did you know any of them?

A. Yes, of course I knew quite a number of them, because previously I had participated in meetings of the Welfare Commission, the Soko, [Sozialkommission] and I was the head of the Employers' Association for several years, when I had a lot of contact with these gentlemen. One can say that all of our plants had excellent heads of personnel departments. They were mostly men of the old school, so to speak, very serious persons.

Q. Were these people who had devoted long study to social work?

A. Yes, they were either people who had devoted long years to this work, such as Dr. Bertrams, Dr. Schneider's right-hand man, or people like Dr. Eccarius, who had formerly been the mayor of Heidelberg; people who had long administrative work behind them. Dr. Eccarius was an excellent social worker. Or a man of the type of Dr. Weiss, in Ludwigshafen, who had specialized in this field because he knew all pertinent questions and all the laws concerning these questions. And the officials in Hoechst and Leverkusen were also of the same type—men of the old school—very excellent people.

Q. Did you ever find out anything about the attitude of the leading technical men of the plants toward the housing of foreign workers and so on?

A. Yes, I do know about that. As I stated previously, these things were frequently discussed. I know of several cases in which the leading men from the plants interested themselves in the care of the foreign workers in their plants.

Q. Did you ever hear that the foreign workers were treated worse than the German workers?

A. No, I never heard that. I must, of course, make a distinction as to housing. The normal German worker lived in his own residence, with his family, while the foreign worker had to live away from his family, in barracks. That was not possible in any other way during wartime. But even German workers who had been conscripted for labor had to live in barracks.

Q. Were the barracks in which the Germans lived of the same type as these which housed the foreign workers?

A. I cannot say under oath whether the barracks were always the same, but to my knowledge there was a uniform type of barracks in Germany which was used quite generally.

Q. Do you know anything about the sum spent by Farben for the construction of barracks?

A. Yes, I do know that very well. In 1943, before I went to Italy, Dr. Struss and Dr. Jaehne in a TEA meeting mentioned amount that had been spent up to that time for barracks, or that would be spent on so-called appropriated credits. The sums mentioned were between the order of magnitude of 100 to 120 million reichsmarks. I remember that very well.

Q. Did you ever hear that, after the American Army moved into Germany, an American agency investigated the housing and treatment of foreign workers by Farben?

A. Yes, in the Kransberg camp, in the summer of 1945—it may have been the beginning of 1946—I was told by a man that when the Bitterfeld plant was occupied—by American troops, I believe—the feeling was not very friendly, until the commander of this particular body of troops inspected the housing of the foreign workers in the camps adjacent to the works. The next day, so I was told, he changed his sentiment and he shook hands with the official at the plant and was quite grateful in recognizing that not the least objection could be made to the housing of foreign workers at Bitterfeld. Similar events took place, according to the former plant manager, in the plant at Gendorf. Dr. Wittwer told me this personally, in the Kransberg camp.

Q. Do you know anything about how workers came from France to Germany?

A. Yes, from 1941 onwards, I was in France repeatedly both for the Francolor and buna negotiations, and I saw in France for myself how French workers were recruited to come to Germany volun-

tarily so that a proportion of two to one or three to one of French prisoners of war might be released. This so-called "relève" was supported by strong propaganda in the press, by posters, and so forth, and I myself saw trains taking such workers from France to Germany. The trains were decorated with flags and garlands and were cheered by the French population because they could obtain freedom and liberation for older French prisoners of war in Germany—fathers of families and so on.

Q. You mentioned Francolor just now. Do you know whether workers came to Germany from Francolor and perhaps Rhône-Poulenc?

A. Yes, I do.

Q. Can you give me any details?

A. I cannot give you the year, but I would assume that it was perhaps the end of 1941 or more likely at the beginning of 1942, when a certain shifting was undertaken in France, according to which every industrial enterprise had to deliver a certain number of workers for Germany. This regulation was based upon agreements between the Vichy and German Governments, and so Francolor, and, I believe, also Rhône-Poulenc, had to yield a certain number of employees to us. The heads of the firms, of course, were anxious to have these workers assigned to places of work in Germany where they would be well treated and could continue in their habitual work, chemical work. You cannot use a chemical worker for big construction work and so on. Therefore the gentlemen from Francolor and Rhône-Poulenc got in touch with our people and arranged that these workers should be given priority in our works. For instance, people from Francolor came to Ludwigshafen.

Q. This was done on a voluntary basis?

A. I believe that these people were made available on the basis of a French legal regulation, based upon an agreement between the Vichy and German Governments. Therefore I cannot count it as a one hundred percent voluntary basis, but I assume that those people who were assigned to these plants in Germany on the basis of the quota did not consider themselves to have been recruited by force. They probably considered themselves voluntary workers; but I cannot prove that for every individual case, because I had nothing to do with the events personally, but I believe those people made available to us by Francolor in this way liked to come to Ludwigshafen—as far as they went there; they also went to other plants.

Q. I wanted to contrast this with later developments. We all know that from this voluntary basis they later went over to a compulsory basis. Everyone who lived in Germany knew that. We don't want to tell any stories here. You know it too—that it was later compulsory?

A. Yes.

Q. When this compulsion prevailed then, it was probably mutual; that is to say, these workers had to come, and the firms had to accept these workers?

A. The firms—after the war began, at least—always had to accept those people whom the labor office offered to them. If a firm had not accepted these people, then it was no longer supplied with workers by the labor office; and if a firm rejected certain people and thereby hampered war production, or hampered the new construction, then this particular employer violated laws of war, which violations were subject to severe penalty.

Q. Did you ever participate in any conferences of the authorities dealing with the employment of foreign workers?

A. Yes, when I was in Italy I—

Q. Excuse me for interrupting you. I do not want to hear about the Italian phase. I mean the time before 15 September 1943, before you went to Italy—before that time.

A. No. I cannot remember any conferences by authorities before that time.

Q. You just said that you came to Italy in September 1943. How long did you stay there?

A. Until I was imprisoned in 1945.

Q. With whom did you stay in Italy?

A. I was in the office of the Plenipotentiary General of the Ministry for Armaments and War Production, Minister Speer, in Italy, that is the Plenipotentiary General in Italy for the Ministry. That was General Leyers.

Q. And what was your function there?

A. It was my task, together with two other colleagues from the chemical industry, to reactivate the chemical industry in Italy, to care for production, and to direct the sale of the products.

Q. Were you the chairman of a committee for the Italian chemical industry?

A. This institution was founded in the summer of 1944, approximately. Before that time, there was in Italy an agent of the German Plenipotentiary General for each industry: chemical industry, steel industry, textile industry, and so on. Most of these agents—I, too—had a number of Italian industrialists appointed to their staffs, from among whom they formed a committee and with whom they worked, and dealt with the questions concerned. This system was changed in September 1944 because the newly appointed Economic Minister, Tarchi, desired to coordinate this German plenipotentiary with an Italian plenipotentiary. At that time, German-Italian commissions or committees were formed, and two chairmen of equal rights were put at their heads—the German, and the Italian, chairman. Thus I was the German chairman in the Chemical Committee.

DR. BERNDT: Your Honors, what Dr. ter Meer did for Italian industry in this capacity I would like to tell you about later, when dealing with count two of the indictment [Plunder and Spoliation]. Today I am merely interested in proving how Dr. ter Meer conducted himself in the face of the attempts to obtain Italian laborers forcibly. Since it is not easy to laud one's self or one's own behavior, I do not want to ask Dr. ter Meer about this, but shall ask you to look at book I of my books, page 104, where you will find an affidavit of an Italian, Elio Bracco, describing how Dr. ter Meer acted towards the workers. May I refer in particular to page 106, where it is stated that Dr. ter Meer intervened for Italian male and female workers who were threatened with being deported to Germany. The order had hardly been received when he advised his Italian friends to urge Mussolini to tell the Fuehrer that, after all, protected industries were involved which would be ruined in Italy as a result of the aforementioned deportations. I ask that this affidavit of Mr. Bracco, which is Document ter Meer 36, be accepted as ter Meer Defense Exhibit 234.¹ May I mention that on page 106, this Italian also states that Dr. ter Meer was often kept under surveillance by the SD in Milan.

From the affidavit of Carlo Ferrario, ter Meer Document 37, which I should like to offer as ter Meer Defense Exhibit 235,² I shall read only the penultimate paragraph, which reads:

"It should also be put on record that Dr. ter Meer succeeded, by having various factories declared 'protected industries,' in preventing a large number of workers from being sent to Germany who, otherwise, would automatically have been selected and transported by force to the German factories."

Finally, there is an affidavit of Anna Weber, to be found on page 117 of this book. This is ter Meer Document 39, ter Meer Defense Exhibit 236.³ I merely want to emphasize in this connection that it is stated explicitly that Dr. ter Meer was fundamentally opposed to the recruitment of Italian chemical workers and that, when he was to make available certain workers to a certain firm, these workers were warned in time so that they could escape into the mountains. Dr. ter Meer's further activity in Italy is going to be dealt with by me when I deal with count two of the indictment, Spoliation.

Q. I continue now by asking you, Dr. ter Meer, whether, during the war, Farben also employed prisoners of war in their enterprises.

A. Yes.

¹ Not reproduced herein.

² Reproduced in subsection G 3 below. A letter from defendant Haefliger to Ferrario (Document NI-7387, Prosecution Exhibit 2005) dated 22 March 1933, concerning relations between Nazi Germany and Fascist Italy, is reproduced earlier in subsection VII C 4, volume VII, this series.

³ Not reproduced herein.

Q. What types of work were these prisoners of war used for in the Farben plants?

A. I can answer this question only to the extent to which I have personal knowledge. I was not a plant manager and therefore only learned about it through visits and conferences. But I can say that during the First World War, there were one or two hundred French prisoners of war in my father's factory. Since I had lived in France for a few years and spoke French, I took care of these people considerably. From that time on, I knew what the regulations about the employment of prisoners of war were. I didn't read the law itself, but I was probably instructed by the military authorities, and since something experienced in youth always remains freshest in one's memory in later years, I frequently concerned myself with the question of the employment of these prisoners of war. I can say that in no single case did I receive any information which might lead one to conclude that their employment violated the Hague or Geneva Conventions—I don't know which. As far as I was informed, this was handled even better during this war than it was in the First World War, because the prisoners of war in a plant were supervised by the so-called Stalag officers—that is, the officers of the particular prisoner-of-war camp from which these men came, and because their occupation was controlled very strictly.

Q. Did you know that concentration-camp inmates were employed in Farben plants?

A. Yes, I knew that.

Q. Can you give me the names of the plants in which concentration-camp inmates were employed, from your own knowledge?

A. From my own experience, I know that concentration-camp inmates were used when the Auschwitz plant was constructed and in Gendorf, but I believe there were one or two plants in addition.

Q. That brings me to the question of what brought about the construction of the buna plant in Auschwitz. But before I ask that question, I shall ask another one. What caused the construction of the fourth buna plant, quite apart from its location?

A. In 1939, after the war had broken out, conferences began immediately with us about an extension of buna production since now Germany was virtually cut off from natural rubber. At that time, the project was still under consideration of building the Fuerstenberg plant. Since Dr. Ambros and I had already opposed the construction of this plant for 2 years because it was unsuitably situated from the economic point of view, we were able to convince the authorities after the war broke out that it would be much more sensible and also more economical as far as the consumption of iron was concerned, if the extension of the two existing plants, Schkopau and Huels, could be increased and we forewent new construction at Fuerstenberg; and

that was what was done. But that wasn't enough for the Reich. In 1940, the Reich wanted to build another buna factory.

Q. That would have been the third one?

A. Yes. And since we had eliminated the construction site Fuerstenberg from our consideration in the meantime, we searched for a new location—a search conducted by Dr. Ambros and myself, jointly, in the winter of 1939 and 1940, by investigating the banks of the Oder. We agreed on a site near Breslau, at Rattwitz, a site that was not very close to coal sources but since it was near Breslau and near the river where there were machine plants and other workshops that could be of assistance to us, it was on the whole an acceptable construction site. Construction work in Rattwitz near Breslau began, as far as I remember, in the first months of the year 1940, after the winter was over, and it was conducted over a period of some months, but in the summer of 1940, after the large military successes in the West, it was suddenly stopped by the Berlin authorities because Berlin probably expected a speedy end of the war. The work was then stopped, but a few months thereafter—I would think it was in October—the picture had changed again, and apparently a longer war was now expected, and therefore buna production was to be expanded. At that time we fought against the continuation of the plant at Rattwitz, because we did not like to have it in the eastern part of Germany. At that time, we instituted a new process, the so-called Reppe process, in Ludwigshafen that was ready for production at the time, and therefore we could make it quite clear to the authorities that this third plant should be built between Ludwigshafen and Oppau in a clear area on the Rhine, to exploit the advantages of being near the two plants which could furnish us with certain intermediate products and where the various workshops, laboratories, et cetera, could be used. The Reich finally agreed to this suggestion. We had expected that this would completely supersede the suggestion of completing the plant in the East, but unfortunately this hope was only of short duration, because before the negotiations about the construction of the Ludwigshafen plant could be concluded, we were given a new order to build a fourth plant in the East. Although we were still of the opinion that it would have been better, that it would have cost less iron and much less money, to take care of this increase in production in Huels instead of building a fourth plant in the East, we were not permitted to do this. Therefore we searched for a new construction site in the East, and we finally chose a new site directly near a coal source—as opposed to Fuerstenberg and Rattwitz, which did not have this coal—and this place was Auschwitz.

Q. May I ask that the Tribunal be kind enough to look at book 72, page 1. There you will find Document NI-11781, Prosecution Exhibit

1408.¹ This is an express letter from the Reich Minister of Economics of 8 November 1940. The signature is "von Hanneken." When one reads the contents, I believe Dr. ter Meer's statement is corroborated. This letter was sent to Farben, under the classification Secret—for the attention of Dr. ter Meer: It says,

"In the conference which took place in my Ministry"—that is the Reich Ministry of Economics—"on 2 November 1940, the expansion of the buna plants was fixed at 150,000 tons. This expansion was to take place in two works, namely: (1) in the Ludwigshafen works, with an output capacity of 25,000 tons per year."—This is the third buna plant of which Dr. ter Meer has just now spoken.—"(2) in an eastern works to be newly erected in Silesia, likewise with an output capacity of 25,000 tons per year."

This express letter confirms Dr. ter Meer's description. One can see from it that Farben was ordered to build a third plant at Ludwigshafen and a fourth plant in the East. Dr. ter Meer, you said that once you had received this order you had to search for a site, and that you had settled on Auschwitz, would you please tell us, first of all, why did you pick Auschwitz? What were the reasons for the choice of this particular location?

A. We began once more to investigate a number of locations as to their suitability for the construction of a buna plant. For a long time this place Rattwitz, near Breslau, was still under consideration. Finally, as far as I remember, the Mineral Oil Construction Company [Mineraloelbaugesellschaft] for the first time directed our attention to Auschwitz.² The industrial prerequisites for the construction of a large chemical plant were ideal there, better than anywhere else in Upper Silesia. We had a big level terrain. We had a location near a river which was increased by two tributaries just above, and received so much water that even in the summer it had sufficient water, because in a big chemical factory and especially in a buna factory you need a lot of water, and good water. The river, of course, also furnished the water for power and took off the waste. We were on a railway line. This was probably the direct line from Vienna to Cracow. There was a scheme to make the Vistula navigable at this point at a later time. Previously, in the interests of our Heydebreck plant in Upper Silesia, we had already made an agreement about the acquisition of an interest in Fuerstengrube, which was not far from Auschwitz, and in the immediate vicinity of Auschwitz there was the Janina mine, visible from the Auschwitz terrain, at a very short distance. Near Auschwitz we also had good lime. The salt mines of Bielicka, in the Government

¹ Reproduced in subsection D above.

² A letter from the Mineral Oil Construction Company to Defendant Ambros, 11 January 1941 (NY-11783, *Pros. Ex. 1410*), transmitting a report of investigation to the Auschwitz site, is reproduced in subsection D above.

General, were quite near. And we were able to get electric current from Pless or elsewhere. There were really so many of our industrial prerequisites that one has to admit that this location, Auschwitz, was ideal industrially.

Q. In order to operate a plant one doesn't need merely coal, water, and lime, but also workers. How was the labor question to be solved for this fourth buna plant?

A. The question of labor was unfavorable in Silesia generally. The big industrial area between Gleiwitz and Katowice had been depleted of workers because of new construction or displacement of factories from the West. In Auschwitz and vicinity, there were many inhabitants, but for the most part these were agricultural workers, who would not be very much use for construction or for the factory afterwards. This point was less favorable in Auschwitz, and as a result, during the first meetings it was always proposed that German workers should be settled there in large number.

Q. How was the further course of events? After Auschwitz had been suggested, what authority was asked, and determined, that the fourth buna plant was to be constructed at Auschwitz?

A. This decision of the authorities to choose Auschwitz for the fourth buna plant is shown by Document—

Q. Excuse me for interrupting. Answer this question without any regard to documents.

A. This resolution was arrived at at a meeting on 6 February in Berlin—at a conference in the Reich Office for Economic Development, in which [the defendant] Dr. Ambros and I and [the defendant] Dr. Krauch participated. I myself took down notes of this conference,* and during this meeting, we informed Mr. Krauch about the various favorable industrial prerequisites at Auschwitz, with the result that ideas that had been held before about the construction of a fourth buna plant—for instance, we had had an idea to build such a plant in Norway—were now given up, and Mr. Krauch chose Auschwitz as the construction site for the fourth buna plant. As far as I remember, the question of procurement of labor was also discussed, the necessity of settling German workers there.

Q. What was done by Krauch after this meeting? Where did you go?

A. On the same day a meeting took place in the Reich Ministry of Economics, where we discussed with representatives of the Ministry of Economics—I believe it was Senior Government Counsellor Roemer—the question of financing this fourth buna plant from the point of view that the construction of this plant in the East would be much more expensive than the plan that we had originally suggested, ex-

*Defendant ter Meer's memo on this conference (*NI-11112, Pros. Ex. 1413*), is reproduced in subsection D above.

tending our capacities in Huels. It's quite clear that extending the production capacity of an existing plant is always cheaper than the construction of a large enterprise on a terrain that has never been used for industrial installation. These additional costs were estimated at the time to be approximately 60,000,000 reichmarks, which included, as far as I remember, an amount of 5,000,000 for purposes of settling to German workers. We wanted to know from the Reich Ministry of Economics who was going to pay for this increased cost of 60,000,000 marks. We discussed this with Senior Government Counsellor Roemer. At a later time, the necessary suggestions were made and agreements were reached.

Q. Your Honors, may I ask that you look at Document NI-11113, Prosecution Exhibit 1414¹ in book 72. This is to be found on page 27 of the English and page 47 of the German. There we find a file note about a conference with Professor Krauch on 6 February 1941: "Those present were: Krauch, Ambros, ter Meer. Subject: Buna, IV." That means the fourth buna plant of Farben. At the end you can see the note, "Frankfurt a. M., 10 February 1941, Dr. F. ter Meer." This file note was distributed to Dr. Ambros, Dr. Struss, and Director Dencker.

Dr. Ambros was the man with whom Dr. ter Meer went to Krauch. Struss was the director of the TEA Office [Technical Committee Office of Farben's Managing Board]. Dencker was one of the men in the central bookkeeping department. Looking at the second paragraph from the end we read:

"Professor Krauch then stated that the Reich Office for Economic Development would now drop the Norway project, as a result of these examinations."

That is what Dr. Ambros said a little while ago.

"Auschwitz is decided upon as the site for the fourth buna plant."

This memorandum, which Dr. ter Meer wrote 4 days after the conference, states explicitly that Professor Krauch decided upon Auschwitz as the site for the fourth buna plant, and it can further be seen from this file note that Professor Krauch did not decide upon this construction site in his capacity as a Farben official,² but in his capacity as the representative of the Reich Office for Economic Development, as can be seen in this document. Furthermore, the memorandum reads:

"An extensive settlement program will be unavoidable to induce German workers to settle in Auschwitz."

¹ *Ibid.*

² At this time defendant Krauch was chairman of the Supervisory Board [Aufsichtsrat] of Farben.

May I now ask Your Honors to look at Document NI-11112, Prosecution Exhibit 1413,¹ book 72, on page 23 of the English, Page 40 in the German. This again is a file note of Dr. ter Meer about a conference at the Reich Ministry of Economics. On page 43 of the German—I am sorry I cannot give the exact spot in the English—this file note states explicitly that at least 5 million would have to be added to the total cost, since living space for the employees would have to be erected to a much greater extent at Auschwitz than in other industrial districts. It is page 24 of the English.

These two file notes were written by Dr. ter Meer on 10 February 1941, at a time when he could not know that he would have to justify himself before a high American Tribunal for the construction of this buna plant. These file notes, which are not contested by the prosecution, confirm quite unequivocally what Dr. ter Meer has said about the foundation of the fourth buna plant.

I could never have received, as a defense counsel, these two file notes, and I am very grateful to the prosecution for them. I consider it important to note that there is not a single word in these two file notes about the employment of concentration-camp inmates, which would certainly have been the case if—

I beg your pardon, Mr. President. I realize that this is argument.

I must now put something to my client.

In Document Book III, we offer ter Meer Document 75, to be found on page 78. This is an affidavit which was taken by Mr. Sprecher on 30 April 1947, but which the prosecution did not offer; therefore I have to offer it now as Exhibit 237.²

This affidavit contains statements of Dr. ter Meer about many questions on which I examined him today. It is NI-5182.

You gave a description here, Dr. ter Meer, which does not quite agree in one point with what that you have said here. May I ask you to take this affidavit up? Please look at page 13 of this affidavit.

What page is that in the English?

PRESIDING JUDGE SHAKE: Perhaps you can give us the paragraph number, Doctor.

DR. BERNDT: It is paragraph No. 23, on page 94 of the English book.

Q. You say there:

“The existence of the concentration camp at Auschwitz as a source of labor might have been one of the additional points in deciding

¹Reproduced in subsection D above.

²Defendant ter Meer executed numerous affidavits prior to his indictment based upon interrogations by representatives of the prosecution or by other officials. Many of these affidavits were introduced in the Farben trial either by the prosecution or the defense. The affidavit in question is not reproduced herein. However, numerous extracts from this affidavit are quoted in the ensuing examination.

upon Auschwitz, but for me personally, I must say that the satisfactory industrial conditions were by far more important than the presence of a concentration camp.”

Does that not show a certain conflict with what you stated previously?

A. It does conflict somewhat, but there is a reason. You failed to read the preceding lines, where I state quite positively that as far as I remember our decision to build a plant in Auschwitz was *not* based on the fact that there was a concentration camp there.

Q. Would you please read these sentences?

A. Yes. The sentence reads:

I first spoke about the industrial prerequisites, coal, electricity, et cetera, and then I say:

“In my opinion the existence of the concentration camp Auschwitz was only a coincidence. By that I mean that our decision to erect a buna plant at Auschwitz was not based on the fact that there was a concentration camp there.”

This text is a translation of the original, because the affidavit was rendered in the English language, and there it is stated:

“In my opinion the existence of the Auschwitz concentration camp was incidental. By ‘incidental’ I mean that I recall that our decision to build a plant at Auschwitz was not based on the fact that the concentration camp existed there.”

This report, as is true in the case of most of these affidavits, is based upon an interrogation of me, and in this interrogation I always said, from the beginning to end, that the Auschwitz plant was not located at Auschwitz because of the concentration camp.

During this interrogation the question was raised, however, whether up to the day when the Berlin authorities decided upon Auschwitz, anything had been known about the existence of an Auschwitz concentration camp, and I did not know that. I did not know, for instance, whether anyone in the Reich Office knew of the existence of the concentration camp beforehand or not, and whether they were interested in Auschwitz for that reason, and therefore, I continue in my report,

“There were meetings in Berlin concerning the building of the new plant, but as to my recollection, I did not participate in these meetings. I may have been in one, I don’t know.”

The existence of the concentration camp at Auschwitz as a source of labor may have contributed to our decision in favor of Auschwitz. I do not mean myself but other persons who may have been influenced by this, because I did not know whether perhaps Herr Eckell or somebody else in the Reich Office might have known something about the concentration camp beforehand.

I still insist—because I know it is a fact—that up to 6 February, I at least was not influenced by the knowledge of the existence of the concentration camp, since I myself reported about the acquisition of this site both to Mr. Krauch and to the Reich Minister of Economics, and I would not have forgotten to mention it if the procurement of labor from the concentration camp had played any part in our consideration at the time, on 6 February.

Q. The prosecution has submitted a further exhibit from which it wanted to infer that you had knowledge of the concentration camp at Auschwitz. This is Document NI-11086, Prosecution Exhibit 1422.¹

This is a letter from the Plenipotentiary for the Four Year Plan, the Plenipotentiary General for Special Questions of Chemical Production, of 4 March 1941. The letter is addressed to Farben, attention Dr. Ambros, and copies were distributed to others, including Dr. ter Meer and Director Buetefisch. This letter, which is signed by a Mr. Wirth, reads:

“At my suggestion (that is, the suggestion of the Plenipotentiary General for Special Questions of Chemical Production) and acting upon instructions of the Reich Marshal, the Reichsfuehrer SS, under date of 26 February of this year, has decreed the following:

“1. The Jews in Auschwitz are to be evacuated * * * 2. Poles residing in the Auschwitz area and suitable for employment as construction workers for the buna works, must not be expelled. 3. The Inspector of Concentration Camps [Gluecks] and the Chief of the SS Economic and Administrative Main Office [Oswald Pohl] have been ordered to get in touch immediately with the construction manager of the buna works and to aid the construction project by means of the concentration-camp prisoners in every possible way.”

Q. What do you have to say, Dr. ter Meer, to this exhibit of the prosecution?

A. Undoubtedly I received this letter but it does not contradict my statement that as far as I remember and according to the documents which we have here, the decision in favor of Auschwitz taken at the meeting of 6 February in Berlin, 4 weeks previously, was based not on the position of the concentration camp but on the technical facilities there.

Q. I believe that I can leave this part of the indictment now, as far as it affects my client, Dr. ter Meer; the further reasons for the choice of the construction site at Auschwitz I may leave to my colleague, Dr. Hoffmann [counsel for Defendant Ambros]:²

Dr. ter Meer, were you ever in Auschwitz?

A. I was in Auschwitz twice.

¹ Reproduced in subsection D above.

² Extracts from Defendant Ambros' testimony on this question are reproduced in subsection F4 below.

Q. When?

A. I found out subsequently that the periods of time mentioned in the long affidavit, the affidavit about labor allocation, and so on, are not quite correct. The first one is correct. I was there once in the autumn, October of 1941. I was there not in the spring or early summer of 1943 but we found out subsequently that it was November 1942.

Q. This remark is to be found under paragraph 24, third line of this last affidavit mentioned. This is in book 3. It says "in the spring or early summer of 1943". This statement is incorrect, as Dr. ter Meer has just stated.

Please tell me why you went to Auschwitz for the first time and what you saw there?

A. The first trip to Auschwitz undoubtedly served the purpose of acquainting myself with the site of the plant with the industrial conditions there. This visit was made in October 1941, hardly 6 months after the work was begun in Auschwitz in a terrain that had predominantly served agricultural purposes previously. Not much could be seen there. Undoubtedly I went to Auschwitz in order to familiarize myself at first hand with the industrial location, the first plan for the building of the factory, and details about the arrangements of the buildings, transportation possibilities, sewage systems, and so on. That was done during this first visit. We arrived in Auschwitz after lunch. We ate on the way. There was hardly anybody there from Farben at the time. In a house between the city and the plant there was a construction office, a temporary office. One of the engineers gave us an explicit explanation of what I told you about a while ago. Subsequently we walked over the terrain. I still remember it very well. Not much had been done. There were a number of contracting firms working there building roads, laying tracks from the railroad connection, digging foundations for the new houses. Some barracks had been constructed and some foundations had been begun. These construction firms were doing this work. On this occasion I also saw workers from the concentration camps there, since a fairly large number of them were already employed at that time.

Q. Did you notice anything in particular in connection with these workers from the concentration camps?

A. I could have noticed nothing, because I don't remember anything about them. The only thing that I remember well today is that people who worked in columns for instance unloading gravel in order to lay the tracks—worked rather slowly. I did not notice anything else when I visited this plant site.

Q. During this first visit to Auschwitz, did you hear anything about mistreatment of the people working at the Farben construction

site? By that I mean did you hear anything at all, perhaps by accident?

A. I neither heard nor saw anything.

Q. Would you please tell me when you were in Auschwitz for the second time?

A. As I said before, it was in November 1942.

Q. Why did you undertake this second visit?

A. Our investments in Auschwitz were considerable. That part of the plant later devoted to the manufacture of buna belonged to Sparte II, and so after approximately 1 year I went to Auschwitz a second time to see what progress had been made in the meantime in constructing the plant. In this second visit I had a special purpose in mind, however. I wanted to get acquainted with [the defendant] Herr Duerrfeld, who had in the meantime been appointed construction manager.

Q. You didn't know him before?

A. No. I have to explain this "no." I may have met him somewhere, but I did not know him well. Herr Duerrfeld was an engineer at the Leuna plant. When the Poelitz gasoline plant was expanded earlier, he had proved himself as an excellent chief engineer in a leading position and had been made available for the Auschwitz plant. I wanted to get acquainted with this man, whom Mr. Ambros and his colleagues had chosen to supervise the large construction job in Auschwitz.

Q. And during your second visit to Auschwitz you met him? He was there?

A. Yes.

Q. And what impression did he make on you?

A. During my second visit to Auschwitz I concerned myself particularly with Mr. Duerrfeld. We inspected the plant site together, and he probably explained the plans, and so forth and we sat together over a meal, and I had a very excellent impression of Mr. Duerrfeld personally.

During my second visit—and I have to add this here because it throws light on Mr. Duerrfeld's activity—I gained the impression that this was an extremely modern construction site. Wherever one could replace manual labor by machines this had been done. There were a large number of steamshovels and other mechanical facilities. There was an extensive network of narrow-gauge railroads over this entire field, so that the construction site offered the picture of a model modern installation.

Mr. Duerrfeld also impressed me personally favorably, since I had the feeling that he went about his work with personal enthusiasm; for it was a big and interesting job for a chief engineer of good caliber to be able to erect such a beautiful modern plant on such a

large level plain. This joy in his task I was able to observe in the person of Dr. Duerrfeld, which I consider a very favorable factor in one who undertakes such a large responsibility.

Q. What did you see in the way of construction in Auschwitz?

A. During the time between my first and second visits, it had progressed rapidly. A large number of buildings had been erected that summer. I won't say that they were completely finished, but they had been raised well above the ground. The big boiler house was nearly completed. We went up to the top because it was the highest building and gave us a good view of the construction work that had been done in the meantime. Undoubtedly much work had been done during the course of this 1 year.

* * * * *

[The transcript omitted here dealt entirely with procedural matters.]

DR. BERNDT: At the end of yesterday's session, we talked about your two visits in the factory site of Auschwitz. Concerning your second visit you described to us what you had seen on this factory site in regard to the progress of the work. I should like to hear from you, today, what you saw there in regard to the people, and especially the workers, on this construction site.

A. During my second visit in the autumn of 1942, a considerable number of the most varied categories of workers were employed on this terrain. There were German workers, foreign workers, and also concentration-camp inmates, recognizable from their striped clothing. I can only repeat what I said yesterday, that the entire construction site made the impression of a very modern and progressively installed place, and during the inspection that lasted much over an hour, I saw nothing that was in any way conspicuous.

Q. Can you tell me with what type of work the inmates were occupied?

A. I believe that cannot be described in a few words; with any detail, I guess, only Mr. Duerrfeld could do so, because he was the chief engineer. During my second visit in Auschwitz as I described it, a large number of buildings were progressing rapidly. The machine and boiler houses, and the installation of boilers and containers had been started. During the first visit, only building firms not belonging to Farben were leveling the ground, laying tracks, et cetera, but during the second visit, there were other building contractors, installation and electrical contractors, and probably in certain fields, also German Farben engineers already working with their men. Therefore, one cannot say that the concentration-camp inmates, for instance, were engaged in any special work. They did all kinds of things, and they worked for various contractor firms.

Q. I merely wanted to know what type of work you saw the concentration-camp inmates doing during your second visit. What did you see these people do—or don't you know any more?

A. I cannot answer that in detail. They did all sorts of things, building installations, transport work—I could not describe it in detail.

Q. Did you notice that these workers from the concentration camp were driven [angetrieben] to work?

A. No, I didn't notice anything like that.

Q. Did you notice that these people were employed in especially difficult places of work?

A. No.

Q. Do you still today have any impression about the physical conditions of these concentration-camp inmates?

A. At any rate, I had no impression at the time that the workers coming from the concentration camp Auschwitz were in any unfavorable physical conditions, because if that had been the case, it would have been discussed at the time—and it was not so discussed.

Q. Did you see concentration-camp inmates being beaten there?

A. No.

Q. Did you hear in this camp at the time that concentration-camp inmates were beaten?

A. No, certainly not, because that would have been discussed immediately. I would never have tolerated that, in any plant for which Farben was responsible, workers should be mistreated. That is quite impossible.

Q. Did you see any concentration-camp inmates or any other worker collapse during this work?

A. No.

Q. Did you see a worker that had collapsed anywhere, and who was lying on the ground?

A. No, certainly not.

DR. BERNDT: Then I would have no further questions about your stay or visit in the factory of Auschwitz. And now I turn to another subject matter. During the time of one of your two visits, were you in the concentration camp of Auschwitz?

A. Yes, during my first visit in October, 1941, I was in the concentration camp Auschwitz itself.

Q. Can you tell me what brought your visit about in this concentration camp?

A. As far as I remember, Dr. Ambros intended to discuss something with the chief of the concentration camp, Mr. Hoess, about the concentration-camp inmates who were engaged in construction work on the site. I made a statement about this subject in my affidavit given to Mr. Sprecher, but I have now heard from Dr. Ambros that the rea-

son that I stated, namely the question of the transportation to and from work of the inmates that were still being housed in the concentration camp, who had to come to the construction site every day and back, that that reason cannot be the cause of why he talked to him, because at that time the transportation question had already been solved by railroad transportation.

In my statement, I made some observations about the impending wintertime and as I have heard from the gentlemen also, the winter months brought a stoppage in the work of the inmates, and it may be that I confused these two things. At any rate, some reason existed why something had to be discussed in the concentration camp, and Dr. Ambros had to do this. Since I was in the automobile with him, because we wanted to go to the railroad to Gleiwitz, I came along into the concentration camp with him.

Q. Would you please describe to me briefly what you saw in this camp? First, the outside appearance, and then the people that you saw there?

A. Yes. In the affidavit mentioned, I rendered a short description about this and I can elaborate on this a little. It was in the afternoon—probably around 5 o'clock, because it was getting dark shortly thereafter—when we arrived in the concentration camp. The chief of the camp, Kommandant Hoess, was engaged in a conference of some sort and could not concern himself with us. He therefore called one of his younger assistants, and commissioned him to lead us all through the concentration camp and to show us everything inside of the camp. This man, probably an SS-man of some rank, was a very pleasant and talkative person, and led us around the concentration camp for over an hour, and informed us about the purposes and intentions that were being pursued by the employment of these concentration camp inmates.

We were shown a large terrain adjacent to the concentration camp which was to be operated as a model farm; all sorts of experiments with cultivations were to be made. Grain experiments were discussed at the time, and also experiments with the well-known Russian rubber plant kok-saghyz were to be discussed and undertaken.* We did not visit the fields because as I said, it was growing dark, but the SS-man led us through the plant and stables. They were roomy stables, well proportioned. There were some farm animals in the stables, and Herr Hoess told us later that he wanted to make some breeding experiments on horses and farm animals, since he, as the son of a farmer, had some experience in this work.

The workshops in the concentration camp were surprisingly large. We saw a large iron-working workshop, with forges, drills, lathes,

*Reichsfuehrer SS Himmler was particularly interested in the production of natural rubber by growing the kok-saghyz plant, see letter from Defendant Krauch to Himmler (NI-10040, *Pros. Ex. 1526*) reproduced in subsection D above.

and other installations and a wood-work shop, well equipped with machines. That interested us especially, because we intended at the time to give certain orders to the concentration camp (during the winter) for the next year, probably barracks, doors and windows for barracks were intended. These workshops and stables were well equipped and roomy and, I must say, in very good condition. Subsequently, we looked at the housing of the concentration-camp inmates and the SS-man led us into several barracks, the kitchen, the dining rooms, the day rooms and he explained to us the system of camp discipline which was exercised in every barracks by so-called "kapos," and these barracks also were in a surprisingly good condition; they were very clean; the beds were clean. Of course they were one over the other, and the inmates we saw there, were, as far as I can recall, in a good physical condition.

The only unfavorable factor that I remember from this visit, and I also mention that in my affidavit, and what we happened to see was the coming in of a group of, I guess, between 100 and 200 Russian prisoners of war. They marched into the camp, and we were just there when they came in. The SS-man accompanying us, told us that they were being sent there; that the SS-men did not want them at all, and it is true that these Russian prisoners of war looked badly. One saw that they had serious deprivations behind them; they were emaciated and their uniforms were tattered. They also bore two dead comrades on their shoulders with them, and we were told that these two had tried to escape in the morning, and that they had been shot.

This is the first time that I got in touch with something that had to do with the war, and that made a deep impression on me, and that is why I remember it so well. I emphasized that this was the only unfavorable factor I saw in the camp, and that had really nothing to do with the normal camp management.

Q. Did you see a factory in this camp?

A. No.

Q. How is it then that you speak in your affidavit about a factory inside of the camp? Please look at your document No. 75. I refer to page 14, the last line, second to last line. Would you please read what is stated there? It says: "He desired to have these people employed in the factory inside of the camp."

A. This is an error in the translation. This affidavit was given by me in the English language.

Q. Would you please explain this mistake then?

A. It is stated in the English text, and that is the original "Hoess was in no way favorable to sending concentration camp inmates to the Auschwitz works. He wanted them to work for the factory in the camp itself." That is what I said previously. They were work-

ing on windows and door frames inside of that camp. This is a mistake in the translation.

Q. I believe this explains what is meant. We heard from other witnesses that there was supposed to have been a large chimney in this camp. Did you see such a smokestack in this camp?

A. I have no recollection of it.

Q. In order to clarify this may I say once more this visit in the concentration camp of Auschwitz was undertaken at the occasion of your first inspection trip in the buna factory of Auschwitz. Is that correct?

A. Yes.

Q. Would you please tell me, once more, at what time this first visit took place?

A. October, 1941.

Q. Very well. Then you visited Auschwitz once more?

A. Yes.

Q. Would you please give me the time, once more?

A. According to information that Mr. Ambros gave me, who was able to reconstruct it from his calendar, it was November 1942.

Q. Did you also visit Auschwitz concentration camp at the time?

A. No.

Q. Did you visit any other camps?

A. As stated in my affidavit, at that occasion I inspected a camp in the immediate vicinity of the plant site, where concentration inmates were housed. In the meantime, between 1941 and 1942, the system of transporting workers in the morning from the concentration camp to the factory and back in the evening had been stopped, and quite recently, as we heard from the testimony of some witnesses, since October, 1942, they were being housed in a newly constructed camp immediately adjacent to the work site.

Q. Did you learn of the name of that camp at the time when you were there?

A. I can say this: whether this camp was given a special designation by my accompanying gentlemen there, I do not know; perhaps some number—but that camp that I visited, the beginning of that later large camp which is always being called camp Monowitz by the prosecution—I can say that to the best of my recollection I heard the name Monowitz for the first time through the indictment, and through the interrogation of the witnesses here.

Q. Would you please tell me what the outside appearance of this camp was when you approached it; was there a fence around it?

A. Yes.

Q. Were there guard towers?

A. No, I do not remember such towers.

Q. Did you see guards outside of the camp?

A. I remember that our visit had been announced by telephone in the camp, and that before we entered the camp the people accompanying us probably had to show their passes.

Q. To whom did you have to show your passes?

A. The camp was guarded by SS-men; whether these were officers or enlisted men I do not know.

Q. But these were SS-people?

A. Yes.

Q. When you came into the camp what did you see?

A. I remember this camp quite clearly still today. From the entrance gate there was a straight road leading into the camp itself, and to the right and to the left of this road, the customary wooden barracks were constructed in the customary space. At the end of this main road leading into the camp there was a large barracks. I assume perhaps that there were two barracks put together, and that barracks was used for the hospital. The barracks were of the normal construction type, the normal size, as one saw everywhere; they were relatively new. I believe the camp had been just recently constructed and everything was in unobjectionable shape.

Q. What type of persons did you see in this camp? Let's call it Monowitz? What sort of people did you see there?

A. I was inside that camp in the afternoon at a time when these people were not in the camp for they were working at the time and I know very well that there were not many people about. There were only a few persons present, working, perhaps on the barracks or doing repair work or cleaning work. I assume that they were people who were not at work, but employed working inside of the camp, and in the previously mentioned affidavit, I made an error in this regard, because, according to my recollection at the time, I spoke about a small concentration camp for Jewish inmates. I can only assume that this error was caused by the fact that some of the people inside of the camp were recognizable as Jews, and that that gave me the wrong recollection. Since I have had a chance to speak to Mr. Duerrfeld, after the indictment had been served, I asked him about this camp and he said, "That is quite impossible—it's nonsense. We never had a camp housing Jewish workers." Then I answered him, "I'll tell you where this camp was situated," and I showed him the road that was leading to Cracow and the camp and then he said, "Well, that was Camp 4 or Monowitz," and that cleared up the mistake.

Q. Did you notice, in the case of these few persons that you met in the camp, anything special in regard to their physical condition, their attitude, or the atmosphere in general?

A. No.

Q. Do you have anything else to say about your visit in Camp 4 or Monowitz?

A. No.

Q. When you were in Auschwitz at the time, did you hear anything that many people were being exterminated in this large Auschwitz concentration camp?

A. No, I didn't hear a word about that. Nothing.

Q. The trial brief charges all the defendants, and also you, in this connection, very severely, and since these reproaches are especially serious, I have to talk about these charges in detail, point for point. In paragraph 195 of the trial brief, the prosecution charges that these defendants and that includes you, knew that in Auschwitz and other concentration camps, human beings were being exterminated by the thousands. What do you have to say to that charge?

A. I can say most positively that the first knowledge about such events was imparted to me at the time of an interrogation in the Kransberg camp by Major Tilley, who also acted as a witness here. I wrote this down on that same day, and I know most positively that before Major Tilley interrogated me in July of 1945, I didn't know anything about it.

Q. Did you really not hear anything previously by radio, or through the reports of some other persons?

A. No, I didn't know anything about it previous to that.

Q. From 15 September 1943 on you were in Italy?

A. Yes.

Q. Didn't people speak more freely in Italy than people in Germany? Did you hear nothing about it?

A. It is certainly true that we Germans in Italy were able to speak more freely about all sorts of events of those times, and especially about affairs of the Party. In the circle of my intimate friends we all had the same opinion about many Party events and therefore we talked quite frankly among ourselves. But this subject was never touched upon and I did not hear anything about it from the circle of Germans nor from Italian newspapers nor from Italian industrialists with whom I got together.

Q. Did you have a radio in your room in Italy?

A. No, I can sleep without a radio.

Q. When were you abroad for the last time?

A. You mean before the collapse?

Q. Yes.

A. I visited Switzerland in the spring of 1945 twice regarding affairs of my Italian position. The transport of coal was concerned. To the best of my recollection the first visit took place at the end of February, and the second visit during the first part of April, 1945.

Q. At the occasion of this visit abroad didn't you hear anything about these events in German concentration camps?

A. In the course of these visits in Switzerland I did not hear anything like that. I want to emphasize that in both cases I was with the German Legation in Bern—that I talked to several Swiss in Zurich, and that I certainly used that opportunity to read the Swiss newspapers, but I did not read a word about this or hear about it.

* * * * *

CROSS-EXAMINATION

MR. SPRECHER: Dr. ter Meer, in your testimony yesterday, you mentioned our exhibits 1413 and 1414 in Book 72. Do you have your books there with you? If not, I have a German copy of it.

A. Yes, I have it here.

Q. Exhibits 1413 and 1414 are both file notes by you concerning conferences held on 6 February 1941, concerning the Auschwitz-buna project, or the fourth buna plant. You testified that at that time, namely, 6 February 1941, you didn't even know that there was a concentration camp Auschwitz. We assume that you have also studied our exhibits, Document NI-11783, Prosecution Exhibit 1410;¹ Documents NI-11784, Prosecution Exhibit 1411;² and Document NI-11785, Prosecution Exhibit 1412,³ all appearing in the document book just before the two exhibits which are your file notes. And if you will look merely at the index of these documents, which I think fairly well represents some of the points of the contents of these documents,⁴ I will ask you a simple question. Did Dr. Ambros, did any representative of the Gebechem [Plenipotentiary General for Special Questions of Chemical Production], did any of the people who made these reports which were drawn up before 6 February 1941, either furnish you with copies of those reports or tell you about the contents of those reports before 6 February 1941, when you finally went to Krauch, and the RWM [Ministry of Economics], in order to make the final decision, or did you go to those final conferences without knowing about those reports?

PRESIDING JUDGE SHAKE: Counsel, if that is a simple question, don't ask a complicated one, please. You have put a dozen questions in that. Now, we have no objection to that if the witness can follow it, if he thinks he knows what you want to know; in fact, to ask a question of that kind usually calls for complications, and the witness goes off on

¹ Letter from Mineral Oil Construction Company to defendant Ambros, 11 January 1941, reproduced in subsection D above.

² Report of 18 January 1941 on a conference of representatives of Farben and Schlesien-Benzin Company, *ibid.*

³ Draft Memorandum of Farben chief engineer Santo on conferences held on 30 and 31 January 1941, *ibid.*

⁴ Reference is made to the "Index" ordinarily appearing at the beginning of each document book, the index purported to indicate the general nature of the documents in the document book and the index sometimes expressly indicated the purpose for which a particular document was offered.

one angle and then you want to get him back. Dr. ter Meer, do you understand what he wants to know?

THE WITNESS: Yes, I think so.

PRESIDING JUDGE SHAKE: You may answer.

A. I can't answer that question. Naturally, I have read these two documents which are in your book, and as far as I was able to study the documents, so far as I was able to study the distribution list and the addresses to which they were sent, I found that they apparently were not sent to me.

Naturally, it is possible that Dr. Ambros discussed these two travel reports with me. Whether he at that time mentioned the presence of the concentration camp at Auschwitz or whether he did not, I really, unfortunately, cannot tell you. I yesterday pointed out very clearly, during my examination, that from my two memorandums of the 6th of February,* which I dictated personally and which I have written at some great length, it becomes quite clear that during these two discussions (of which one was designed for the determination of the site of Auschwitz for the buna factory) that the matter of the use of concentration-camp inmates was not touched upon at all, although a question with respect to procurement of labor did come up in both of these discussions, to-wit, the necessity of spending millions for the settlement of the German workers.—

Q. Now, Dr. ter Meer, I am not asking you to repeat your conversation or your testimony of yesterday. That would not be helpful either to the Court or to us in bringing this matter to any clarity whatsoever. But my question, though long, and though the President disagrees, I thought could be answered simply because I merely asked you if you had knowledge of the contents of those three Prosecution Exhibits; namely, 1410, 1411, and 1412, before 6 February 1941 or not.

PRESIDING JUDGE SHAKE: That is a simple question and if that is what you want to know I think he has put it very clearly. You may answer that question if you can.

DR. TER MEER: Yes, Your Honor, I replied to it that I cannot say, hard as I may try, whether I have actually known of these documents, none of which was addressed to me. I do not believe so, and I really cannot say whether Dr. Ambros on the occasion of any conversations with him, told me anything about the contents of these documents.

With respect to the general question, the industrial significance of Auschwitz, he generally talked to me during that meeting, but I do not believe that the question of the concentration camp could have come up because if we had attached any significance to that question

*Reference is again made to Document NI-11112, Pros. Ex. 1413, and Document NI-11113, Pros. Ex. 1414, both reproduced above in subsection D.

at that time, it would be contained in the reports of the discussions of the 6th of February.

MR. SPRECHER: Do you have any recollection that Dr. Ambros, or anyone else, told you before 6 February 1941, that there would have to be a migration out of Auschwitz of the people who had previously lived there, in order to make way for the specialists and the employees of Farben who would come?

A. Unfortunately, I cannot answer this question either.

Q. Now you stated that the plans for a fourth buna plant in Norway, were dropped because of a decision of the defendant Krauch. But may I ask you this: Didn't you and Dr. Ambros lay the foundation for that decision by telling Dr. Krauch that the best site in Norway was not as good as the Auschwitz site?

A. The plan to build a buna factory in Norway was certainly not only discussed on the morning of the 6th of February. This thought has originated from Dr. Krauch's office, probably from Dr. Eckell and was submitted for examination to Dr. Ambros and perhaps myself, and was discussed a long time before; perhaps weeks or months before that.

The investigation of such a matter, especially a matter involving a foreign country cannot be done very quickly—

Q. Dr. ter Meer, I am really not asking you how long the investigation took, or who made it. I am merely asking you if Krauch, as Exhibit 1414 shows, so far as I read that exhibit, did not make his decision then and there, on 6 February 1941, upon the basis of the information which you there gave to Krauch, namely you and the defendant Ambros? That is all my question really is.

A. I think that he decided by comparing the situation in Norway and the situation in Auschwitz; that he probably found out that under the circumstances as they prevailed at Auschwitz, that the Norwegian project was no longer interesting.

Q. And wasn't that the recommendation of you and Ambros at the time?

A. Dr. Ambros and I were always opposed to the Norwegian project; yes, that is true.

Q. Now is it not true that Farben agreed to build buna IV at Auschwitz with its own funds and that buna IV was in no way whatsoever a Montan plant?* Is that true?

A. That is true, yes.

*Montan plants were standby plants belonging to the Reich and operated by private enterprises under contract with the Wehrmacht or a branch thereof. Concerning this matter see generally section VII K "Special or Standby Plants sponsored by the Government or the German Armed Forces and Constructed and Operated by Farben", and particularly the memorandum of Dr. Boeckler to defendants ter Meer and Ambros (NI-5685, Pros. Ex. 353) reproduced in section VII K 4, volume VII, this series.

Q. Were you personally satisfied with the financial arrangements which were worked out before you agreed to build buna IV at Auschwitz?

A. You mean the result of the conference at the Reich Ministry of Economics?

Q. Yes.

A. The negotiations were then continued, and the prosecution has submitted an exhibit in that respect.

Q. Doctor, I am fairly familiar with the exhibits. I am merely asking whether or not you were satisfied with the financial arrangements.

A. As it can be seen from my later letter, Document NI-11114, Prosecution Exhibit 1421,¹ the plan was then executed with certain supplementation, and that was no doubt satisfactory to us.

Q. Now in connection with your testimony that the presence of the concentration camp was incidental in the selection of the site at Auschwitz, and your testimony concerning your Document ter Meer 75, ter Meer Defense Exhibit 237² in that regard, I'd like to ask you this: Isn't it true, Dr. ter Meer, that during the war period, when there was a critical shortage of labor in Germany, it is somewhat academic to speak of satisfactory industrial conditions unless you have discussed preliminarily the possibility of doing the actual construction by having a proper amount of skilled and unskilled workers available for the construction?

A. As a matter of course, it is necessary that the labor questions be considered. But if you compare these two points, that is, the general industrial prerequisites on the one hand and on the other hand the labor question, then you will find that water, terrain, lime, electricity, fuel, could not be imported. For these you have to find a proper place. However, you can bring workers there, and that is the difference.

Q. Now did you expect that German unskilled workers would be brought from Germany to do the unskilled work at Auschwitz?

A. No doubt we thought that the Germans whom we were going to settle there would predominantly be skilled workers, foremen, masters, et cetera.

Q. Your Exhibit 237, mentions this visit to what we now agree was Monowitz. You mentioned that you saw there Jewish skilled workers. What was it that made you think these workers were skilled laborers?

A. I really cannot describe that episode which is actually quite insignificant. I can only assume that at the time I saw a few people who, because of their appearance, looked Jewish, working on barracks. I really cannot explain it.

¹ Not reproduced herein.

² Pre-trial affidavit of defendant ter Meer, not reproduced herein.

Q. I was directing my attention to the word, "skilled"; the "skilled laborers." Why did you think they were skilled laborers that were living in Monowitz?

A. Skilled labor, in the German usage of the language, I would understand as an artisan, and if a man works with his hammer and also the saw, then I consider him as "skilled labor."

Q. From your visit in Auschwitz in 1941, were you generally of the impression, after seeing the concentration camp inmates—and I am speaking of your visit on the construction site—were you generally of the impression that the high percentage of the workers were Jewish?

A. No.

Q. Did you ask anyone whether or not the people who were after all in the concentration camp, were there because they were Jewish, because they were political persecutees, because they were Poles, or what? Did you ask any questions as to why they were in the concentration camp?

A. I don't remember it. No.

Q. Did you at the time think that any of these Jewish workers you saw had committed any crime, or did you think they were confined merely because they were persecutees under the Nazi policy with respect to the so-called inferior races?

A. I cannot reply to that question. As far as I remember, the inmates of the concentration camp they were not predominantly German, but they were people from the German-Polish borderline territory; that I stated when you interrogated me, and that is what I still remember today.

Q. From your visit to the Auschwitz concentration camp proper, did you learn anything as to the places from which the concentration-camp workers came, and as to whether or not large numbers of them were Jewish or not?

A. From the visit to the concentration camp, I still remember—and that is what I always stated in my affidavit—that the accompanying SS officer or whatever he was, told us that the inmates of the concentration camp were predominantly politically unreliable personalities who came from the borderline territory, Upper Silesia and Poland. This was an explanation which seemed quite reasonable to me at the time because the border there became quite arbitrary by a plebiscite, and because both parts of the population had been mixing and I think that is exactly what I stated in my affidavit. It was not my impression, however, that a large percentage of these people were Jews. On the contrary.

Q. In a foreign country, a country occupied during wartime by the Third Reich, did you have any reason at the time to believe that the Nazis and the SS-men there were treating members of a so-called inferior race, the Jews, better than the Nazis had treated the Jews and the members of the active opposition in Germany?

A. I am sorry, I do not think I can answer that question. I have no material at my disposal to give you any information about it.

Q. At least by the end of 1940, were you not fully conscious of the official German policy of making Poland and Polish economy, including the Warthegau, entirely a subservient part of German economy?

A. The Warthegau was then incorporated into Germany. That is well known.

Q. I believe you once told me that after the occupation of Poland, you were told that the Poles had nothing to subsist on and that therefore—is that right?

A. That is right.

Q. And therefore it was better for them (or that it was reported to you that it was better for them) to be brought to Germany, or to work in the Warthegau which was then a part of Germany—according to decree, at any rate. Did you, at the time, feel deeply ashamed of the official policy in Poland which did not give subsistence to Poles, or not?

A. I believe that the form in which you pose that question is wrong. It is known that Germany herself, when the war broke out had no longer enough food for the subsistence of her own people. It is generally known that Germany could only feed her people to the extent of 85 percent where her high grade foodstuffs, like fats, were even missing to a great extent. Poland is a country which deals in agriculture and is known because of its large-scale production of potatoes, therefore, in my opinion, it was not possible at all for Germany to feed this large population. Naturally they had to subsist from their own land as they did before, but it seems to me that as a result of the war events in Poland, the entire economic conditions, and I am now principally referring to industry, artisans, and so on, brought out a great deal of unemployment, and that therefore unfavorable conditions of life resulted in Poland for its population.

(Recess)

MR. SPEECHER: One last question, Dr. ter Meer, on Auschwitz. When you made your tour of the concentration camp proper, in October 1941, were you shown, as a point of interest, the crematorium?

A. During the inspection of the concentration camp in 1941, I saw from the main road leading from the entrance into the camp, a curious small, rounded hut-like structure, and since it looked very peculiar, I asked what it was. I was told that it served the purpose of cremating corpses in the cases of deaths that had arisen.

Q. Just one question at the moment, on the Economic Group Chemical Industry, with respect to the labor department. You testified that this labor department, upon request of the chemical plants in Germany, issued priorities on labor which were passed on to the local labor offices. Is it correct that the labor department of the Economic Group Chemical Industry did that for the regular chemical plants, but did not do that for the so-called GB Chem plants, plants which were handled by the Krauch office? Is that a proper explanation?

A. Yes, that is correct.

Q. You personally were in France during the war, many times before September 1943; and after September 1943, you were regularly in Italy with some few exceptions. Did you follow in France and Italy the activities, to any extent whatsoever, of the labor representative of the Krauch office?

A. I believe that in France I hardly knew anything about the activities of the gentleman recruiting labor in France from the Krauch office. At the time (during my interrogation) I stated that I possibly might have seen Herr Kirschner in Paris, but I did not remember it distinctly. In Italy I also did not observe the work of Herr Kirschner and the other people, Deichmann and Eckert, in detail, because I rejected to work with them, and to support them. But I saw Herr Kirschner several times in Italy and I talked to his successor now and again because they had both telephone contact with Berlin, and I sometimes sent reports home through them, but I did not concern myself with their work.

Q. Now do you know of any case where Kirschner, whom you first mentioned, along with Deichmann, who is familiar to us by this time, were engaged in activities, to your knowledge, that had to do with the compulsory recruitment of Italian workers?

A. I cannot tell you anything definite about this, because I did not observe their activity in detail. It is doubtful whether one can speak of any compulsory recruitment or engagement of these people, for in Italy there were clear arrangements existing between the German and the Italian governments.

I know, for instance, that those people who had been selected for transfer to Germany, received their notification cards from the Italian labor offices, to be examined physically by doctors, and that they also received orders from the Italian labor offices to take a train to Germany if they passed their examination. I cannot, therefore, judge whether one can speak of a compulsory recruitment of workers in Italy.

Q. Well, for the purposes of my question, it won't be necessary to consider who gave the final order, or pushed the final button, but I am talking about whether or not, to your knowledge, Colonel Kirschner and Deichmann participated in the recruitment of people who did not want to go to Germany; whether or not the Italian Gov-

ernment was cooperating or not, is beside the point. Did Kirschner or Deichmann have anything to do with the measures which led to the transfer of Italians, against their will, to Germany?

A. If this transfer of people from Italy to Germany was a forced measure, then those people worked, so to say, on a lower level, together with the Italian labor offices, but I have the impression that the directives coming from the top—I told you about the visit of Sauckel, and the lecture which Sauckel gave—I had the impression that Sauckel did think of compulsory measures.

Q. Before Sauckel gave his talk didn't you know that Kirschner was interested in securing a special decree, a compulsory decree, forcing Italian workers to go to Germany to work in the chemical industry?

A. Of such a decree I do not know.

Q. You do not recall—

DR. BERNDT: May I ask that the witness should answer only after the translation has been finished, for I can otherwise not follow the examination, because frequently the witness has already answered before the translation is finished.

MR. SPRECHER: Dr. ter Meer, I know the problem, since you are listening in English. Would you please wait until the translation is through. Thank you, Dr. Berndt.

Q. In that connection do you now recall that Ambros, at the time, was very interested in getting Italian workers for Auschwitz, and that you reported concerning this matter of Kirschner's connection with this decree of which I am speaking, back to Frankfurt?

DR. HOFFMANN: One moment please, Mr. President, the Ambros case will be dealt with in a few days. I have not heard that Dr. ter Meer has made any statement about this question in his direct examination. If the prosecution wants to deal with the Ambros case in the cross-examination of ter Meer, I object to such procedure.

PRESIDING JUDGE SHAKE: Well, that objection will have to be overruled. We have said that when a defendant goes on the stand, he is on the stand for all purposes, and the field of inquiry which the prosecution is entitled to pursue is broader than that with respect to the cross-examination of an ordinary witness. Dr. Ambros will be afforded an opportunity to meet anything that is developed in the course of this examination, but the objection is not well taken.

MR. SPRECHER: Do you recall the question, Doctor?

A. Yes, I do. I remember very well that at a certain time, I reported from Italy to Dr. Strauss about the impending measures regarding the transfer of Italian labor to Germany.

Q. Yes, that is what I was talking about. Now do you recall whether you actually sent to Mr. Strauss, a copy of this compulsory decree that had special relevance to chemical workers?

A. I do not remember this any more.

Q. I will offer Document NI-14169 as Prosecution's Exhibit 1877,* and Doctor—

PRESIDING JUDGE SHAKE: Is that in evidence or for identification?

MR. SPRECHER: That is to go in evidence, Your Honor. Now since I do not have any more English copies I would merely like to read one paragraph from this letter at the present time, and ask you a question. This letter is from your office in Italy, Milan, 7 March 1944, to Struss, and the first heading is, "Procurement of Labor for Germany." This is before the Sauckel speech:

"This question is, of course, of immediate interest and Herr Doctor Ambros particularly is asking for assistance for Auschwitz. I had promised the latter that I would find out as soon as I arrived here how the matter stands and that I would report about it. Unfortunately, I am not able to do this at the moment since no final decision has yet been made about the recruitment of chemical workers. The Referent concerned, of the GBA, in the staff RUK (for Armament and War Production), and Lt. Colonel Kirschner and Dr. Deichmann are trying to issue a final decree about the compulsory recruitment of chemical workers during the course of this week. As soon as the wording of this decree is definite I will see that you get a copy of it. I myself have, up to today not yet been able to contact the three persons mentioned above.

Perhaps you could telephone Messrs. Wurster and Ambros to give them this provisional information."

Now, my question is, do you remember finally sending the decree which was worked out?

A. No, I don't remember.

Q. Do you remember later communicating the nature of the provisions which were worked out, whether or not you sent the actual decree?

A. I cannot tell you any more from my memory.

PRESIDING JUDGE SHAKE: Gentlemen, I would admonish you both to go a little more slowly and let the translation catch up with us. We get a crossfire here between the English and the German.

MR. SPRECHER: Doctor, did you participate in decisions to close down certain chemical factories in Northern Italy and decisions to concentrate the chemical production in Northern Italy in other factories?

A. I cannot answer this question with a short yes or no, because it needs to be elaborated on by you. It is quite a matter of course that in a country which has a scarcity of coal even at a time when much coal was delivered from Germany, that in such a country not all plants can be working at full capacity. Thus, in the chemical department,

*Reproduced in part above in subsection D.

from the Upper Italian chemical plants, there were perhaps somewhat more than 100 plants on our list and we took care of these plants. Since these were so-called protected plants, "Schutzbetriebe", we did not permit any workers to be recruited. However, we did not concern ourselves with all the many hundreds of small chemical plants—soap factories, perfume factories, pharmaceutical plants and paint plants—and since they did not receive any coal allocation from us, in such cases, probably, these small plants were closed down in favor of the larger Italian plants.

Q. What cities in Northern Italy did you visit—well, I won't say only Northern Italy. Northern and Central Italy—while you were there.

A. I probably visited most of the larger cities in Northern Italy that have any industrial enterprises, Turino, besides Milano, the industrial cities near Venice, and then of course Genoa, and many others. In Central Italy I was in Florence and Livorno [Leghorn].

DR. BERNDT: Mr. President, may I point out one fact. According to the clear text of the indictment and according to statements made by the chief prosecutor in regard to this indictment, Dr. ter Meer is not charged with anything regarding his conduct in Italy. He is not indicted for his conduct in Italy. The countries for which he is charged are named, and Italy is not one of them.

PRESIDING JUDGE SHAKE: In that connection, I think I owe it to counsel to say that when I ruled a little while ago that the witness was on the stand for all purposes and that the prosecution had a wider field of inquiry than in ordinary cross-examination, I perhaps should have put some limitations on the ruling, because it might be calculated to mislead the prosecution. We do not think, and I may say this was pointed out by one of my distinguished associates—we do not think that there is an unlimited field of inquiry on the part of the prosecution under such circumstances, and it may be doubted whether or not the prosecution, under such circumstances is entitled to use this witness against a codefendant, unless it might possibly relate to one narrow issue of the indictment, and that is the conspiracy charge. I should not like to make a final ruling with regard to that matter without an opportunity of consulting with my associates, but I suggest it because perhaps the prosecution may have a view that is not too far afield and perhaps there is no controversy and nothing may arise along that line. Now, just would you mind stating, Mr. Prosecutor, the purposes of your present inquiry and perhaps we can narrow the problem down a little bit and save time.

MR. SPRECHER: The prior question which I presume Dr. Berndt is talking about has to do with relations, as the letter itself showed, between Wurster and ter Meer and the TEA Office, Dr. Struss, concerning the bringing of people who were not free laborers, who were

forced laborers, to a Farben plant and every one of them is involved. It's no question of a collateral issue or anything else.

PRESIDING JUDGE SHAKE: I think it's enough to say now that it was developed by counsel for the defendant ter Meer that he spent some time in Italy from a certain date on until a certain other date. There was some showing about what his activities were. That undoubtedly is true, and that would entitle the prosecution, if it wishes, to go into further detail with reference to his activities, and the only question, the last question that was propounded to the witness, was just what cities he visited in connection with his duties there. Now, that would not infringe on any doubtful rule so far as this examination is concerned. Certainly the prosecution is entitled to that information after it has been shown that the defendant did perform duties in Italy for some considerable time. So the objection is overruled. There is no question now before the Tribunal.

MR. SPRECHER: I am only waiting, Your Honor, for the translation to come through for Dr. Berndt.

MR. SPRECHER: Did you visit Rome?

A. I was not in Rome.

Q. At the time that you were in Italy did you see, hear, or read about the influx of thousands of Jews from northern and eastern Europe into northern Italy—Jews who were attempting to escape from Hitler and Nazi racial policies?

A. No, I do not know of this.

Q. At any time when you were in Italy, did you read or hear about the position taken by the Holy See or the Vatican newspapers with respect to the German program in Poland and the treatment of the Jews?

A. I don't remember anything about that either.

Q. Now that will be all the questions I have on count three, Dr. ter Meer.

* * * * *
REDIRECT EXAMINATION

* * * * *
DR. BERNDT (counsel for defendant ter Meer): Dr. ter Meer, furthermore, you have been shown a letter of 7 March 1944,* which you had sent to Dr. Struss from Milan, Italy. The prosecution pointed out the first paragraph of that letter in particular. In my opinion, you have not answered their question exhaustively. Have you still got the excerpt before you?

A. No, but I still remember it.

Q. Let me give it to you just the same.

*Document NI-14169, Prosecution Exhibit 1877, is reproduced in part in subsection D above.

Your Honor, is this exhibit before the Tribunal? NI-14169, Exhibit 1877.

PRESIDING JUDGE SHAKE: No, it is not.

DR. BERNDT: In that case, Dr. ter Meer, I think it would be better if you read the first paragraph of the letter to the Tribunal. Otherwise your explanation would not be understood.

A. This paragraph reads, and I quote:

“This question is, of course, of immediate interest and Dr. Ambros, particularly is asking for assistance for Auschwitz. I had promised the latter that I would find out as soon as I arrived here how the matter stands and that I would report about it. Unfortunately, I am not able to do this at this moment since no final decision has yet been made about the recruitment of chemical workers. The Referent concerned of the G. B. A. (that is the Plenipotentiary General for Labor Allocation) with the Staff for Rearmament and War production and Lt. Colonel Kirschner and Dr. Deichmann are trying to issue a final decree about the compulsory recruitment of chemical workers during the course of this week. As soon as the wording of this decree is definite, I will see that you get a copy of it. I myself have up to today, not yet been able to contact the three persons mentioned above. Perhaps you could telephone Messrs. Wurster and Ambros to give them this provisional information.”

Q. Now, will you please explain this paragraph which you just read?

A. Yes. The matter is quite clear. Around that time—March 1944—a regulation was pending regarding the recruitment of chemical workers from Italy. Responsible for this regulation was the representative for labor allocation with the staff of General Leyers. He and Lieutenant Colonel Kirschner and Dr. Deichmann wanted to issue a final decree about the recruitment of chemical workers as soon as possible. I myself had nothing at all to do with this matter. With respect to the chemical plants which I was concerned with, I rejected any interference regarding workers. But since there were other chemical enterprises in Upper Italy aside from the ones with which I was concerned, and from which, alone, labor could be drawn off, we had to take into consideration that Italian chemical workers would go into Germany. Since I knew the scarcity of labor prevailing in Germany, I promised Mr. Wurster and Ambros before going to Italy in March or at the end of February, “as soon as any settlement has been made I shall inform you of it.” This letter said “no settlement has yet been made and I can, therefore, give you no information as yet.”

Q. Very well. Can you say anything else regarding the further contents of this letter?

A. No. The other part of this letter deals with questions which have nothing to do with foreign workers and the procurement of labor for Germany.

Q. I think we can leave it at that.

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3. TESTIMONY OF DEFENDANT SCHNEIDER

EXTRACTS FROM THE TESTIMONY OF DEFENDANT SCHNEIDER*

DIRECT EXAMINATION

* * * * *

DR. HEILMUTH DIX (counsel for defendant Schneider): * * *
From what period on Mr. Schneider, were you main plant leader of Farben?

DEFENDANT SCHNEIDER: From 1938 on until the end of the war, as Professor Selck's successor, who had held this position since 1934.

Q. Can you tell me quite briefly what the character of your position was?

A. According to the law regulating national labor, in a stock corporation [Aktiengesellschaft], the Vorstand represented the position of the owner and the leader of the enterprise. If he did not work in the plant itself, for instance if he resided in another locality, the Vorstand had to delegate a person as leader of the enterprise. If the Vorstand consisted of several persons, then it had to single out one member to exercise the function of the leader of the enterprise. If the corporation consisted of several plants in different localities, then the Vorstand also had to appoint one deputy from among its ranks who would be the leader of the entire enterprise. In Farben, that was the person of the main plant leader.

Q. Is this term "main plant leader" mentioned in the law?

A. No. It was probably chosen as a parallel to the main plant cell obmann, [Hauptbetriebszellenobmann (chairman of a factory cell)], the man appointed by the German Labor Front for large enterprises with several plants.

Q. What other position did you hold in your capacity as main plant leader?

A. I was also the head of the Enterprise Council [Unternehmensbeirat].

Q. For what reason was this Enterprise Council formed?

A. According to the law regulating national labor, in enterprises with various plants, an advisory body representing the employees had to be created to advise the entrepreneur on social welfare questions.

*Further extracts from the testimony of the defendant Schneider are reproduced earlier in subsections VII C 5c, D 4c, I 7b, volume VII, this series, and below in subsection G 8.

This body consisted, in the case of Farben, of ten confidential Council members from the larger plants.

Q. Did any other persons participate in the meetings of the Enterprise Council in Farben?

A. Yes, from the employers' side various plant leaders of the larger plants.

Q. What was the name of this body?

A. These were the so-called plant leaders' meetings (Betriebsfuhrerbesprechungen.)

Q. And these same persons also participated in the meetings of the Enterprise Council?

A. Yes.

Q. How often did these bodies meet?

A. Several times a year. Later, because of the difficulty in traveling conditions, they could meet only rarely.

Q. How long did these meetings usually last?

A. Before the Enterprise Council meeting, I usually called the plant leaders to a plant leaders meeting in order to discuss the program for the Enterprise Council in advance. The discussions of the plant leader meetings and Enterprise Council lasted about two and a half hours each.

Q. What were your main functions as main plant leader and head of the Enterprise Council?

A. My functions referred to questions of social welfare, as far as they were organized beyond the individual plants in Farben.

Q. What was included in this duty?

A. Among other things, the compilation of regulations for the operating of the plants, setting the general working conditions of Farben plants uniformly in several points. Furthermore, regulating old age pensions of employees in the various enterprises, especially the pension funds. Farben's yearly premium was set forth and the institutions for savings for the employees. Then the general policy regarding construction of homes, professional training questions, questions of wage and salary rates which had to be regulated uniformly for all of Farben, and also prior approval of all credit applications of the plant for the entire social welfare field, as a preparation for the Technical Committee. These are about the most important problems which I had to deal with as the leader of the plant and head of the Enterprise Council.

Q. Then the credits for barracks construction in the camps were also part of your work?

A. Yes, these credits also belonged in the social welfare field.

Q. As main plant leader, did you have any other functions?

A. In the office of the main plant leader of Leuna—in my office, the Bertrams office—statistical reports were prepared for staff and

salary fluctuations and general social welfare questions, for orientation of the Vorstand members interested in these questions.

DR. DIX: I want to make one remark with regard to the translation, to avoid any misunderstanding. The translation of "social policy" is correct; one could as well say "social welfare."

Q. To what extent was it customary in Farben, within the regulation of the law that I read to you, for you to give directives and instructions?

A. According to the law, I had to issue directives insofar as my predecessor and I had reserved the right to do this, and to the extent that this corresponded with practice and the rule in Farben.

Q. These were in the fields that you have sketched?

A. Yes.

Q. In what fields did you not give these directives?

A. In the field of state social welfare policy.

Q. What did that include?

A. State social insurance, local salary and wage rate questions, the general working conditions as set forth in the local plant regulations, and above all the hiring and employment of workers.

Q. Who was competent for that?

A. The local plant leader was responsible for that.

Q. What is the reason for this regulation?

A. This plant leader, who worked in the plant and who was familiar with it, was, according to the law regulating national labor, to have the principal responsibility for local conditions. Agreement had been achieved on this in Farben always.

Q. What is the reason that in the fields of state social welfare, for instance labor commitment, you did not issue any directives? What is the deeper reason for that?

A. Because these things were set down and managed by the local and provincial state authorities, such as for instance the insurance agencies, the trustee of labor, the regional labor offices, and the local labor offices. The entire enterprise of Farben—and therefore I—could not intervene at all in these local conditions.

Q. This practice existed earlier, didn't it?

A. Yes, this condition was already in existence when I became main plant leader.

Q. That was before the war. Perhaps the reasons were somewhat different?

A. No, not at all. Nothing changed in these things when the war broke out.

Q. If you learned, however, Dr. Schneider, that in some field of social welfare something was not quite in order, what did you then have to do?

A. If I had heard anything about it, I would of course have had to take it up and settle it with the plant leader in question. Further, I was able to get insight by conversations with the plant leaders and the heads of the social welfare departments and on occasional trips to the various plants.

Q. As main plant leader, did you have connections with the German Labor Front?

A. Yes. The German Labor Front, as balance to the main plant leader, had an institution they called the "Hauptbetriebszellenobmann," whom I mentioned before, who was at the same time spokesman for the confidential agents of the employees on the Enterprise Council. The appointment of this "Hauptbetriebszellenobmann" was done by the Technical [trade] Office for Chemistry [Fachamt Chemie] of the German Labor Front, and required the approval of the Gauleiter of the place where the enterprise was located. That was for us Frankfurt, that is, Hesse. When this position was newly filled I had to deal with these agencies. The Technical Office for Chemistry came to me repeatedly when there were differences of opinion between plant leaders and "Betriebsobmaenner." Furthermore, in questions of professional training, I had a constant exchange of ideas with the Technical Office for Chemistry, and that, as I already mentioned, led to the dispute with the Labor Front.

Q. I now come to the details, the problem important here, the employment of foreigners. In your capacity as main plant leader, were you active in the employment of foreign workers?

A. Only insofar as my office at Leuna collected employment statistics, and made them available to the other bodies, such as the Enterprise Council, or the TEA. Besides that, of course, the Enterprise Council and the plant leader meetings, and the TEA, too, quite generally discussed the experience that had been gathered about these foreign workers.

Q. Was the admissibility of the later compulsory employment of foreign workers ever discussed in principle in the Enterprise Council or in the plant leaders' meetings?

A. It was never discussed in principle, no.

Q. What is the reason for this?

A. As I have said already, these bodies did not have to deal with employment of labor in principle. Above all, there was no possibility of making any decisions, because this compulsory employment had been regulated by state authority.

Q. You were a member of the Vorstand as well. Was the question ever discussed there, in the way I mentioned?

A. No, for the same reason.

Q. Were there ever misgivings on the subject raised in any one of these bodies?

A. I do not remember that.

Q. Did you not have any misgivings about this yourself?

A. Yes, of course I did have misgivings, because the employment of experienced German workers, or at least voluntary foreign workers, in our difficult and delicate production was preferable for many reasons.

Q. Did you express these objections to the authorities for labor commitment?

A. Yes, of course I did.

Q. Couldn't you have voiced the misgivings from the point of view of international law, which have been brought out here?

A. No, I was not a lawyer, nor was I an expert on international law. I had to assume that all these things had been checked over by the authorities. Besides that, I knew from the First World War how impossible it is, without knowing all the circumstances, to discuss doubtful questions of international law with the authorities. Such things could not be discussed with the authorities by a private citizen in the Third Reich, and under another form of government that cannot be done either, in wartime.

Q. When did you hear about the compulsion exerted in the engagement of foreign workers?

A. As far as I remember, on the occasion of the compulsory recruitment of Russians, that was probably in 1942, approximately.

Q. What did you think about it at the time?

A. Of course I regretted it, and I was opposed to it, because I am against any injustice.

Q. What was the legal situation in the West? Were you informed about that?

A. I knew that in France, after initial voluntary recruiting, the Vichy government passed a law to draft people for labor.

Q. Did you learn about conditions in other European countries through reports from your employees?

A. Not in detail, but I knew that state contracts had been concluded with various countries, whose contents of course I do not know in detail.

Q. Well, then I would like to ask the question once more that has been repeatedly asked here. Did you or Farben have a possibility to offer resistance to the forced recruitment of foreign laborers? Please answer briefly.

A. No, that was not possible, as many witnesses have confirmed here. Besides, we would not have been able to fill our production orders, and this resistance would have been interpreted as sabotage against the war effort.

Q. In Prosecution Document Book 68, Document NI-1048, Prose-

cution Exhibit 1327,* some correspondence has been submitted between von Schnitzler and Mann regarding French workers. Please comment briefly.

A. This was an operation already in motion for the procurement of suitable workers for the chemical industry, with the assistance of friendly French firms, in the interest of both parties. I had the desire, especially for Leuna, to obtain suitable workers in this way. Within the scope of its necessary labor commitment, Leuna was interested in workers of the Francolor firm who were especially well suited for chemical work.

Q. I now turn briefly to the employment of prisoners of war, in the framework of your capacity as main plant leader, and I ask you whether the Enterprise Council or the plant leader meetings or the TEA or the Vorstand ever discussed this question in principle?

A. No, for the reason already mentioned in the case of foreign workers in general. This engagement, especially, was completely under the control of the authorities, such as the labor office and especially the Armed Forces, so that Farben had no possibility of exerting any influence.

Q. Did these authorities also see to it that the prisoners of war were employed according to international law?

A. Yes, that was done by the commander of the prisoner-of-war camps, the Stalags.

Q. Had any central state directives been issued about this?

A. In regard to employment in industry, yes. Directives had been issued, especially for war-important plants where prisoners of war were to be used: vital for war purposes, that had nothing directly to do with hostilities.

Q. For various legal reasons, I shall come back to that when I discuss Leuna. I now turn to the question of concentration-camp inmates. Was the employment of these persons ever discussed in the Enterprise Council or the plant leader meetings?

A. No, it was not.

Q. Was this question ever discussed in the TEA or in the Vorstand?

A. Yes, in the TEA, Dr. Ambros made a report when concentration-camp inmates were employed at Auschwitz; and also Dr. Struss' statistics.

Q. Did you have misgivings about this employment?

A. I did not welcome the arrangement ordered by Goering's decree (which has been mentioned before), but I considered it an alleviation of the condition of the concentration-camp inmates, since employment in industry, I believed, was better for them, since they had more liberty of movement in the factory than in the concentration camp. In indus-

*Reproduced in part above in subsection D.

try, at least in Farben, everything possible was done to alleviate their condition.

* * * * *

CROSS-EXAMINATION

MR. VAN STREET: Dr. Schneider, as Farben's main plant leader you were Farben's principal liaison with the German Labor Front, is that right?

A. Yes.

Q. Now, it was your responsibility, among other things, as the main plant leader of Farben, to be conversant with the development in the labor field in respect to rations, billeting, and so on, of foreign workers, is that right?

A. Not quite. With respect to the housing of foreign workers, you are correct, because such matters went through me. With respect to the food in the various plants, I was only responsible insofar as I had to know about the general provisions and was informed of such provisions which originated from the government with respect to food.

Q. In other words, as Farben's main leader in the social welfare field, all matters pertaining to the billeting of foreign workers came through your hands?

A. Yes.

Q. And you reported on these matters to the Vorstand, did you not?

A. Not to the Vorstand.

Q. To whom did you report?

A. These programs went to the Technical Committee for its approval.

Q. Now, as the delegate of the Vorstand in social welfare matters, did you not, from time to time report to the Vorstand on innovations in the field of social welfare matters?

A. Yes, that happened in a few cases. As far as I remember, I once held a—once made a general report about the social welfare problem as it affected Farben. Mostly my reports to the Vorstand referred to general social welfare questions referring to all plants on which I had to work in my capacity as main plant leader.

Q. Would you be good enough to tell us when and on how many occasions you made such reports to the Vorstand?

A. It is hard for me to reconstruct it from memory immediately. I only remember that at one time in 1939 I made a general report. Then I occasionally spoke on specific questions, pension funds, insurance questions, et cetera. I can't remember how often that occurred and when it did.

Q. Well, Dr. Schneider, it was your duty, was it not, to report to the Vorstand after important questions of principle on social welfare matters had been decided—that is, by you?

A. Yes.

Q. Now, do you recall any instance in which the Vorstand disagreed with you on the decisions that you had made?

A. I can't remember that that was at any time the case.

Q. Now, in line with your being Farben's principal liaison with the German Labor Front and in line with your responsibility as delegate of the Vorstand and consequently your responsibility to be reasonably conversant and familiar with developments in the labor and social welfare field, will you tell us how soon after the occupation of Poland, which was in September 1939, Poles were forcibly deported to Germany for work?

A. I don't know of that specifically, because we didn't employ any Poles at Leuna. As far as my activity as main plant leader is concerned, that wasn't really a matter which which I had to deal. I think I have sufficiently often explained in my direct examination that the employment of labor did not belong into the sphere of the main plant leader. That was a matter for the local plant leaders.

Q. Dr. Schneider, we understand, but I think you have just said, if I haven't misunderstood you, that you would have to approve the billeting of foreigners, and considering that Poles are foreigners, would you not have to approve the billeting if they were hired in any of the Farben plants?

A. In this respect, yes.

Q. Now, did you know about the decree introducing compulsory labor in Poland, which was in October 1939, one month following the German occupation of Poland?

A. It may be that I heard of it. I never received such reports directly. Perhaps sometimes through my office.

Q. How did you come to hear about it?

A. I didn't understand your question.

Q. How did you come to hear about it? What were the circumstances incident to your hearing about this compulsory labor decree in Poland?

A. I really can't tell you that now.

Q. All right, Dr. Schneider. Now, how soon after the 26th of October 1939, which was the date of the compulsory decree in Poland, did Farben start using Polish workers?

A. What you want to know is when, starting from that period, foreign workers were employed?

Q. Foreign workers were employed—that is, by Farben.

A. By Farben. I can't tell you that exactly, but I assume during 1940.

Q. Why do you say 1940, Dr. Schneider?

A. I don't remember exactly when it started. I really can't tell you from memory today.

Q. Well, if you say, Dr. Schneider—What I am trying to get at—1940 is your own testimony. There must be some circumstance or incident which causes you to say 1940.

A. Yes. After Poland was occupied, labor was freely recruited there and was sent to Germany. I couldn't tell you offhand where such labor was sent, but in 1940 I assume it was the case.

Q. Dr. Schneider, on having shown to you two very short documents identified as NI-14138, which I ask be marked as Prosecution Exhibit 1899¹ and NI-14135, which I ask be marked as Prosecution Exhibit 1900²—This, Dr. Schneider, as you will note, in respect to NI-14138, is the minutes of the meeting of the management held at Wolfen, I believe, on 14 May 1940, wherein it is stated that “the applications for employment of Polish male and female workers have been approved. The billeting question for women has not yet been finally decided.” And this, NI-14135, which is likewise the minutes of a meeting of the management at Wolfen held on the 18th of June 1940, which advises that “43 Polish female workers in the second transport which arrived here yesterday will be employed for the fabrication of films, and 30 will be employed for the fabrication of artificial silk.” Now, that ties in, of course, Dr. Schneider, with your statement that employment of Poles by Farben began in 1940. Now, I ask you, do you recall any other instances?

PRESIDING JUDGE SHAKE: Counsel, I will leave it to you. It is about recess time, but you may let the question be answered, and then indicate to the Court when you are ready to suspend.

Q. Dr. Schneider, did you hear my question, or perhaps you are not ready to answer it.

A. Just a minute. I have to read it.

Yes. There is nothing I can say against that—I can say about that. It is a report from Wolfen and I don't know of it.

Q. Now, can you remember any other instances which might have come to your attention, comparable to this, in the scope of your duty concerning the employment (or forced employment) of Poles by I. G. Farben?

A. I can't remember today. Much has happened since then. So much time has passed, I really can't.

[Recess]

MR. VAN STREET: Dr. Schneider, when we recessed for lunch we had just concluded talking about the inception of the employment of Poles in Germany and in Farben. I now ask you, will you tell us when it was that the forcible employment of Russians in Germany began?

¹ Reproduced in part above in subsection D.

² *Ibid.*

A. I do not remember the exact date any more. It must have been after the beginning of the Russian campaign.

Q. Yes, that was in June of 1941. Well, now, would you agree with Dr. Struss' testimony to the effect that practically everybody in Germany knew Russians were deported by force to Germany for labor shortly after the Battle of Kiev which, as you will recall probably, was November 1941. Would you agree with that testimony?

A. I remembered that it was at a later time, but it may have been that it was already in 1941.

Q. Now, Dr. Schneider, when did Farben start employing forced eastern workers?

A. I must ask you, first of all, what you mean by "forced laborers." Do you also include the drafts for labor in Poland, or do you mean those people who were forcibly recruited—those Russian workers who were forcibly recruited?

Q. My question is limited to Russian workers only. However, as I have seen the term used, "eastern workers" was ordinarily applied to Russians alone. And when we speak of Poles, we say Poles. But the question, to be more specific, if it will help you, let it pertain to Russians alone.

A. Well, I cannot give you the exact time any more. It was probably around that time—1941 to 1942.

Q. Now, Dr. Schneider, in matters of discipline, the individual plant leader could punish a worker for such things as irregularities at work—laziness, and so on—by a fine, a reduction in food ration, or reprimand; isn't that right?

A. That is correct.

Q. And serious cases were reported to the Gestapo, is that right?

A. In serious cases, a report to the Gestapo had to be made.

Q. By the plant leader, or someone authorized to do that function for him?

A. Through that person who had been authorized by the plant leader to do that, and that was—for example in Leuna—that was the head of the camp guards. At some other place, it might have been the personnel leader. I cannot tell you exactly.

* * * * *

Q. Now, was the employment of concentration-camp inmates discussed in the plant leaders' conferences?

A. As far as I remember, it was not.

Q. Was the employment of concentration-camp inmates discussed in the Vorstand?

A. As far as I remember, it was not.

Q. Then it's your testimony, is it, that the Vorstand did allocate, over a period of months or years, credits amounting to millions of reichsmarks to house concentration-camp inmates without any discus-

sion as to what type of workers were involved or where they came from? Is that your testimony?

A. No, that is not right.

Q. Now, what is your testimony? What is your testimony in respect to that?

A. My testimony is that this affair was not discussed in the Vorstand; that it only reached the knowledge of the Technical Committee, as I have stated this morning; and there, through Dr. Struss' charts or Dr. Ambros' lecture, the Technical Committee learned of it, and consequently the Vorstand members who were present in the Technical Committee, but it is not correct that the Vorstand decided on this, because the credits were discussed in the Technical Committee, and the large sums were reported to the Vorstand, but the details of these credits were not discussed in the Vorstand.

Q. In other words, your testimony is that the matter as a whole, so to speak, or a summary of the matter as a whole, was presented to the Vorstand, rather than the details?

A. What is your question? The Vorstand learned about the total sums of the credit applications, the details of which had been discussed in the TEA, and were presented to the Vorstand in summary. Some big credits were perhaps discussed with a few words, but I do not remember that the Vorstand, for instance, discussed the appropriation of credits for barracks for concentration-camp inmates.

Q. Well, at the time the Vorstand approved the credits for the housing of concentration-camp inmates, would not the Vorstand know that the particular credit or credits were for that precise purpose?

A. No, I don't think so.

* * * * *

Q. Dr. Schneider, in connection with your testimony yesterday, on the employment of children, you stated that the only reason children were employed was to keep them off the streets. Now I want to ask you now—could not the children have been kept off the streets by being sent to school?

A. That would certainly have been the case also, but—and if I may explain this—a regulation existed according to which Ukrainian children from 12 to 14 years were permitted to be employed.

Q. You also indicated yesterday, in your direct examination, that the nature of the operation in the Leuna plant was such that there were fire and explosive hazards, and for that reason, German personnel were preferred to the foreigners, who could not always be trusted to take the proper care. Now, if this is true, how then, can you reconcile this situation to your employment of little children, who by nature and disposition are not as careful as adult persons?

A. That is something different altogether. Those children were not employed in the plants.

Q. Where were they employed?

A. I beg your pardon?

Q. Where were they employed?

A. Partly in the laboratory, washing out glassware—and then I, myself, remember that children were employed in Leuna plants as messengers, for delivering letters from the post office to the various places in the plant.

Q. In other words, even in the messenger service, though, they would be in the plant, is that right?

A. Yes, certainly, but the plant, as such, was not in danger. What I stated about the danger of explosion and fire in regard to the plant refers to the work carried on in the plant itself, and I meant we needed very reliable people so that no fire or explosion might be caused by negligence.

Q. Now, Dr. Schneider, why was prompt attention given to the erection of brothels, and the erection of schools for children ignored?

PRESIDING JUDGE SHAKE: Mr. Prosecutor, that might be a pertinent inquiry if the issue here was one of morality or moral conditions.

MR. VAN STREET: Your Honor, I am coming to the next question, which probably will—

PRESIDING JUDGE SHAKE: Very well. Go ahead. Answer the question if you can.

A. We never paid any attention to the erection of brothels. That was an affair that we were approached with from the outside, by the German Labor Front and which they demanded. We didn't like to do this and we only did it because we were forced to. I consider it out of place to bring this up in connection with schools. We have done enough for the social welfare of our people and we can prove that and I believe that it is absolutely out of place to make such a comparison here.

Q. Then, Dr. Schneider, your answer is that you erected the brothels because you were asked to?

A. Yes.

Q. Then, if you had been asked to erect schools you would have erected schools, is that right?

A. That would have been done, too, yes, but I already said we had a school in Leuna, too, and we shall prove that also.

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4. TESTIMONY OF DEFENDANT AMBROS

EXTRACTS FROM TESTIMONY OF DEFENDANT AMBROS*

DIRECT EXAMINATION

* * * * *

DR. HOFFMANN (Counsel for Defendant Ambros) : Mr. Ambros, we left off yesterday at the Rattwitz plant. Would you please, quite briefly, explain once more what brought the construction of this plant about and why it was stopped?

A. I said that the requirements for rubber in Germany in 1938 amounted to approximately 100 to 120 thousand tons. I also said that the production of buna had been projected to an amount of 70 thousand tons, so that a deficit of at least 30 thousand tons existed. When the war had broken out, the Reich Government decided, approximately in October 1939, to produce this deficit of approximately 30 thousand tons in a third plant and that third plant was Rattwitz.

Q. What happened to Rattwitz? Was the construction concluded?

A. The construction of Rattwitz, which began about in April of 1940, was stopped on 7 July 1940, after the French campaign had been closed.

Q. Did you yourself stop construction of this plant? Did you get a government order to do it, or how was it done?

A. The instruction to stop construction could not be given by us as the private entrepreneur. This regulation had to come, in the final analysis, from the person responsible for all building construction in Germany, and that was Mr. Todt. He had a picture of the strength and the possibilities of the construction industry in Germany and he could determine whether a certain building should be concluded and he also determined, as was the case at Rattwitz, that it should be terminated on 7 July 1940.

* * * * *

Q. Now, Mr. Ambros, please tell me, after Rattwitz had been stopped, did that conclude the construction of a third buna plant or was that matter taken up again later?

A. No. Three months later, we were again called to Berlin so as to start constructing the third plant then. It seemed contradictory to us that in July, a buna plant should be stopped, and in September

*Further extracts from the testimony of defendant Ambros are reproduced in sections V B4, VII G7b, K6, vol. VII, this series, and in sections VIII D4, E4, IX F4.

one is to start construction again for, in the meantime, we had leveled off the construction site, taken away all the building machines, and thus Rattwitz no longer existed as a prepared construction site.

Q. Mr. Ambros, you said it seemed contradictory to you to start building again after 3 months and especially in view of sums that had already been expended. Now, I would like to know, did your personal opinion that this thing was contradictory influence, in any way, the new regulation that it was to be started once more?

A. No, it had no influence at all. I was a technical man. I had no rank of any kind in the Party or state which might have given me a chance to have influence.

DR. HOFFMANN: Your Honors, first of all, in order to fix the possibilities that were given on a legal basis and which could lead to penal proceedings I want to submit Document Ambros 304, as Ambros Defense Exhibit 71.¹ That is an excerpt from the Reich Law Gazette, Part I, the decree for the execution of the Four Year Plan from 18 October 1936. The next document is Document Ambros 305, Ambros Defense Exhibit 72,² another excerpt from the Reich Law Gazette. This is the second decree for the execution of the Four Year Plan.

PRESIDING JUDGE SHAKE: Will your 304 be 71, Doctor? 304 will be 71 and 305, 72, I believe.

DR. HOFFMANN: Yes.

PRESIDING JUDGE SHAKE: Thank you.

DR. HOFFMANN: The last named document, OA [Otto Ambros] 305, Exhibit 72, contains the penal provisions which were issued for the implementation of the regulations of the Four Year Plan. It says:

“Any violation of the order and prohibitions contained in such regulations will be punished with imprisonment and fine, the latter to an unlimited extent, or with one or other of those punishments.”

Q. I now ask you, Mr. Ambros, did you know that this regulation to build another third buna plant was issued from an agency of the Four Year Plan?

A. Yes, I knew that. It was an order from the Four Year Plan.

Q. What did you do now to comply with this new demand of the Reich?

A. I discussed these questions with Mr. ter Meer. He took them up with other gentlemen. I also reported in the CHEMA, Chemical Committee, and I began to think of what could be done.

DR. HOFFMANN: Your Honors, as the first reaction which Ambros had when this new regulation to build the third plant came about, I submit Document Ambros 306 as Ambros Defense Exhibit 73.³ This

¹ Hitler's decree of 18 October 1936 on the execution of the Four Year Plan, reproduced in subsection VII F2, volume VII, this series.

² Goering decree of 5 November 1936 on the execution of the Four Year Plan, *ibid.*

³ Reproduced above in subsection D.

is on page 15 of the English. This is an excerpt of the minutes of the 77th meeting of the Chemical Committee held in Frankfurt on Main on 11 November 1940. Of interest there is the fact that Dr. Ambros gives information about the anticipated completion of the individual production stages in the buna plants at Schkopau and Huels and that he reported about the erection of a third buna plant in Ludwigshafen and of an additional plant in the East as ordered by the Reich.

Q. Did you receive only oral instructions or did you also receive written orders to construct buna Plant #3?

A. We received an absolutely clear order by the Reich Ministry of Economics. This order has been submitted by the prosecution in book 72 as Document NI-11781, their Exhibit 1408,* on page 1 of both books. Mr. Hanneken reports to Mr. ter Meer that the extension is to be undertaken in two different plants. In Ludwigshafen with 25,000 tons and in the plant in the East to be newly constructed in Silesia also with a capacity of 25,000 tons. The question of the construction site has to be clarified immediately since, at the latest, in January the final start must be ordered for this.

Q. Mr. Ambros, did this new regulation affect your work? To what extent were you occupied and what had you been doing?

A. Around that time in November 1940 I personally had to take the responsibility for the technical extension of Schkopau and Huels, the construction of the buna plant at Ludwigshafen, the building of the Montan plants at Gendorf and Dyhernfurth, the planning for the buna plants at Terni and Ferrara in Italy and, besides that, a number of other chemical developments. Altogether a value of nine hundred million marks. This demand meant a great blow to me with the scarcity of manpower and with all my other work that I had to do.

Q. Mr. Ambros, you have only spoken of yourself up to now. I should now like to know, did you bear the responsibility alone to begin construction or did you have to report to other people as well that a regulation had been issued to build a third buna plant?

A. Due to the magnitude of such a buna plant of over 100 million marks, of course, I had to inform the Vorstand—Mr. Schmitz, Mr. Krauch, who was still in the Vorstand at the time, for, as a young Vorstand member, I could not dispose of hundreds of millions.

Q. Did you do it then?

A. Yes.

Q. Why didn't you go back to Rattwitz where you had already started and where you had already put in so many millions?

A. The construction site of Rattwitz had been leveled off in the meantime. There were no more preparations for this buna plant avail-

**Ibid.*

able. From a technical and economic point of view, Rattwitz was not desirable as I explained yesterday.

Q. Mr. Ambros, hadn't other firms settled down on that place in the meantime?

A. Yes, in the meantime in Breslau and in that vicinity four large enterprises had settled. I only remember Borsig, a large Reich railroad repair plant, and then we also had Krupp. We had Krupp there too. That is to say, many industries had risen around Breslau.

Q. Was that construction site in Rattwitz occupied or was it still free?

A. The little place where I was myself was still free, but at its right and its left other plants were being built and that, of course, took up traffic routes and labor markets and anything else that was needed for construction work.

Q. What part did the Norway project play in this connection?

A. During this time the plan which the Aviation Ministry represented to build this buna plant in Norway came up. This plan was pushed by Mr. Koppenberg, the director of Junkers, especially, but according to technical and economic calculations I advised against it, for a buna plant needs coal and Norway has no coal. It seemed irrational to me to put a coal-consuming plant in Norway.

Q. But these were your personal ideas. The regulation that you received was to build it in the East.

A. Yes, the regulation read "Build it in the East" as can be seen in the express letter of Mr. Hanneken.

Q. How was this place selected at Auschwitz? Did you travel around the countryside or how did you come to choose this place?

A. I did both. First of all, I began to investigate a lot of documents and maps in the construction office in order to study the terrain in Silesia. I had gained great experience since I had already projected ten plants in Germany, and had studied construction sites for buna plants in Russia, France and even in America, so that maps could give me a chance to pick out a construction site.

DR. HOFFMANN: Your Honors, I should like to submit Document Ambros 307 in connection with Mr. Ambros' statements. That's Ambros Defense Exhibit 74.* This is the photostatic copy of an original map described as the first map for the choice of the site and the planning of the buna works. This map is to be found on page 16 of the English document book.

Q. Mr. Ambros, I should like to ask you first, have you this map before you?

A. Yes, that's this reddish-brown copy.

Q. Yes. Is this the map that you used at the time to pick out the construction site, Auschwitz?

*Not reproduced herein.

A. Yes, that's the copy of an Austrian General Staff map. You know that that area was Austrian territory formerly and the map material could be gotten from Vienna.

Q. Mr. Ambros, explain to me with the aid of this map what you found desirable on this map as a chemist and technical man?

A. I must say first that a buna plant needs coal; 1 million tons. A buna plant needs 15 thousand cubic meters of water an hour. A buna plant depends on traffic connections. It needs to have a lot of railroad connections. A buna plant, as I stated in the case of Schkopau, needs a large area, 1 kilometer by 2 kilometers.

Q. Mr. Ambros, show us where you found this on the map?

A. The map shows me that three rivers unite—Sola, the little Vistula and the Przemsza, that east of Auschwitz, near the place called Dwory, there is a river. The map further shows me that there is a level plain there. You find the numbers written—259, 251, 246—on the right and that shows that the plain is relatively level. I found furthermore that the Vistula takes a position designated as 228. There's 20 meters difference in altitude. In other words, that there can be no flood waters there. I found, furthermore, that there are three railroad lines that converge from the West, from the North, and from the East.

Q. Very well, Mr. Ambros, I find also on the map that there is on the left a word "Baraky". Did you see that there, too?

A. Yes, I did.

Q. What did you do about it?

A. I asked what the word "Baraky" meant and they told me, "These are barracks," and I understood that because I had heard that previously an Austrian detachment was there. When the area became Polish, a Polish detachment was put there.

Q. Had you been in Auschwitz personally when you saw this map?

A. No.

Q. Did you know about the existence of the concentration camp at that time?

A. No.

Q. There is no similar German word that might be translated as "concentration camp" or that might be the equivalent for this word "baraky"?

A. No.

Q. What did you do after you found on the map that Auschwitz was favorable?

A. When I saw that everything was united there that we needed to build the plant, I wanted to ascertain whether my assumption corresponded to reality and I wrote straight to the mayor's office for I thought something, after all, like that existed. I addressed various questions to the mayor.

Q. Did you get any answers to your questions?

A. Yes, during the early days of January 1940, I received a reply which confirmed everything that I had predicted previously.

Q. Mr. Ambros, you said 1940.

A. I beg your pardon. I meant to say 1941. It was 1939, 1940, 1941.

DR. HOFFMANN: I offer the reply of the mayor of Auschwitz. That is Document Ambros 308, Ambros Defense Exhibit 75,* on page 17 of the English book. The mayor of Auschwitz writes:

“There is a good and suitable site of the required size for building purposes in the immediate neighborhood, to the east of Auschwitz. The site is in the direction of Dwory. It is flat and above flood level, and also offers favorable rail connections such as are seldom found. A very favorable connection with the Weichsel [Vistula River] is also possible.”

Did this letter of the mayor of Auschwitz confirm the favorable impression that you had gained from the map about this terrain?

A. Yes, what the mayor could tell me about the area, the fact that it was level and above flood-level, he did confirm to me. But what was essential for me, to have the industrial basis for that. I didn't need any mayor, because from other maps, of which we shall speak about very shortly, I knew the other aspects in regard to coal, salt and lime.

Q. I have to interpolate a question here. You took up connection with the Mineral Oil Construction Company when you constructed Auschwitz and how did this come about?

A. May I remind you that in Mr. Hanneken's order it was stated that in January, the order for starting must be given. We were right in January, so I went to Berlin to the agencies that took care of our plants, the Reich Office for Economic Development, to Professor Krauch. I reported to them on the 10th of January.

* * * * *

Q. Now, Mr. Ambros, I will ask you once more quite clearly, was the presence of the concentration camp decisive for you or was it a contributing factor, when you chose Auschwitz?

A. No.

* * * * *

Q. Mr. Ambros, did you inform the Plenipotentiary General for Special Questions of Chemical Production about the choice of this Auschwitz site?

A. Yes.

*Reproduced above in section IX D.

Q. Did any other conference take place within Farben about formally making Auschwitz the construction site—and where was it undertaken?

A. It was already stated here that the technical decisions had to be made on a technical plane. For this purpose there were technical committees and commissions in Farben and this commission for the border buna plant was the Commission K; that is the Rubber and Plastics Commission. On the 30th of January in the decisive days this commission was convoked. Thirty gentlemen met, amongst whom was the head of the Sparte, and they discussed this question. One of my associates reported everything. Among these things was also this particular map and, therefore, the Technical Commission approved of the choice of this site and passed on their decision to the next higher board, the TEA, the Technical Committee.

Q. Mr. Ambros, you mentioned the meeting of the 30th of January 1941 and you said that was the decisive meeting of the Commission K. Was there anything said about the concentration camp in this meeting or the possibility of using inmates?

A. No, not a word.

DR. HOFFMANN: YOUR HONORS, Document Ambros 312 will be Ambros Defense Exhibit 79.¹ This is an excerpt from the minutes of the fifth meeting of the commission K—held on the 30th of January 1941. This is the decisive meeting and I believe the document speaks for itself so that I do not have to read it in detail.

In connection with this same subject, especially about this committee meeting, I offer the following affidavits: Document Ambros 313, Ambros Defense Exhibit 80; OA-314, Ambros Defense Exhibit 81; OA-315, Ambros Defense Exhibit 82; OA-316, Ambros Defense Exhibit 83; and OA-317, Ambros Defense Exhibit 84.² These affidavits that I have just named are affidavits of participants in the meeting of the Committee K. The affiants make statements as to whether or not anything was discussed about concentration camps during that meeting.

Q. Did you yourself visit the projected construction site?

A. After this committee meeting, I myself, in the company of decisive and important associates, went to Auschwitz on the 1st of February 1941.

Q. What did you see there? What impression did you get there?

A. I found everything confirmed on the construction site that I had expected on the basis of the study of the map.

Q. During this visit did you visit the concentration camp Auschwitz?

A. No.

¹ Not reproduced herein.

² These affidavits are not reproduced herein.

Q. Around that time you talked to the Regierungspraesident at the time or the Oberpraesident and did you during this conversation talk about the concentration camp or its inmates?

A. No, we did not discuss it with Mr. Bracht. I went to see the Regierungspraesident and I asked him once more: "What other suitable construction sites do you have?" and he always recommended me this Auschwitz construction site as the best.

Q. Mr. Ambros, the prosecution presented Document NI-11785, Prosecution Exhibit 1412, a report of Santo of the 10th of February.¹ Did you hear or see anything of this report at that time?

A. Dr. Hoffman, I can't tell you that. I found 50 letters a day on my desk. I saw this report here and I noticed that it bears the designation "draft" at the top. It was written on the 10th of February. I would almost assume that this draft was never sent out because on the 13th of February my chemical associate, Dr. Eisfeld, made a comprehensive report about the events.² That has also been introduced in book 72. In other words, I really can't tell you whether this remark that Mr. Santo made here about the concentration camp—whether I read that at the time or not. I do not know.

Q. Mr. Ambros, one needs workers, after all, for every plant. How did you figure that you could solve this question of manpower?

A. The provincial planner, the "Landesplaener," his agency was dealing specifically with such questions, showed me a map showing the density of the population and he emphasized that this area was one of the most densely populated and that Auschwitz, in particular, situated on the southern fringe of the industrial territory, was ideal because there were men and women there who were working partly in industry and also were running small farms. From the sociological point of view, the most ideal crew you can find, are workers who also have small property.

Q. Mr. Ambros, if I understood you correctly, from the population you could gain enough free workers?

A. Yes, I may add this. We in the West, on the Rhine, received Upper Silesians and Poles that had been drafted for work and I seemed to make the proper conclusion. I said, "Why should these people be transferred to the West? They can stay at home and work in the new plant."

Q. Apart from this idea that you had, to call back labor drafted to work in the East, did you also think of the indigenous population?

A. Yes, I was told that there were 7,000 Poles in Auschwitz and 5,000 Jews. I was also told that it was intended to evacuate these people and I considered that irrational.

¹ Reproduced in part in subsection D above.

² Document NI-11782, Prosecution Exhibit 1415, reproduced in part in subsection D above.

DR. HOFFMANN: YOUR HONORS, to corroborate the efforts of Mr. Ambros to secure workers from the indigenous population, I submit Document Ambros 320, Ambros Defense Exhibit 85; Ambros 321, Ambros Defense Exhibit 86.¹ From Document Ambros 320, it seems particularly important for me that the then Oberpraesident of Upper Silesia, Bracht, wrote to Otto Ambros on the 6th of March 1941.

“In my capacity as Commissioner for the Consolidation of Germandom, I have decided, in the meantime, that Poles living in Auschwitz and its vicinity, who might be considered as potential manpower for the buna works, will not, for the time being, be evacuated in the course of our present resettlement program. This precaution will, I think, ensure that sufficient Polish workers will be available, especially for the period during which the works themselves are being built.”

Document Ambros 321 is some correspondence between Santo and a certain Mr. Hoepke, and it is stated that he has agreed with the Auschwitz mayor that from Jews who are living there, people are to be assigned for the work of surveying.

Q. Therefore, I ask once more, Dr. Ambros, if there are various necessities in building a plant, did you then believe that on the basis of the indigenous personnel that was made available you could carry out the necessary construction work?

A. Yes, Mr. Hoffmann I was convinced of that.

Q. Dr. Ambros, but it happened quite differently. Can you describe to us how you were informed that concentration camp inmates were to be used, how this decree came to you and what you had to say to it?

A. I learned of this arrangement from the letter which the prosecution has presented, the letter of Dr. Wirth, Document NI-11086, Prosecution Exhibit 1422² in book 72, page 113 of the German. I am sorry I don't know the English.

Q. It is not important, Dr. Ambros.

A. This happened through this letter of 4 March 1941, in which it is stated:

“At my suggestion and acting upon the instructions of the Reich Marshal, the Reichsfuehrer SS, under date of 26 February of this year, has decreed the following;”

and then follow the four directives that have been presented by the prosecution.

Q. Dr. Ambros, did you do anything in furthering the issuance of this decree?

A. No.

¹ Neither of these documents is reproduced herein.

² Reproduced in subsection D above.

Q. Were you at Goering's office around this time, the director of the Four-Year Plan?

A. I never talked to Goering as long as I lived.

Q. Did you speak to the General of the Waffen SS, Wolff, at any time, did you have anything to do with him?

A. I saw Mr. Wolff for the first time in the prison. I noticed him because he was wearing a uniform.

Q. Did you talk to Himmler at all around that time?

A. No, I am not a friend of Himmler.

Q. Mr. Ambros, how did it come about that this letter of Wirth was directed to you?

A. Because I had opened up the terrain of the construction site. Because, as I described before, I had done all this preparatory work, and because as you have shown by the documents at hand, I caused the geodetic survey to be made.

Q. What did you do with this letter of Wirth?

A. I had copies made and informed all interested parties that had anything to do with the construction project in Auschwitz.

Q. After this decree had been issued, how were the workers for Auschwitz hired, how were they engaged, what do you know about that?

A. The hiring and the making available of workers was the task of the labor office in the case of Auschwitz, just as in the case of any other German construction work. The demands [requirements] had been turned over to the labor office, and at the same time to that agency which was in charge of us as a chemical enterprise, the Reich Office for Economic Development. But the allocation of the manpower was the task of the labor office, the provincial labor office, an agency of the Reich Ministry of Labor.

Q. Did you have to write to the Plenipotentiary for the Four Year Plan about the project of the construction of Auschwitz?

A. Not I, but the construction management.

Q. Did the construction management also specify how many workers they would need and during what period of time they would need them?

A. At this time the construction management received a letter from the Reich Office in which they were asked to give an estimate as to how many workers were needed and for what phases. This same estimate had to be given in the so-called Todt letter,* that is to say those agencies which after all were responsible for the construction at the head, Mr. Todt, and those subordinate to him, all the agencies that changed designations at various times.

*Document NI-1237, Prosecution Exhibit 457, reproduced earlier in section VII G5, volume VII, this series.

DR. HOFFMANN: Your Honor, to corroborate and to prove how the allocation of manpower was undertaken at the time, I submit OA 322, which will be Ambros Defense Exhibit 87.* This is on page 54 of the English document book. This is a letter from the Plenipotentiary General for Special Questions of Chemical Production about the manpower allocation for the Auschwitz-Buna project. The Plenipotentiary offered 2000 or more men from March 1941 on, and requested information on the number of men required for the entire period during which building was to be in progress.

The next document, OA 323, Ambros Defense Exhibit 88,* is the reply letter to the Reich Office for Economic Development dated 18 March 1941. The labor requirements for the Auschwitz buna project is divided into six construction phases.

Q. And now, I ask you, Dr. Ambros, according to your recollection who determined what type of workers you could get, whether you could get free German workers, foreign workers, prisoners of war, or concentration camp inmates?

A. The labor office.

Q. Did you at a later time visit Auschwitz concentration camp and if so when?

A. I was in the concentration camp Auschwitz for the first time during early April 1941.

Q. For what reason did you go to concentration camp Auschwitz in April 1941?

A. I was on the construction site. The construction engineer, Dr. Faust, told me that various questions were discussed with the concentration camp.

Q. What kind of problems were these?

A. First, the execution of the order of that letter of 4th March 1941. Furthermore, we needed gravel and the gravel was available in the Solà River.

Q. What other reasons were determining for you to go to the Auschwitz concentration camp?

A. The management told me that in this concentration camp there were large work shops, carpenter shops, and that it would be possible to have cabinets, chairs, tables, and other equipment made there just as was done for other firms.

Q. You say other firms, do you mean firms that worked on this construction site in Auschwitz, or what firms do you mean?

A. I wasn't quite clear. I meant other enterprises in the mining field and the industry which were situated in upper Silesia.

*Not reproduced herein.

Q. Dr. Ambros, I shall now ask you, did other firms already work in this construction site—what was the picture there, can you say anything about that?

A. You are now speaking about my construction site?

Q. Yes, the construction site in Auschwitz?

A. Yes, we began around that time the leveling off of roads, laying of road tracks, building the first barracks. This work was done by outside firms, for Farben is only a chemical enterprise and is not a construction firm, and if Farben has to build anything it has to rely on outside firms and outside contractors.

Q. Very well. I now have another point; so far I have understood you to say that you built the Auschwitz plant, just as other plants, that you had a staff of people; would you undertake the building project yourself?

A. No, I am a chemist.

Q. Who did that work?

A. The construction work was directed by the Chief Engineer Santo, the first construction engineer of Farben, with a staff of 50 construction engineers. Then we had all other sorts of engineers.

Q. I want to know the reason for your visit to Auschwitz; in April 1941, is that right?

A. Yes.

Q. First you said you received a letter from Wirth and that that was a cause for you to visit the concentration camp. On that occasion did you want to inform yourself what a concentration camp really was and what concentration camp inmates were, or did you know that already before?

A. This was the first concentration camp that I saw in my life. I had no clear conceptions of a concentration camp, and particularly not of the concentration camp Auschwitz, that had been described to me by my associates with all its work shops and agricultural equipment.

Q. Mr. Ambros, what impression did you get from this concentration camp?

A. That is very difficult to say. I talked to some inmates. They gave me reports that didn't give me any sort of a picture. These people had either been instructed not to say anything, or they didn't have any reason to say anything. In retrospect today, I was shown a facade, and I must assume today that I fell for this facade.

Q. Mr. Ambros, I shall revert to this point very shortly. Now, I should like to find out from you, you wanted to get information about delivery of equipment such as chairs, tables and closets; were you conducted around in any other buildings for that reason, and if so what did you see?

A. I was shown workshops where I met technical workers. I met artisans who carved candlesticks from wood, who made other art objects from wood and iron.

Q. Mr. Ambros, can you remember what nationality these inmates had, were they Germans, "yes" or "no?"

A. Yes, they were Germans.

Q. Were they Jews that you saw?

A. The only people that I spoke to were not Jews, not any one of them.

Q. Mr. Ambros, the prosecution presented a letter that you wrote to Dr. ter Meer,* in this letter you state something about your visit to the concentration camp; was this letter of yours to Dr. ter Meer written after the visit you have just described?

A. Yes.

Q. In this letter you say something about a new friendship with the SS and you make further statements, favorable statements about certain institutions. First of all I want to know why did you make such favorable approving statements about such institutions as the workshops, et cetera?

A. I must describe the impression I had briefly. I was conducted around the camp. I saw the stone barracks that were neatly constructed. I saw the kitchen, the workshops and the stables. The conducting officer told me that there were approximately 6,000 human beings there and many of them were criminals, some of them convicts, and he told me that their imprisonment is filled up with work, and that inmates of the concentration camp, with good conduct, are set free after they prove themselves. This system of making convicts work would also include occupation of these people on the construction site of Auschwitz, and he told me that they had very good tradesmen and craftsmen, and I saw these people and he said they had people who were familiar with all types of work required on the construction site. This was the atmosphere even if it was a false front.

Q. I want to ask you how can you explain your impression, how can you reconcile those impressions with the real conditions which no doubt were quite different?

A. I want to say it was a facade. I saw a false front which was shown to me, I couldn't look behind the scenes.

Q. You also say something in this letter about the new friendship with the SS; I have already said something about that before; what have you to say in regard to that?

A. I didn't think at that time that I would ever have to stand up for the sentence that I spoke then. This letter is one of many letters I wrote during my personal correspondence with Dr. ter Meer impulsively written, as is perhaps my nature, quickly written between two

*Document NI-11118, Prosecution Exhibit 1431, reproduced in subsection IX-D, above.

trips, without caring much about its formulation. This expression "friendly relationship" was just thrown down on paper without evaluating it as what is ordinarily evidenced by friendship.

Q. Was your expression "new friendship" at that time the expression of a certain relationship with Nazism at the time?

A. Mr. Hoffmann, the fact alone that what I might say now might be considered an excuse prevents me from saying that I felt a certain irony when I wrote this. It wasn't really friendship and it did not grow into friendship.

Q. Did you visit the concentration camp Auschwitz at a later time?

A. Yes.

Q. When?

A. The second visit took place in October, as described by Dr. ter Meer. It was again in the late evening, just as was the first but it was very brief.

Q. When did you visit the concentration camp Auschwitz once more thereafter?

A. In the winter of 1941. I think all these visits took place in 1941, and then I never visited it again. In 1941 this last visit may have been before or after Christmas. I don't know, but there was snow on the ground.

Q. You never again went to the concentration camp Auschwitz after that?

A. No, never again after this third visit.

Q. During your visit in 1941, did you notice anything peculiar about a crematorium?

A. I saw a small crematorium which was at the entrance, but it was not operating and I was told if anyone of these 6,000 human beings should die he will be cremated there. That was all.

Q. Dr. Ambros, how many times were you on the construction site in Auschwitz altogether?

A. I can say approximately four times every year. It may be that in 1941 I was there five times, but as far as I remember I was actually four times in Auschwitz.

Q. How long did you stay when you were in Auschwitz?

A. That differed. Visits sometimes lasted 1 day, and others 2. I think 2 days was the most. I stayed there overnight—one time.

Q. Where did you live when you stayed overnight in Auschwitz?

A. There was no hotel in Auschwitz. I lived together with my associates in a home.

Q. Where was this home situated?

A. On the northern fringe of Auschwitz near the Vistula. In the North of Auschwitz.

Q. How far was the place, do you know, from the Monowitz camp?

A. Perhaps 3 kilometers, 3 kilometers from the large one.

Q. You have to differentiate between the concentration camp Auschwitz and the concentration camp Monowitz.

A. You said Monowitz, didn't you?

Q. Yes.

A. Then it was 3 kilometers away.

* * * * *

Q. Mr. Ambros, this question brings me to another one. Did you do everything yourself in Auschwitz, or did you use other people? What happened when the construction site was supposed to start work?

A. I believe I explained repeatedly what my field of work was, and I believe I made it quite clear that I am a chemist. It is impossible for me to function at a construction site. Therefore, after the first visits and after studying the situation, I created the organization with the agreement of the other authorities within Farben. First of all, there was a construction engineer—that was Mr. Murr, who went to Auschwitz. As you asked me this morning, there were only outside firms working in Auschwitz, outside contractors. Consequently there were only very few Farben people there who were representatives on the spot. They saw to it that the technical aspect of the construction firms was in order. That is to say that the correct procedures were followed with this assignment, that nothing was built that would fall down later; Mr. Murr took care of that. When the work became a little greater, we again appointed a construction engineer, a Mr. Faust. When assembly began in the second half of 1942, Mr. Duerrfeld came, a machine engineer, and he in turn was aided by two chemists, Mr. Einfeld for buna and Dr. Braus for Leuna. The latter were directors after 1944.

Q. Mr. Ambros, what was your position with respect to these gentlemen you have just mentioned?

A. Well, I was superior to them, of course; I was the representative of the Vorstand. Of course I couldn't interfere with technical matters because that was not my profession.

Q. Now, a very tangible question. Who, for instance, made the application to the labor office to get the workers that were necessary?

A. In the beginning that was Mr. Murr; then it was Mr. Faust, and about that time there was a Social Welfare Department set up. From that time on it was the head of that department. I believe that is mentioned in some document; I am not sure.

Q. Mr. Ambros, were you informed about the details of the commitment of workers?

A. No, not the details.

Q. Specifically, do you know how many concentration camp inmates were requested instead of free workers, or didn't you know that?

A. No, I was not kept currently informed about such things.

Q. Did you know anything about the efforts of the gentlemen working right at the construction site to get free workers or foreign workers instead of concentration camp inmates? Was any application made to you to that effect?

A. Yes, and I want to emphasize this particularly. Yes, I did know that these gentlemen endeavored, first of all, to get free workers: Germans or local Poles.

* * * * *

Q. Mr. Ambros, before the recess you said that you were in Auschwitz only three or four times, and that you stayed there only 1 night. How were you informed otherwise about the progress at Auschwitz? The prosecution has introduced so-called [Auschwitz] construction reports.* What are they? Did you read these reports? Did you receive them?

A. May I explain this a little more thoroughly?

Q. Yes.

A. Auschwitz is a plant of two Sparten. Sparte I for the Leuna part, Sparte II for the Buna part. This was something novel in Farben, to have two Sparten working together in building a new plant; and to found this, to justify this, as it were, it seemed proper to me to arrange a meeting between the people in charge of such matters on both sides. These were the construction conferences. All the construction engineers, chemists, the man in charge of social welfare matters, and the man in charge of the kitchens—he even was there once—and all the problems were discussed at these meetings. They were very lively meetings, and the junior engineer who was present, Mr. Heidebroek, made an extract of the proceedings, which was the so-called construction report.

Mr. Hoffmann, these are not documents. They have no value as documents. There were no signatures. Let's not forget: This is a construction site, and here a report was made approximately about what was said, and after I read them now, they are, in general, very well drawn up.

Q. Mr. Ambros, you mentioned that these meetings were very lively. Was the employment of the concentration camp inmates discussed at these meetings?

A. Yes. The subject was also brought up.

*Altogether there were more than a score of construction conferences at Farben's Auschwitz Plant, each of which dealt in part with labor questions. The prosecution considered these highly relevant in connection with the charges concerning the recruitment and treatment of concentration camp inmates and introduced extracts from the minutes of nearly all these construction conferences. Extracts from the minutes of fifteen of the conferences are reproduced above in section IX D (see NI-11115, Pros. Ex. 1426; NI-11116, Pros. Ex. 1428; NI-11127, Pros. Ex. 1435; NI-11129, Pros. Ex. 1437; NI-11130, Pros. Ex. 1445; NI-11131, Pros. Ex. 1446; NI-11132, Pros. Ex. 1440; NI-11137, Pros. Ex. 1447; NI-11138, Pros. Ex. 1448; NI-11139, Pros. Ex. 1458; NI-11140, Pros. Ex. 1501; NI-11141, Pros. Ex. 1503; NI-11142, Pros. Ex. 1505; NI-11143, Pros. Ex. 1509; and NI-11144, Pros. Ex. 1511).

Q. What did you hear about the nature of the employment of these people—was anything said about selections? You know, selections in the sense as described by the prosecution witnesses here.

A. No, I never heard that word "selection." I heard that for the first time in Nuernberg.

Q. Was a poor state of health among these people discussed?

A. It was some times complained that new inmates arriving were in a not too good state of health, but there was positive work being done; and then Duerrfeld—this was later when the inmates were in Camp IV—Duerrfeld showed us what the food was, the amount of food sent into the camp. And this showed us that 2,500 calories was delivered. That is quite a lot.

Q. Mr. Ambros, what kind of impression did you have * * * what was the responsibility, in your opinion, for the individual camps?

A. The responsibility for the camp of Monowitz was very clearly and definitely with the SS.

Q. In respect to the food too?

A. In the beginning the food, too, was under the responsibility of the SS. To be quite precise, about December 1942, the date when the camp was occupied—I believe February or March 1943—there then was a suggestion made by Farben that the supplying of this camp with food should be taken over by Farben.

Q. Who in Farben made this suggestion?

A. I believe it was Mr. Duerrfeld.

Q. You approved this suggestion?

A. I saw therein a further opportunity to achieve the following: First, that the prisoners would get the normal basic food of 1,800 calories, second, that the supplements could be given to the inmates because the administration at Auschwitz managed to have 80 percent of the inmates declared heavy workers—that is, an official designation—and 20 percent as people working long hours. If you recall, the document that was shown yesterday about the feeding of the French prisoners of war at Schkopau—you saw what these supplements amounted to—an increase from 1,800 to 2,500 calories in camp IV, Monowitz.

Q. Mr. Ambros, how do you explain the fact that we have, nevertheless, heard again and again that the food at Monowitz was not what one would have expected in the food on the basis of these calory figures you have just given us?

A. I don't want to deny the impression that the inmates have given as witnesses here. In this camp Monowitz there must have been some mis-appropriation, black marketeering, of this food. There must have been an unjust distribution of the food after it had gone through the kitchen. I can think of no other explanation.

Q. Do you know nothing about it?

A. Mr. Hoffmann, after one has been thinking over these questions for a whole year, then it is difficult to distinguish what one knew at the time and what one has learned now. I had no way of knowing it.

Q. Why not?

A. Because I was not in the camp at Monowitz. When it was set up I was present once; at this visit Mr. ter Meer told about, but I was not in the kitchen when the food was handed out.

Q. Very well, Mr. Ambros. Now, we have said that you were informed about the position of Auschwitz by the construction reports. Were there any other reports which could give you information?

A. Yes.

Q. What were they?

A. They were so-called [Auschwitz] weekly reports.*

Q. Very well. What were these weekly reports?

A. They were reports from the construction site, addressed primarily to the construction engineers of the construction office. That is, the weekly reports—I believe they came out at the beginning every 2 weeks and later once a month. The condition of each of these individual little buildings was described. "No. 628 has progressed so far." Each of these buildings was described. Also the position with regard to labor was mentioned. The potato supply was given.

Q. Very well, Mr. Ambros. If you can remember it, there were also reports from the camps or the construction sites about morale.

A. Not from the camp, but from the construction site, yes.

Q. Did you read all these weekly reports?

A. No, Mr. Hoffmann. It is really not possible. I believe I have already said that I got about fifty letters a day. I was away from my office 120 days a year. I had chemical work too. It was impossible. I had to rely on my associates in the office to decide what was given to me to read, and I did look through it, but at that time I was in charge of 12 plants. I think it isn't possible to expect the chemist to read every construction report.

Q. But could you perhaps explain certain things if these reports were shown to you?

A. Yes, I would be glad to do so.

Q. Mr. Ambros, did you ever learn that inmates were beaten at the construction site?

A. Yes, I was told that in the first year when the employment of these concentration camp inmates was explicitly in the hands of the SS, the inmates went back to the big camp at Auschwitz every evening by railroad. I was told that the Kapos, that is, the supervisors or

*There were more than one hundred Auschwitz Weekly Reports and the prosecution introduced extracts from more than one-half of these documents. (See for example, the several documents relating to this subject, reproduced in section IX D.)

superior prisoners among the other prisoners, committed offenses against their comrades.

Q. Did you hear only about Kapos? Were these the only ones?

A. No, the SS, too. This was also discussed at a construction meeting. And immediately the management intervened and managed to arrange that there should be no more beatings.

Q. Mr. Ambros, you are speaking so positively. Did you yourself personally ever see an inmate beaten?

A. No, never.

Q. When you learned that the SS was beating people, what did you do? What you have just said?

A. Yes. Mr. Faust, Mr. Duerrfeld, and I myself once had an occasion to speak to the commandant, and forbade that from happening. We requested that both the SS and the Kapos be strictly forbidden to beat the prisoners.

Q. But whether this prohibition was always observed, you don't know for certain?

A. No.

Q. Mr. Ambros, after all that, it must not have been very easy for you to employ concentration-camp inmates. I should like to go back once more to the old question: Did you for this reason again and again attempt, when you were applied to, to get different workers?

A. Yes.

Q. Did you go to ter Meer to get Italian workers—I am thinking of a prosecution exhibit, the one which was shown to ter Meer on cross examination.*

A. I was told at the time by an official source that Italian industry, after the collapse, would no longer produce because there was no coal, no current, or something. I was also told that since the Italian State obtained goods from Germany—buna, for example—the Italian State would be willing to enter into an agreement with Germany to make labor available, as was always the case from Italy. I said to him: "In case that is so"—neither ter Meer nor I knew whether that really would be the case—I said, "Help the people at Auschwitz; help them to get workers if now"—I believe this was in 1944—"the plants gradually go into operation." For in these plants we wanted to have skilled workers—as I said yesterday, it is very important whether or not the man in charge has knowledge of the work he is doing.

* * * * *

Q. You already stated initially that Gendorf also employed concentration camp inmates?

A. Yes.

*Document NI-14169, Prosecution Exhibit 1877, reproduced in part above in subsection D.

Q. What did you know about this employment of concentration camp inmates in Gendorf?

A. Perhaps I have to give you a short preliminary history of how this employment was brought about. In one of the next document books we deal with chemical warfare agents. Outside of the program that I discussed just now, there was a large Direkt Lost [Mustard Gas] plant, a D. L. plant, in Gendorf. The order for its construction was issued by the Reich on 27 September 1939, after the war broke out. This plant was to produce 4,000 tons of Lost per month. It was the largest and most important plant but it didn't function properly. When, in 1943, this production was to start, I had to report that the entire plant was misconstructured. It produced 400 tons instead of 4,000 and the quality was impossible. The product disintegrated and could not be used. In 1943 we had to reconvert. We had no manpower, however. We had no Germans, we had no foreign workers, and as a result the Berlin agencies took under consideration to employ concentration camp inmates. I rejected this plan unless skilled workers could be made available but I could not prevent the employment of these skilled technical workers, masons, carpenters, and so on, because they meant a sort of assistance for this urgent task at the time. That is all.

Q. Mr. Ambros, did you at that time have any misgivings? Did you imagine what circumstances these concentration camp inmates would get into in Gendorf? Did you have any confidence that they would be humanely treated or did you not have any ideas about that?

A. Yes, I was firmly convinced of the basic idea which I described a little while ago, that is if inmates were employed in a plant, that was only for their own benefit, as compared to their condition in the camp. Since the Gendorf plant was small, it had a staff of only 3,000 workers, I was sure that conditions could be created there which would correspond to that idea.

* * * * *
Q. Now the production of Lost [mustard gas] was certainly war production?

A. Yes.

Q. Do you know whether in this production, prisoners of war, or any foreigners were used?

A. No, no prisoners of war and no concentration camp inmates were employed. For the Gendorf and the Dyhernfurth plants I had given instructions that the manufacture of poison gas was to be performed only by Germans.

* * * * *
CROSS-EXAMINATION

* * * * *
MR. MINSKOFF: Dr. Ambros, you testified this morning that you

built a fence around the IG plant Auschwitz in order to keep out the SS, and thus conferred a benefit upon the inmates. Could you state, Dr. Ambros, when that fence was completed?

A. I didn't say that this was the only reason, but I said, among other things this was one reason. There were reasons also, such as lack of guards, that was also why the fence was built, and about the rest of your question, they started first by fencing off small areas, and later it was expanded.

Q. Do you recall—

A. It was hindered by the fact that wire and fencing was lacking, and I could not tell you when the fence was actually completed. I wasn't there enough, and I didn't concern myself enough with this matter.

Q. Do you recall approximately when it was substantially completed?

A. No. These are problems which I do not know of.

Q. In 1943, towards the end of that year, at the time the British prisoners of war arrived in Auschwitz, was this fence already in existence?

A. May I repeat to you, I still do not know when the fence was erected. I am sorry but I don't know.

Q. Thank you. Dr. Ambros, on 6 February 1941, when it was decided to take Auschwitz as a site for the buna plant after your report on Auschwitz, did you at that time believe that there would be an adequate supply of free labor?

A. I was convinced that so far as auxiliary workers were concerned, especially, during the time of construction, there would be enough workers locally which would be available. But on the other hand, in my opinion, leadership was lacking. Leadership perhaps is saying too much; better skilled labor who could direct the unskilled workers, especially, in view of the later plant. Therefore, I also expressed myself to this effect in a conference with Professor Krauch, that it would be a problem to secure German laborers and to settle them there.

Q. Dr. Ambros, is your answer that certainly you did not contemplate the use of concentration camp labor on that day, 6 February 1941?

A. I don't think so, because otherwise, in this report which is in every detail, I would have pointed that out. This would have been a decisive matter.

Q. When, Dr. Ambros, did the actual construction work at the site start, approximately?

A. I know that the first surveying work was done in the first days of March 1941, and that one day the barracks were beginning to be built. I know that the first construction engineer, Murr, already arrived in the final days of February. That he had then the assign-

ment to look around for auxiliary workers at the labor offices in order to build the barracks, which Murr hoped to take over from the abandoned site at Rattwitz.

Q. Dr. Ambros, will you explain how it is that at the very first construction meeting of IG Auschwitz, at which you were present in March 1941,* it was reported that SS Obergruppenfuehrer [Lt. General] Wolff promised to assign 700 prisoners of the Auschwitz concentration camp to assist in the building of the construction site at IG Auschwitz?

A. That surely was the result of the order of 26 February of the Reichsfuehrer, which was sent on 4 or 6 March 1941. The results of this was that the conference took place with Herr Wolff on 19 or 20 March in Berlin, and at this conference this figure was probably discussed. I was not present.

Q. Dr. Ambros, will you explain how, within less than 2 weeks after the first decision to build a site at Auschwitz was made, that Reich Marshal Goering issued an order to Himmler to provide concentration-camp inmates for construction of IG's Auschwitz plant?

A. I can give no explanation of this; I do not recall.

Q. Dr. Ambros, you stated on direct examination that I. G. Farben was a chemical firm, and not a construction firm. Now, is it not true that there were at least fifty construction engineers working directly for I. G. Farben? Please answer so we can hear it, shaking your head does not get it into the record.

A. You are right, he [the interpreter] was not finished, yet. Yes.

Q. Dr. Ambros, may I ask you—May I explain this? Does this interest you? I want to know how many construction engineers there were; at least fifty, is that not true?

A. The figure fifty might be too high.

Q. Well, then, use your figure. You might have given it the other day.

A. I gave it, yes, but I asked that it be given no documentary value; in order to make factories, there were one, two, or three supervising construction engineers; these were in the gasoline plant, buna plants, abroad and in Germany; and then there were specialists in the construction field, and insulation construction, railway construction, and specifically, for chemical plants. And in this way, this staff was created.

Q. Mr. Ambros, you stated that the firm of Luranil was a construction company. Now, you were manager of the construction company, were you not, from 1940 to 1945?

A. I was the business manager but I may say that since I am only a chemist, the actual direction of the Luranil which was a construction

*Document NI-1115, Prosecution Exhibit 1426, reproduced in part above in subsection D.

firm in the hands of the Construction Engineer Santo and the Machine Engineer Eymann, and I was perhaps the honorary member of this firm. I never was an active official there. I already told you that it was not my profession to construct.

Q. You were the business manager [Geschaeftsfuehrer]?

A. One of the business managers. There were three. I was the most inactive not to excuse myself, but it is not my profession to build houses.

Q. Dr. Ambros, referring particularly to Auschwitz, you stressed the point in your earlier testimony that I. G. was essentially a chemical firm and that construction work in the building of Auschwitz was done by construction firms. Now, just to clarify the relationship between I. G. Farben and the actual construction of Auschwitz, let me put a few questions to you. The firm Luranil—did that firm participate in the construction of I. G. Auschwitz?

A. Luranil also participated in the construction of I. G. Auschwitz, namely in the construction part of the Montan plant. But I believe it was less represented on the site. Rue-Bau, the Todt organization, took over that. But the drawings of the buildings, the machinery—I wanted to keep that separated from Farben for purely bookkeeping and calculating reasons.

* * * * *

Q. Perhaps we—Let me try it one more time. I say, isn't it true that the Farben construction management had complete control over the allocation of every concentration camp inmate that worked at IG Auschwitz?

A. Yes.

Q. Thank you. Isn't it true also that every subconstruction firm had to furnish the Farben construction management with daily as well as monthly reports showing the number and type of workers allocated to them?

A. I do not know that.

Q. Do you know whether every time a subconstruction firm wanted inmates they had to make a request for the inmates to the Farben construction management?

A. I do not know that in this detail.

Q. Do you know, Dr. Ambros—I am sorry.

A. I think it was towards the end, there was a labor office right on the construction site which, practically speaking, built itself into this employment office. This was a field agency of the labor office Bielitz, the branch office on the site, because there was a big construction enterprise with 30,000 people, among whom there were several thousand inmates. And this official labor office also took care of this.

Certainly one of our men was there too, but I just do not know. I wasn't sufficiently acquainted with it.

Q. Dr. Ambros, do you happen to remember whether the sole discretion as to the working days or new assignments of inmates at IG in Auschwitz remained at all times with the construction management of I. G. Farben?

A. You asked me two questions. May I ask to have them repeated, please?

Q. I asked you whether you happen to remember whether the sole discretion as to the working days or new assignments of concentration camp inmates remained at all times with the construction management of I. G. Farben.

A. No official agencies—I know an example where the district labor office of the construction site at Auschwitz took away hundreds of people, saying that the concentration camp Auschwitz, would furnish other people—against the interests of Auschwitz. And I know that the construction direction was against it. In this the jurisdiction remained with official agencies.

Q. Dr. Ambros, I show you Document NI-14309, which I offer as Prosecution Exhibit 1925,* and ask you whether this memorandum, dated May, 1943, concerning the use of concentration camp inmates refreshes your recollection as to whether the construction management of I. G. Farben exercised full control over the allocation and use of concentration-camp inmates assigned to the subconstruction firms. Do you recall the question?

A. I was just looking over this very difficult text very quickly, which I did not know and I do not know this decree. But I still gather from it that, for example, a construction firm in the fourth line gives the report about the working accomplishments; that is, this firm asks for inmates, and, in order to explain this there were two hundred or three hundred construction firms in Auschwitz in the year 1942. I found that of 2,000 inmates, 40 inmates were with Farben, that is, 1960 were working for two hundred other firms. That is the problem.

Q. Yes, the only question was whether just before—

A. And I gather from this that these firms worked via a mediation office with their requirements, but I do not know the details.

Q. Well, doesn't it state specifically in the third from the last paragraph that the office you are talking about was the I. G. Farben construction management?

A. That is this mediation agency which probably did nothing but collect the demands of the firms, their requirements, and passed them on. I don't know. According to this text I would almost assume that the construction firms have direct contact with this industry via the Kapos. That is how I read these first few lines. The squads are directed to the various sites via the inmate Kapos; the Kapo gives the firm a confirmation of the number of skilled and underground build-

*Not reproduced herein.

ing workers from the concentration camp assigned at the firm's request.

Q. If the document doesn't refresh your recollection, the contents speak for themselves. May I ask you—may I show you Document NI-14295, which I offer as Prosecution Exhibit 1926,* and ask you whether you recognize this as the regular form of daily report which subcontracting firms were required to furnish to the Farben construction management?

A. I never saw a slip of this type. I don't know it.

Q. Dr. Ambros, isn't it true that all of the funds for the building of the Monowitz camp were provided by I. G. Farben?

A. That must be a translation mistake.

Q. All of the funds, all of the money for the building of Monowitz camp were provided by I. G. Farben?

A. The Monowitz camp was built in 1942 as a work camp for Germans, and these sums were of course provided by Farben for the building of this camp—

Q. Excuse me.

A. —for the purpose of accepting German workers.

Q. Isn't it true, Dr. Ambros, that I. G. Farben determined the number of barracks which were built in the camp Monowitz?

A. The number of barracks was determined by the direction of the camp, and then armament construction built these barracks. That was the Todt Organization. When, in November, the first two thousand inmates arrived, as you can tell by the weekly reports, 25 barracks with 120 beds were ready; that is in contrast with some of the testimony of prosecution witnesses. There were more beds than inmates who arrived.

Q. Dr. Ambros, the question was rather simple. Let me repeat it: Isn't it true that I. G. Farben determined the number of barracks which were built in the camp Monowitz?

A. No.

Q. Who determined that?

A. The SS determined the number of barracks which were to be constructed. Farben immediately, upon the wish of the SS, gave directions for the construction, and the construction itself was carried out by the Rue-Bau organization, Speer [Todt].

Q. Dr. Ambros, didn't you just testify about 1 minute ago that when Monowitz was built, it was built as a regular work camp, it had nothing to do with the SS. Now I am not quite sure about your second answer, . . . it was now built by order of the SS, with the number of barracks stipulated by the SS?

A. No, camp IV was constructed for the purpose of building a German work camp, with 25 barracks as a start. From the moment on, when the inmates arrived at the end of November or the beginning of

*Reproduced above in subsection D.

December 1942, it was taken over by the SS, and the SS then determined how many barracks were needed, and this number was then approved for a construction enterprise of 600 million marks, it was of no importance whether a barracks of 2,000 marks was built or not—and this was approved and was carried out by the Speer organization. If, really, any delays occurred—I don't want to make an ideal picture of this, it could have happened that there were not enough barracks there at one time—then this can be traced back to the fact that the approval for work for all the material which was needed for the barracks was not given early enough. But all these things were temporary, and in 1944 the construction was again continued—or, at least, it was intended to continue it—but then it was no longer possible.

Q. Dr. Ambros, it is also true, is it not, that the hospital barracks in Monowitz were also built entirely with I. G. Farben funds?

A. Yes.

Q. And it is true, is it not, that Farben, and Farben alone, determined how many barracks to provide for that purpose?

A. No. These wishes were determined by the SS, and it was no problem for Farben to build so and so many barracks as the SS demanded, unless Farben, again, was not given the necessary procurement slips; and I have shown by this chart how little initiative was left to private enterprise in the Reich in the 3d and 4th year of the war. That was the sense of my arrows—with the hundreds of offices which took care of the matter, and which governed it.

Q. Dr. Ambros, did the SS send to Farben at Auschwitz more concentration camp inmates than Farben wanted or asked for?

A. I cannot answer that. I have heard here figures from Mr. von Halle which do not jibe in any way with the number which were actually on the site. Ten thousand have been spoken of whereas according to the weekly reports I remember as the maximum figure, six thousand on the construction site.

Q. Dr. Ambros—

A. (continuing) And this difference of four thousand, I don't know what they were there for.

Q. I didn't ask you how many were there, I merely asked whether the SS sent you more than you wanted?

A. I cannot answer that.

Q. And is it also true, Dr. Ambros, that all through 1943, 1944, and to the end of the war, the feeding of concentration camp inmates at I. G. Auschwitz was assumed by I. G. Farben?

A. In order to clarify completely the deliveries, the food supply—

Q. May I interrupt one moment—I am only asking whether the responsibility for feeding was assumed by Farben; I am not going into whether it was good, bad, or indifferent, but whether it was assumed by Farben?

A. No, the word "responsibility" for the food supply is too broad. Farben supplied the raw materials—that is, the food, which, according to the official orders, was 1800 calories plus the additional rations up to 2500 calories. What the SS administration did in the kitchen and how they distributed the food to the inmates, that was under the jurisdiction of the SS. The first part was certainly up to Farben. Farben was in charge of delivering the ingredients for the food according to the quotas of calories.

Q. Dr. Ambros, on your direct examination you testified about the relationship with SS Lt. General Pohl, and you were asked by Dr. Hoffmann to state whether in any of the discussions that you had with Pohl you suggested in any way the use of prisoners as concentration camp inmates, and you answered "no." Now, Dr. Ambros, do you recall any occasion on which you personally complained to SS Lt. General Pohl about your difficulties in regard to labor allocations?

A. Yes. I recall that after this conference which I described yesterday in detail—that is, between the railway management of the city of Auschwitz and I. G. Farben and the concentration camp—regarding the canalization plan and other questions, when in the afternoon Herr Pohl came into the Farben plant and looked at the construction site for the first time, I was present. And I talked about the construction site, and I spoke about our concern that the construction site was lacking labor. At that time no inmate was on the construction site because there was that terrible typhus epidemic in the big concentration camp, and Farben had forbidden any use of their employment; and at this opportunity I certainly spoke about the labor allocation, because the order of the 6th of February continued to be effective, that inmates were to be used for the construction of the plant; and we of Farben always tended to take others first, but if there were not enough Germans or foreigners then the last quota were the inmates; where on my part, if I intervened at all I always requested skilled people, people who were used to manual labor, to furnish those for whom the work on a construction site would not work a hardship and which would be in accord with their profession.

Q. Dr. Ambros, was it a pure coincidence that after you complained about the labor problems, that Lt. General Pohl then promised concentration camp inmates for I. G. Farben's Auschwitz project?

PRESIDING JUDGE SHAKE: That's hardly a proper question. You could not expect him to know what was in the mind of Pohl—unless Pohl said something to him about it.

MR. MINSKOFF: Dr. Ambros, did you personally contact SS Obergruppenfuehrer Pohl on any other occasions in order to procure concentration camp labor?

A. The same problem was present in Gendorf as far as I remember—

PRESIDING JUDGE SHAKE: Just answer as briefly as you can, Dr.

Ambros. We are going over a good deal of territory for the second time and we would like to save as much time as we can. If you can remember—whether you did or not and if not, say you don't remember. That will be sufficient.

A. My whole tendency was, as far as Pohl is concerned, to give me specialists, give me people who can work manually, as was the case in Gendorf, and as the result shows, it was satisfactory.

Q. The question I just want to ask one more time is, did you contact Pohl in order to procure concentration-camp labor on any occasion other than the one we previously discussed?

A. Mr. Minskoff, I do not know. There might have been a discussion in connection with Dyhernfurth. There were inmates there too, but not in the sense of requesting them.

Q. Dr. Ambros, the prosecution offers Document NI-14291 as Prosecution Exhibit 1927,* and I show you this exhibit and call your attention to the portion which refers to the meeting between you and SS Lt. General Pohl, and I ask you whether that refreshes your recollection as to whether or not you contacted SS Obergruppenfuehrer Pohl in order to procure concentration-camp labor from the concentration camp Sachsenhausen for the building of your Seewerk poison gas plant? It's the very first sentence, Dr. Ambros, the very first sentence.

A. That is not a correct representation. This allocation was not caused by me. This was an allocation for the Montan plant in Falkenhagen for the Seewerk.

Q. The Seewerk for the gas plant?

A. That is the plant which I described yesterday in detail, which was constructed on the order of Reich Minister for Armaments and War Production, and—

Q. But who constructed it?

A. And there were no Farben interests involved.

Q. Who constructed it?

A. The Luranil built it. May I tell you this?

Q. I just ask who constructed it. You said Luranil, and I think that's the answer.

A. No, I beg your pardon. Luranil was the constructor and gave the order to the construction firm Haaf which was active there, and this firm Haaf was the one which was in charge of the enterprise in Falkenhagen. The Luranil was in charge and also furnished personnel for it, but the whole allocation happened on an official order without any initiative on the part of IG which had no interest in a plant which only had a contract for the plant leader and did nothing for Farben. It was only a construction firm on order of someone else, and I have already explained that yesterday.

*Reproduced above in subsection D.

Q. Dr. Ambros, did your Luranil construction company employ Jewish forced labor in the building of the Dyhernfurth plant?

A. I could not tell you in detail. There were so-called collaborators, Poles, perhaps Jews, too, of the Schmelt organization. They were with Rue-Bau in Falkenhagen too, where Rue-Bau also had a construction site, and it is also possible that, before Rue-Bau, these forced workers were already used. I cannot tell you.

Q. Dr. Ambros, do you happen to recall whether the Jewish forced laborers working in the Dyhernfurth plant, of the Luranil, were converted into concentration-camp inmates while they were so working?

A. No, I only know one thing for which I was responsible. In the plant Dyhernfurth no foreigner, no prisoner of war, nor any inmate worked there. On the construction site which was under the direction of Rue-Bau, there were foreign workers and probably these workers, too; but that I do not know.

Q. Well, that was Luranil that was in charge of construction again?

A. No, no, Luranil perhaps concerned itself with accounting matters, but, Mr. Minskoff, I know that the direction lay with men who were in uniform, namely the Todt Organization.

Q. Dr. Ambros, did you ever contact SS Lt. General Pohl to obtain concentration-camp inmates from the concentration camp Gross-Rosen?

A. Those were the inmates who worked with Rue-Bau, but I do not know whether I had anything to do with Pohl about that. I don't think so, because this was the task of Rue-Bau.

Q. Dr. Ambros, apart from the plants for which you were responsible were there any other plants built or operated by I. G. Farben with concentration camp inmates?

A. I do not know any others. I have mentioned Auschwitz, Gendorf—the three Montan plants, Gendorf, Falkenhagen, and Dyhernfurth, and Auschwitz. Otherwise I know no others.

* * * * *

MR. MINSKOFF: Dr. Ambros, you have before you, Document NI-14300, I believe, now Prosecution Exhibit 1929* and you have an opportunity to read it. I call your attention particularly to a sentence which states,

“In order to speed up the construction, each of the firms is to assure increased production by taking appropriate measures.”

Dr. Ambros, does that refresh your recollection as to whether the pressure and initiative for increasing the output of inmates came from the Farben main construction company?

A. First of all, I don't know the circular letter at all. Second, this document is very valuable for my purposes because—

*Reproduced above in subsection D.

PRESIDING JUDGE SHAKE: May I interrupt a moment, Doctor? Please answer the questions as you can and if it serves any other purposes, let your counsel ask about it. I don't know the document.

Q. Thank you. Dr. Ambros, do you recall whether on occasions the subconstruction companies answered that it was impossible to increase work performance of their inmates standard set by your construction company? Do you recall receiving such letters?

A. Prosecutor, you are asking me a question, to try to explain the relations between a construction firm and the inmates, that is impossible for me to answer. I tell you again, this Luranil firm is a construction firm and not a building firm. They don't have a foreman, they don't have workers. The Luranil has designers and accountants, they make the designs and the blueprints. Therefore, I can't answer your question.

Q. Dr. Ambros, I show you Documents NI-14297 and NI-14294, offered as Prosecution Exhibits 1930 and 1931* respectively, and ask you whether either of the two refresh your recollection as to whether the subconstruction firms wrote to your firm that the standards set were impossible to be carried out?

PRESIDING JUDGE SHAKE: Dr. Ambros, that is a simple question as to whether you know anything about this letter having been written.

A. I know neither the document nor the contents contained in your question.

Q. Thank you. Dr. Ambros, you testified yesterday—no, the last court day, that you were taken in by the façade at Auschwitz. Now, you visited I. G. Auschwitz, according to your testimony, on approximately 18 separate occasions, and on each occasion, remained 1 or 2 or 3 days. Now, was this same false front put up to deceive you on each one of those visits?

A. I used that concept of a façade when I spoke of the concentration camp at Auschwitz, in connection with my visit of April 7, 1941, and then I said that this impression I gained of the façade—I used the word Potemkin village—was repeated during my second visit of 16 October 1941, and that my last visit was 2 or 4 weeks later, I think on the 15th of November 1941. In other words, I always refer to the concentration camp of Auschwitz, and that was my last visit to the concentration camp of Auschwitz.

Q. I understood that. Now, I am referring to IG Auschwitz, in your various visits to the I. G. Farben construction site at Auschwitz. All those times you visited IG Auschwitz, were things continued to be kept from you, or did you have access to what was happening in I G Auschwitz? Let me ask a specific question and make it simpler. Dr. Ambros, observing the appearance of the inmates on the oc-

*Reproduced above in subsection IX D.

casions of your visits, did you ever ask any of them whether they received sufficient food?

A. Yes, I asked and tried to find out generally how the food situation was there, and in the office of Dr. Duerrfeld, there was a graph concerning the calory content of the food.

Q. May I interrupt a moment? I merely asked whether you spoke to inmates, not about the chart you mention. Now, the inmates, did you ask the inmates whether they had sufficient food?

A. Well, that might have been during my conversation with Herr Pfeffer,* that is possible.

Q. Dr. Ambros, when you were there in the winter time, were you able to observe whether their clothing was adequate?

A. I do remember the inmates, and that they had overcoats, and that during the last years they had coats, that is, civilian coats. I remember that an immense number of coke fires and wood fires were there like in every construction yard, and the people would gather around it; and I remember also that on particularly cold days, no inmate would be assigned to work. For instance, 1941 and 1942, for months they wouldn't assign any inmates to work and I think also during the winter 1942-1943, assignment of inmates was cancelled when it was cold, as it is customary on construction yards not to work when it is too cold.

Q. Dr. Ambros, you mentioned that during your visits to the concentration camp Auschwitz, you saw a small crematorium, or did you just notice that there was no smoke coming from the chimney?

A. I didn't visit it. I only saw that there was no smoke. It was not in operation.

Q. And that was true on each of your subsequent visits also, is that right?

A. Yes,—

Q. Dr. Ambros—

A. Because the visits were concentrated during the period of 1941, and later on I never visited that place again.

Q. Dr. Ambros, in your testimony the last court day, you pointed out that when inmates were beaten, it was not by Farben people but by the Kapos and the SS, is that right?

A. Yes, that is what I said in my testimony, yes.

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*Philippe Pfeffer, a former inmate of the concentration camp Auschwitz, worked as a chemist in the I. G. Farben plant. Pfeffer testified as a prosecution witness and his testimony is recorded in the mimeographed transcript, 17 November 1947, pages 3907-3920.

5. TESTIMONY OF DEFENDANT GAJEWSKI

EXTRACTS FROM THE TESTIMONY OF DEFENDANT GAJEWSKI ¹

DIRECT EXAMINATION

* * * * *

DR. VON METZLER (counsel for defendant Gajewski) : Dr. Gajewski, I should like to put to you a few prosecution exhibits. First of all, Document NI-3825, Prosecution Exhibit 1404,² which is in book 71 on page 28 of the English. This is a letter of the Camera Plant [Kamerawerk], Munich, to the Labor Office regarding the labor draft of Polish female criminal prisoners who had been employed in the Camera Plant after their prison term had been completed. The prosecution asserted that the Camera Plant tried to have the prison term of these Polish female workers extended so that they could continue to employ them in their plant. Do you have this exhibit of the prosecution?

DEFENDANT GAJEWSKI : Yes.

Q. Were you at all concerned with this matter at the time?

A. No. I learned of this matter only after the presentation of this particular exhibit. Therefore, I cannot say anything about it from my own knowledge and I have to refer to the documents that you presented in this connection. One thing is sure, however, and that is that it is absurd to consider the labor draft as an extension of the prison term, of the punishment. During the war the overwhelming majority of German workers were drafted for their particular jobs. Furthermore, this letter doesn't have any signature. It is not quite impossible that the letter was never sent, but I don't know that.

Q. Dr. Gajewski, then I should like to put to you Document NI-4038, Prosecution Exhibit 1405, and Document NI-6851, Prosecution Exhibit 1406³ also in book 71, pages 29 and 30 of the English and pages 32 and 33 of the German. These are two letters and one file note regarding the employment of female concentration camp inmates in the Camera Plant Munich. These letters are directed to the Dachau concentration camp. Did you look at these documents before your examination? Do you have them in front of you?

A. Yes.

Q. Did you know that these female concentration camp inmates were employed in the Camera Plant in Munich which belonged to your Sparte?

A. I want to say this in that connection: At first I was not able to remember it. I believe it was in the middle of 1944, in July, if I am

¹ Further extracts are reproduced earlier in sections V C3, VII C 5d, L 3e and VII M5, volume VII, this series.

² Reproduced above in subsection D.

³ Both documents are reproduced above in subsection D.

not mistaken, when I was informed that the Camera Plant had suffered a heavy air raid. As it was my duty, I went there immediately to find out what damage to human lives and to property had been done. I stayed at the Camera Plant only for about 2 hours. At that time the Camera Plant did not employ any concentration camp inmates as yet. At least, I don't know anything about that. It is possible that Dr. Lingg told me at that occasion that he had to employ concentration camp inmates but, apparently, that fact escaped my memory later. This, after all, is not inexplicable, since the employment—and this can be seen from the documents—took place subsequently in the autumn of 1944. That was at a time when one was overloaded with cares and worries and when one was so overburdened through all these events that it is quite possible that I forgot it at the time. At any rate, I can see from this document that inmates came to the Camera Plant in Munich as late as the second half of 1944.

Q. Dr. Gajewski, were you informed of the particular events that the prosecution presented in these two documents?

A. No.

* * * * *

CROSS-EXAMINATION

MR. AMCHAN: Now, with respect to your discussion of slave labor and prisoners of war, if I understood you correctly, you testified that you knew they were employed in your plant, but that you could not refuse to accept them, and you said you never heard of any complaints of mistreatment. Now, I ask you, did you not know that at your Landsberg plant, where five hundred Russian prisoners of war were employed, about two hundred died from malnutrition and overwork, which the authorities attributed to your management. Did you know that?

A. That is not true. No management ever accused me of any such thing. The people did not die because of mistreatment at Landsberg by the firm. As far as I recall, there weren't two hundred but about fifty or sixty; they were Russian prisoners of war, who arrived, as I was told, in an extremely poor condition, and we opposed their employment. We did everything possible to improve the condition of these people. Moreover, these people belonged to the Stalag; they weren't under us; the Stalag was responsible for them—the military authorities. I remember only fifty or sixty who died, and we did everything we could for them.

Q. Now, I show you Document NI-13551, which we offer as Prosecution Exhibit 1953,¹ and Document NI-13544, which we offer as Prosecution Exhibit 1954,² and I ask you, Dr. Gajewski, do these documents refresh your recollection that about two hundred prisoners of war

¹ Reproduced above in subsection D.

² *Ibid.*

employed at your Landsberg plant, Russian prisoners of war, died of malnutrition and overwork at your plant, which the authorities ascribed to your management? Do they refresh your recollection?

A. I have to look at it.

PRESIDING JUDGE SHAKE: Now, Mr. Prosecutor, I am not quarreling with the way you are conducting this cross-examination by submitting a very large number of lengthy documents to this defendant in your cross-examination, but after all, there should be some reasonable limitation upon the time that you do consume in a cross-examination, and if you utilize this method, you place the Tribunal in a position of exercising some discretion on the length of time that you utilize.

MR. AMCHAN: Would it be helpful to Your Honors if I indicated that I expect to be through in fifteen minutes?

PRESIDING JUDGE SHAKE: Very well.

A. That is just as I said.

Q. Now, on Document NI-13544, are your initials on that document? That's Prosecution Exhibit 1954.

A. No, I am speaking about Document NI-13551; that seems to me more important; that is very important; it belongs with it. These two letters were complaints by my plant manager to the Command of the Armament District, Air Force Group. In these two letters of 24 January and 2d February, Dr. Hofmann tells about the management of the Russian camp and complains about it. That is what happened. I received this, and, as you can see at the bottom of page 2 of Document NI-13551, the letter of 24 January, I even sent this letter on to the Kreisleitung to draw attention to conditions so that it would be reported to my Gau. The second letter shows that we are accused of being responsible for these conditions, and Dr. Hofmann objected. Count Schack came to inspect the camp and brought the Sergeant with him who, as I recall, was the man in charge of the camp, the man with whom we always had great difficulties, because he didn't want to do things as we did. This letter was sent from Hofmann to Regierungsrat Hermann, the social welfare man of the Berlin-Lichtenberg plant, Berlin SO 36, and I sent him there to bring order into these conditions. I should like to emphasize—

PRESIDING JUDGE SHAKE: You perhaps answered the question, Mr. Defendant; wait for another question.*

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REDIRECT EXAMINATION

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DR. VON METZLER (counsel for defendant Gajewski): Dr. Gajewski, I should now like to ask you about Document NI-13551, Prosecution Exhibit 1953 and Document NI-13544, Prosecution Exhibit 1954, that

*Cross-examination hereupon proceeded to another topic. No further questioning on the documents just introduced took place until the redirect examination.

concerns the death of a number of Russian prisoners-of-war in Landsberg.

Dr. Gajewski, when the prosecution cross-examined you, you said that you had been indignant about this fact. Did you take any steps in that connection when you heard about it?

A. Yes, of course.

Q. Would you please explain that to the Tribunal briefly.

A. If I remember correctly, Dr. Hofmann came to see me several times about that matter. I asked him urgently to keep me informed about it. I had also asked Regierungsrat Hermann to take charge of this matter; he was the social welfare specialist in Berlin. If I remember correctly, I even sent him to Landsberg in order to assist Dr. Hofmann in his efforts. How much Dr. Hofmann objected to this is shown by the two letters that the prosecution had introduced. I was interested in preventing any charges of our bad treatment from being made against us, for actually this was purely a matter for the Stalag.

Q. Would you please explain that to the Tribunal once more? You said that Stalag was responsible, in your opinion.

A. I want to explain that the word "Stalag" means "Stammlager." It was the abbreviation for a military installation over which the Wehrmacht had the sole jurisdiction and command authority. We had no say in that camp at all and only the Army was responsible for the treatment and feeding of these people, that is, the Stalag was responsible.

Q. Then you want to say that the fact of the death of these Russians was not caused through any fault of Farben by neglecting to care for these workers?

A. No, by no means.¹

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6. TESTIMONY OF DEFENDANT BUERGIN

EXTRACTS FROM THE TESTIMONY OF DEFENDANT BUERGIN ²

CROSS-EXAMINATION

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MR. CHARMATZ: Yesterday, you testified that some of the western workers, when they went on leave came back, and that a certain percentage did not come back. Now, do you recall, Dr. Buergin, that you yourself made certain suggestions how these French workers, when they were on leave, should be treated or, rather, what should be done to secure their return to Bitterfeld?

A. I remember that we were asked by the authorities, at the time

¹ The redirect examination hereupon proceeds to another topic.

² Further extracts are reproduced earlier in sections VII H 4c and I 7d, volume VII, this series.

when a number of western workers were no longer returning, to have them give us some sort of a trustee; that I do remember.

Q. Now, do you recall that you also made a suggestion that, through certain arrangements with people in western Europe, these people somehow should be brought back?

A. I only remember that the people who no longer returned had to be reported; as I had to request substitutes for them.

Q. Now, just one thing: may I—you used the German word “Buerge.” It was translated as “trustee.” Do you know English?

A. Not sufficiently.

Q. Now, let me show you a document, Dr. Beurgin. I want to mark this document as NI-14557, Prosecution Exhibit 1965* for identification and I want you to look at the second page of this document at the bottom; you will find two handwritten remarks. Can you tell me first whether this is your handwriting?

A. Yes, it is my handwriting.

Q. Now, could you read out to us these two remarks? It is rather difficult to read?

A. Yes. “French personnel going on leave have to provide trustees—or guarantors.” In other words, the authorities asked that in case these people did not return somebody else had to wait to take his leave until the other person had returned.

Q. Will you now read us the second short sentence?

A. “Private agreements”—and then it says “slave traders.”

Q. I think the sign is the German shorthand for the word “mit [with].” “Private arrangements with slave traders”—is that what you wrote?

A. Yes, and then a question mark at the end.

Q. That is sufficient.

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REDIRECT EXAMINATION

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DR. SCHUBERT (counsel for defendant Buergin): I now come to the document which is offered this morning merely for identification. That was Document NI-14557, Prosecution Exhibit 1965. It bears your note with the words “slave traders.” Let me refresh your memory and tell you that the author of that letter was a certain Tscherter. Who was Tscherter?

A. Tscherter was in the social welfare department.

Q. Well he writes: in the next department and plant leader meeting it is again to be pointed out that reserve must be exercised in granting of leaves * * * and then, your note. It says here, “French workers: Supply guarantors or trustees!” [French personnel

*Reproduced above in subsection D.

going on leave have to furnish guarantors!] Was that your suggestion; was it Tscherter's suggestion, or was that discussed during one of the department or plant leader conferences? Tell us quite briefly.

A. That was neither a suggestion by Tscherter, nor did it come from me. It was merely a reference to the official directive to put up trustees.

Q. Underneath that, it says: "Private Agreement." After that a question mark. Did you mean to say that you could not imagine on what basis something like that could be arranged? What did you imagine?

A. Well, that is very clear. In order to assure the return of these people from their leaves, agreements were to be made with the firms who supplied these loaned workers, so-called Montage firms, and ironically they were designated here as "slave traders."

Q. Dr. Buergin, in Farben, was it absolutely customary, was it a very ordinary expression, to call these Montage firms in a more or less jocular form, "slave traders"?

A. To what extent that was actually customary, I cannot tell you today. At any rate if it is my job, as I know it was the Montage firm's job, to get people and to send them to work, and if the people maintain that they did not come quite voluntarily, then in my way of expression, a joke like that could perhaps be understood.

Q. Did you think perhaps, Dr. Buergin, that this Montage firm which gave you their workers, as so-called loan workers, that they themselves did not undertake any risk but that they got quite a bit of money paid for themselves—a middle man's fee of the salary?

A. If they did not employ these workers in a group but assigned and distributed them individually, and under those circumstances it was quite clear that they made some profit on the people they supplied.

(Recess)

DR. SCHUBERT: Dr. Buergin, one more question about this document that we have just been discussing, Prosecution Exhibit 1965. If I understand you correctly, when you say "slave trader," you are referring to the construction and assembly firms that supplied workers on a loan basis, is that right?

A. Yes, I was speaking ironically.

Q. I didn't understand your answer. Would you mind repeating it?

A. Yes—and not the people.

Q. Did you mean to say that the workers supplied by these construction and assembly firms, so-called loan workers, were not voluntary workers?

A. That really has nothing to do with this question. Only the circumstance that somebody is profiting from the work of another without working himself. That is what was meant.

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7. TESTIMONY OF DEFENDANT BUETEFISCH

EXTRACTS FROM TESTIMONY OF DEFENDANT BUETEFISCH*

DIRECT EXAMINATION

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DR. FLAECHSNER (counsel for defendant Buetefisch): Dr. Buetefisch, under count three of the indictment, I want you, first of all, to speak about your responsible activity within the scope of Farben's business, and to tell me to what extent did the allocation of labor fall within your scope of responsibility?

A. The administrative work for the allocation of labor was not part of my duties. I believe that during my testimony I have already explained that I had to deal with the technical planning and technical work of Leuna for which I bore responsibility. The over-all organization was such that the labor allocation, with all its government regulations, was the affair of the plant leader, who had a number of departments at his disposal for handling these matters on his behalf.

Q. Did I understand you correctly that, within your twenty-five years of activity for Farben, you were never the plant leader, in the sense of the law, in any of the plants that you worked in?

A. No, I wasn't the plant leader. I was only in charge of the technical leadership, as I have explained already.

Q. Did you belong to the plant council of Farben?

A. No.

Q. Did you participate in the plant leaders' meeting?

A. No, I wasn't a plant leader.

Q. Well, I want to ask you whether you didn't have any contact at all with the staff of workers and employees, since you were managing an enterprise?

A. That would be a wrong assumption. On the contrary, as the technical chief of a plant, one has to be in constant touch with the workers, especially where one is personally in charge of technical matters. Practically, one works all day long in the factory and collaborates with the individual plant leaders and, since I myself grew up as the director of such plants, I know that they can only be directed by maintaining close contact with the workers. Thus, during my inspections, especially in the Leuna plant, I knew the foremen and workers very well. A number of them knew me personally. In Leuna, for instance, in our workers' housing project we lived all together—the workers, the foremen, the plant leaders, the engineers. They were all mixed together; and in this way, one maintained very close contact and undoubtedly one respected the work of these people.

Q. Dr. Buetefisch, can you tell the Tribunal what you know about

*Other extracts are reproduced in subsections VII C 2, I 7e, L 3c, volume VII, this series.

the first employment of foreign workers or forced workers in Farben plants? I differentiate expressly between foreign workers, and those foreign workers who did not come to Germany voluntarily, more generally called, "forced laborers," in the terminology of this trial.

A. What I remember from my observations and from my activity—for if one does not deal directly with the commitment of workers and with the regulations issued about this commitment, it is quite clear that the time and the dates become vague in one's memory, especially if one saw very much of this sort of labor; I travelled all over the plants of Farben, not only Leuna—I know that the first foreigners came in 1940, approximately.

I believe that Dr. Schneider explained that Slovaks already arrived in 1938 or 1939. Dr. Flaechsner, it is difficult to indicate the exact time when these people came voluntarily, and when they were no longer voluntary. That is very hard to do. That was all handled by the labor offices, the labor commitment agencies. Those people can remember better than I do.

Q. Didn't you employ workers or didn't you fire any workers?

A. No, that was all arranged in the division of work so that I didn't have to be concerned with these things in addition to my technical duties. That was automatically handled by the personnel department directly subordinate to the leader of the enterprise, and I have already explained that there was a tremendous amount of regulations issued about this subject that one had to know, of which one had to be informed, if one dealt with such matters.

* * * * *

Q. Dr. Buetefisch, I will now turn to the Auschwitz problem. First of all I want to ask you what brought about the construction of the Leuna part of Auschwitz. You have to deal with this only to the extent that it has not yet been treated by Dr. Schneider and Dr. Ambros.* You can be very brief.

A. The construction of the Leuna part of Auschwitz originated on the basis of a quota that we had for Leuna, for the construction of an intermediate oil plant, a so-called Synol plant. This was technically connected with the production of Propanol—but these are all technical details.

This plant originally was to be built in Leuna, on the other side of the bank of the river, because Leuna was too crowded, but one wanted to utilize the proximity of the coal. When the construction site of Auschwitz had been decided on for Leuna, then it was also decided (which I believe was a sound idea, technically speaking, because they also had to work with coal synthesis) to have this other production plant constructed in Auschwitz also.

*Extracts from the testimony of the defendants Schneider and Ambros concerning the slave labor charges are reproduced earlier in this section.

This was ordered by the Reich Ministry of Economics, by the government, and thus the construction was planned for Auschwitz. The only planning in our project that had to be made was that the power plants, the roads, and water-ways, and individual buildings that had originally been planned had to be reconstructed in view of the new project in order to have only one power plant, one water works, one pipe bridge, and one power station for the plant, and this project had to be pushed very quickly so that one could catch up with the other part that was already under construction. That is what I remember about it.

Q. Dr. Bueteufisch, was the site of the new plant to be constructed in Auschwitz already determined when you received the order to transfer this plant from Leuna to Auschwitz, or were you told, "We do not want you to build in Leuna; we want you to construct a new plant with a new project where the buna plant is already constructed," and that after that, one went around looking for a suitable site?

A. No, it can be seen clearly from the documents that at first a construction site for buna had already been decided upon, and that thereafter one thought about a combination on the basis of the quotas allocated.

Q. Do I understand you correctly if I assume that you did not participate in the search for the construction site?

A. No, I did not participate. I did not look for this construction site.

Q. Very well. When you were told now that the Leuna part is going to be constructed in Auschwitz in connection with the buna plant, were you told at the time, in that connection, that the plant was to be built there because one could use the concentration-camp inmates in the plant?

A. No, nothing was said about that at the time; they spoke about the construction site, and I remember that we negotiated with Dr. von Staden who was in charge of this plant, and we discussed this with Dr. Wenzel who had developed this process, and we discussed the technical prerequisites that were given, and it was mentioned that there was coal and water in the necessary form, but the employment of concentration-camp inmates (at least at the end of February—I do not remember whether it was the 20th or 23d—but I know that it was decided, when it was decided to build there) no mention was made of an employment of concentration-camp inmates.

(Recess)

DR. FLAECHEISNER: Dr. Bueteufisch, when for the first time did you know that inmates were to be employed in the construction of the Auschwitz plant?

A. I remember that that became known to me through the letter

written on the fifth of March following Goering's order on the subject. That is what I remember about it.

Q. I think that your recollection is correct.

A. I think that was a copy of the letter of the Reich Office for Economic Development of the 5th of March. I received a copy from Dr. Ambros. I believe that is the first report I received.

Q. Yes, you are quite right. That is a letter which was submitted by the prosecution as Document NI-11086, Prosecution Exhibit 1422* in book 72.

A. Yes, that is right; the letter is dated the beginning of March.

Q. Now, Dr. Bueteifisch, you went to Major General Wolff. How did that come about?

A. As far as I remember, this request was directed to Farben, that is, to my Berlin office, towards the end of March. I don't remember the exact day.

Q. Well, we really can't expect that from you. Could you approximately tell us from which office, in your opinion, the order came?

A. As far as I remember—and I already said that here—the order came from either the Reich Office for Economic Development or from the Reich Labor Office. The office in Berlin transmitted this information to me, and afterwards I went to the SS agency.

Q. Were you asked to do that personally, or was it just said that somebody was to go there?

A. A request came to the office that somebody was to go to the SS agency who knew about the Auschwitz plant. Since I was in Berlin, or near Berlin, because Leuna isn't very far from Berlin, I naturally dealt with this matter.

Q. Did you go to Mr. Wolff alone?

A. No. Since he needed some statistics about labor allocation I notified Mr. Duerrfeld and Mr. Faust and asked them to come along with me.

Q. And what was the result of your visit to Wolff? First of all tell me what you discussed.

A. I really don't remember any details. I still know one thing. Mr. Wolff said that upon higher orders, inmates were to be allocated for the construction of the Auschwitz plant, and he asked us to explain to him what kind of building project it was. I did that. Whereupon he said: "How about the amount of workers necessary"? Then I said, "Mr. Duerrfeld and Mr. Faust will explain it to you. I can't tell you that in detail." Then they gave him the figures which were calculated according to the project. They named the number of workers which they thought would be necessary for the building project.

I remember that we said that we were particularly interested in artisans and skilled workers. It was again emphasized that naturally at the beginning of the project very few workers would be needed.

*Reproduced above in subsection D.

As far as I remember, Mr. Wolff (and I think a number of other gentlemen were present) said:

"There are a number of conditions involved. The workers employed there must be under guard, they are prisoners. They are mostly antisocial elements. It is absolutely necessary to guard them, and there are certain provisions concerning their allocation."

We acknowledged these statements. Then Mr. Wolff said, "I can't give you any binding promise." I don't know whether he said that he would write to the Plenipotentiary General for Special Questions of Chemical Production or whether he would write to a local office. At any rate, that is all I remember of this discussion.

He then said,

"The details must be negotiated and discussed at the place itself. After all, these are local questions which depend upon the general provisions of labor allocation as it is practiced in industry at large."

That is all I remember about this discussion.

Q. This discussion was, therefore, only of a general, informative nature—or were any specific points mentioned? Were you told you have to give us this and we will give you that?

A. No, the latter is not true. Purely general information was given and Mr. Wolff, after all, was not the man who could have decided this matter on the spot. He was only there, after all, in order to receive general information about the building project. What he did afterwards from an organizational point of view, I don't know.

Q. Did you express any particular desires during this discussion? Did you or one of the accompanying gentlemen do that?

A. I still remember—I don't know whether it was Faust or Duerrfeld who said that they would like the Poles and Jews at Auschwitz not to be evacuated but to stay there, because if a building site was to be started there it would not be advisable to evacuate the place because the workers there could help in the project, and it would help to maintain normal life. That is what I remember.

Q. What do you know about the allocation of workers at Auschwitz afterwards?

A. These are again detailed questions which were dealt with there and then. I think it has been sufficiently described here how a construction site develops; the firms come along, the subcontractors, the labor offices are set up. But I really don't know how these matters were handled in detail because naturally I didn't deal with them directly, nor could I deal with them directly.

* * * * *

Q. In the documents, reference has been made repeatedly to various minutes of construction meetings. What was discussed during these construction meetings?

A. The individual details were discussed there concerning the material which was necessary for the construction of any such plant, that is to say, all these matters which concerned the construction management and the installation management. All matters were discussed which had to be known in order to make the necessary decisions. That is the sense and the purpose of construction meetings.

Q. Did you yourself attend such construction meetings?

A. Yes, I also attended a number of construction meetings, but I only attended three or four construction meetings of a total of twenty or thirty.* I listened to what was being said, and sometimes I may have expressed my view on one or another point; but for the rest, I charged Dr. von Staden with that job who went to these meetings in a responsible capacity, and that also applied to the chief engineers of the plant, Dr. Stromboek, Dr. Sauer, and Dr. Hoepke. They tried to direct the construction according to the proper methods.

Q. Were you always informed about the state of construction?

A. I did it in the same way in the case of all large-scale plans for Leuna. All the gentlemen whom I sent to these meetings were requested to report to me in case anything had to be reported. Sometimes they sent me an extract of the minutes whenever that was necessary. They didn't do it when it wasn't necessary; but it is quite clear that such gentlemen in leading positions had to have their own right of decision in many matters. If that hadn't been handled in that way, I would never have concluded the reading of reports and the making of decisions.

* * * * *

Q. Did you see any inmates at work?

A. Yes, naturally I did. I used to walk around by myself, and together with Duerrfeld or Braus, I inspected all these places in which I was interested. Duerrfeld pointed them out to me. I asked Duerrfeld again and again to show me the various workshops and construction sites. I remember that I went to workshops with Duerrfeld, that I saw inmates at work. I convinced myself that he was interested in training these inmates to do a skilled job. That was our problem, we wanted to train these inmates to skilled work. I had a very good impression, I must say. Now and again I spoke to inmates in the workshops, I had conversations with them. I remember that I went to a lathe where one or two inmates were working. One of them had an idea of the job and the other was just learning. Actually, I wasn't allowed to speak to them, but we weren't observed and I spoke to them. I found out that they were extremely satisfied, they were glad to do the job, they learned something new. I don't really

*With respect to reports of construction conferences reproduced hereinbefore, defendant Bueteisch is listed as being present at the 12th conference held on 13 October 1941 (NI-11127, Pros. Ex. 1435); the 20th conference held on 8 September 1942 (NI-11138, Pros. Ex. 1448); and the 25th conference held on 9 September 1943 (NI-11143, Pros. Ex. 1509), all reproduced in part above in subsection D.

mean to say that it was a desirable situation that we had to employ inmates, but, as it has been expressed here frequently, I think it is better, if one is in prison, to work rather than not to work at all. I think that opinion was shared by the inmates; at least by those to whom I had occasion to speak. That wasn't an individual instance, I saw inmates working on various places, in the storerooms, in the laboratories. Naturally, I didn't speak to all of them, but I always gained the best impression.

Q. Did you ever see that inmates were beaten or punished by the Kapos in order to do more work?

A. I never saw that.

Q. Could you observe that the inmates were asked to do work for which they were not physically fit?

A. Whenever I inspected the camp, whenever I did my rounds, I often noticed that inmates were not working and just standing around, but that wasn't due to the fact that they were not physically fit. I think that is a symptom known to any form of big construction places. Whenever groups of people have to work together, now and again you will always find people loafing around, who are not anxious to do heavy work.

Q. Dr. Bueteftsch, did you ever learn that Kapos were beating inmates, even if you haven't seen it yourself? Did you hear it from third parties?

A. When I was interrogated, I was asked about that. Actually, I can't remember that any such report was made to me. After I have had an opportunity to think about this matter, and after I have discussed this matter with the other gentlemen, I remember that Dr. von Staden said that excesses had taken place and that Kapos had been beating inmates. Subsequently, I immediately asked him what was done. I said that Duerrfeld must immediately take steps, and I said that we must not permit that to happen again, but, of course, it is possible that such excesses do take place on a construction site.

Q. Did this report of Dr. von Staden's prompt you to do something on your own initiative?

A. If my colleagues, if the leading persons entrusted by me tell me that everything had been done to prevent such excesses, that everything had been done to prevent any future occurrences, I had, of course, no reason to do anything on my own initiative. I really couldn't have done it. All I could have done was to go to the plant leader and ask him whether he had prohibited a repetition. I knew, however, that Duerrfeld and all the other construction managers, as long as they were part of Farben—I really had no control over the others—prohibited every beating at the construction places, according to the general usages of Farben.

Q. Dr. Bueteftsch, one more question. Minutes were kept about

the construction meetings. Were they always sent to you, and did you read them personally, or did you just give them to one of your subordinates?

A. Building reports, construction meetings, as far as they concerned matters of construction, were perhaps provided for my attention in the distribution list. Whether that was Moosbierbaum or Auschwitz or any other plant or Braunkohle-Benzin A. G., it didn't matter. My entire mail was handled in the following way. On the distribution list, there was always a second man mentioned, that is, the expert in the various fields subordinated to me. The mail usually went directly to these experts in the fields, who in turn had to inform the various people at the construction places about any measures. Naturally, I was always informed if something very essential had to be reported from the construction meetings. I must emphasize that those people who were directly informed were gentlemen who had achieved a certain position and they didn't have to approach me with every detail. That really wouldn't have been possible. For instance, I remember technical matters concerned with the transfer of machinery or matters like that; naturally, such transfers could have been decided by these men themselves because they were not any basic changes of the building project.

* * * * *

Q. Were you ever at the concentration camp of Auschwitz itself?

A. Yes. Do you mean the large concentration camp at Auschwitz?

Q. Yes, the main camp, or whatever it is called. What was the occasion?

A. I think it must have been in winter of 1941 to 1942. There was a big inspection trip of the Upper Silesian district; Gauleiters, Regierungspraesidents, plant leaders, and various entrepreneurs of other branches of industry were there. There were approximately 30 people gathered; I think Dr. Ambros was there too, and we were shown around the camp. I must say that I no doubt gained a good impression of the camp as it was shown to us. Well, as it has already been stated here, the camp may have been arranged especially for our visit, but certain things could not have been overlooked, these were the proper kitchens, the good kitchens, the workshops, and even the barracks made a very good impression. There was agricultural terrain near there with all stables, and even the inmates themselves, whom we saw in the camp, made a good impression on us. There weren't many people in the camp because we went through there during daytime, but that approximately is the impression which I gained after the visit to the camp. Of course, the whole thing was more or less a show because many people participated in this visit.

Q. During this round trip did you see any inmates active at work elsewhere?

A. As far as I remember we went through a mine of the Hermann Goeringwerke; then we went over to the labandtwerke, a rolling-mill. Whoever has passed through Upper Silesia knows that along the road one passes from one mine to another—from one industrial enterprise to another, and I remember that at various places we saw inmates at work. As far as I heard, that was quite usual in the terrain around Auschwitz. There was the plant Blechhammer, et cetera. There were about thirty-five subsidiary work places, work camps, and many workers were engaged, and that is my impression and that is what I saw.

Q. Dr. Bueteifisch, did you ever hear anything of gassings which allegedly had taken place at the Auschwitz camp, or did you ever hear anything about medical experiments on inmates or anything like that, and, if yes, when?

A. No, I heard nothing about that. I only heard about these atrocities after the end of the war when we were again allowed to switch on the radio without being endangered by it.

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CROSS-EXAMINATION

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MR. MINSKOFF: Dr. Bueteifisch, in your direct testimony yesterday you discussed how it came about that a large hydrogenation plant was erected with the buna plant at Auschwitz. I was somewhat confused by the different dates you mentioned and would like to have you repeat a few of the more significant dates. When did you first learn that I. G. Farben was considering Auschwitz as the site for the fourth buna plant?

A. As far as I remember, definitely established projects were made at the end of February. It's very difficult to fix the date. That's my remembrance of it.

Q. Now I asked when were you first informed that they were considering Auschwitz—not the decision to take Auschwitz, but when they were first considering Auschwitz as a site for the fourth buna plant.

A. That must have been in February also. Dr. von Staden conducted the technical discussions and I didn't get a definite idea of the date, but that was the approximate time. The large hydrogenation plant that you refer to perhaps—the one that was planned to be constructed there by the Blechhammer Corporation—that was an affair with which Farben had nothing to do directly, but they were only approached as to whether they wanted to participate or not.

Q. The question related solely to the knowledge with reference to the buna plant at Auschwitz—when it was thought of first to use Auschwitz as a site for buna. I take it you first learned of that toward the end of February 1941. Is that right?

A. No, the buna plant—and it is also stated in the documents—was already decided upon at the beginning of February, that it was to be constructed there. I understood your question to be when the hydrogenation plant was to be put in the same place where the buna plant was.

Q. Well, now that you understand the question, give me your answer to the question as I put it. When did you first learn that the Auschwitz site would be used for the fourth buna plant?

A. I cannot fix the exact date when Ambros mentioned that to me. We were technical men who were constantly in touch with each other and then we also talked to Dr. von Staden and to other associates. From the records that I subsequently read it can be seen that the people from Sparte II* visited that site and that they investigated it.

Q. Do you recall approximately when you first knew of the Auschwitz site as a possibility for the buna plant?

A. It was mentioned already in the discussions, also laid down in the record, where Mr. Josenhans of the Blechhammer plant talked about it. He also talked to me about it, about the Auschwitz place. Whether that was in January, I don't remember exactly.

Q. In January of 1941 you spoke to Mr. Josenhans about a hydrogenation plant at Auschwitz in conjunction with the proposed buna plant at Auschwitz?

A. That is the information that can be gained from the records, that in passing I was at one time informed that Blechhammer wanted to construct there a hydrogenation plant and then I was only informed about it because Blechhammer said, "Would you, Farben, be ready to participate in such a project?" That is what I remember, but we didn't discuss details. It was only the financial share or participation which was discussed.

Q. When did you first learn of the existence of a concentration camp at Auschwitz?

A. That again is hard to answer because now I have read the documents, and a report of Mr. Santo dated the end of January already mentions a camp there. And the previous document—I believe that's the document—states there is a concentration camp in the vicinity. It says so in the documents. However, I didn't receive any copy of these documents and that is also evident from the ones presented here. I cannot say whether I heard in January or February that there was a concentration camp in the vicinity there, because that was only a minor—a matter of minor importance for our planning tasks. That's what I remember.

Q. Completely apart from the documents you refer to, isn't it a fact that, before the end of January, in your discussion with Mr. Josenhans as to the desirability of combining a hydrogenation plant with

*"Sparte II" included those Farben plants principally engaged in producing dyestuffs and intermediate dyestuff products; various chemicals, both organic and inorganic; pharmaceuticals; buna; light metals; and chemical warfare agents.

the buna plant, you at that time, on the 10th or 11th of January, were already aware of the existence of a concentration camp at Auschwitz?

A. I don't believe that I discussed anything like that with Mr. Josenhans. Whenever I talked to Mr. Josenhans I only discussed financial participation but no other details; I don't believe that I discussed that at all.

Q. Do you recall telling Mr. Josenhans at that time—that's January 10th or 11th, 1941—that you were very much in favor of a buna-hydrogenation collaboration in Auschwitz?

A. During that conversation, which I remember to have been very short, I said, "It is technically very easily possible. One can combine a buna and hydrogenation plant as far as the raw material situation is concerned." As far as I remember, the whole conversation was conducted along this technical line. He wanted to hear my opinion as a technical expert and I said that because of the hydrogen production, hydrogenation and buna are related processes. Actually, no hydrogenation plant was put on the construction site in Auschwitz. That was my technical opinion which I expressed.

Q. Dr. Bueteufisch, I show you Document NI-11784, Prosecution's Exhibit 1411* and refer you particularly to page 28 of the German—that sentence which states: "Dr. Bueteufisch was also very much in favor of the buna-hydrogenation collaboration in Auschwitz." I ask you—Have you found that? Have you found it?—and ask you whether that refreshes your recollection if at the time—that's January 10th or 11th, 1941—you so expressed yourself to Mr. Josenhans?

A. I've already stated that that was a technical opinion that I held that was actually never realized. I said principally, hydrogenation and buna production can be combined, and then Herr Josenhans expressed that by saying, "Mr. Bueteufisch has a very favorable attitude towards combination of buna and hydrogenation." A technical man cannot deny that it is possible to combine these two processes, and that is what I actually did say on the basis of my technical information. However, Blechhammer never constructed anything in Auschwitz. It was just a discussion.

Q. May I ask just this question: That discussion was not a theoretical discussion. It was a discussion, was it not, as to the desirability at Auschwitz of having that kind of collaboration? Isn't that so? Just as he states in his report?

A. Yes, Mr. Minskoff, if somebody asks me in my capacity as a technical expert (and that was Blechhammer): "We would like to build a hydrogenation plant. It is intended" as the discussion shows—"that a buna plant is to be placed in conjunction to it. Is it possible technically to combine these two processes?" I would say, "Yes, absolutely it is possible." From the document it can be seen that Mr.

*Reproduced in part above in subsection D.

Josenhans also talked to Mr. Ambros, and that I said, "That's perfectly all right; technically speaking there can be no objections made against it."

Q. Now, from that conversation that he had with Professor Ambros—that was approximately the following week, was it not? About the 18th of January?

A. That's also contained in some document. I don't know any more when it was. He talked to Ambros and he talked on his own behalf—on the behalf of the Blechhammer firm, and he said, "We want to build a hydrogenation plant and you are to construct the buna factory. Isn't it possible, in view of the favorable location near the coal deposits, to merge these two processes?" And my opinion was that the technical prerequisites were given. And he said he reported my opinion to Ambros and Ambros held the same opinion because this is a reasonable suggestion.

Q. Dr. Buetefisch, in the same report that he makes to Defendant Ambros, he mentions, does he not, that a concentration camp will be built in the immediate neighborhood of Auschwitz for the Jews and Poles? That's on page 22 of the German.

PRESIDING JUDGE SHAKE: Mr. Prosecutor, if you are asking the witness as to whether the document says a certain thing, the document is the best evidence as to whether it does or does not.

MR. MINSKOFF: That was just a basis for a following question.

PRESIDING JUDGE SHAKE: Then you are just calling his attention to that?

MR. MINSKOFF: That's right.

A. I know and I read it, but that is a conversation—conference—that I did not attend. It's possible that Mr. Josenhans mentioned it, but he didn't talk about it to me. I only talked about technical affairs and possible financial arrangements.

Q. Well, Dr. Buetefisch, shortly thereafter, when it was decided to build the Leuna plant at Auschwitz—the Leuna part at Auschwitz in conjunction with the buna plant—did you discuss that matter with other persons at Farben or did you make that decision by yourself?

A. No, I didn't make that decision myself. That had to be discussed with the technical men of Sparte I and II, with our organization. This grows out of many discussions. One cannot do this on the spur of the moment. Certainly many people talked about this. I also talked to Dr. von Staden, who was directly concerned with this affair. One weighed and considered this matter and asked whether it could be done or not. This cannot be done from today to tomorrow.

Q. Dr. Buetefisch, did you discuss the matter with the Gebechem, with Professor Krauch?

A. I cannot say any more whether it was discussed with the Plenipotentiary General for Special Questions of Chemical Production. I

believe that Dr. von Staden conducted these negotiations because it was a synthetic process that he had charge of in his capacity as an expert and he discussed that matter with the Gebechem people.

Q. Dr. Buetefisch, on 22 February 1941, when it was decided to build the Leuna part at Auschwitz, were you then of the opinion that there would be an adequate supply of free labor for the construction of the Auschwitz plant?

A. On the basis of what I had learned, I heard there were sufficient workers available; the Labor Office would take care of the necessary workers, but I had no survey of the actual pool of manpower available.

Q. Did you know then, that almost a week prior to the decision to build a Leuna part at Auschwitz, Goering had issued an order that 8,000 inmates be made available to I. G. Farben for building in Auschwitz?

A. No. I saw that Goering order only here as part of the documents submitted.* It was a top secret Reich matter.

Q. Do you know how Goering was informed that I. G. Farben would need inmates in February of 1941, before there was any construction whatsoever?

A. No, I don't know that. Again from the documents it can be seen that the plan for the construction of a buna [plant] originated from the OKW and was to be expedited, and that whole project was part of the demands made by the Four Year Plan, by Goering.

Q. Now, Dr. Buetefisch, you testified on direct examination that in order to obtain the allocation of concentration-camp inmates you and Defendant Duerrfeld and Mr. Faust all went down to SS Lt. General Wolff's office to explain how many inmates you would need for the construction of Auschwitz. Now, who explained to Goering in February of 1941 how many inmates were needed for the construction of Auschwitz?

A. I don't know.

PRESIDING JUDGE SHAKE: Mr. Prosecutor, you are asking a question that has been answered. You need not return to that question. That question has been answered. The witness just said that he didn't know how Goering got the information.

Q. When concentration-camp labor came to IG Auschwitz, was that the result of an allocation of the Labor Ministry or did I. G. Farben make its own arrangements for the procuring of concentration camp labor?

A. The state of affairs was such that (as far as I am informed about details of labor employment) the Labor Office said, "We don't have enough manpower. The next workers that you get you will

*Document NI-1240, Prosecution Exhibit 1417, reproduced above in subsection D.

have to take from the camp.” From the camp—and the instruction reads that one has to take them from the camp. That’s how I imagine the allocation of labor has been carried out.

Q. Yes. Now the allocation itself—was that something negotiated directly with the camp? Did you ask at the camp for so many camp inmates, or did the Labor Office make the assignment from the camp of so many inmates for you?

A. Mr. Minskoff, I don’t know the details of how this was done. Whether it was the Labor Office that said the camp has to make so many workers available or whether the Labor Office said, “You have to turn directly to the camp.” These things were all settled on the spot.

Q. Well, Dr. Buete-fisch, I show you Document NI-14182, which is offered as Prosecution’s Exhibit 1984,* I believe. We refer you particularly to the second page and ask you whether—Look at the second page. Have you had an opportunity to read it?

A. Yes.

Q. Now, will that refresh your recollection as to whether it was Farben or the Labor Ministry who took the initiative in procuring concentration camp inmates?

A. I must explain the following in this connection. An order had been issued, for the allocation of these workers, by Goering or Himmler, and we had a letter that we were to make use of this order. Mr. Duerrfeld—Oh, no, it wasn’t Mr. Duerrfeld; it was Herr Murr or Herr Faust who had the instruction to work on the basis of this order. The details are here signed by Mr. Santo, the construction manager, who says,

“Moreover the concentration camp Auschwitz is going to help us by making inmates available and by taking over work which can be done in their own shops.”

And then it says, with regard to the employment of construction firms,

“We shall continue to stay in continuous contact with the Regional Labor Office Breslau or Katowice—”

and so on. I cannot tell you anything about the actual handling. I cannot take any position with respect to this question since I was not concerned with it. We had the order, and the construction manager had to make the necessary arrangements on behalf of this order. That was done upon the responsibility of the construction management, but you can see that it was done in connection with all the other agencies represented in the vicinity. That is how I see it. I don’t know the details and I couldn’t even have concerned myself about the details at the time.

Q. No, I am not asking you a question as to the details, Mr. Buete-fisch. But now, is it a fair statement to say that in view of the high

**Ibid.*

authority overhead, from Goering and Himmler, you didn't at any time have to deal with the Labor Ministry as a practical matter in order to procure concentration-camp inmates? In fact, this was never done when you would get inmates. Is that a fair statement?

A. Yes. This is a letter of the 22d of April. It says, "Making labor available for Auschwitz." And it says,

"At the instigation of the Plenipotentiary General for Special Questions of Chemical Production, we inform you that so far the following firms were given orders for construction projects * * *"

These, in my opinion, are proper matters concerning labor courts which I, of course, cannot judge or know.

Q. Dr. Bueteftsch, when the defendant Duerrfeld reported at the first construction meeting that Obergruppenfuehrer Wolff promised to assign 700 concentration-camp inmates to IG Auschwitz, was that promise obtained as a result of your connection with Wolff?

A. I believe that I stated here that Wolff told us, "Well, higher authorities have given the order that these people be employed." That was the Goering order. Then he said—"But I don't remember the exact figures." I said, "Here's a document," and he said, "Very well, we are going to see to it." I don't know if it was 700 or 500. I don't know the details that were discussed there. I don't remember that any more. The conference as such was very short and it was more of an informational nature. Everything was provided for in the order. The order says that the details are to be settled on the construction site.

Q. Dr. Bueteftsch, during the construction of IG Auschwitz, the three Farben Vorstand members most directly responsible were Defendant Ambros, yourself, and Defendant Duerrfeld, is that right?

A. Mr. Duerrfeld was not in the Vorstand.

Q. The three persons present who were most directly responsible, is that right?

A. Yes.

Q. During the course of the construction, were there any major differences between you and your colleagues, Ambros and Duerrfeld, with respect to the treatment of concentration-camp labor?

A. No. We would have discussed this matter. I don't know anything about any tensions at all.

Q. Thank you.

Now, were there any major differences between you and your colleagues, Ambros and Duerrfeld, with respect to the treatment of foreign workers?

A. No, this didn't happen either. I had only few discussions with these people about it. I didn't concern myself with these details. They were far removed from my scope of activity.

* * * * *

Q. Dr. Bueteifisch, to the best of your recollection, can you state whether at Auschwitz, at IG Auschwitz, it was the SS which warned the Farben management to stop mistreating the inmates or was it the Farben management which requested the SS to stop mistreating inmates?

A. I was always told—and in this case, too, Staden told me—that we, that is, the construction management and the men responsible, had ordered that all beating and all mistreatment of any type was strictly forbidden and, of course, it was also forbidden by the local offices concerned, by the camp leaders, and the responsible people of the SS, as far as one had any influence on these things. That, Duerrfeld and the other men did, without doubt.

Q. I show you Document NI-14512, Prosecution Exhibit 1986,¹ which is another Auschwitz weekly report, and I call your attention particularly to the second paragraph and I ask you whether that refreshes your recollection as to whether the camp administration, the SS, is forbidding the mistreatment which might lead to the deterioration of the inmates?

A. I can read only what it says here. This weekly report never came to my attention directly. I can only repeat, the plant management or the construction management must be able to give you better information about this. There was a definite prohibition and it was the attitude of Farben and all its employees to avoid all types of mistreatment, and orders were given that that was to be refrained from. I cannot give you any information about local conditions at the construction site. At any rate, I never in any form heard of such abuses, with the exception of this one case, and if there had been such excesses, then, of course, I would have talked to the plant management and we would have gotten together, and that is said by this note here too. I can add nothing to that.

* * * * *

Q. Dr. Bueteifisch, do you recall whether the Labor Office complained of issued directives to Farben not to beat the foreign workers?

A. I cannot say that either. Only the local people in charge can tell you what the individual orders and regulations were in the plant. I couldn't even tell you about these orders at Leuna. I wasn't able to take charge of these things in my own plant. There were various construction and assembly managements here and I don't know exactly how the various orders were issued. But it had been basically prohibited by Farben to beat people, and there were orders to treat all workers decently. I was certain of that, because I knew that we had decent people in the construction and factory management.

Q. Dr. Bueteifisch, I call your attention to Document NI-14532 which the prosecution offers as its Exhibit 1987,² another Auschwitz

¹ Reproduced in part in subsection D above.

² *Ibid.*

weekly report, and I direct your attention to that one sentence which states:

“Can one therefore blame a foreman or shaft supervisor for hitting a man? [lashing out]”

And also the following sentence which states that in spite of the salutary effect of the use of force, the Labor Office directives have forbidden such use of force on foreign workers. Does that refresh your recollection as to whether the prohibition of using force on foreign workers came from the Labor Office, rather than from Farben?

A. This again is a weekly report, and again, I did not read it because I couldn't read all the weekly reports. But it is my opinion that what has been put down here is someone's own personal impulsive opinion and is by no means the opinion of Farben or my opinion. I am sure that Duerrfeld did not say this. This type of action which is perhaps indicated here is quite out of the question for us, but I can't give you any details. Fundamentally we had the prohibition against mistreating even unwilling workers. That was true of all of Farben. I was far away from this site and I can't tell you any more about these weekly reports. These are simply weekly notes. One person expresses himself in this way and another in a different way.

PRESIDING JUDGE SHAKE: It seems that the witness has made it clear that you are inquiring about matters concerning which he has no personal knowledge or information. He has said that repeatedly. There is nothing to be accomplished by having him repeat it again and again to the Tribunal. Now, if you wish to introduce documents as a part of your cross-examination, I wish you would do it by introducing a group of them, if you have them, and conserve your own time here. You may need it.

MR. MINSKOFF: The witness has stated, if it please the Court, on direct examination, that he was informed by his deputies from Leuna who were at Auschwitz—who attended the weekly meetings and construction conferences, who received distribution of these reports, both from Fuerstengrube and Auschwitz—they spoke to him and told him these things and I am now asking him whether the contemporaneous documents refresh his recollection as to what occurred at that time.

PRESIDING JUDGE SHAKE: Well, that doesn't prove that these informers gave these documents or that he knows anything about the documents.

MR. MINSKOFF: That is why I asked the question as to whether it refreshes his recollection.

PRESIDING JUDGE SHAKE: That is entirely proper and he had answered it repeatedly and if you have any more documents, group them up and give them to him and let's get beyond this.

MR. MINSKOFF: On the distribution list, if it please the Court, the

defendant here receives a copy of every single one of the reports that I referred to.

PRESIDING JUDGE SHAKE: Well, why don't you show it?

MR. MINSKOFF: He has them before him. I showed him the document. Dr. Bueteffisch, looking at the first page of the weekly report, Document NI-14532, do you notice the distribution list?

A. Yes.

Q. Now, who is Dr. Staden?

A. Dr. von Staden was the head of planning matters for Auschwitz, in detail, whom I had appointed. He was also a plant leader at Leuna.

Q. That is right. One of your employees, is that right?

A. Yes.

Q. Who was Dr. Braus?

A. Dr. Braus was an employee. At the time he was one of the planning officials for Auschwitz.

Q. Also one of your employees, is that right?

A. Yes.

Q. Who was Dr. Hoepke?

A. Also.

Q. Dr. von Lom—Oberingenieur von Lom?

A. Also.

Q. And Mueller?

A. Also.

Q. And at the head of the Merseburg list is yourself, is that right?

A. Yes.

Q. Now these same persons have received all the weekly reports, isn't that true? All of the Auschwitz weekly reports?

A. May I say one thing? I believe I have to say something. Those weekly reports—one copy went to Bueteffisch, Staden, and Braus. And those weekly reports, as such, contained personal notes by a man who is expressing his own opinion. As I said, I did not read these weekly reports. I would have had a lot to read. And the men who are listed there for Leuna or Ludwigshafen merely told us if there was something important in it. One can imagine such an excess as reported here. ["Can one therefore blame a foreman or shaft supervisor for lashing out?"] That doesn't mean that that was the policy. That is what somebody wrote down, but that is not an approved report. I can well imagine that Dr. Staden or Dr. Braus or Mr. Hoepke didn't read this sentence to me. These men just reported to me, "Nothing happened." I can't have read all the weekly reports. It would have been quite impossible. The over-all condition was the important thing for us. I have already said that occasionally, on construction sites, there can be excesses; that happens all the time. That happened at Leuna and that happened everywhere else and that wasn't reported to us.

PRESIDING JUDGE SHAKE: Now, Mr. Prosecutor, the witness has indicated pretty generally what he knows about the so-called weekly reports. The suggestion that I am taking the liberty of offering is that in the interests of time, if you have others, group them together, have them marked, and introduce them. They speak for themselves, and there is no use going over a ritual of having the witness repeat again and again what he has now said about three or four different times about this matter. I am not objecting to your introducing the reports, but the method by which you are doing it is time-consuming.

MR. MINSKOFF: Document NI-14556, an Auschwitz weekly report is offered as Prosecution Exhibit 1988; Document NI-14555 is offered as Prosecution Exhibit 1989; Document NI-14549 is offered as Prosecution Exhibit 1990; Document NI-14551 is offered as Prosecution Exhibit 1991.* Dr. Buete-fisch, I show you the three exhibits, 1989, 1990 and 1991, and ask you whether they refresh your recollection as to whether it was I. G. Farben which took the initiative to have foreign workers who did not work hard enough thrown into the concentration camp. You might look particularly at Document NI-14551, Prosecution Exhibit 1991, under the entry of 16 July, the second paragraph.

A. Which document is that?

Q. 1991. That is weekly report 60/61 and it is an entry under July 16, the second paragraph. It begins, “* * * we do not intend to put up any longer with the slackness of the Belgians * * * we will not hesitate to commit the Belgians who will not work to the concentration camp.” Does that refresh your recollection, Dr. Buete-fisch, as to whether it was Farben that took the initiative in having foreign workers who didn’t work hard enough thrown into the concentration camp?

A. Well, it can’t refresh my memory, because these reports here—

Q. If it please the Court, he said it doesn’t refresh his recollection. I think that is an answer. We can save time.

A. But I should like—

PRESIDING JUDGE SHAKE: Mr. Defendant, the prosecutor is entitled to limit his examination to what he wants to know. If he has your answer that is sufficient. I may say to you that your own counsel will have an opportunity, on redirect examination, to afford you the privilege of saying what is suitable with reference to these documents.

* * * * *

*The documents listed are all reproduced in part above in subsection D.

8. TESTIMONY OF DEFENDANT DUERRFELD

[Statement from the judgment concerning the personal history, positions, and affiliations of defendant Walter Duerrfeld:

"DUERRFELD, Walter: Born 24 June 1899, Sarrbruecken. Doctor of Engineering. Not a member of the Vorstand nor of any committees; 1932-1941 senior engineer of Leuna works; 1941-1944 Prokurist of Farben (a position analogous to attorney-in-fact) and chief of construction and installation at the Auschwitz plant; 1944-1945 director of Auschwitz plant.

1937-1945 member of Nazi Party; 1934-1945 member of German Labor Front; 1932-1945 member of National Socialist Flying Corps (Captain 1943-1945); 1944-1945 district chairman for Upper Silesia, Economic Group Chemical Industry; 1918 received the Iron Cross, Class II; 1941 War Service Cross Class II; 1944 War Service Class I."]

EXTRACTS FROM THE TESTIMONY OF DEFENDANT DUERRFELD ¹

DIRECT EXAMINATION

* * * * *

DR. SEIDL (counsel for the defendant Duerrfeld): Now I turn to the matter about which you are accused particularly, that is count three. First of all, I would like to ask you this. In your survey about your biography and your training and your development, you said that in 1941 you received the order to work in the construction of the new plant at Auschwitz. How did this order come about? Can you remember that?

A. Oh, yes. In the beginning of March 1941—that was between the 5th and the 10th of March. I was ordered in Leuna by Dr. Buete-fisch to start a project of a synol installation. That is an installation for the production of synthetic liquid hydrocarbons, partly to be used as diesel oil and partly for other purposes.

For this order there was a directive from the Reich Ministry of Economics. I received this order—together with Dr. Braus, whom we have gotten to know here on the witness stand,² and together with the Certified Engineer von Lom, who later became one of the senior engineers in Auschwitz.

Soon a propanol installation was added, but at the direction of the Reich Ministry of Economics this was changed. It was connected with the synol installation and combined into a methanol and iso-octane installation. I can pass over the development of these matters because Dr. Schneider and Dr. Buete-fisch ³ have already testified about this in detail, when they were on the stand.

I was to supervise the planning and the assembly for this synol installation, that is the installation which was to be paired with the

¹ The complete testimony is recorded in mimeographed transcript 15, 16, and 19 April 1948, pages 11535-11582; 11615-11705 and 11725-11821.

² Extracts from the testimony of Karl Braus are reproduced below in section IX G7.

³ Extracts from the testimony of defendants Schneider and Buete-fisch on the slave labor charges are reproduced above in subsections F3 and F7 respectively.

new buna installation, and for that, an order had also been issued by the Reich Ministry of Economics shortly before or at the same time, I don't know which.

The entire construction management of this twin enterprise was to be taken over by the Ludwigshafen Senior Engineer Faust, who had the reputation of being a great construction engineer, and who had already been active in several other such enterprises.

The *chemical management* of the buna plant, another man, Dr. Eisfeld, was supposed to take over, and Dr. Braus was supposed to take over the chemical end of the Leuna plant, the so-called synthesis.

Q. And now what was your task in particular?

A. As I said, my job was the planning and construction of the installation planned for Merseburg, and beyond that, together with Ludwigshafen, I was supposed to plan and construct the combined technical installations for the buna and gasoline plant, and the installations for supplying water and electric power, and also the transportation installation. This will all be gathered from a contemporary letter of Dr. Ambros to Dr. von Staden, which I have in front of me in the original and from which I will quote. The letter was written on the 15th of March, 1941, and it says:

“I confirm the telephone conversation just held with you according to which, Mr. Duerrfeld on Monday—”

MR. MINSKOFF: I object until the document is offered in evidence.

PRESIDING JUDGE SHAKE: Let him finish since he is started. Go ahead and finish.

DEFENDANT DUERRFELD:

“ * * * on Monday, the 24th of March will come to Ludwigshafen in order to speak about the project of buna IV. This date is appropriate because by that time Dr. Eisfeld will have returned from his leave, and I will have regulated the other personnel questions from Ludwigshafen. We have agreed that Dr. Duerrfeld will be given or handed the entire Ludwigshafen project, and he himself will occupy himself in a responsible manner with the question of electric power and water supply, and with the railroad and transportation installations.”*

PRESIDING JUDGE SHAKE: Dr. Seidl, it will be necessary for you to make that paper an exhibit so it is available for the Tribunal and for the prosecution. Is it in any of your books?

DR. SEIDL: It is not yet in any of our books, Your Honor, and I must confess that by mistake we did not put it in there, but we will make a supplement and we will introduce the document to the Tribunal, but I can give it a number now.

PRESIDING JUDGE SHAKE: Perhaps if you will give it a number now

*The entire text of the document is quoted here.

then we can identify it on the transcript if you just assign the number, and we will give you time to make a supplement and to supply it for the record.

DR. SEIDL: I will offer it for identification, designated as Document Duerrfeld 1450, Duerrfeld Defense Exhibit 125.

PRESIDING JUDGE SHAKE: Very well.

DR. SEIDL: Now, Dr. Duerrfeld, you have described the job that you were given. Did this job remain the same in the course of the planning, or did something change in the years following?

A. In the course of time, during the construction conferences, my task, as that of many other people, was gradually made more specific and also expanded. Thus, for example, in the prosecution's Exhibit 1426, that is the minutes of the first construction conference, which is Document NI-11115,¹ and which is in Book 72, English page 98, German page 158, in this document it says Duerrfeld, together with Santo and Mach, takes over the coordination of all of the questions of the plant in total planning, and the combining of the buna and the gasoline plant, and the negotiations with the authorities about water and power.

Furthermore, in Prosecution Exhibit 1428, this is the record of the minutes of a second construction conference, and this is in Book 72, as Document NI-11116,² English page 111, German page 182, the job is expanded to include the setting up of the entire organizational planning, questions of the salaries and wages in Upper Silesia, et cetera. Thus in the following conferences, all according to need, individual or special orders or measures or tasks were assigned by the construction management, and orders were given to negotiate with firms or authorities or agencies, and special missions such as determining appropriate firms and work shops in Upper Silesia, preparation for seeing that there were enough skilled metal workers, re-training of unskilled workers into skilled workers, and many similar questions.

Q. Dr. Duerrfeld, in the course of the proceedings, the so-called construction conferences were repeatedly mentioned and the prosecution has introduced a large number of minutes of these conferences, when your case in chief was presented.

Now I would like to ask you personally what were these construction conferences; can you just describe them briefly?

A. The construction conferences were, briefly, the leadership instrument in the hands of the Managing Board [Vorstand] members or their representatives and assistants in reference to the construction of this new Auschwitz plant.

Q. You said that this was the leading instrument of the competent

¹ Reproduced in part above in subsection D.

² *Ibid.*

Vorstand members or their representatives and assistants respectively; who were these people individually; could you just tell us briefly?

A. As probably you will have seen from the proceedings, Dr. Buete-fisch was Sparte I; Dr. Ambros was Sparte II. Dr. Ambros had no deputy. Dr. Buete-fisch did have one, because he rarely participated in the construction conferences. Obviously he had other jobs, or perhaps he delegated this field to his representative, a Dr. von Staden, and since it was mainly a question of a methanol installation, Dr. von Staden was more interested in it. When Dr. von Staden died, Dr. Giessen took his place, whom we have already seen on the witness stand.¹ There were other collaborators, I mean a pretty large circle of eminent engineers from the main plants, Leuna and Ludwigshafen. Thus, for example, the chief engineer of the Sparte I, Dr. Sauer, and the first mechanical engineer from Ludwigshafen, Dr. Heimann; the first construction engineer from Ludwigshafen, Dr. Santo; the first machine engineer of Leuna, Dr. Stromberg, and the chief construction foreman for buna plants, Dr. Mach; the first construction engineer of Leuna, Dr. Hoepke, and a whole number of specialists and experts and leading personnel of the plants Ludwigshafen and Leuna took part in a great many of the construction conferences.

Q. Now I would like to ask you a few questions which have to do with the construction site in 1941, and please keep in mind that we are now in March, 1941, when you first received the assignment for the new plant of Farben in Auschwitz. Before this assignment was given to you, between the 5th and 10th of March, 1941, did you hear anything about the newly planned Farben plant; about the preparations to construct this new plant?

A. No, nothing at all. Up to this time I had never heard the name of Auschwitz, and when I first heard it, because of the assignment given to me by Dr. Buete-fisch, I remember very well I went home and looked at my old school Atlas, together with my wife, for the place, "Auschwitz." About the discussions about the choice of the site, I know nothing, therefore, from my own knowledge I can only confirm from conversations of that time, and from what Dr. Ambros and Dr. Buete-fisch and other people have told me, that it was just the same as Dr. Ambros discussed it very lucidly here on the witness stand.² That is how I heard it, and that is how I told it to not only dozens of visitors in Auschwitz, but hundreds of them at every inspection which was carried out in Auschwitz. I stood in front of a great many similar wall charts and described the situation to these visitors, and probably hundreds of visitors from that period can appear here and they can confirm that I never mentioned anything

¹ The testimony of Dr. Johann Giessen is recorded in the mimeographed transcript, 24 February 1948, pages 7524-7553.

² Extracts from defendant Ambros' testimony on this question are reproduced above in subsection F4.

to the effect that Farben went to Auschwitz because of the concentration camp.

Q. When did you first see the construction site of Auschwitz yourself; can you remember that at this time?

A. Oh, very well. You can imagine that after this assignment to construct a new plant was given to me, that of course I was tremendously anxious to see the site where this plant was to be constructed. Therefore a few days later, I took a trip to Upper Silesia, and I can tell from my travel reports that this was on the 15th of March. First of all I went to Dyhernfurth, merely for the reason that I knew that Senior Engineer Faust, whom I did not know yet, was there at the time, and was there managing the construction of the Dyhernfurth plant which was just being constructed. I introduced myself to him and Mr. Faust gave me a car and with that I went to Auschwitz—I must say, with mixed feelings, because Mr. Faust, who had already seen the area, and who also sent there one of his assistants, Murr, came back with very unpleasant impressions. I was told about the desolate living conditions there, about the typhoid and malaria frequency which prevailed there, and I was also told that Mr. Murr, who was the first engineer provided for this plant, had already asked to be released from this assignment.

Q. Well, what was your impression of Auschwitz when you got there in March 1941, and how did your visit proceed? What was it like?

A. I spent several hours in Auschwitz. I looked at the construction terrain, and visited the town and I paid the mayor a courtesy call. Then with the car with which I was provided, I made a trip around the area in order to inform myself about the water and transportation facilities, et cetera. In spite of the briefing of Mr. Faust my impression shook me a great deal. The city seemed to be undescribably miserable and in a retarded stage of civilization. I never saw such a town within the German Reich area, but once I agreed I had no intention of going back on my word. It was war, and according to the ideas of duty and obligations during the war, which I have described before, I thought that this was the place where I had to do my war service, and I wanted to do my duty at this place.

Beyond that, I must say that in this rather backward area, I saw a very necessary cultural function to which I could contribute while I was constructing this chemical plant. This was, of course, a secondary consideration because this was an armament job—perhaps that is the wrong expression—but at least it was an order of the Reich which was to be carried out here, but nevertheless, in order to even be able to get this work going, a standard of living had to be achieved in which the people who would work there could live reasonably well.

* * * * *

Q. Dr. Duerrfeld, I should now like to deal with the time when you were not yet at Auschwitz proper, but when you were still planning the plant. I am referring to the time from 1941 to October 1942. Having now given us some picture of the construction site and of the population as you found it when you first visited it in 1941, I should now like to turn to another period of your activity. Where were you during the time I mentioned before?

A. From the time of my appointment, I lived mostly at Leuna. That is, up to October 1942. And after that time date, I moved with my office to the construction site of Auschwitz. Leuna was the seat of the planning office for the synthetic plant. That is where I set up the planning and construction offices, where I looked for the necessary specialists and created the technical backbone, as it were, for the new plant. I set up the necessary procurement offices, the raw material department; I laid the foundation for the future personnel department, and whatever else belongs to the setup of any such organization. The center of my activity remained in Leuna. And I had to travel frequently from there. I may perhaps make a remark at this point: I used the word "I" very frequently during my testimony. Whenever I say "I" I actually mean "we." I don't want you to consider that as the royal "we," but I mean my associates and I. At the outset, I must clarify that one man couldn't possibly do any such job, and that is true of all fields of technology. It is always one who inspires, always one who starts everything, and in the final analysis it is always one person who holds all the threads in his hands, but the actual technical creation is the work of many, and of countless people, and that is how I wish it to be understood here. And that is the thought which in the final analysis bound me to my associates. It was a community of work.

* * * * *

Q. Now, Dr. Duerrfeld, you have given us a picture of the period between March 1941 and October 1942. I shall now turn to the subsequent period: Your activity between October 1942 and January 1945. Was there a certain fixed date when you moved to Auschwitz and took over the management as building and assembly director? Can you fix the date?

A. No. One might say, however, that after the transfer of my offices in October and November 1942 my influence in the building management began to be felt. The building site was still in a purely construction stage in October 1942. But preparations were now being made for the assembly and that is how I assumed a leading position and consequently became the head of the construction site.

Q. Did you constantly remain in Auschwitz from October 1942 on?

A. No, you might say that I devoted half of my time at that period to Auschwitz because my family was then still living in Leuna. As a

result of the multitude of my tasks which were still outside of Auschwitz, I had to spend a great deal of my time traveling.

Q. From what date on did you finally stay in Auschwitz? Could you approximately tell us that? Naturally discounting a number of trips which always occur.

A. As I said before, I cannot fix a date because the number of days I spent in Auschwitz from October 1942 on increased gradually from 15 days per month to approximately 25. My family, as I already explained, moved to Auschwitz in December 1943.

Q. Did your taking over of social welfare responsibility for the employees as the responsible building and assembly head have any special significance?

A. Not as such. This was the natural course of events. When constructing any such plant, the social care for the staff working on the construction, as far as one can speak of, a staff at that time, is taken over first by the construction engineer, then it is taken over by the assembly engineer, and when the plant is fit for operation, such tasks are taken over by the plant chemist who takes over the management of the plant. However, my taking over of the social welfare questions was emphasized by the fact that in the summer of 1942 a confidential council [Vertrauensrat] was set up. When this council had to be set up I informed Dr. Ambros and the building committee of that fact. I asked Dr. Ambros to come to Auschwitz for the setting up of that council. Since his name had been printed among the list of those people responsible for the plant, my request was therefore quite natural. Dr. Ambros, however, asked me to do that for him and that is why I did it. I expressed, in my address to the staff, that I was speaking on behalf of someone else. Starting from that period I was occasionally addressed by the employees as the plant leader, and that was also done by the authorities and particularly by the Labor Front. Naturally the functions of the plant leader, according to the law for the regulation of national labor, were exercised by me temporarily, pending a permanent appointment to that position by Farben. As far as I remember, in five to ten cases, I acted in that capacity. At any rate, I represented the plant there and then, and whenever an agency asked for the building and assembly manager I was naturally available. Whenever they asked for the plant manager then I was at their disposal too, and if, for instance, the German Labor Front came along and wanted to see the plant leader, then naturally I said that I was the one responsible. I didn't give them any long explanations as to what the actual significance of these various appointments was within Farben, I didn't have to explain these matters to strangers.

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Q. That brings me to my next question. When Dr. Ambros testified on the witness stand, he already uttered a viewpoint on the basic question of the employment of inmates. I must ask you this. Was the employment of inmates at the plant unpleasant to you personally?

A. Naturally, to the highest degree, and that was the case with all of my staff. From a humane point of view it is more than unpleasant to have to work with people who are in custody. Furthermore, from a technical point of view, it is hard to reasonably dispose of inmates, whom one cannot tell to move freely about.

Q. What was the attitude of your associates with respect to that question, and I am referring to the heads of the departments?

A. I do not know of one of my associates to whom this commitment was welcome. This in particular applies to Mr. Faust, who carried the main burden of the employment. My concern was always to somewhat moderate Faust, who by nature was very impulsive, and to keep him from saying something which could have been dangerous for him and for myself. I was entirely in agreement with my superiors in respect to that attitude, and I was in agreement with my sense of duty.

Q. This brings me to my last question in this introductory chapter. I asked you whether the refusal of the employment of inmates had been possible at all, and now let me ask you what would have happened to you if you had approached the President of the Provincial Labor Office during the war, or the Reich Ministry of Economics, or the G. B. Chem and had stated, "I refuse to employ inmates at the construction site in the future"? Was any such matter within the sphere of possibility at the times prevailing then?

A. It was entirely impossible. In reply I should state my experience in October 1942, in Berlin, in the Ministry for Armaments, when after I had erroneously used a quota number, a high governmental official told me that if I personally had been the man who signed the letter in question, I would have immediately been arrested.

Moreover, I refer you to the letter of Reich Minister Dr. Todt in connection with that matter, in which the penal measures of the SS were threatened.

* * * * *

Q. You testified that in 1941 at irregular intervals you went to Auschwitz, with intervals of about 4 weeks, and you saw inmates working there. Now I shall ask you what were these people, what kind of people were they, these concentration-camp inmates? Did you wonder at all why they were at the concentration camp?

A. During the period of this employment I had the same impression, as during my first visit to the camp, namely, that they were almost exclusively made up of criminal convicts, people who were guilty of some crime, and that they were in this camp; that is what we were told.

This can be seen from the minutes of the Second Construction Conference, Document NI-11116, Prosecution Exhibit 1428,¹ and, even in the minutes of the 23d Construction Conference, 23 March 1943, Document 11141, Prosecution Exhibit 1503,² which also speaks of convicts, by which according to the German terms of language, are meant persons who have committed some crime.

Q. Now I want to ask you in what manner did these people work at the beginning of employment? How did this take place, practically speaking, on the construction site?

A. Well, since they worked almost exclusively for contractor firms at the beginning, they were put at the disposal of these firms by columns. Each one of the columns of about thirty to forty inmates had a Kapo, that is, a foreman, and this column was put at the disposal of firm X, working under the supervision of an SS man, or SS sergeant. Then there were one or two guards along. In other words, this assignment alone was distributed in responsibility between the SS on the one hand, who took care of transporting and guarding them, and the firms on the other hand who always told the Kapos what these people were to do.

Q. Were the firms content with this type of employment of inmates, and was the employment of inmates active enough?

A. No, nobody was content, because it was, so to speak, too much of a military procedure. For example, when stone or soil had to be transported for about 100 or 200 meters, these groups picked up a few stones, then militarily they had to line up again until an order was given when they started marching; then the stones were unloaded at a command, after which they marched back again in their groups. It was terrible.

* * * * *

Q. You have testified that in the summer of 1942 the inmates didn't come anymore because there was a typhus fever [Fleckfieber] epidemic in the camp. What situation developed out of this for the plant management? Do you happen to remember any construction conferences and conversations with Senior Engineer Faust which referred to this?

A. The situation was desperate for the construction manager. Everything had been prepared for a great work assignment in 1942, and many firms had been hired. Much material had been brought there, and laborers were lacking. Furthermore, at the same time, under the direction of the highest authorities, thirteen hundred workers were withdrawn to go to some other place; this can be seen from the first place where I pointed on the chart; and now there was the best weather for construction but no progress. At this moment the Labor Office for the first time assigned us foreign workers who didn't

¹ Reproduced in part above in section IX D.

² *Ibid.*

come from this end of the country, such as Croats, Ukrainians, and Ukrainian women, and the so-called Schmelt Poles, but these relatively small assignments could not relieve the desperate situation in which the construction management found itself.

Q. Dr. Duerrfeld, in your answer just now you used the expression "Schmelt Poles." What kind of people were these? I think you have to explain this.

A. They are named after Regierungspraesident Schmelt on whose order people who did not comply with the obligation to report for work became police prisoners. We got these people through the branch office of the Armaments Ministry. This was a lenient detention for these people. They got leave. The married men received compensation for being separated from their families. They received their salary.

Q. Which agency assigned these Schmelt Poles to you? You said it was the Labor Office?

A. No, no, no, I was misunderstood then. The branch office of the Armaments Ministry. These branch offices had developed from the so-called Reichsautobahn construction agencies which had nothing to do during the war, and therefore, were put at the disposal of the armament development by the Reich. They had state functions in supervising the construction sites of the contractors.

Q. This branch office for the development of armaments, as I take it from your affidavit,* had erected some independent installations in Auschwitz. Is that correct?

A. Yes, outside of the general supervisory obligation and the authority to supervise, this so-called "armament construction leadership" [Rue-Bauleitung] had a second function. It carried out construction work on our installations independently, just like our own management.

Q. Now, you say the Rue-Bauleitung assigned these Schmelt Poles to the plant. Did the plant management welcome the assignment of these laborers?

A. At first, not at all because of our own stand regarding enslaved people. These Polish prisoners were not at all welcome.

Q. You mean they were not wanted because they were prisoners?

A. Yes, just because of that, because they were prisoners; but we soon found out that the restriction on their liberty was a lenient one and that they were young, fresh people willing to work, who in their situation adapted themselves willingly and that was the reason these men were tremendously popular. Finally, we even tried to have these people released and we succeeded in that in March 1944, where one can see that the green line stops, at that time these so-called Schmelt Poles became free workers of Farben. First, they were given leave

*Document Duerrfeld 1046, Durrfeld Defense Exhibit 3, not reproduced herein.

and then, as far as I remember, without any exception they remained with us as free workers.

Q. Now, Dr. Duerrfeld, we are still in the summer of 1942, when no inmates were employed in the plant because of the typhus fever epidemic at the Auschwitz camp. Now, I want to ask you: did the plant management, according to your knowledge, not try at that time to use this opportunity in order to stop the employment of inmates altogether?

A. Yes, very much so. First we—that is the construction management—developed a lot of activity in the branch office of the Armaments Ministry in order to get other workers from construction sites of the Rue-Bauleitung into our plant.

Secondly, it was attempted to increase the number of Schmelz Poles after we noticed that they liked to work for us, to increase them to such a degree that we could replace the inmates with them; and, thirdly—this is the most important act—during this period Farben was very active in making agreements with foreign firms to secure workers through them and that happened.

Q. Were these efforts successful—I mean sufficiently successful?

A. Yes, but only partially so and, since the need for labor had again tremendously increased, the construction management again faced a desperate situation in the fall, especially because in the fall they had to get the constructions which had been started under a roof. They had to cover them up before the winter.

Q. How were these great difficulties solved finally? Can you testify from your own knowledge?

A. As can be gathered from the documents submitted, this was solved during the first visit of Pohl to the construction site. That was in September 1943, at the instigation of the Regierungspraesident. Mr. Pohl knew about the order of Goering concerning labor. He realized the difficulties of the plant. He inspected the almost completed camp IV and he ordered that other concentration camps, as long as Auschwitz couldn't do so because of the epidemic, should furnish the necessary skilled and unskilled workers—rather, should transfer these people to camp IV.

Q. Last Friday already I have had reference to a document which the prosecution submitted a few days ago when interrogating one of our witnesses. This is Document NI-14489 which was submitted by the prosecution as Exhibit 2130.* I will have this document handed to you. This is a weekly report and I want to ask you whether the contents of this weekly report and this whole document have reference to the visit of Pohl which you just referred to?

A. Yes, it is exactly what I have just described.

Q. Now, you just, for the first time, mentioned camp IV, the first

*Reproduced in part above in subsection D.

time during your examination, and please tell us the history of this camp IV in a few brief words, since camp IV has so often been mentioned here.

A. Camp IV was one of the ten housing camps and it had been decided to build this camp together with the others. As the number "IV" says, it was the fourth camp which we started and it was destined to accommodate Germans in the southern part of the plant.

In 16th construction conference, on the 6th of May 1942, Document NI-11132 Prosecution Exhibit 1440,¹ it had been decided to build this camp and at the 19th construction conference cited above, in June 1942, Document NI-11137 Prosecution Exhibit 1447,² that is, before the quarantine which did not come about until the beginning of July in the concentration camp Auschwitz, it was decided to make this available to accommodate the inmates because of the danger of the typhus fever epidemic. Of course, that was the cause. By putting this camp at the disposal of the inmates, we wanted to raise the whole thing to a higher standard.

Q. You say by making this camp available you wanted to bring the employment of the inmates on a different level. Can you explain this to the Tribunal? What do you mean by that?

A. Well, we realized from the very beginning that labor allocation would mean an improvement for the inmates of a camp. I noticed that in the three years of my experience; but we wanted to see, too, that the inmates should no longer live in the concentration camp, but that as far as possible they were supposed to be raised to the level of free industrial workers; they were to live in their own camp and they were to work for us without supervision, if possible. That was our goal. Furthermore, we wanted to prevent—and this was a technical reason—that there should be any change of these inmates, because as long as the inmates came from the concentration camp Auschwitz every morning, one day they sent those people, and one day they sent other people—but we wanted the same ones. We wanted to train them in their work. We wanted to establish a humane relationship between the employee and factory; and, finally, we wanted to have some influence on their living conditions—on the food. We did not have any clear idea about this yet—that is, as to how this was to be done—but we thought that if the inmates lived near the plant we would find a way to raise their standard of living. That was the sense of the whole thing.

Q. Dr. Duerrfeld, I have the impression that you completely forgot one essential point—namely, the fact that by constructing camp IV, the transport to and from the concentration camp Auschwitz was stopped altogether.

A. Yes, of course, I actually forgot to enumerate that. Even this

¹ *Ibid.*

² *Ibid.*

transport by railway was very unpleasant. It was unpleasant because often we did not have enough cars and then the assignment was irregular and then, because of the military transports to the East, there were often stoppages on the railway line and then these people sat in those cars and often had to wait half an hour or an hour or even more. All that was to be avoided.

Q. Who built camp IV?

A. Well, it was a construction firm under the construction management of the already mentioned Rue-Bauleitung.

Q. You have testified before that SS Lt. General Pohl gave the order to occupy this camp and that is what can be gathered from the prosecution document. When was the camp actually completed—when did these people move into the camp? When was the camp occupied?

A. That was at the end of October 1942. That is, after the fence had been finished according to SS regulations. That was a *condicio sine qua non* on the part of the SS.

Q. Was the camp finished when the inmates were moved in?

A. It was already ready to be occupied on 8 September 1942. That can be gathered from the 20th construction conference, Document NI-11138, Prosecution Exhibit 1448.* The camp was never actually ready in the sense of the word. It was always improved upon, roads were constructed, et cetera, and as I shall explain in a minute, when we left the camp, a new building was started east of it.

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(Recess)

THE MARSHAL: The Tribunal is again in session.

DR. SEIDL: Dr. Duerrfeld, did you ever hear anything to the effect that weak inmates and those not suitable for work, were transferred from camp IV to Auschwitz because they were not suitable to work in Farben's plants for some reason or other?

A. I remember one instance in January or February, 1943. I already said before that those inmates who came to camp IV were picked out from all sorts of camps in the Reich. In this way, in the course of one or two transports, some people came in who were unsuitable for construction work. The camp commandant, Schoettel, was confronted with an impossible situation. We did not want to employ people in the plant who were not suitable for work, but on the other hand, this Schoettel was unable to make dispositions in other camps, and I do remember that at the beginning of 1943, the Berlin superior, Maurer, told his subordinate Schoettel that unsuitable prisoners must be returned to Auschwitz, and that was with reference to those inmates from one or two other transports who were unsuitable for work.

Q. The indictment repeatedly mentions so-called "selections," and this expression is again recurring in many documents of the prosecu-

*Reproduced in part above in subsection D.

tion. You know very well what the prosecution understands by this expression and I want to ask you now, did you at that time hear or see anything about such selections—that is, selections which were carried out allegedly in camp IV?

A. I did not know the concept or the process of a selection before the autumn of 1945 when I became familiar with this concept during my imprisonment. Before that period I had not heard or seen anything about it.

Q. But it had to become conspicuous or you had to notice it if people, that is inmates, were transferred to some other place from camp IV to Auschwitz or to Birkenau or some other labor camp, or to another concentration camp, for that matter, to Buchenwald, or some other place?

A. I could not notice anything about that personally because in view of the large size of the construction site, the size of which I have tried to illustrate by charts and films or slides, I came to one particular spot in this construction site only every few weeks, and some unimportant places I visited only every few months, but even the engineers and the various contracting firms could not notice such changes, because of the fluctuation within the labor details of the plants, and also apart from that, because of the transfers that were sent in to us from the labor correction camps.

I only remind you of the fact that the witness Herzog* who certainly exaggerated and exceeded the actual figures with what he said, also stated that 10,000 inmates passed through the labor correction camp. That is certainly incorrect, but it is nevertheless an indication that the figure could not have been very small.

For the rest, I want to add one more thing. If I had learned anything about the selections at any time, it would have been quite contradictory and it would not have been quite understandable that the construction management, as well as I, repeatedly talked in harsh terms to Schoettel about the inner fluctuations in the numbers of the prisoners that we noticed; that is, that they were caused by the changes in the persons of prisoners that were sent to us.

Q. What do you mean by “inner” fluctuations? Can you explain that?

A. I mean the change of the prisoners from one labor detail to another. The contracting firms, and also Farben, altogether employed approximately 100 labor details, and these labor details did not exist very long. They were only kept in existence until the work was completed, then such a detail was dissolved and the prisoners from these details were assigned to others. Therefore, a natural constant change occurred among the details. But added to that was a deliberate fluctu-

*The testimony of Gustav Herzog is recorded in the mimeographed transcript, 12 November 1947, pages 3621-3639.

ation on the part of the camp administration. Part of that was malicious, and part of this was caused because of negligence or indifference. One had frequently the impression that the work details were given their assignment in the morning when roll call was held; that they started on the right, just as people happened to be standing there at the time, and they detailed so many men to the first so many to the second detail and so on, and that in this way, these people were constantly mixed up.

Q. Can you imagine any other reasons which might have caused such a constant fluctuation in these people from one labor detail to another?

A. Yes, today I know that there was even an order issued by the inspectorate of the concentration camps that inmates should not be permitted to become familiar with their place of work and that after a half a year they had to be changed, at the latest. At that time, of course, none of us knew that. We only found as a matter of fact that an engineer very frequently was desperate because he had two or three workmen trained in his detail whom he had to lose in this way and after several weeks in some other place of work he found these people again, doing an entirely different job. That was the reason why we again and again complained to Mr. Schoettel.

Q. Didn't you ever suspect that inmates, unfit for work, might be pushed off from camp IV to Auschwitz or Birkenau or some other camp in order to liquidate them?

A. Dr. Seidl, this horrible thought never occurred to us.

* * * * *

Q. What was the impression of any visitor who entered camp IV? Would you please repeat that?

A. I had the impression that the camp was clean. I looked into one housing barrack, and I remember that quilted blankets were on these beds; I remember that. After the camp was dissolved, I found this impression confirmed. There was a tremendous amount of quilted blankets. I didn't see anything out of the ordinary in this camp. Apart from the guard and the fence, nothing was different from a labor camp. This impression must have been gained by all those people who passed by the camp on this main traffic route.

Q. Wasn't there also a prison or detention place in this camp IV?

A. I know nothing of that.

Q. Did you ever hear about mistreatments in this camp IV?

A. Do you mean mistreatments in camp IV?

Q. Yes.

A. No, I never heard anything about that.

* * * * *

Q. Dr. Duerrfeld, we now want to talk about the appearance of the inmates. Indicate in a few brief sentences what impression the

inmates made, on you, yourself, at the various times when they were working in the plant.

A. Dr. Seidl, that is a very difficult question if you ask about the appearance of human beings because it really contains two questions: the physical condition and the over-all condition, including the psychological. When I saw inmates marching in groups or columns, when they moved to their place of work, when I saw these imprisoned human beings with their hair shorn off, clothed in an undignified uniform, very many of them were desperate and very many of them had care written on their faces, then I can only say that my heart bled. But then we had these people sent to us for work. We had to assign work to them and we had to take into consideration their physical condition and I never had the impression that the inmates were unable to do physically what we demanded of them. If one saw them at their place of work, Mr. Seidl, if one looked at one individual working and if one saw that he was desperate and loaded down with cares, then I could not pass by this man without showing him that one had compassion with his fate either, as I also used to do when I entered any construction site, that I said hello to these people first, was friendly with them, or approached them and talked to them. And since it was forbidden to talk about personal things, one began some conversation about the work he was doing or one showed him how perhaps he might do it better, how he might learn something, one gave him certain hope that if he learns a certain trade he might build up a new future for himself. All this must be included in the question as to their appearance and for that reason the answers that you hear differ so greatly.

Q. Did Farben take any additional steps in order to help these inmates working there by giving them premiums or bonuses or something like that?

A. Yes. We did very much in that direction, quite apart from the fact that I always used to put a few packages of cigarettes in my overcoat when I passed through the construction site and in my right pocket I had a few necklaces that these Ukrainian women always wear, and from the very beginning we always tried to institute a bonus system for the inmates in order to give these inmates an incentive for work and to give them joy in their work, to show them the success if they worked well and also, on the other hand, to bring the technical success of the whole program to a reasonable level.

* * * * *

Q. In your three visits to the concentration camp Auschwitz what did you see? I believe you can be brief, since several other defendants have given their impressions.

A. I saw about the same thing each of the three times. Therefore, my most vivid impressions are from the first visit, which was the

first time I saw it. I can refer to what has already been said here. I have nothing much to add. I should like to give it in just a few words. The barracks seemed to be quite in order, kitchens, hospital, stalls where breeding work was done, workshops, and so forth.

In my second visit I saw more of the workshops. I saw that they were very well equipped. Furniture, doors, et cetera, were being built there continuously.

Q. What impression did the inmates of this camp make on you?

A. They made a healthy impression physically. They were mostly people with green insignia. A small part of them had red triangles. Red means political; green means criminal. We were told that the political prisoners were people who had committed armed resistance [Widerstand mit der Waffe] against the Wehrmacht—they were mostly Poles—or who were suspected of doing so. Our impression was that they were convicts.

Q. Several of the defendants have already told about the crematorium which, as in almost all concentration camps, existed in Auschwitz. I assume that you saw this crematorium.

A. I was in the camp three times. We were shown over the camp, and the crematorium was pointed out, too. This did not seem unnatural to us. A camp where there are so many people is, after all, a city.

* * * * *

Q. Dr. Duerrfeld, in any of your visits or on any other occasions, no matter when or where, did you hear or were you shown anything to indicate the gassing of human beings or any other type of mass extermination?

A. No; never; in no way.

Q. But we know today that near the Birkenau camp large numbers of human beings were systematically exterminated. Were you ever in the concentration camp Birkenau? Did you know at the time where this camp was?

A. No. I made three visits to Auschwitz. I do not know whether in 1943, which was the time of my last visit, Birkenau existed yet. I remember having heard the name Birkenau at the end of 1943 or the beginning of 1944 for the first time, in connection with the division of the camp into three parts, which I mentioned this morning. Up to the beginning of this trial, I had always believed that there was some administrative border running through Auschwitz, that one part was called Auschwitz and the other part was called Birkenau; but from the record of the Pohl case,* and especially from the map put on the wall here by the prosecution, I have concluded that this Birkenau camp was completely separate from Auschwitz, and that the extermination facilities were apparently in Birkenau. Therefore, I am quite certain that I was never in Birkenau.

*See volume V, this series.

Q. You say you never heard anything about such extermination measures?

A. No.

Q. Did you not talk to any SS-men who could have told you something about this?

A. Well, of course, I occasionally had official contact with SS officers, specifically the three whom I have mentioned, but outside of that I had nothing to do with them. Our contact was purely formal and, as Mr. Schneider said here, we were polite but without any intimate personal connection. The level of the SS officers whom I met there was not such that one wanted any personal or social contact with them. We had to meet them occasionally, but on such occasions they never said anything about such things; and I can understand it today, after having heard of the strict secrecy as mentioned in Document Hoerlein 92, Hoerlein Exhibit 86, book IV, in the affidavit of SS Judge Morgen.* At any rate, I never heard anything about it from these men.

Q. You heard nothing from the SS men, but did you not hear something from your own associates about extermination measures, or rumors about them?

A. No, from no one. Therefore, it is impossible for me to understand how people can assert that the extermination of human beings at Auschwitz was generally known. I consider it possible that there are a few people who may have learned from inmates or other well-informed sources some concrete fact about things in concentration camps and today contend these things were generally known by the population at the time. I can only imagine that they act in this way, since the whole world knows about these things now, because they have a lively imagination, or perhaps because they are afraid to have known more than other people, to have been in the possession of secrets, or perhaps they are acting in good faith and cannot distinguish between what they knew at the time and what they know now.

Q. Dr. Duerrfeld, do you really believe that none of all the people at the plant knew anything about these gassings, didn't even hear any rumors about them? I want to put to you specifically the fact that there were 32,000 people there.

A. No, I no longer believe that; because, among the many hundreds of letters I received there were two or three according to which such rumors had been heard from inmates or workers, although in a very indefinite form. If I may evaluate these letters according to the system of the Gallup Poll, then I can say with 100 percent certainty that there is no question of general knowledge.

Q. Several prosecution affiants have contended that a strange odor

*Not reproduced herein.

was frequently observed near Auschwitz. Did you yourself notice it?

A. Yes. I recall that two or three times, in going from the city of Auschwitz towards the west, over Neuberoun to Katowice—that is a road running north of the concentration camp Auschwitz, where I passed frequently—that these two or three times I noticed a special odor there that I wasn't able to place. My driver—that was in the summer of 1944—thought that that was from the crematorium, as people said, where bodies were being burned. During the same conversation, he told me that it was said that in the last few months a great many people had been sent to the camp—sometimes whole families. Of course, I don't remember the exact words of this conversation, but he certainly did not express any suspicion which would justify concluding a criminal connection; but, nevertheless, because of his remark I decided to go to the SS authorities—that is, the commandant at Monowitz—on the next occasion and investigate the talk that was going around. I did so when I came back from my trip. I happened to meet SS Captain Schwarz one day and spoke to him about it. I asked him whether these two things that I had been told were true, and he admitted frankly that the odor came from the cremating of bodies. He explained this with the high mortality rate in the camp resulting from the typhus fever epidemic which had actually never come to an end and other epidemics which had come in from the East. He also confirmed that women and children had been brought there, but he assured me that they were kept in a special camp for women. As a result of these frank statements, I had no reason to doubt the truth of what he told me.

Q. Now the final question of this subject. You are testifying under oath that there is no one who told you even rumors indicating the extermination of human beings by gas, or in other ways; is that your testimony?

A. Yes, that is my testimony. It is quite impossible that any one talked to me about gassing and extermination, or told me anything about it, because I remember very well that I heard of this matter in May 1945 from a cousin of mine in Halle, after I returned from Saxony. She had heard the horrible news on the radio and then told me about it, and I remember how I laughed at her; I said, "Do you really believe that?" and I boasted that I had been there and I ought to know.

* * * * *

PRESIDING JUDGE SHAKE: Anything further from the defense? Then the prosecution may cross examine.

MR. MINSKOFF. If it please the court, there will be no question by the prosecution.

PRESIDING JUDGE SHAKE: Very well. The examination of the defendant is concluded. He may leave the witness stand.

G. AFFIDAVITS AND TESTIMONIES OF DEFENSE WITNESSES

1. AFFIDAVIT OF OTTO KIRSCHNER, SECTION CHIEF IN DEFENDANT KRAUCH'S OFFICE

TRANSLATION OF DOCUMENT KRAUCH 144
KRAUCH DEFENSE EXHIBIT 198

AFFIDAVIT OF LT. COLONEL OTTO KIRSCHNER, 13 MARCH 1948

Affidavit

I, Otto Kirschner, at present a resident of Ludwigsburg Aspergerstrasse 48, have been warned that I render myself liable to punishment in the case of a false affidavit. I declare in lieu of oath that my statement is true and that it is made in order to be submitted as evidence to the Military Tribunal in the Palace of Justice, Nuernberg.

1. From 1939 to 1945, I was a section chief in the office of the Plenipotentiary General for Special Questions of Chemical Production (Gebechemie).

2. I have been shown *Prosecution Exhibit 473, Document EC-489*.^{*} My letter to General Thomas, dated 20 October 1941, concerning the employment of Russian prisoners of war was caused by the reasons set out below:

It was intended to construct another fuel plant in Bruex. When handling this project, I found out that it was particularly difficult at that time to find a solution for the manpower problem involved in this construction. For this reason, I formed the idea to discuss with Prof. Krauch whether Russian prisoners of war should be employed on this project, and to submit this idea to General Thomas as well.

Among other considerations, my main consideration was the fact that in the fall of 1941 millions of Russian prisoners of war were living in German camps in difficult conditions; in consequence, both Prof. Krauch and I considered it much more suitable and much more humane to provide these prisoners with work and at the same time with better accommodations, better rations, et cetera.

By the term "armaments industry," used in my letter, I did not mean the term armaments industry as defined in international law; in this connection, it should be noted that I am not a lawyer. Actually, I was only directed by the points of view of Gebechemi, and I had only a construction site in mind; this was stated more explicitly in the memorandum submitted at that time. A construction site did not come under the term "armaments industry" in the meaning

^{*}Reproduced above in subsection D.

of international law, in accordance with the fact that it was not managed by the armament commands of the Wehrmacht, which dealt with armament plants, but by the departments of the Reich Ministry of Economy, which dealt with plants essential for war economy and normal economy.

Ludwigsburg, 13 March 1948

[Signed] OTTO KIRSCHNER

2. AFFIDAVIT OF GENERAL RUDOLF HUENERMANN, OFFICIAL IN THE MILITARY ECONOMY AND ARMAMENTS OFFICE OF THE HIGH COMMAND

TRANSLATION OF DOCUMENT KRAUCH 148 PROSECUTION EXHIBIT 197

AFFIDAVIT OF [GENERAL] RUDOLF HUENERMANN, 19 MARCH 1948

Affidavit

I, Rudolf Huenermann, Major General [Generalleutnant], retired, a resident of Rheine/Westphalia, Muensterstrasse 48, have been warned that I render myself liable to punishment in the case of a false affidavit. I declare in lieu of oath that my statement is true and that it is made in order to be submitted as evidence to the Military Tribunal, Palace of Justice, Nuernberg.

1. From October 1936 until March 1943, I was assigned to the Military Economics Staff (since 1939: Military Economics and Armaments Office), which was the department headed by General Thomas. My assignment with this department was interrupted from June 1940 to the end of March 1941.

2. I have been shown *Prosecution Exhibit 473, Document EC-489*,¹ which is a letter from Lt. Col. Kirschner, addressed to General Thomas, dated 20 October 1941 and showing a rubber stamp, according to which it was received on 23 October 1941. In this letter, Kirschner suggests to employ Russian prisoners of war in the German economy.

In addition, I have been shown *Prosecution Exhibit 1287, Document EC-194*² and *Prosecution Exhibit 472, Document EC-200*.³

I wish to comment on these as follows:

According to my knowledge of the office routine then in force, I consider it impossible that Kirschner's letter played any part whatsoever in the Keitel decree of 31 October 1941 (Exhibit 472, Document EC-200). The interval which elapsed from the date at which the letter was received (23 October 1941) and the date of the Keitel decree (31 October 1941) was much too short. I rather assume that Kirschner's letter was just shelved in some file or other and marked

¹ Reproduced above in subsection D.

² *Ibid.*

³ Not reproduced herein.

“Superseded,” as the Keitel decree was then already known in the shape of a draft. This assumption is all the more justified, because OKW was at that time located in the Fuehrer Headquarters in East Prussia, which involved a further delay in the handling of the matter.

Apart from this, I want to point out the following:

A few months before the month of October 1941, I took part in the drafting of an application submitted to the Chief OKW, Field Marshal Keitel, by the Group “International Law” of the section Foreign Countries/Counterintelligence (Chief: Admiral Canaris); by this application, we aimed at a modification of the regulations of international law dealing with the treatment of Russian prisoners of war. In consequence, I consider it impossible that General Thomas, of all people, raised objections against the employment of Russian prisoners of war in war industry. At that time, it was rather Reich Minister *Todt* who was the leading exponent in all armament matters. He visited the Eastern Front several times during that period, and I assume that it was *Todt* who—based on his own impressions and on his knowledge of the manpower shortage in German industry—suggested to Hitler to fall back on the Russian prisoners of war; in other words, I assume that he was the originator of the Keitel decree.

3. In view of the fact that I was, during the war, repeatedly concerned with the legal problems involved in the Hague Rules on Land Warfare, I feel entitled to submit the following considerations referring to the questions whether or not it was legal to use Russian prisoners of war for employment in industry:

According to the legal terminology prevailing in Germany before and during the war, *armaments industry*—with regard to which it is in dispute whether prisoners of war may be employed—included all plants in which war equipment of any kind whatsoever was produced. However, the term “war equipment” means only those types of equipment which were produced according to special designs furnished by the Wehrmacht, and for the delivery of which definite time limits were established. According to this definition, mines, steel mills, plants producing aluminum, cellulose, gasoline, et cetera, are not armaments plants, the reason being that, although they are indispensable for the armament industry, they do not produce war equipment but only products available in the normal market, materials to be processed, or energy. Even in war time, these plants were indispensable for private industry as well, in as much as they supply it with its normal requirements at the same time, and they were termed “*plants essential for war economy and general economy*” [Kriegsund lebenswichtige Betriebe]. This definition also served for the delimitation of the jurisdiction of the Wehrmacht on the one hand and the Reich Ministry of Economics on the other hand. The “armament plants” were managed by the Armament Commands of the Wehrmacht,

whereas in the case of the "plants essential for war economy and general economy," this task rested with the departments of the Reich Ministry for Economics (Regional Economics Offices).

In view of the fact that Prof. Krauch was not directly concerned with the armaments industry proper, it must be assumed that the suggestion of his assistant Kirschner concerning the employment of Russian prisoners of war did not refer to the armaments industry proper, but to the "plants essential for war economy and general economy"; in other words to those plants, in which it was not prohibited by international law to employ prisoners of war.

[Signed] RUDOLF HUENERMANN

Rheine, Westphalis
19 March 1948

3. AFFIDAVIT OF COUNT CARLO FERRARIO, ITALIAN INDUSTRIALIST

TRANSLATION OF DOCUMENT TER MEER 37 TER MEER DEFENSE EXHIBIT 235

AFFIDAVIT OF COUNT CARLO FERRARIO, 2 SEPTEMBER 1947, CONCERNING THE GOOD CHARACTER OF THE DEFENDANT TER MEER, HIS EFFORTS TO PREVENT ITALIAN WORKERS FROM BEING SENT TO GERMANY, AND RELATED MATTERS

Stamps 6 Lire

Stamp L.32
Milan, 2 September 1947

Affidavit

I, Carlo Ferrario, Cavaliere del Lavoro, domiciled in Milan, Via A. Baldissera 5, having been warned that I shall be liable to punishment for making a false statement, declare herewith under oath that my statement is true and is made in order to be submitted as evidence to the Allied Military Tribunal in Case No. 6 (I. G. Farben) in the Palace of Justice, Nuernberg.

I have known Dr. Fritz ter Meer since 1924 when, after having given up the sole agency for Italy of the Chemische Fabrik Sandoz of Basel, I entered upon my connection with the German chemical industry and took over among other activities, the agency of the Chemische Fabrik Griesheim-Elektron of Frankfort on the Main. At that time I entered into commercial relations likewise with the firm Chemische Fabrik vorm. Weiler-ter Meer of Uerdingen, where Dr. Fritz ter Meer carried on his activity. In 1925 both the Chemische Fabrik Griesheim-Elektron and the Chemische Fabrik vorm. Weiler-ter Meer were taken over by the I. G. Farben Aktiengesellschaft, and the undersigned was entrusted with the sole selling agency in Italy of a part of

the industrial chemicals manufactured by the said I. G. Farbenindustrie.

From 1925 on, Dr. Fritz ter Meer, having become one of the leading directors of the I. G. Farbenindustrie A. G., my contact with him became more frequent and constant.

I can testify most emphatically, before God and before all men, that Dr. Fritz ter Meer has always conducted himself, in all circumstances, as a true gentleman, holding himself above every attack and criticism and displaying always the most exemplary objectivity.

With particular reference to the period October 1943 to April 1945, that is during the time that Dr. Fritz ter Meer was acting in Italy as the Commissioner of "RuK" [Reich Ministry for Armament and War Production] for the chemical industry, the undersigned, by reason of his office and his work, and the fact that the German authorities were in complete control of all industrial activity, had frequent occasion to come into contact with the said gentleman and to observe his activities, and I am able to testify that the said Dr. Fritz ter Meer, in carrying out his tasks always conducted himself in an absolutely correct manner, never departing from the economic realm or acting for political motives.

The undersigned is able to testify from his own knowledge, that during that period, Dr. Fritz ter Meer used his ability and endeavors to place Italian industry again on a sound footing, more especially the more important factories, which, owing to various causes, were either closed or were producing only a fraction of their normal capacity.

Of particular importance to Italian agriculture was the resumption of the production of synthetic fertilizers on the basis of nitrogen.

It should also be put on record that Dr. ter Meer succeeded, by having various factories declared "protected industries," in preventing a large number of workers from being sent to Germany who otherwise would automatically have been selected and transported by force to the German factories.

The undersigned also knows that during the last weeks of his stay in Milan Dr. ter Meer took it upon himself to intervene with the various German authorities so that in the event of a withdrawal by the German troops from Italian soil, the destruction of factories might be avoided. This he did, as he himself told me, out of a feeling of friendliness towards the Italian people and because we wished to avoid Italy's being deprived of the possibility of recovering by destruction on the scale contemplated, without at the same time affording that help to the German cause it might have been thought to achieve.

[Signed] CARLO FERRARIO
Carlo Ferrario, Cavaliere del Lavoro

I hereby certify, that the above signature, made in my presence, is that of Sig. Comm. Carlo Ferrario, Cavaliere del Lavoro. By way of identification Signor Carlo Ferrario presented Passport No. 282748 reg. 13213/II of the Milan Police Headquarters, issued on 14 May 1947. Milan, 2 September 1947

[Signed] DR. PESCINI DOMENICO
Notary

Official Stamp
Pescini Domenico

Di Ernesto
Notary, Milan

Stamp

Civil and Penal Tribunal, Milan

The signature of Dr. Domenico Pescini, Notary, is hereby certified
Milan, 3 Sept. 1947

Deputy Clerk to the Court
(Initials)

2 Government Stamps

Lire 55

4. AFFIDAVIT OF DR. ALFRED LINGG, OFFICIAL OF FARBEN'S MUNICH CAMERA PLANT

TRANSLATION OF DOCUMENT GAJEWSKI 34 GAJEWSKI DEFENSE EXHIBIT 46

Affidavit

I, Dr. Alfred LINGG, residing in Munich-Gruenwald, Hindenburgplatz 2, having been duly warned that I render myself liable to punishment by making a false statement, state the following on oath voluntarily and without duress: Document NI-3825, Prosecution Exhibit 1404,¹ has been submitted to me. To explain the event dealt with further there, I refer, first of all, to the letter of the Camera Works to the Stadelheim Prison dated 12 January 1944,² a photo-copy of which is attached to this declaration. This letter goes back to the fact that some Polish women who were in prison wished to continue to work with us after they had served their time. We could only comply with this wish if we had the consent of the Regional Armament Office in advance. The Regional Armament Office declared its willingness to grant us permission to employ the women released from prison; demanded, however, as a matter of form the conscription for which it intended to apply to the Labor Office. Accordingly, the lists requested from Stadelheim ought to have been handed in to the Regional Arma-

¹ Reproduced above in subsection D.

² Document Gajewski 34, Gajewski Defense Exhibit, is reproduced above in subsection D just prior to the related Document NI-3825, Prosecution Exhibit 1404.

ment Office, as I declined, on principle, to have the plant propose the compulsory service of foreigners. Whether the personnel Referent, later, as it would appear from Document NI-3825, approached the Labor Office directly, contrary to my instruction, I do not know. What is definitely established, at any event, is that the Polish women in question, after they had served their sentence, were released in regular fashion from the Stadelheim Prison. Insofar as these women were conscripted for labor in the Camera Works by the Labor Office, they were in the same legal position as all other free workers who, at that time, were conscripted for labor in our works; as, for instance, the female members of the Bavarian State Theater who, for their part, were also conscripted for labor in our works by labor allocation authorities.

Dr. Gajewski was not informed as a matter of daily routine of the allocation of such workers as were conscripted for labor, nor of the continued employment of the Polish women released from prison. Nor do I remember that it was ever brought to his knowledge.

Munich, 17 February 1948.

(Signed:) DR. ALFRED LINGG

5. AFFIDAVIT AND TESTIMONY OF ADOLF TAUB, A FORMER INMATE OF AUSCHWITZ CONCENTRATION CAMP

a. Affidavit

TRANSLATION OF DOCUMENT DUERRFELD 892 DUERRFELD DEFENSE EXHIBIT 422

AFFIDAVIT OF ADOLF TAUB, 11 AUGUST 1947

I, Adolf *Taub*, furrier and mechanic, residing at Backnang, Mozartstrasse 6, after having been cautioned that by making a false affidavit I render myself liable to punishment hereby declare that my statement is true and was made in order to be submitted as evidence to the Military Tribunal No. VI in the Palace of Justice at Nuernberg, Germany:

I am a Jew [Volljude]. My father was killed in the concentration camp Dachau. My mother and sister were gassed in Auschwitz-Birkenau. I myself was arrested with my father in Italy and extradited to France when we were trying to escape from the Gestapo. I was in the following concentration camps: camp Sachsenhausen-Oranienburg from 15 September 1939, camp Auschwitz I, a few days in October 1942, camp Auschwitz III, Buna-Monowitz, until August 1943, then in the penal company in Auschwitz II Birkenau until October 1943. In the Buna camp (also called camp Monowitz or camp IV), I was assigned to block 12.

In my opinion, the SS and not Farben was responsible for conditions in the Buna camp, for the administration and the supervision in the Buna camp was the exclusive responsibility of the SS. Farben had no influence on the camp administration and the Farben people had no right to enter the camp as they wanted to.

I am informed of the charges against the former Farben Vorstand members in regard to the Auschwitz matter. However, I must refute the statements of the prosecution in many points. For instance, the assertion that there were torture places and torture instruments available in the Buna camp does not correspond with the facts. In any case, I have never seen any. It is also not true that children were employed in the IG works Auschwitz. Neither were there any children in camp IV. Among the juvenile inmates there were a few 14-year-old Jewish inmates; however, they were not asked to do much work, because they acted mostly as servants or look-outs for prominent inmates, were treated with consideration, and did not have to suffer or fear anything.

It is furthermore not true that the IG or its organs had caused the inmates to be mistreated for insufficient performance. Indeed, it happened that Kapos mistreated inmates on orders of the SS, but the IG management intervened at once if such cases became known.

I have never witnessed that inmates had been punished for insufficient work. In most cases, punishment resulted from the fact that they had established contact with civilians present in the works, in direct violation of orders issued by the SS. I, myself, was punished for this offense. As a punishment for talking with civilians and for leaving my place of work, the SS sent me to the penal company in Birkenau for 12 months. The IG management had no part whatsoever in it, nor would they have been able to prevent it. I and the other camp inmates whom I met in the penal company in Birkenau are proof of the fact that a transfer to the penal company in Birkenau did not necessarily mean death. In my opinion, the IG administration did not know at all where the inmates had to serve their time nor what would become of them. The opinion held today that inmates transferred to a penal company were eventually all killed perhaps has its source in the fact that inmates sent to a penal company were—as a matter of principle—not returned to their former place of work, because employment in the Buna camp was considered a privilege, so to speak.

On the average, the working day for inmates in the IG works was fixed at 10 hours. However, in practice, the working time was shorter, particularly in winter, on account of the daylight. I was mostly employed as a mechanic in the telephone exchange and before this as a transport worker. I could not truthfully assert that I was forced to maintain a killing pace. I took it as easy as I possibly could.

I had hardly any contact with IG organs. The IG superintendents

and the foremen issued their order to the kapos or the men in charge of details. I have never witnessed a case where an inmate had been subject to improper treatment by an IG functionary. It was a matter of general knowledge to the inmates that the IG management had issued strict orders to its personnel prohibiting any kind of improper treatment of camp inmates, especially beatings, on its premises.

The quality of the food we received in the buna camp was better than in any other camp I know. The food in the buna camp and the food in the Birkenau was as different as day and night. Considering the conditions at the time, the quantity was also adequate [angepasst].

The quarters in camp IV were not bad. We had nice triple-deck beds and the place was kept scrupulously clean. I am at a loss to account for the assumption that we were forced to sleep on rotten straw.

As to the clothing and shoes of the inmates of the buna camp, I should like to remark that every time we left camp we had to pass inspection, inmates with torn shoes or clothing were picked out and sent back to camp to be given a better outfit. In my time, the inmates working on outside jobs even had leather shoes.

There were ample facilities in camp IV for the sick. Four hospital blocks and a convalescent block were available. Medical treatment and the dispensation of medicine was adequate. Several inmate-comrades from camp Sachsenhausen who had worked in the hospital block as nurses made statements to me to this effect. There also was a dental clinic in camp.

There also had been some provisions in the buna camp for entertainment. During my stay I witnessed several sport events (soccer).

It is true that inmates not fit for work were frequently sent from camp IV to Birkenau or Auschwitz I. It is quite possible that many of them were killed there; but I also remember quite distinctly that when I was in the main camp I afterwards met some of the inmate-comrades who had been sent away from the buna camp as unfit for work enjoying good health now, from which fact I must assume that they completely recovered in the main camp after their removal from the buna camp. There can be no question of a labor turnover of 300 percent in camp IV. Perhaps this assumption is based on the fact that during the first years frequent changes in the camp's population took place which was the result of transfers among the individual camps. For instance, in March 1943 some blocks with approximately 2000 inmates with their block seniors (I remember the names of Hermann Dimanski and Van Felsen) were transferred in a body to another camp, for what reasons I do not know.

Finally, for the sake of justice, I should like to state expressly that all the inmates who worked for the IG were better off in regard to housing, food, clothing, et cetera, than any other concentration camp

inmates. I attribute this fact to the efforts of the IG management. Therefore, to say that 100 men died daily at their place of work is also not correct. I remember a few cases where an inmate had died at his place of work, but this had nothing to do whatsoever with work requirements or with the treatment on the part of the IG.

In conclusion I should like to emphasize the fact that, compared to Birkenau, the buna camp was a paradise. During all of my time spent in concentration camps I nowhere felt safer from death than in the buna camp. Therefore, my only explanation for the statements in the indictment, which have been made known to me, concerning the IG works Auschwitz and the labor camp located there is that this camp has been mistaken for the camp Birkenau.

Backnang, 11 August 1947

[Signed] A. TAUB

I hereby certify the authenticity of the above signature of Herr Adolf Taub, Backnang, Mozartstrasse 6.

Backnang, 11 August 1947.

Office of the Mayor

[Signed] WOHLFARTH

Stadtammann

Certificate.

I, Dr. Alfred Seidl, Attorney at law, hereby certify that the foregoing is a true and correct copy of the original document.

Nuremberg, 15 February 1948

(Signed) DR. ALFRED SEIDL.

b. Testimony of Adolf Taub*

TESTIMONY OF ADOLF TAUB

DIRECT EXAMINATION

DR. SEIDL (counsel for defendant Duerrfeld) : Mr. Taub, may I ask you to state your full name for the record?

WITNESS TAUB: Taub, Adolf.

Q. When were you born, Witness?

A. 1 September 1923.

Q. Witness, on 11 August 1947 you signed an affidavit before the mayor, is that correct?

A. Yes.

Q. Did you voluntarily sign this affidavit?

A. I signed the affidavit voluntarily.

Q. This affidavit was placed in book 4 of Duerrfeld. It is on page 20 of that document book. The number of the document is Docu-

*The testimony of Adolf Taub is recorded in the mimeographed transcript 4 May 1948, pages 13480-13489.

ment Duerrfeld 892 and the affidavit was submitted as Duerrfeld Defense Exhibit 422.¹ Witness, I should now like to ask you whether you wish to add anything to that affidavit. I discussed the affidavit with you a few moments ago and I noticed that on page 1 of your affidavit—do you have it in front of you?

A. Yes.

Q. You wanted to make a change in the last paragraph. It says there: "Farben did not influence the camp management and the Farben people had no right to enter the camp as they wanted to." Do you wish to add anything to the expression "influence"?

A. Yes, according to personal opinion, since Farben could ask the SS to do anything, they could get any people or any material they wanted. Certainly they could have exercised some influence about the treatment of the inmates.

Q. Do you believe that the Farben management was able to give any instructions to the SS about the management of the camp itself?

A. With regard to the camp management itself, I cannot say that, but they had connections with higher authorities and they could have done it through them.

Q. Witness, may I remind you that it is necessary to speak slowly and, in particular, to watch the two lights in front of you? You said, on Page 2 of your affidavit, that in the buna camp no torture places existed. Is it not correct that in camp IV there was a torture instrument which the SS used to punish inmates?

A. Yes, that is correct. There was a torture instrument called a "Bock" in German,² and also there was a standing bunker [Stehbunker] and, apart from that, there was a political department. At this political department people were forced to give answers.

Q. Was this "Bock," this torture instrument, all the time in the place where the roll-calls were held or was it only brought out when somebody was punished?

A. It was only brought out when somebody was to be punished, mostly during the roll-call.

Q. On page 3 of your affidavit you state: "The food in the buna camp was better than any other camp I know." Did you mean Auschwitz and Birkenau by this?

A. I meant only Auschwitz and Birkenau.

Q. Please look at page 5 of the affidavit. I want to ask you whether you wish to add anything in the second paragraph.

A. It might not be quite correct that every day several hundred inmates died at the place where they worked, but daily quite a number of deaths occurred and people were shot when they tried to escape. I think this is owing to the food which was insufficient for this work,

¹ Reproduced immediately above.

² A "Bock" was a block over which inmates bent when being flogged.

but the food was as it could only have been in those days and those undernourished people had to work terribly hard.

Q. You said before, Witness, that shootings occurred. Did you mean shootings in camp IV?

A. Not in the camp, but when marching out of the camp.

Q. By the SS?

A. Yes, in the street.

DR. SEIDL: I have no further questions.

CROSS-EXAMINATION

MR. MINSKOFF: Now, Mr. Witness, you just mentioned on direct examination that the food at IG Auschwitz was better than Auschwitz-Birkenau. You stated that you meant only Auschwitz-Birkenau. Now, do you mean that there were other concentration camps which had better food than IG Auschwitz?

A. Yes. In the concentration camp Sachsenhausen the entire supplies and food and sanitary conditions were much better.

Q. Now, Mr. Witness, in your affidavit you state that your mother and sister were gassed at Auschwitz-Birkenau. Can you tell me the circumstances of how that occurred?

A. The gassing itself?

Q. Well, you say that they were gassed and I was wondering how you knew they were gassed and what the circumstances were.

A. Before we were transported from Sachsenhausen to Auschwitz we already knew about gassings because they had also occurred in Sachsenhausen. Daily many Russian POWs were gassed there. Those inmates who were not popular were threatened with being sent to Auschwitz and that meant as much as certain death because we knew that gas chambers existed there.

Q. Now, one second. Mr. Witness, are you speaking about IG Auschwitz, buna-Auschwitz where they were threatened?

A. These threats occurred in buna-Auschwitz. Certain camp seniors and prominent people existed who perhaps did not like some inmates personally or who perhaps knew too much about the illegal business and so they said, "We will finish you. We will send you to the transport," and they had the power to insist on that.

DR. SEIDL: I am not quite sure if the translation showed quite clearly that the witness is now talking of camp IV of which the SS was in charge. That is the camp Monowitz.

MR. MINSKOFF: The witness said buna, but I will clarify it if you wish, Dr. Seidl.

MR. MINSKOFF: When you were at I. G. Farben Auschwitz in the IG construction site itself, did you ever hear threats there that persons would be sent to the gas chamber?

A. I cannot say that because I was mostly on Kommandos [details]

where I worked independently and I had nothing to do with those people.

Q. Well, before you went to Auschwitz-Birkenau, when you were still at I. G. Farben Auschwitz, did you then know that persons were being gassed in Auschwitz-Birkenau?

A. Yes, I certainly knew that.

Q. Can you state, Mr. Witness, was that general knowledge at I. G. Farben-Auschwitz that persons were being gassed at Auschwitz-Birkenau?

DR. SEIDL: I object—just a moment—I object to that question. The witness just testified that he was in a Kommando where he met very few others. Therefore, in that question it can only concern the fact whether this was known in camp IV. He has already said that regarding knowledge in the IG camp he knows nothing about it.

MR. MINSKOFF: Mr. Commissioner, these interruptions are not particularly helpful except to advise the witness as to what he ought to say. The persons who worked for IG Auschwitz who were concentration camp inmates, lived all in Monowitz which is the same place this witness lived.

MR. MINSKOFF: Now, the question I am putting to the witness is: among the inmates who lived at Monowitz who of course worked for IG Auschwitz, was it common knowledge that persons were being gassed at Auschwitz-Birkenau?

A. In the buna camp, the Monowitz camp, it was known among the inmates because they were mostly older inmates from Buchenwald and Sachsenhausen who had heard about these things previously and had seen them.

Q. Mr. Witness, was it ever talked about on the construction site that persons who didn't work hard enough might get sent to be gassed in Auschwitz-Birkenau?

A. I cannot judge that. I personally did not hear that because I worked away on a Kommando and I was only together with one or two civilians.

Q. Now, Mr. Witness, you stated that the SS was responsible in the Monowitz camp. Now, who was responsible for the inmates during the time they were working outside of Monowitz?

A. During the time we worked, I. G. Farben was responsible for the inmates.

Q. And during the time that you worked did you ever see inmates beaten on the construction site?

A. Yes, that occurred. I was in Kommando No. 4 for a time, for about 4 days, by chance, because people were taken from another Kommando and a great number of freight cars had to be unloaded on a Sunday, and there many inmates were treated so badly that we had to carry them home in the evening.

Q. Now, Mr. Witness, did you ever see persons collapse during the working hours?

A. Yes. That occurred a few times while I was in the Kommando, and in the Kommando which was called "Judenfranz," the Kapo was always drunk, and he treated the people so badly and made them work so hard in order to get some alcohol from his superior that in the evening we had to carry home people who were half dead.

Q. Who was his superior, Mr. Witness?

A. Of that Kommando? I do not know. I only know where the Kommando worked.

Q. Was there a civilian who gave him the alcohol? Do you know that?

A. Yes. The Kapos all got food and drinks and so forth from civilians. They organized it.

Q. Now, Mr. Witness, did it ever happen that concentration camp inmates were punished because they were reported by the I. G. Farben to the SS?

A. I personally, in June or July of 1943, was removed from the place where I had worked together with two civilians and I was returned to my Kommando. Since this was within a chain of guards where one could move about freely I left my Kommando during the noon interval in order to return to the civilian with whom I was on very good terms and who sometimes gave me something to eat.

After I had been with him for a few minutes in his dressing room, we heard steps on the corridor, the door was opened, and Hauptscharfuehrer Rackers with a squadron leader and the superior of the civilian appeared. Hauptscharfuehrer [Master Sergeant] Rackers took me into a room where the heating apparatus was, and there he examined me from top to bottom, for letters or things which I might possibly have been given, and he only found a sandwich on me. After that he beat me so heavily that my glasses broke and it was very difficult for me to get a new pair. Apart from that, he took me along with him immediately to his barracks where he stayed during the day and then he had my Kapo called and talked to him as to why I had left the Kommando without his noticing it. Since he had done some transactions with this Kapo as well, he did not do anything to the Kapo, and the Kapo advised me that I should ask the Hauptscharfuehrer that he should give me 25 lashes and should not report me instead. I did this. He then gave a stick to the Kapo and said he was to give me 25 strokes. Since the first 10 strokes were rather weak, he gave the stick to another fellow sufferer away from the Kapo so that he would continue with the beating. Since the other man did not beat me hard enough either, he had to stop after five beatings and Hauptscharfuehrer Rackers personally gave me 25 beatings with the stick.

Q. Now, Mr. Witness, you mentioned in your affidavit that the I. G.

management was against beating the inmates. Now how can you explain that in view of the fact that it was they who reported you?

A. Beating of inmates was officially prohibited according to a ruling in the camp so that the inmates could work better, so that they would do work for the German economy, and since in the armament industry they were short of skilled workers.

Q. Now, Mr. Witness, you received buna soup while you worked at IG Auschwitz?

A. Yes, every lunch we received buna soup except during the first 3 months while I was there—

Q. Was that—pardon me, go ahead.

A. Since the buna kitchen was only being constructed and had not yet been completed.

Q. Was that a good nourishing soup or was that a very, very watery soup?

A. The soup varied, but it was made only with water and vegetables. Some days, for example, we got beets. They put in a lot of those and not so much water. On other days, we got different kinds of beets and the soup consisted mostly of water.

Q. Now, Mr. Witness, you worked in cable Kommando IV, isn't that right?

A. Yes. This was not a cable Kommando. Kommando IV was a concrete and iron-unloading Kommando.

Q. Was that the Kommando that was called the death Kommando?

A. Yes.

Q. Isn't it a fact, Mr. Witness, that the inmates who worked in that Kommando would have among them dead ones carried in every day?

A. I can certainly say that dead people or half-dead people were brought in every day, and that those people who tried to escape were shot at the gate where they marched out of the camp.

Q. Now could these persons who were being carried out, could they be seen as they marched back toward Monowitz?

A. These ill treatments could not be seen, but the shooting was carried out on the open street.

Q. Now, Mr. Witness, while you were at IG Auschwitz, didn't you also do some work as a translator?

A. As a translator? As a transport worker, do you mean?

Q. No, as a translator.

A. No, never.

Q. Mr. Witness, did you ever speak—Go ahead.

A. I forgot it. At the Kommando No. IX, the electric Kommando, since I speak Italian, and was arrested in Italy for a brief period, I worked together with Italians, since the German foreman was not able to talk to them.

Q. Now, Mr. Witness, isn't it true that when you had conversations with I. G. Farben employees that you often talked about the gassings of human beings at Auschwitz-Birkenau?

A. All inmates who had any connection with civilians described all the conditions in the camps.

Q. The question I am asking you is; does that include the gassing of inmates at Auschwitz-Birkenau?

A. Yes, 100 percent.

Q. Thank you. No further questions.

REDIRECT EXAMINATION

DR. SEIDL: Witness, I wish to ask you, when did you come to Monowitz to the camp IV where the inmates were housed who worked in the Farben plant?

A. In October or the beginning of November 1942.

Q. How long were you there?

A. Until June or July 1943, until I was put into a punitive detachment.

Q. And afterwards you returned to Monowitz?

A. No, after I had been in a punitive company for 2 months, I went to Warsaw with a transport.

Q. You said before that the food in Sachsenhausen was better. Is it correct that you were in Sachsenhausen before and that at that time conditions were better generally?

A. In Sachsenhausen at the beginning of 1939 until 1940, the time was very bad, and from 1940 to 1942 conditions became better every day because they already needed the workers.

Q. You also answered to the prosecutor's question that the supervision over the inmates in the Farben plant was carried out by Farben people themselves. Isn't it correct that the immediate supervision was carried out by Kapos, that is other inmates?

A. The IG foreman told the Kapo to see to it that a certain amount of work was carried out, and it occurred when a Kapo did not manage to do the amount of work with his people he was supposed to do, then he was told off by the Kommando leader about it, I presume, because the Kommando leader was told about this. In that way the Kapos were forced to make the people work hard so that they themselves would not have to suffer.

Q. You testified before that inmates were shot while trying to escape, while marching from the camp to the plant on the open road. Can you tell me the time when this occurred?

A. It was early, about seven o'clock, about one hour before we started to work.

Q. And how often did you see that?

A. Almost every day; sometimes I saw several people.

Q. You also testified that the inmates talked to civilians. Do you know that it was strictly prohibited that inmates should talk to civilians or the other way around?

A. Yes, we did know that it was strictly prohibited to talk to civilians.

DR. SEIDL: No further questions.

MR. MINSKOFF: No further questions.

6. AFFIDAVIT AND TESTIMONY OF FRITZ SCHERMULY, A GERMAN CONVICT INTERNED AT AUSCHWITZ CONCENTRATION CAMP

a. Affidavit

TRANSLATION OF DOCUMENT DUERRFELD 402 DUERRFELD DEFENSE EXHIBIT 103

AFFIDAVIT OF FRITZ SCHERMULY, 16 SEPTEMBER 1947, CONCERNING THE TREATMENT OF CONCENTRATION CAMP INMATES IN THE MONOWITZ CAMP OF AUSCHWITZ AND RELATED MATTERS*

I, Fritz Schermuly, born 21 July 1897 at Munich, residing there, Herzogstrasse 81, chimney-sweep by profession, have been duly warned that I make myself liable to punishment if I make a false affidavit. I declare under oath that my statement is true and was made in order to be submitted in evidence to Military Tribunal No. VI in the Palace of Justice, Nuernberg, Germany.

After serving a term of imprisonment for trade in narcotics, I was sent to concentration camp Mauthausen in November 1941 on preventive custody. I was in the following camps: Mauthausen, Gusen I, Steyr, and from April 1943, Monowitz.

As a worker, I went through various blocks, and from the beginning of 1944 until the evacuation of the camp, was Block Elder of blocks 11 and 12.

In my opinion, I cannot hold I. G. Farben responsible for our condition in Monowitz. I. G. Farben made the most humane treatment possible available to the camp. For the conditions in the camp, the SS alone—and, in part, the prisoners themselves—were responsible. I. G. Farben had nothing to do with the camp administration. Until the middle of 1944, accommodations in the camp were good. By this I mean to say that every man had his own bed. The camp was spacious and laid out with lawns. After the mass transports began to arrive, some time about the middle of 1944, two men had to share one bed. In my block, and as far as I know in the others as well, no

*Schermuly's examination before a Commissioner of the Tribunal concerning this affidavit and related matters is reproduced immediately below.

one slept on filthy straw. There was sufficient wood-wool (shavings) available from I. G. Farben.

The food in camp Monowitz was considerably better in comparison to the other camps which I was formerly in. I attribute this to the additional food supplied by I. G. Farben. Almost every day we received, even if in only small quantities, sausage and butter, or sausage and cheese, or butter alone. In the other camps I ate only turnips for months on end. We also, like the other employees of I. G. Farben, received an extra portion of soup daily on the construction sites. The soup varied in quality, but each time it became better when Dr. Duerrfeld personally intervened after complaints had been made to him. Dr. Duerrfeld was known among the prisoners as their good angel. Dr. Duerrfeld did not tolerate any sort of excesses, such as mistreatment, without taking steps against them. It did not matter, whether this mistreatment was attempted by the SS or even by members of the I. G. Farben plant. In each case when he heard about it, he stepped in. There was, in addition, a strict order from the I. G. Farben management forbidding their plant employees to attack prisoners. This order was generally known in the camp.

I. G. Farben intervened for sufficient clothing and working equipment for the prisoners. I also know that I. G. Farben provided additional clothing in their own interests. Above all, they sent shoes and winter clothing, such as jackets, sweaters, gloves, and stockings.

In the camp there was a regular dispensary, that is, sick prisoners were taken care of there by prisoner-physicians in accordance with regulations, treated and provided with medicine. When someone reported that he was ill, there were no difficulties, unless there were "goldbrickers" and fakers involved. I myself was in the hospital for 2 months because of a laceration of the lung [Lungenriss]. There was also a dental clinic. There was besides this a convalescent block for those prisoners who were not yet fully able to work after recovering from illness. For example, after I arrived from Mauthausen, I was in the convalescent block for 14 days before being assigned to work, together with my comrades on the transport from Mauthausen, because we could not work because we were undernourished, and had shrunk to skeletons. In the convalescent block we did not have to work, we could stay in bed all the time.

There were no torture chambers and such instruments in Monowitz. Sporting events also took place in Monowitz, in which every prisoner could take part as he wished. There was soccer, boxing, concerts, and the theater.

We received assignment to the places of work from the foremen of I. G. Farben and/or the firms working for the latter. These people had nothing to do with our discipline, in that respect only the SS had authority. The SS guard was limited after the plant was ex-

panded to surrounding the outer enclosure of the camp by a line of guards, while in the plant itself approximately 1 dozen work detail leaders with the rank of SS-Hauptscharfuehrer checked the individual work details. By this arrangement, the prisoners had a fairly good opportunity of moving around quite freely and establishing contact with the free employees. I know that in connection with mistreatment of the prisoners by I. G. Farben people or their deputies, the I. G. Farben management, above all Dr. Duerrfeld, intervened against this.

The working day was from 6 in the morning till 6 in the evening. Included in this time were the roll-calls connected with arrival and departure. In winter in any case we returned to the camp before darkness. During the time I was at camp Monowitz I cannot characterize the tempo of work as murderous. I myself worked on the assembly line. I no longer knew the name of the firm. I cannot complain about the treatment we received from the I. G. people.

Through the auspices of I. G. Farben, there were premium certificates for the prisoners. In exchange for these, the prisoner could purchase additional goods (tobacco goods, vegetable salad, fish salad, etc.) in the prisoners' canteen.

The I. G. Farben plant management checked the work details, and whenever in their opinion production was insufficient, reported that fact to the SS. Thereupon punishments followed.

In the camp as well as in the plant there were young people [but] no children. They were entrusted only with light work if they were employed. They were employed in apprentice work details, cleaning up rooms and helping skilled workers.

The prisoners in the labor reform camp [Arbeitserziehungshaeftlinge] were free laborers, who were accommodated separately in camp Monowitz up to 6 weeks for overstay of leave, refusal to work, and similar matters. These prisoners could receive packages, their hair was not cut, but otherwise they performed the same work as we did. These prisoners were naturally released after they had served their sentences.

There was a rather large turnover in the population of the camp whenever, for example, men had to be assigned to mines. It also happened that fairly large transports were sent off with the Russians or Poles from Monowitz. I. G. Farben can have had no interest in a constant turnover, because it always had to train new people again. Of course, I. G. Farben took an interest in keeping people unsuitable for work away from their plant. It is out of the question that the entire population of camp Monowitz changed on an average of 3 times every year. It is also not correct that every day numerous prisoners died of exhaustion while at work. In individual cases, it happened that prisoners died of fatigue. There is no doubt that the prisoners

in Monowitz were better off with regard to shelter, food, clothing, and working conditions than in the camps I was in before. I am convinced that this can be attributed to the efforts of I. G. Farben. If I had stayed in camp Mauthausen or Gusen, I would surely have died. It is absolutely possible that the atrocities attributed to camp Monowitz result from a confusion with Birkenau. No atrocities were committed in camp Monowitz.

Munich, 16 September 1947.

[Signed] FRITZ SCHERMULY

b. Testimony of Fritz Schermuly¹

TESTIMONY OF FRITZ SCHERMULY BEFORE COMMISSIONER MULROY

DIRECT EXAMINATION

DR. SEIDL (counsel for defendant Duerrfeld): Witness, on 16 September 1947, you made an affidavit, Document Duerrfeld 402, Duerrfeld Exhibit 103,² available to the defense. It was sworn before a notary in Munich on that same day?

WITNESS SCHERMULY: Yes.

Q. Witness, are these statements made in that affidavit made by you voluntarily?

A. Yes, this affidavit was made voluntarily.

Q. And it was signed by you voluntarily, was it?

A. Yes.

Q. In order to complete the record, would you please state your full name and the date of your birth?

A. I, Fritz Schermuly, was born on the 21st of July 1897, at Munich.

Q. I have a few supplemental questions to put to you, Witness. At the beginning of your affidavit, you state that after serving a term in prison for trade in narcotics you were sent to a concentration camp, Mauthausen, in November 1941 on preventive custody?

A. Yes.

Q. Had you been sentenced by another court in Germany before that?

A. As far as I remember, I was sentenced in 1920 with 7 days imprisonment; 1923, 2 years and 6 months; and in 1930, 1 year; in 1931, 2 years and 9 months; and then afterwards I served my sentence in the camp.

Q. As far as you remember, there were four proceedings against you, were there?

A. Yes.

Q. When were you sent to a concentration camp for the first time?

A. That was November 1941, when I was sent to Mauthausen.

¹ The testimony of Fritz Schermuly is recorded in the mimeographed transcript, 12 May 1948, pages 14492-14507.

² Reproduced immediately above.

Q. When were you sent to the labor camp, Monowitz?

A. April 1943.

Q. Were you the only inmate who, in April 1943, was transferred from Mauthausen to Monowitz, or were there a number of you?

A. Approximately 2,000 or 2,500 inmates were transferred from Mauthausen to Monowitz.

Q. What was the triangle you wore at Mauthausen or Gusen when you were transferred to Monowitz—was it green or red?

A. It was green.

Q. Were the other 2,000 or 2,500 inmates who, in April 1943, were transferred to Monowitz with you, inmates wearing a green triangle?

A. There were only inmates there wearing a green triangle.

Q. In what state of health, as far as you remember, were these inmates who in April 1943 were sent from Mauthausen or Gusen to Monowitz?

A. We were sent to Monowitz where we were received by the camp leader, Schoettel, and camp physician, Dr. Endress. We all had to take off our clothes, and we then had to bathe and then parade before the camp physician. When they saw us, they shook their heads because we had all become very thin and looked like skeletons. The next day the protective custody camp leader told us that we would stay at the block for 14 days, staying in bed, without doing any work; and then he said, in addition to the food given to us by the camp, we would receive another meal in order that we may recover. That was actually done. Only 14 days afterwards we were assigned to our work, to our various work details. The largest detail, which was assigned at the time, was a detail consisting of only "green" inmates, which had to remove sods in a moor. This detail was gradually dissolved and then distributed among the other details. The food at the Monowitz camp in comparison to the food at other camps was considerably better. In the camp of Mauthausen, Gusen, Steyr—all these camps where I was an inmate—we received nothing but beets and potatoes, and these were mostly in a rotten condition. There was no additional meal as in Monowitz. In Monowitz, for instance, we received our noon meal [dinner] at night. For that, we had sausages and a tenth of a pound of margarine. That was three times a week. Four times a week we had a fifth of a pound of margarine. We had a quarter of a bread. Then we had sausage and cheese or sausage and marmalade, and sometimes cheese and butter. Then we had a quarter of a bread, and then one liter of thick soup. Also we had the so-called "buna soup" at noon, which was given to us by the I. G. Farben. I remember an incident there; 6 months after I was in Monowitz, after I became a Kapo. I had a detail of 25 men. We had to do digging work. We had to carry stones and then carry something else on our way back. I had to cross the main road.

Q. I must interrupt you, Witness. I don't think it is necessary for us to go into details now. If necessary, I shall put some questions to you, but at first I want to know how your own physical state, as well as the physical state of health of the other 2,000 inmates, who had been transferred to Monowitz, developed.

A. When I went to Monowitz from Mauthausen, I weighed 96 pounds, and I was 1 meter 80 high. Had I stayed in Mauthausen for some time longer, or in Gusen-Mauthausen, I naturally would have died, but in Monowitz we all recovered. I don't know of one of the inmates who had been transported to Monowitz who died of exhaustion. Naturally, now and again it did happen that they died, but whether that was due to the inmate himself or whether it was due to the food, that is another matter altogether. Some inmates came home in the evening and stayed quietly (that is, after the work was finished, after the roll call), but other inmates visited one friend here, one friend there, and sort of loafed around the camp, as we called it.

Q. I think what you have said so far will suffice. Would you briefly summarize how the physical state of health developed during that time at Monowitz?

A. It developed very favorably.

THE COMMISSIONER: Just a minute, please, Dr. Seidl, I am going to ask you, does this examination consist of changes or alterations of the affidavit, or is this material already contained in the affidavit?

DR. SEIDL: This material consists of some supplementations to the affidavit. I only have a very few questions, after which I shall be able to conclude my direct examination.

THE COMMISSIONER: I think you should make them rather brief because I think the controlling rule on these examinations, if I understand correctly, is that you may ask the witness if he desires to make any changes or corrections, but I am quite certain that it was never contemplated that the affidavit should be expanded indefinitely. You may go ahead.

DR. SEIDL: Witness, in your affidavit, you state at the very beginning that the SS alone, and sometimes the inmates, themselves, were responsible for food. Was there a so-called self-administration of inmates in the Monowitz Camp?

A. Yes, of course, there was a self-administration of the inmates. The internal administration in the camp neither concerned the SS nor anyone else. There was the block eldest, the camp eldest, the Kapo, etc.

Q. That will suffice for the moment now. Who was in charge of the allocation of the inmates to the various work details?

A. That was the labor service leader and the labor service clerk.

Q. Who was the labor service clerk?

A. That was a certain Schulhof.

Q. And the labor service leader concerned himself with details—or did he leave that to the labor service clerk, Schulhof?

A. He naturally had to leave it to the clerk, because the labor service leader didn't concern himself about details, he just submitted the suggestion and that this one or that one was transferred here and there.

DR. SEIDL: Very well. I have no further questions to the witness.

THE COMMISSIONER: The prosecution will cross-examine. Before anything further is done, however, it will probably be in order for me to advise this witness that although it is his privilege and right to testify quite freely as to any matters brought to his attention, the answers to questions should be directly responsive and the witness should not add anything outside the questions asked; and also, Mr. Witness, will you please observe the lights in front of you. The yellow light, that indicates that you are talking too fast, and you will have to slow down in order for us to get the record complete; and when the red light flashes, then you must stop talking until you have been told to go on. If you will just keep these things in mind, we will proceed smoothly and we will get the job done promptly. Thank you.

CROSS-EXAMINATION

MR. MINSKOFF: Mr. Witness, will you tell the court what your inmate number was that you have inscribed on your hand, on your arm?

A. 13955. It wasn't tattooed on my arm for one reason. Only Jews and foreigners had their arms tattooed. That did not apply to Reich Germans.

Q. You mean that did not apply to Aryan Reich Germans?

A. Well, there were some Germans who had themselves tattooed voluntarily, but none of them were forced to do that at Monowitz.

Q. Now, Mr. Witness, in your affidavit you mentioned that you served the term of imprisonment for trade in narcotics, and then were sent to the concentration camp Mauthausen in November 1941. On your direct examination by Dr. Seidl, you elaborated upon your affidavit and mentioned several earlier convictions in 1920, and 1923, and I believe one in 1931. You also added that you had a green triangle, which is the criminal triangle. Now, Mr. Witness, just so the record will be complete, will you tell the court the first time you were convicted of a crime?

A. I believe in 1920.

Q. And will you tell the court what the nature of the crime was?

A. Because of theft.

Q. Mr. Witness, will you now tell the court the second time you were convicted of a crime?

A. The second time in 1923—beginning of 1923, April or so, because of theft, and because of receiving.

Q. Now, Mr. Witness, I know this is some time back, but isn't it a fact that you were convicted of a crime in May 1922?

A. Quite possible, but I can't remember it now. Yes, I think 2 months; I think so, yes.

Q. And that was also for theft?

A. Yes, yes, theft, that is right.

Q. And do you recall again in 1922, the following month, being convicted for theft?

A. Yes. Well, that concerned one trial. As far as I remember, that was all one trial; 2 months.

Q. Now, Mr. Witness, the 1920 conviction, and the May 1922 convictions, and the June 1922 conviction, were three separate convictions with three separate sentences. Now do you not recall that at all at the present time?

A. I only know that I was imprisoned for 2 months. It may have been connected with the other sentence, but I don't know.

DR. SEIDL: Mr. Commissioner, I don't want to object to that question; I am not sure whether the translation came through. He said that there was one trial but that a number of deeds were considered at the same time during that one trial. Perhaps the prosecutor will repeat his question.

MR. MINSKOFF: I will be glad to. Mr. Witness, will you try to recall whether it is a fact or not that after the 1920 conviction which you spoke of, there were two convictions in 1922, 1 month apart, and both for theft, and both involved separate sentences?

A. Yes, I had two sentences, but only one sentence was served by me—but there were two actual trials connected in one sentence—two procedures connected in one sentence; that is quite possible, yes.

Q. Alright. Mr. Witness, now the next time you were convicted of a crime you state was 1923, in May.

A. Yes, beginning of 1923.

Q. And what was the nature of that crime?

A. That was receiving, theft, and burglary; all together, a sentence of 3 years.

Q. Perhaps there is a little confusion here, Mr. Witness. I think you are a little bit ahead of me on your dates. I think you are thinking about July 1923. Now in May 1923, do you recall whether you were convicted of a crime of trading in gold and silver and platinum, on the 14 of May 1923?

A. That was—yes, yes, that concerned that matter; 8 days or something. I am not quite sure. That is quite possible, yes. That was some illegal trading; yes.

Q. And then the following month, Mr. Witness, do you recall being convicted of grand larceny?

A. Yes; 2 years and 6 months.

- Q. And also 5 years loss of civil rights.
- A. Five years, yes.
- Q. And then, Mr. Witness, on the second of July 1923 were you convicted of another crime?
- A. That was receiving, yes.
- Q. That was receiving stolen goods?
- A. Yes.
- Q. Now, Mr. Witness, when was the next time that you were convicted of a crime?
- A. Nineteen-thirty, I think.
- Q. And what was the nature of that crime?
- A. Receiving stolen goods.
- Q. Mr. Witness, do you recall whether on the 14 of June 1929 you were convicted of receiving stolen goods?
- A. Yes; 1929 not 1930, yes, yes. That was 1929 and not 1930.
- Q. And you were sentenced to the penitentiary?
- A. One year, yes.
- Q. And again with 5 years loss of civil rights?
- A. Yes.
- Q. Now will you tell the Court the next time you were convicted of a crime.
- A. In 1932.
- Q. Now will you tell the Court the nature of that crime?
- A. Theft of narcotics.
- Q. And was that grand larceny?
- A. Yes, grand larceny.
- Q. And you were sentenced to the penitentiary again?
- A. Two years and nine months.
- Q. And again with 5 years loss of civil rights?
- A. Yes, 5 years loss of civil rights.
- Q. Now, Mr. Witness, when was the next time you were convicted of a crime?
- A. I wasn't convicted again afterwards.
- Q. When were you placed in protective custody?
- A. After serving my sentence—I am not sure when it ended—1933 or 1934 is when I finished serving my sentence; I think it was 1934, yes, June 1934.
- Q. And then what happened to you between 1934 and 1941 when you were sent to Mauthausen?
- A. Nothing happened.
- Q. You were free?
- DR. SEIDL: Objection. Mr. Commissioner, I don't want to object, but I think there is a misunderstanding. The witness was arrested between 1934 and 1941, and a question might be put to him to that effect.

MR. MINSKOFF: Well, that is the purpose of the question that was put to him. Mr. Witness, just so the record will be clear: After your last conviction which kept you in prison until 1934, you then remained in prison in protective custody from 1934 on until 1941, is that correct?

A. Yes, that is right, until 1941. In 1941, I was transferred into the camp.

Q. Now, Mr. Witness, have you told the Court all the crimes of which you were convicted?

A. As far as I remember, yes.

Q. Are you sure you have told all?

A. As far as I remember, yes.

Q. Mr. Witness, isn't it a fact that as recently as the 27 of March 1946 you were convicted of embezzlement?

A. Yes, that was embezzlement; yes, that is right.

MR. MINSKOFF: Thank you very much, Mr. Witness, no further questions.

REDIRECT EXAMINATION

DR. SEIDL (counsel for defendant Duerrfeld): Witness, Farben is indicted here because in the Auschwitz Plant of Farben they have employed concentration camp inmates. You testified before that 2,500 inmates were transferred from the Mauthausen camp with you to the Monowitz camp. My question to you is this: what sort of people were the other 2,500 inmates? Were they the same sort of people as you who had served previous sentences?

A. Yes, they all served sentences.

MR. MINSKOFF: I don't recall asking any questions on cross-examination which would have anything to do with the line of questioning being pursued by Dr. Seidl at the present time. He is burdening the record by going on with his own direct examination.

THE COMMISSIONER: Then you are making an objection, are you?

MR. MINSKOFF: Yes, the prosecution objects to that line of questioning.

DR. SEIDL: I believe that this will not burden the record because we see here for once what sort of inmates were actually employed in the construction of the buna plant.

MR. MINSKOFF: That has nothing to do with the redirect examination of this witness.

DR. SEIDL: It is very important in judging the questions pertaining to this trial what type of inmates these people were, and it is very important to know that 2,500 of the inmates, the same way as this inmate, were only in the concentration camp because they had a certain amount of sentences. We now have to show what sort of inmates were actually housed in that camp.

THE COMMISSIONER: I think, Dr. Seidl, you have explained your

position with perfect clearness. I will ask you now how long do you intend to pursue this line of inquiry?

DR. SEIDL: I only wanted to put one question to the witness which reads as follows:—

THE COMMISSIONER: You may do that. Proceed.

DR. SEIDL: Were the 2,500 inmates who were transferred with you from Mauthausen to Monowitz, people who had previous convictions, or what sort of people were they?

A. These were only such inmates who had previous convictions, and that was shown by the green triangle.

Q. I have no further questions to the witness.

THE COMMISSIONER: Have you something further?

MR. MINSKOFF: Just one question, Mr. Commissioner.

MR. MINSKOFF: Mr. Witness, will you tell this Court whether the four and one-half million inmates who died at Auschwitz-Birkenau were criminals?

DR. SEIDL: I object to that question. This question neither arises from the direct examination nor from the cross-examination. We all know, Mr. Commissioner, what the prosecution intends with that question and we also know that this question has nothing in the slightest to do with this trial.

MR. MINSKOFF: No more questions from the prosecution, Sir.

THE COMMISSIONER: I don't think we have to go any further with that. You have made an objection. The record will show it. Have you any further questions, Mr. Minskoff?

MR. MINSKOFF: None, sir.

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7. TESTIMONY OF KARL BRAUS, OFFICIAL IN CHARGE OF THE SYNTHETIC FUEL PLANT OF FARBEN'S AUSCHWITZ PLANT

EXTRACTS FROM THE TESTIMONY OF KARL BRAUS*

DIRECT EXAMINATION

DR. FLAECHEISNER (counsel for defendant Bueteufisch): Dr. Braus will you tell the Tribunal briefly, where do you live?

WITNESS BRAUS: In Heilbronn.

Q. When were you born?

A. 20 April 1902.

Q. You are a chemist by profession?

A. Yes.

Q. How long did you work for Farben?

*The complete testimony of Karl Braus is recorded in the mimeographed transcript 11 and 12 March 1948, pages 8972-9017.

A. Since 1928.

Q. Where did you work?

A. From 1933 on I was in the Leuna plant in the low pressure department.

Q. Were you always in Leuna, or were you employed abroad too?

A. From 1937 until 1939, I was in Japan. A nitrogen plant was built by Farben for Mitsubishi and I put it in operation.

Q. Who was your superior at Leuna?

A. Oberingenieur Sauer and Dr. von Staden.

Q. Dr. Braus, did you have anything to do with the planning of the so-called Leuna part of Sparte I?

A. Yes.

Q. Please explain that to the Tribunal.

A. My superior at Leuna, Dr. von Staden, in March 1941 gave me the assignment under his supervision to plan the so-called Leuna part at the new Auschwitz plant and to put it into operation after it had been constructed.

Q. Were you in charge of this plant in 1943-44?

A. After October 1943, I was in charge of this plant at Auschwitz.

Q. Dr. Braus, what did Buetefisch have to do with the planning of this Leuna plant?

A. Dr. Buetefisch was the technical chief of the Leuna works. As Mr. von Staden told me, he had over-all supervision over the technical planning of Leuna at Auschwitz.

Q. Will you describe to the Tribunal your duties in connection with this planning?

A. My duties were to organize the installations, that is to say, to determine what machinery and what apparatus were required.

Q. Perhaps you will tell us, first of all, what was to be put there in Auschwitz, by Sparte I?

A. There was to be a hydrocarbon synthesis built in Auschwitz. This project had been discussed at Leuna. It had been given to Leuna as an assignment before I knew of the Auschwitz project. In the very beginning, it was said that this hydrocarbon synthesis was to be built near Leuna. When the site at Auschwitz was chosen for buna plant IV, it seemed expedient and advantageous to build this new hydrocarbon synthesis at Auschwitz, together with the buna plant.

Q. Was that site favorable for a synol plant?

A. Yes, very, especially because the major raw materials, coal and coke, which were needed in large quantities, were available in large quantities in the immediate vicinity of Auschwitz.

Q. You said before that the order was given to build such a plant near Leuna, if I understood you correctly.

A. No, the order had been given to work out such a project and, as I recall, Leuna first intended to set it up near Leuna. I believe the place was called Kriegsdorf.

Q. Yes, and then it was said, "we will go to Auschwitz."

A. Yes.

Q. Was the question of labor considered in deciding to go to Auschwitz?

A. No. Before plans were approved by the authorities, all questions involved, such as the obtaining of materials, building materials, labor, had to be settled. When I was told about this project, I assumed that these questions had been settled. At any rate, if the authorities wanted such a plant to be built they had to give the directives for obtaining the workers.

Q. Did you hear that inmates were to be used to build the plant?

A. In the beginning when I was called in, I did not know that. I heard of it later, about May 1941. I heard of a decree of Goering's ordering that concentration-camp inmates were to be used for labor at Auschwitz.

Q. Had you inspected conditions at Auschwitz personally at that time?

A. In the early summer of 1941 I was at Auschwitz for the first time.

Q. Did you consider this regulation that inmates were to be used in the construction work anything out of the ordinary?

A. No, because inmates and prisoners were employed everywhere in industry.

Q. Dr. Braus, records of the construction meetings have been put into evidence here. I should like to ask you, did you attend these construction meetings?

A. I did attend most of them.

Q. What was discussed at such meetings?

A. All problems affecting the construction of this plant; construction work, ordering machinery, labor, and so forth.

Q. Of Sparte I, who participated in these conferences?

A. In Sparte I, Dr. Duerrfeld was entrusted with the assembly by both Sparten. He attended regularly. Also, Dr. von Staden, whom Dr. Buete fish had entrusted with the planning of the Leuna part, as I have already said. Generally, the first engineer of Sparte I, Dr. Sauer, was represented; usually the first engineer of Leuna, Dr. Strombeck was present; and almost always, the first construction engineer of the Leuna plant, Mr. Hoepke.

Q. Did Buete fish attend many of these construction conferences?

A. No, Buete fish attended very few of them.

Q. But Buete fish had the over-all supervision of the planning?

A. Yes, he did, but he had a great deal to do, and he conducted himself in this case as in many others: He merely received reports on general matters, and he was asked for his decisions only in very special cases, when the rest of us could not manage.

Q. Did you often talk to Buetevisch about these construction matters, or did you go to other people first?

A. First of all I had to go to Dr. von Staden. He had been my superior at Leuna for years and he had the responsibility over me. Dr. von Staden reported to Dr. Buetevisch first. Of course, I went to see Dr. Buetevisch together with Dr. von Staden, too; and of course it did happen that I went to report to Dr. Buetevisch alone.

Q. Dr. Braus, did you always receive the reports of the construction conferences?

A. Yes, I did.

Q. Did you report to Dr. Buetevisch in each case?

A. No; that was up to Dr. von Staden.

Q. The weekly reports of the construction management at Auschwitz have been brought up here recently. Are you familiar with them?

A. Yes.

Q. Did you also receive these reports?

A. Later I received these reports regularly. I received the reports for about three quarters of a year in the beginning, all at once. Dr. von Staden handed them to me. That was about the end of 1941.

Q. When did you go to Auschwitz permanently?

A. I have already said I was in Auschwitz permanently from October 1943 on.

Q. In the meantime had you been there often for inspection?

A. Yes, of course, about every 2 or 3 months I was there for a few days in order to inform myself about the progress of the construction of my plants.

Q. The question of the treatment of the inmates is of interest here. Did you see any inmates at work there?

A. Yes, I did.

Q. What was their condition?

A. They were in uniform. They had striped clothing. Their heads were shaved. But on the whole I didn't notice anything special about them. They did not differ fundamentally from other categories of workers. That is, Poles, or Ukrainians, or Czechs—or German workers either.

Q. Were these inmates decently fed, or was their condition such that they were not able to do the work that was expected of them?

A. These inmates did not give the impression that they were incapable of doing the work expected of them.

Q. Were you able to make any observations to the effect that the inmates were driven to work particularly hard [angetrieben]?

A. When necessary, everyone was held to his work, of course, but I never heard that any rough or inhumane methods were used to make the prisoners work.

Q. Witness, let me put the question like this. Did you observe that Kapos or SS guards beat the inmates?

A. I, myself, did not see that, but in a few cases I heard about it afterwards; I always heard at the same time, however, that everything had been done on the spot to stop such violence.

Q. In the so-called weekly reports, did you notice remarks referring to such incidents?

A. I do not recall any such remarks, but I do recall that repeatedly, especially in the earlier construction conferences, the subject was brought up: How can we effectively prevent the SS from beating the inmates?

Q. Who was in charge of construction at Auschwitz?

A. In the beginning, Mr. Faust; and later, at the end of 1942 when Mr. Duerrfeld came to the construction site, in addition to being in charge of the assembly, he was also put in charge of construction, as I recall.

Q. What kind of a man was Faust? I mean his personality, his conduct?

A. Mr. Faust was a choleric person. He was a man who had worked on many construction sites, and he had a rather rough manner.

Q. How did he act?

A. He was correct and decent.

Q. Do you mean to say that even if Mr. Faust sometimes used strong language, that doesn't necessarily mean that he always did what he said?

MR. SPRECHER: Objection.

PRESIDING JUDGE SHAKE: The objection is sustained.

DR. FLAECHSNER: You said that Mr. Faust was a choleric person. Is that merely in his words, or did he allow himself to be carried away and do things for which he was sorry afterwards?

A. I am not aware that his temper induced him to do anything like that.

Q. Another question. Were any compulsory means used by the construction management to drive the inmates?

A. Not that I know of.

Q. Did you ever notice, or was it ever reported to you, that master workmen, that German foremen, beat the inmates? I make a distinction between the Kapos and the free German master workmen and foremen.

A. I do not recall that it was said that German master workmen beat the inmates. I have already said that especially in the beginning it happened rather frequently that the Kapos beat them.

Q. But then the construction management always took steps to prevent that as far as possible?

A. I have already said that.

Q. Dr. Braus, did the construction site at Auschwitz differ fundamentally from other construction sites?

A. I have seen many construction sites both in Germany and abroad. Auschwitz was an enormous one. It was distinguished by its phenomenal organization, by the large number of machines and devices for making the work easier, which were hardly to be expected, seeing that we were in the middle of a war.

Q. These machines were used to do the work mechanically as far as possible?

A. Yes.

Q. In the part of the construction which was under you, were the inmates, insofar as any worked there, worn out to the point where they were no longer able to do the work?

A. No, never. The inmates working in the plant without exception had light work assigned to them. They were assistants in laboratories, for instance; they kept lists; they helped in the glass warehouse, in the chemicals warehouse. Those were the most important places where they worked. Inside, where it was warm and quiet.

Q. There has been a great deal of talk here about weak inmates, who were unable to work, being selected and sent away to be exterminated. Do you know of any such thing happening at the Auschwitz plant?

A. I never learned of it, and I consider it absolutely impossible for such a thing to have happened in the Farben plant at Auschwitz.

Q. Did you visit the labor camp Monowitz?

A. No.

Q. Did you hear anything of the gassing of human beings in the concentration camp Auschwitz?

A. No.

Q. Did you ever have any occasion to report to Dr. Bueteffisch directly about abuses in the employment of inmates?

A. No.

* * * * *

CROSS-EXAMINATION

* * * * *

MR. SPRECHER: Did you ever see any inmates from the concentration camp who were no longer able to walk by their own initiative and energy but who had to be helped by other people so they could walk?

A. Occasionally, I saw prisoners limping and who were supported by their fellows, but I didn't see that any more frequently than I saw workers of other nationalities limp or even German national workers. On construction sites, as is in the nature of things, there frequently occur light and serious accidents and it also happens that people become sick and unwell. This did not take place to an extent that might have been considered conspicuous.

Q. Did you at any time see inmates who looked undernourished and not well fed?

A. I saw prisoners in Auschwitz that were badly nourished, but these people were not so badly nourished so that one had to conclude that they could not take care of the work that was expected of them.

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8. TESTIMONY OF HELMUT SCHNEIDER, OFFICIAL OF THE PERSONNEL DEPARTMENT OF FARBEN'S AUSCHWITZ PLANT

EXTRACTS FROM THE TESTIMONY OF HELMUT SCHNEIDER*

DIRECT EXAMINATION

DR. SEIDL: (counsel for defendant Duerrfeld): Witness, please state your full name for the record.

A. Helmut Schneider.

Q. When and where were you born?

A. 9 May 1910, in Schkenditz.

Q. And where do you live now?

A. In Goslar.

Q. What present position do you have in Goslar?

A. I am a lawyer and Stadtdirektor in Goslar.

Q. Dr. Schneider, will you please briefly describe your professional training and your development?

A. I attended the high school in Helmstaedt and in 1929 I graduated there. Then I studied law at the universities of Kiel, Munich, Berlin, and Goettingen. In 1933 I passed my Referendar [law clerk] examination; in 1934 I started my service as a Referendar; in 1938 I passed my Assessor examination. Then I was employed in Halle, with the Chamber of Commerce and Industry there, as a Referent. Then I transferred to the hydrogenation works in Poelitz. On 8 October, if I remember correctly, 1941, I was transferred to Farben. I was sent to the Auschwitz plant.

Q. Witness, you testified that in October 1941 you joined the Farben plant in Auschwitz. Now I would like to ask you, what position did you hold at that plant then and did this position change any in the following period?

A. First of all, in the beginning of my Auschwitz time, I merely had the job of protecting the German staff of the plant from being drafted, that is, to secure the personnel. Then, a few months after I joined this plant, I was placed in the personnel department and in addition to this I was given the department for workers' matters, which first of all was organized in such a way that workers' camp

*The witness should not be confused with the defendant Christian Schneider with whom he was not related. Helmut Schneider's complete testimony is recorded in the mimeographed transcript 14 April 1948, pages 11386-11440.

matters were separated from this department. Only later on, I can no longer give you the exact date, did I officially get the appointment to also handle the camp questions, together with the head of the personnel department.

* * * * *

Q. I now come to another question, and that is the employment of concentration camp inmates at Auschwitz. In October 1941, you came to Auschwitz. Were concentration-camp inmates employed at the plant at that time?

A. Only at the construction site, not in the plant. The plant wasn't built at that time.

Q. And where were they housed?

A. In the regular concentration camp, Auschwitz. They marched from the concentration camp to the construction site and back, every day.

Q. Wasn't there any transportation—trucks, or railroads—from time to time?

A. I cannot remember that, but that's possible.

Q. The prosecution's witnesses have testified that in October 1942, the concentration-camp inmates were put in their own camp which was south of the plant terrain. Now, was it intended from the beginning to house these people in this camp?

A. On the contrary, this was intended for other purposes. This was camp IV which you are speaking about. Its original purpose was to house the German employees. It was a very well equipped camp, and I complained when this good camp was lost to us for our own purposes.

Q. What were the reasons why this camp, which was actually intended for the Germans, was made available for the concentration camp inmates?

A. There were several reasons, as far as I know. One of the main reasons was probably to save the prisoners having to march through the city to the construction site, because it doesn't help a person if he has to march several kilometers each day just to get to work and back. There were other reasons. I never talked to anybody about them, but I can imagine what they were. For instance, one of the ideas of the management may have been to try, by setting up such a camp, to get more direct contact with the local leaders and through some stipulation to have some influence on the organization of these concentration-camp inmates, which was very difficult.

Q. The prosecution says that this camp IV was a concentration camp. What have you to say about that?

A. I have never seen any concentration camps from the inside, I am glad to say. But I did not have the impression, so far as I could judge the camp from the outside—I have never been inside camp IV—that

that was a real concentration camp. I have never had any reason to assume anything else other than that camp IV was one of the many workers' camps, branch camps, of the concentration camp Auschwitz.

Q. Who administered this camp IV, as you call it?

A. The SS was in charge of it.

Q. You were never in this camp?

A. No.

Q. I assume that you talked to the managing directors Dr. Duerrfeld, Dr. Braus, and the other men, about the employment of these concentration camp inmates. Could you say that the gentlemen of the management of Auschwitz were enthusiastic about employing concentration-camp inmates?

A. Not only were they not especially enthusiastic, but they weren't enthusiastic at all. I believe that was true from the beginning up to the last minute. At least, I never saw any signs by Dr. Duerrfeld, Dr. Braus, or Mr. Einfeld, nor did they give any indication that they were happy about the employment of concentration-camp inmates at Auschwitz. On the contrary, I already told this to the prosecution when I was interrogated. I was present at [more than] one discussion where this question was very seriously discussed. That is, whether or not we could find some way to dispose of the employment of concentration-camp inmates, and to put an end to it. What reasons there were which prevented putting this plan into action I don't know, but I can imagine that at that time, judging from what I know today when everything looks much simpler, that at that time, it was only possible for people who were tired of living to object to such a thing.

Q. What do you think would have happened to Dr. Duerrfeld, had he gone to the labor office in Katowice, and said, "Mr. President, I don't want to use the 7,000 concentration-camp inmates. I want German workers"?

A. The president of the labor office would probably have refused to accept such a statement from Dr. Duerrfeld. The president would have referred him to the SS, and the final result seems quite obvious to me. The person in such a position, one who refused, would have become a concentration-camp inmate himself. It is very likely that that would have happened.

Q. Witness, quite generally, what was the relationship between Farben on the one hand, and the SS administration of Camp IV on the other hand?

A. The relationship between the Farben management and the SS was polite, and, if there is such a thing, friendly but cool. They were polite, but that was all.

Q. Did you yourself see any concentration camp inmates working in that plant? At the construction site?

A. Yes.

Q. Did you notice anything, especially?

A. That's a question which I don't know how to interpret.

Q. Well, I will make my question more specific. Would you say that concentration camp inmates were expected to do work which could not really be expected of anyone under these conditions?

A. Generally, I wouldn't say that. But, I have already answered this question for the prosecution. There were individual cases in which concentration-camp inmates were used for difficult work, but that impossible work or impossible things were asked of them I have never observed. I didn't see that.

Q. What do you mean by "difficult work"?

A. There was some very heavy work, from my point of view as a layman, for example, such as assembly work, steel framework, et cetera.

Q. Was this work done only by the concentration-camp inmates, or did Germans do this type of work also?

A. All of them. All of them, not only the concentration-camp inmates.

Q. Were these concentration-camp inmates used only for certain work, or did the management try to assign them according to their qualifications?

A. Farben always persistently attempted to pick out the skilled worker from among these inmates, and, so far as I recall, attempts were made to train some of them, or to retrain them, and make skilled workers out of them. I believe there were cases with quite good success, if I remember correctly.

Q. And in calculating the ability of the inmate to work, did one use the same standards generally used for German and free workers, or were special conditions applied?

A. I am not quite the right person to answer that question, but I do know that in calculations of a type of work, and so forth, the inmates were accredited with about 60 percent of a normal worker.

Q. The prosecution maintains that an especially fast pace, tempo, of work was demanded of these people. Did you make any observations to that effect? I am sure you went to the construction sites quite frequently.

A. No, on the contrary. There is a very different German meaning for the word "Haeflingstempo" when it is translated into a foreign language. The "tempo" of the inmate means exactly the opposite of speed. I had no reason to assume, and I had no opportunity to observe, that the inmates were systematically expected to work at great speed.

Q. Were they used only in outside work, or were they employed in the workshops and offices?

A. They were predominantly used for outside work, but also, to a

large extent, in offices and workshops. For instance, we had the entire wage office of Farben staffed by concentration-camp inmates up to the end of 1944, and warehouse administrators were often concentration-camp inmates. It often happened that inmates who had proved their worth were released from the concentration camp and retained by Farben as free employees.

Q. Did the management have a decisive influence in this matter, as to whether or not a man was to remain a concentration-camp inmate or be released?

A. These were very, very few cases. The management did not have any decisive influence at all. That was up to the SS to decide on that. The management had no influence at all. They could only recommend an inmate for release.

Q. The prosecution witnesses have testified in their affidavits that the concentration-camp inmates were in special work details, and that at the head of such a detail there was a Kapo, who was himself a concentration camp inmate. I now ask you, who set up these work details? Who decided whether the prisoner "A" was to come to detail 137 and prisoner "B" to detail 136?

A. That was done by the labor administration of the SS.

Q. Did the SS have its office in the Farben plant or in camp IV?

A. In camp IV.

Q. The prosecution says that it happened very frequently that concentration-camp inmates were mistreated in the Farben plant by Kapos, by SS men, and also by Farben foremen, or foremen of the construction and assembly firms for whom these people were working. Now, you were in Auschwitz from October 1941 on; what observation did you yourself make?

A. I observed with my own eyes that in the first month of my work there, the Kapos did mistreat, beat, the inmates. I saw a few cases with my own eyes. Later the influence of the Farben plant management was against these things, and I believe it was quite successful in lessening them. I personally never observed any such incidents any more, at least since the end of 1942. The subject of mistreatment of the inmates then lost importance constantly. It was discussed less. One heard no more about it, so that I had the impression that in the course of time things changed and improved considerably.

Q. We have a large number of affidavits again and again saying that a prohibition was issued by the plant management against beating anyone at all on the construction site, whether it was a concentration-camp inmate, or no matter who it was. Do you know of that?

A. Yes, this prohibition was issued and was repeated and emphasized. Everyone knew about it, and what seems to be the most important point, something practical was done by Farben against these things. I myself, on orders of Dr. Deurffeld, two or three times, if

I am not mistaken, reported firms to the trustee of labor, and I was glad to do so because these firms, in spite of warning, had beaten workers or had done something which was not quite correct. I may remark, by the way, that I remember these cases because the legal question came up of whether Farben in such cases had any authority to make such a report to this trustee of labor.

Q. Do you know anything about the individual department heads and the representatives of the firms being informed of this prohibition officially, and being obligated to see to it that this prohibition was put into effect?

A. Yes, that is no doubt right.

Q. Witness, did you ever see in the plant or the construction site that concentration-camp inmates were asked to do too much, and collapsed at work?

A. No, I did not.

Q. I now come to another subject. In what way were you informed by the administration of camp IV about the number of people in camp IV? Were you informed in a general way or were you informed only how many inmates would appear at work every day?

A. The latter is true. As I recall, we were informed only of the number of inmates actually working at the construction site. But I believe I must correct myself. From the moment on when camp IV was supplied by Farben with food, some Farben office must have been informed of the strength, of the number of people. What I said before seems doubtful to me.

Q. But that was something that didn't affect you personally?

A. We of the Social Welfare Department were interested in these matters only statistically. The personnel department of the Social Welfare Department had nothing whatsoever to do with the employment of concentration camp inmates, aside from the fact that the statistical reports had to be made to the statistical office for the construction site which was under us.

Q. Witness, the prosecution maintains that there was a great fluctuation in the people in camp IV and those employed in the construction site. Did you, of the Social Welfare Department, make any observations of your own? Did you notice anything that seemed particularly noteworthy that aroused your suspicions?

A. We of the Social Welfare Department had no opportunity to make any observations of our own here. But the so-called fluctuation in the employment of concentration-camp inmates was discussed in conferences of the plant management, and so forth, very frequently. As I see it now, there were two types of fluctuations, an inner fluctuation, if I may call it that, by which I mean that worker number 1000, whom we expected at place "A" on such and such a date, did not come there, but came to a place "C" or "D." That matter was irregularly handled by the SS. There was fluctuation within Farben.

The other type of fluctuation could be seen by us when inmates left camp IV and others came there. The setup in the employment of concentration-camp inmates was something which we had no insight into. Farben talked to the SS about this fluctuation repeatedly and asked that this be stopped, if possible, but at least as far as I can remember from these conferences—I am only reporting indirectly now—the SS always gave different reasons; they referred to security reasons which made this impossible, at least in the opinion of the SS, for an inmate to work too long in the same place. This problem of fluctuation was never settled as long as I was in Auschwitz.

Q. Was not another reason given that it was necessary for the other working camps belonging to concentration camp Auschwitz to be supplied with people?

A. I consider it highly probable, if not certain, that this argument was used too. I am unable to say whether that was actually the case, but I think it very natural that this argument was used.

Q. Witness, did you ever hear that in camp IV inmates were selected according to their ability, or inability, to work? That, as the prosecution says, there were so-called selections?

A. No, I never heard of that. It was only later, unfortunately much too late, that I got a real picture of the employment of these concentration-camp inmates. But that such things are supposed to have happened in camp IV I hope is not true. At least in all the time that I was working at Auschwitz, I never heard anything about it.

Q. And you said before that it was only very late that you ever heard of conditions in the camps. Do you mean after the collapse?

A. Yes.

Q. Dr. Schneider, did you know what we all know today, that in the concentration camp, Birkenau, large numbers of human beings were systematically exterminated?

A. That there was a separate Birkenau camp I learned only recently. The word "Birkenau" I had heard in some connection in Auschwitz, but in what connection it was, what its meaning was, I realize only today. I had not the slightest idea of any arrangement for the systematic extermination of human beings.

Q. Dr. Schneider, how long were you at Auschwitz? You said you came in October 1941.

A. Yes, October 1941 to the 21st of January 1945.

Q. During all this time you never heard that near Birkenau large numbers of human beings were systematically exterminated?

A. No.

Q. Now, Witness, at the beginning you testified that you are a lawyer. Therefore I should like to ask you a question which seems to me important because a lawyer will perhaps have a different view on this question than a technical expert, like the defendant Duerrfeld.

During the more than 3 years that you worked at Auschwitz, did it ever occur to you that in the employment of concentration-camp inmates, in itself, there was an illegal and punishable act?

A. No, I cannot say, that that ever occurred to me. After 1945 I of course devoted a great deal of thought to that question. We all run the great danger of looking at things which happened between 1941 and 1945 as we judge them today. I consider that wrong. Then, at least that is how I test it myself, I did not see anything illegal in the fact that—

MR. MINSKOFF: Objection, Your Honors. It is the opinion of the prosecution that the questions and answers are designed to elicit opinion, evidence, and legal conclusions which have no bearing on the case.

PRESIDING JUDGE SHAKE: That objection is sustained.

DR. SEIDL: Witness, you said that there were 32,000 workers in the Farben plant in Auschwitz and that a large number of them were foreigners, several thousand concentration camp inmates. How many cases of sabotage occurred during the years that you were at Auschwitz?

A. I know nothing of any proved case of sabotage at Auschwitz. I do not believe that there was any large amount of sabotage there.

Q. I now come to the final chapter, that is the employment of English prisoners of war. Where were these English prisoners of war housed, Dr. Schneider?

A. I can't remember the number of the camp — it was the camp next to the place where the Germans were housed.

Q. Who administered this camp?

A. The Wehrmacht Prisoner of War Office in Soslowitz, I believe. That was a Wehrmacht office which had a detail at Auschwitz. It was under the Wehrmacht administration.

Q. Do you recall that this camp was visited by the International Red Cross officials?

A. Yes, it was. I recall that at least once, probably twice, a Swiss commission visited this PW camp and inspected it very thoroughly, checked all the details, took several hours. In the final discussion I was called in, and the head of this Swiss commission said to me, as the representative of Farben, that the commission had the impression that we had the best camp for English prisoners of war that they had ever seen. The commission expressed its appreciation to me. There was one point of reproach, if it was that; that was the way in which beer was distributed in the camp. It was supposed to be distributed only by the Englishmen themselves, I believe. When I told the head of the delegation that we had arranged that only a few days before, this warning was unnecessary.

Q. A few final questions dealing with the person of the defendant,

Dr. Duerrfeld. Since when have you been acquainted with Dr. Duerrfeld?

A. I have known Dr. Duerrfeld since the beginning of my work in the hydrogenation plant at Poelitz, before I went to Auschwitz.

Q. And when did he come to Auschwitz? I want to know when, actually, he moved his office there.

A. In the first months Dr. Duerrfeld was there relatively rarely; I believe it was at the end of 1942 when Dr. Duerrfeld finally moved permanently to Auschwitz.

Q. Among the employees—and I include the foreigners—was Dr. Duerrfeld considered a man who took an interest in social [welfare] interests of the workers, or did he have the reputation of a man who didn't care about such things?

A. On the contrary, he had the reputation of a very just man and a man interested in questions of social welfare. If Dr. Duerrfeld went to a workers' camp or to the construction site, there were not only Germans but very many foreigners who came to him with their problems and wishes, and they were listened to, and they found him understanding.

Q. Did he represent the interests of the workers in dealings with the authorities?

A. Yes, very energetically, as far as I know. He had arguments with the authorities. He was not afraid to go to that length.

Q. You have given a picture of working conditions in the plant, both with reference to the German workers and foreign workers and the concentration-camp inmates. But you have repeatedly mentioned that you had been interrogated by the prosecution. I assume you made the same statements?

A. Yes.

Q. Were affidavits prepared?

A. Yes, I assume they are known.

Q. Do these statements in the affidavits agree with what you have just testified?

A. I do not believe I have contradicted myself.

MR. SPRECHER: Mr. President, we move that these answers be stricken. Is this an effort—

PRESIDING JUDGE SHAKE: Objection is overruled.

MR. SPRECHER: May I make my argument, sir?

PRESIDING JUDGE SHAKE: It is not necessary. That is to show that if he has made statements to other interested parties that are the same that are made here. He is entitled to say that.

DR. SEIDL: Mr. President, I have no further questions.

PRESIDING JUDGE SHAKE: Any further interrogation of this witness by counsel of the defense?

Prosecution may cross-examine.

CROSS-EXAMINATION

MR. MINSKOFF: Mr. Witness, at the outset can you tell the Tribunal whether you were one of those who attended the monthly construction meetings of IG Auschwitz?

A. I was not present at these conferences — at least not regularly. I can say that, generally speaking, I was not present.

Q. Were you present at the weekly meetings of the department heads of IG Auschwitz?

A. You probably mean the so-called “Hauptabteilungsleiter” (Main Department Chief) meetings.

Q. That is right.

A. I was not always present.

Q. And the technical meetings — did you attend those?

A. No, I never had anything to do with technical matters.

* * * * *

Q. Now, knowing of the responsibility that I. G. Farben assumed in respect to the feeding of the inmates, were you interested in observing whether the inmates you saw appeared to be well fed?

A. Interested from my own field of work? No.

Q. You did see inmates variously during most days that you were down there; is that right?

A. When I went to the construction site, I saw the inmates too; yes.

Q. Now, Mr. Witness, did you on 4 March 1948, state that the inmates were emaciated and had peculiar blue faces which had a depressing effect?

A. Yes, I made this statement, but it does not have any unlimited significance because in the same connection, in the same interrogation by the prosecution, I said that there were also some inmates who looked very well, and then I added that I imagined that the badly nourished people came from the main Auschwitz camp to camp IV, that they were loaned by the SS—if I may put it that way—so that at Farben’s expense, they might have the benefit of the better food there. That is more or less what I said at the time.

Q. Mr. Witness, with respect to the adequacy of the food of the inmates, I would like you to tell, if you can recall, the story you told Mr. Van Street and Mr. Elbau of the prosecution staff, about what happened when the core of an apple was tossed among the inmates of IG Auschwitz.

A. This incident occurred in the first months—the very first months—when I was in Auschwitz. It was very cold, winter or very early spring. I was sitting in my office barracks, eating an apple. I opened the window to throw the core of the apple out of the window, and concentration camp inmates were cleaning the street in front of the barracks, or doing some other kind of work, and apparently be-

cause they were hungry, they pounced on this apple core and fought over it. That was a scene from the very first days and weeks of Farben-Auschwitz; a scene, which, if I may add a little, I venture to say was not typical for the course of the employment of these people. It was no doubt an exception.

Q. Mr. Witness, this scene occurred after October 1941, did it not, after you were there?

A. Since I arrived on the 8th of October. It could not have occurred earlier than that.

* * * * *

(Recess)

THE MARSHAL: The Tribunal is again in session.

PRESIDING JUDGE SHAKE: Mr. Minskoff, will you please indicate to the Tribunal about how long your cross-examination will continue?

MR. MINSKOFF: I think it will take about 25 minutes to one-half hour.

PRESIDING JUDGE SHAKE: Just a moment. The Tribunal thinks that that is too long in view of the period of time that the witness testified in chief. We don't want to be arbitrary about this matter. We want to give you a reasonable time for cross-examination, but we think you ought to finish up in about half that time.

MR. MINSKOFF: Mr. President, may I just say this: That of the various witnesses that the defense has indicated will be called before the Tribunal, the present witness has the highest position and would therefore be the one who would be likely to know most of the relevant facts with which we are concerned here. Therefore the cross-examination of other witnesses will, in all likelihood, be so much shorter because they wouldn't know the answers to all the pertinent questions, so in the end the Court's time will not be used unduly.

MR. SPRECHER: Mr. President, I am rather surprised that this rule or statement is now being applied with respect to defense witnesses as well as to defendants. In the case of defendants, we were advised in advance, by virtue of their books and one thing or another, as to something of what they would testify about. If we didn't have the full amount of time we really needed for cross-examination, we had some other alternatives in order to do justice to our case. If you recall during the prosecution's case we introduced affidavits such as the one that has been introduced by Dr. Seidl by this witness, and without saying ten words about them we turned the man over for cross-examination and there were no limits imposed at any time by the Tribunal. Now in this case, not only has this witness been on the stand, but a 20 page affidavit has been introduced by him, and now in less than a total of something like a half hour for a very important witness like this one, Your Honor is imposing more or less a time limit on us. We think that is a very different type of treatment than that which was

accorded to the defense during the prosecution's case with respect to the examination of important witnesses.

PRESIDING JUDGE SHAKE: Perhaps the solution for that is to let you have cross-examination like this before the commissioner. In other words, we have had uniform practice here now since early in the defense of limiting counsel for the defense in the presentation of their cases. They have complied with that. Now along with that, we have had a similar limitation of the same character on the prosecution. There has been no question raised about this until the last few days, and we have been somewhat embarrassed by the situation because of the insistent demands of the prosecution for expanding the rule that we thought was generally accepted by counsel on both sides so as to permit the prosecution to have more time for cross-examination; and manifestly we cannot hold these defendants to a limitation that is not likewise imposed on the prosecution. If the prosecution wishes to conduct its cross-examination of these witnesses before the commissioner, perhaps we can arrange that, and we will of necessity have to do that if we are to preserve this practice that has been generally accepted and followed in good faith by counsel generally. Now we will allow you to complete this cross-examination because we do not want to divide the cross-examination of this witness and have part of it before the Tribunal and part before the commissioner. But hereafter if you cannot keep within the limitation, tell us in advance; we will make an order and transfer the cross-examination to the commissioner.

MR. MINSKOFF: Mr. President, may I just say one thing. The prosecution intends to keep well within the 20 percent allotment for the witnesses of each defendant on an average, including the present defendant's witnesses. The only thing we did ask was that in view of the fact that this particular witness would know more than the others, that we be given more time as to this particular witness, but that over-all we will not use even our full 20 percent time which has been the division up until now.

PRESIDING JUDGE SHAKE: That calls for a lot of bookkeeping here. In other words, we'd have to give you the benefit of more time on the cross-examination of one witness and take it from you on another, and rather than involve ourselves into such complicated calculations we will just transfer the cross-examination of these witnesses where you cannot keep within the time that has been generally accepted here—we shall transfer the cross-examination to the commission. Now we will not do that here because we will not impose on the commissioner the matter of conducting a part of a cross-examination, but we still do stand by the proposition that in about 15 minutes or less you should be able to conclude this cross-examination within that time.

MR. SPRECHER: Mr. President, I personally have always heard and also felt, from my very limited experience, that where cross-examination was conducted, no matter how efficiently it might be conducted, that it was very difficult to determine in advance how long it should last, particularly with a witness whom you haven't asked questions of in advance, or where the witness is not friendly to you even if you have asked him questions beforehand. It seems to me that it's very difficult for us to tell in advance how long it will take; and I feel that your rule might be construed under certain circumstances—and I don't think that is being unfair and I am certainly not referring to this witness in case anyone should think I am making a personal remark—might be construed as an invitation by some people to be more evasive than would otherwise be the case. Consequently, how can the prosecution know in advance that it would finish in 20 percent of the time?

PRESIDING JUDGE SHAKE: Perhaps that is a difficult matter, but certainly no one ought to be in a better position to know how long a cross-examination should continue than the party who is responsible for the cross-examination.

MR. SPRECHER: I can quite agree, Your Honor, but I don't think anyone short of God really knows in advance how long it should continue.

PRESIDING JUDGE SHAKE: Proceed with the trial.

* * * * *

Q. Mr. Witness, you stated in the affidavit, Document Duerrfeld 651, Duerrfeld Defense Exhibit 2,* that after the fencing in took place that the beatings of the inmates by the Kapos ceased entirely. Now, is it your testimony that all beatings of inmates ceased or that only beatings by the Kapos ceased?

A. Personally I never saw that inmates were beaten by anyone else but Kapos.

Q. Well, would you say that with respect to beatings then, after the fence was built the inmates were better off than the foreign workers?

A. That the inmates were better off than the foreign workers?

Q. With respect to beatings.

A. That is possible to that extent but this is logically too much of a hair-splitting argument because, actually, after the fencing was constructed in some, thank God, rare, cases foreign workers were beaten on one occasion or the other. Such cases happened, but if from this comparison one wants to conclude that these inmates were better off than the foreign workers, well, that's up to you.

Q. Mr. Witness, you state on top of page 6 of your affidavit—that's Document 2 Duerrfeld—that the defendant Duerrfeld constantly opposed the beating of prisoners by the SS and Kapos on the building

*Not reproduced herein.

site. Now, Mr. Witness, I am wondering if you aren't being a bit technical. Did you mean in the building site or did he oppose all beatings by Kapos and SS of inmates? I'll make that clearer. Was the beatings he opposed of inmates, the beatings by SS and Kapos on the building site, or did he oppose all beatings by the Kapos and SS?

A. I didn't completely understand the question. It's not quite clear to me what you mean.

Q. You say he opposed beatings of inmates by Kapos and SS on the building site. Now, is it your testimony that it was only there that he opposed it or was he also against its taking place off the building site?

A. In my opinion, Dr. Duerrfeld could only speak of the case where an inmate was beaten within the jurisdiction or area of the Farben plant. What happened to the inmates otherwise, neither Dr. Duerrfeld nor any other person living outside of the concentration camp knew.

Q. Now, Mr. Witness, do you recall whether in a meeting of the construction conference in IG Auschwitz it was discussed that beatings of inmates by the Kapos should not take place on the construction site because of morale reasons and that beatings should be transferred to the concentration camp? Do you recall such a discussion taking place?

A. At such conferences where such things might have been discussed I did not participate and I cannot imagine that such discussions took place. I consider it impossible. At any rate, I cannot imagine, according to the picture that I had of Dr. Duerrfeld, that under the chairmanship of Dr. Duerrfeld any such conversation would have ever taken place.

Q. Mr. Witness, I show you Document NI-14543 which is presently Prosecution Exhibit 1985,* and ask you whether it refreshes your recollection that the I. G. Farben construction management was interested in not stopping the beatings of the inmates but merely in transferring the beatings from the construction site to the concentration camp?

A. Despite this document, I cannot remember ever having heard anything like this. Perhaps I may give a brief comment.

Q. Mr. Witness, if it doesn't refresh your recollection as to what occurred you have answered my question.

DR. SEIDL: I do not have this document with me at the moment and I would suggest that at least the prosecution inform us to what period of time this report refers in order to show whether the defendant Dr. Duerrfeld was in Auschwitz at that time at all and whether the witness was in Auschwitz.

The document shows that this was in June 1942. Therefore at a time when the defendant Dr. Duerrfeld was not even in Auschwitz yet.

WITNESS SCHNEIDER: May I make a remark?

*Reproduced in part above in subsection D.

PRESIDING JUDGE SHAKE: You may complete your answer.

WITNESS SCHNEIDER: The one document which was given to me is of 9 August 1941, a time when I was not yet in Auschwitz.

* * * * *

X. MEMBERSHIP IN THE SS—COUNT FOUR

A. Introduction

Count four of the indictment charged three defendants, Schneider, Buetefisch, and von der Heyde, with membership after 1 September 1939 in the SS, an organization of the Nazi Party declared criminal by the judgment of the International Military Tribunal. The indictment also declared under count three, Slavery and Mass Murder, that "To insure the cooperation of the SS in the furnishing of concentration-camp labor, Farben took steps to establish friendly relationships with the SS." In 1941, Farben made a contribution to the SS, through the "Circle," of 100,000 reichsmarks and thereafter made similar annual contributions to the SS. The defendant Buetefisch was a member of the "Keppler Circle," subsequently known as the "Friends of Himmler" and "Freundeskreis" (Circle of Friends). (See par. 136.) Thus the charges of membership in the SS had a close relation both to the Himmler Circle of Friends and to Farben's relation with the SS in connection with the employment and treatment of concentration-camp inmates at Farben's plant in Auschwitz (see sec. IX).

None of the three defendants charged under count four were found guilty under this count of the indictment. The defense interposed two principles of defense to the SS membership charges: that the three defendants were merely honorary or sponsoring members of the SS; and that the defendants were not aware of the criminal purposes and activities of the SS. The general nature of the evidence and argumentation adduced in connection with these charges is shown below by the following extracts from the final argumentation in the case: that part of the final brief of the prosecution which dealt with defendant Buetefisch and the charges under count four (2 below); the last part of the closing statement on behalf of defendant Buetefisch which dealt with the same charges (3 below). Because of space limitations it has not been feasible to reproduce in this section selections from the evidence introduced by the opposing parties.

In the first industrialist trial, the Flick case, the defendant Steinbrinck was charged with criminal membership in the SS and the defendants Flick and Steinbrinck were charged with supporting the SS through membership in the Himmler Circle of Friends. A considerable amount of the evidence from the Flick case concerning these charges and the nature of the Himmler Circle of Friends has been

reproduced in the volume of this series devoted to the Flick case, volume VI, under the heading "V. Relations with Government Leaders, Various Political Parties, the SS, and the 'Circle of Friends' of Himmler." A special section of volume XIII, the Ministries case, is also devoted to membership in various criminal organizations. (See vol. XIII, sec. XII, "Membership in Criminal Organizations—Count Eight.")

B. Membership of Defendant Buete fish in the SS and in the Himmler Circle of Friends

1. FINAL BRIEF OF THE PROSECUTION

Part VI

Specific Comments and Proposed Findings of Fact Concerning the Individual Responsibility of Each Defendant

*	*	*	*	*	*	*
L. Heinrich Buete fish						
*	*	*	*	*	*	*
4. <i>Certain Specific Activities of Buete fish During the Period 1933 to 1945</i>						
*	*	*	*	*	*	*

d. COUNT FOUR—MEMBERSHIP IN THE SS

(73) Under count four, the defendant is charged with membership in the SS, an organization declared criminal by the IMT and Control Council Law No. 10.*

(74) From 20 April 1939 until 1945, the defendant was a member of the SS (*NI-9366, Pros. Ex. 285*). He was also Farben's member of the Himmler Circle, a feature which will also be described herein because it was an important accessory of the whole SS organization.

Nature of the SS

(75) The opinion of the IMT (*Trial of the Major War Criminals*, vol. I, pp. 268-273) described the character and nature of this organization, and stated (p. 272) :

"The Tribunal finds that knowledge of these criminal activities was sufficiently general to justify declaring that the SS was a criminal organization to the extent hereinafter described. It does appear that an attempt was made to keep secret some phases of its activities, but its criminal programs were so widespread, and in-

*Article II of Control Council Law No. 10 stated: "1. Each of the following acts is recognized as a crime: * * * (d) Membership in categories of a criminal group or organization declared criminal by the International Military Tribunal." The judgment of the IMT concerning the SS is recorded in *Trial of the Major War Criminals*, volume I, pages 268-273.

volved slaughter on such a gigantic scale, that its criminal activities must have been widely known. It must be recognized, moreover, that the criminal activities of the SS followed quite logically from the principle on which it was organized.”

The IMT cites certain notorious crimes, such as (*Ibid*, p. 270) :

(76) “There is evidence that the shooting of unarmed prisoners of war was the general practice in some Waffen SS divisions. On 1 October 1944 the custody of prisoners of war and interned persons was transferred to Himmler, who in turn transferred prisoners-of-war affairs to SS Obergruppenfuehrer Berger and to SS Obergruppenfuehrer Pohl. The Race and Settlement Office of the SS together with the Volksdeutsche Mittelstelle were active in carrying out schemes for Germanization of occupied territories according to the racial principles of the Nazi Party and were involved in the deportation of Jews and other foreign nationals. Units of the Waffen SS and Einsatzgruppen operating directly under the SS main office were used to carry out these plans. These units were also involved in the widespread murder and ill-treatment of the civilian population of occupied territories. Under the guise of combating partisan units, units of the SS exterminated Jews and people deemed politically undesirable by the SS, and their reports record the execution of enormous numbers of persons. Waffen SS divisions were responsible for many massacres and atrocities in occupied territories such as massacres at Oradour and Lidice.

“From 1934 onwards the SS was responsible for the guarding and administration of concentration camps. The evidence leaves no doubt that the consistently brutal treatment of the inmates of concentration camps was carried out as a result of the general policy of the SS, which was that the inmates were racial inferiors to be treated only with contempt. There is evidence that where manpower consideration permitted, Himmler wanted to rotate guard battalions so that all members of the SS would be instructed as to the proper attitude to take to inferior races. After 1942, when the concentration camps were placed under the control of the WVHA they are used as a source of slave labor. An agreement made with the Ministry of Justice on 18 September 1942 provided that anti-social elements who had finished prison sentences were to be delivered to the SS to be worked to death. Steps were continually taken, involving the use of the Security Police and SD and even the Waffen SS, to insure that the SS had an adequate supply of concentration-camp labor for its projects. In connection with the administration of the concentration camps, the SS embarked on a series of experiments on human beings which were performed on prisoners of war or concentration-camp inmates. These experiments

included freezing to death, and killing by poison bullets. The SS was able to obtain an allocation of government funds for this kind of research on the grounds that they had access to human material not available to other agencies."

SS career of Bueteffsch. "Honorary" SS Leaders

(77) The IMT does not exempt the so-called honorary SS leaders from the categories of criminal membership in the SS. Only the members of the Reiter SS were excluded and also, "those who were drafted into membership by the State in such a way as to give them no choice in the matter, and who had committed no such crimes." In general, the IMT excludes from criminal membership all persons "Who had ceased to belong to the organizations * * * prior to 1 September 1939." The character of the so-called honorary SS officers is shown by the Decision of the Supreme Spruchkammer Court of Hamm in the appeal case against the honorary SS leaders Baron von Schroeder (NI-15203, Pros. Ex. 2191) stating:

"The Nuernberg judgment counts into the SS all 'officially accepted members' and of them excludes only the members of the Reiter SS.

* * * * *
"But while the Reiter SS was active exclusively in the relatively harmless, even though also not unimportant field of sports, the Ehrenfuehrer (honorary leader) customarily took an eminent position in the public life of the state, the economy or science and enjoyed at home, often also abroad, a particular reputation. As Ehrenfuehrer of the SS they did not only contribute to it splendor and good standing with the outer world. The SS, by binding into its organization as Ehrenfuehrer such leading men of public life it rather secured for itself increasingly a determining influence upon all fields of public life relevant to the achievement of leadership and strengthening of power within the state. Reiter SS and Ehrenfuehrer did by no means have the same importance to the SS, rather a very different one, so that already for this reason it is not permissible to extend the saving clause referring to the Reiter SS to the Ehrenfuehrer. Rather is it necessary to start from the fact that according to the Nuernberg judgment the Ehrenfuehrers are also to be considered genuine SS members, inasfar as they have been 'officially accepted.'"

(78) The defendant testified that he did not apply for membership, but that it was offered to him, and that he did not render any oath, nor did he enter into any obligations upon acceptance of his honorary rank (Tr. pp. 8819, 8820). The Spruchkammer decision (supra) finds in that connection:

“As has been admitted in the appeal, the manner in which the defendant was taken into the SS differed from the usual procedure in that the defendant did not apply for admittance and was not then admitted after fulfilling certain requirements, but rather was approached by the SS itself through its Reichsfuehrer, and the defendant allowed himself to be made a member and at least gave this tacit consent through his further behaviour. These differences do not justify a differentiation in arriving at the verdicts, just as in bilateral contracts, be it in the field of civil law or public law, it does not matter which party instigated the making of the contract and which party makes the first binding declaration.

“In view of the clear provisions concerning membership in the SS, as set down in the organizational manual of the NSDAP, it is also immaterial that the defendant did not have to fulfill the usual requirement for admission, such as providing proof of Aryan descent and taking the special SS oath. As the Supreme Spruchgericht has already decided several times, the fulfilling of such requirements can be taken, in individual cases, as a certain indication of real membership and can especially be evaluated in that sense, in a case when the individual seeks admission in the SS on his own initiative. Turned around, however, the lack of these prerequisites does not allow the conclusion that therefore normal membership had not been established. For it is the special mark of the ‘Fuehrer principle,’ to which national socialism in general and the SS in particular adhered, that whoever happens to be the Fuehrer is not simply bound to the orders he himself issued, but that he could deviate from them if he saw fit to do so. If Himmler, in the case under consideration, found it to be correct and expedient to take the defendant into the SS, although the latter defendant had not previously made application therefor and did not bring proof of his descent or have to take the oath, then this is of no consequence because in a case where the organization obviously, for particular reasons, places no value on the fulfillment of such requirements, then such fulfillment cannot later be made an essential prerequisite to membership. * * *

“In the opinion of the Senate it is also essentially just that honorary officers like the defendant should be considered as real members of the SS. During the reign of national socialism they gladly and regularly accepted the economic and social advantages connected with their position, and also used the influence they had as SS officers without scruple. Their membership in the SS was not just a matter of form, either for them or for the SS. Therefore they must be looked upon in a certain sense as beneficiaries, and it would be incomprehensible if they were to be treated in a different way than the unimportant SS member, only because he applied for membership

and fulfilled certain requirements and conditions to be accepted, which the honorary officer did not usually have to comply with."

Promotions

(79) The defendant was accepted into the SS on 20 April 1939 and was immediately promoted to the rank of Hauptsturmfuehrer (SS Captain) (*NI-6710A, Pros. Ex. 1575*). Subsequently, the defendant was promoted to the rank of SS Sturmbannfuehrer (SS major) on 30 January 1941 (*NI-6710-C, Pros. Ex. 1577*) and to the rank of SS Obersturmbannfuehrer (SS Lt. Colonel) on 5 March 1943 (*NI-6710-D, Pros. Ex. 1578*). He held this rank until the end of the war (*NI-9366, Pros. Ex. 285*).

Assignments

(80) The SS card file of the defendant (*NI-6710, E, Pros. Ex. 1579*) shows that he was assigned to three different units at different times. He was first appointed SS leader with the Staff of the SS Upper Sector Elbe (*NI-6710 A, Pros. Ex. 1575*). On 1 May 1941, he was released from this assignment and appointed SS leader with the Staff of the SS Main Office (*NI-6710 B, Pros. Ex. 1576*). Within the SS Main Office the defendant was attached to the SS Personnel Main Office until 1 November 1941 (*NI-6710 E and NI-6710 G, Pros. Exs. 1579, 1973*). From there he was finally transferred to the SS Main Office, where he apparently remained to the end of the war (*Pros. Exs. 1579, 1973*). Although the prosecution did not furnish any proof as to the motives for these transfers of the defendant to various SS units, the defense argument that honorary SS leaders had to be attached to a unit for purely administrative reasons (*Tr. p. 8821*) does not account for the various assignments of the defendant.

(81) The defendant claims that he only accepted the honorary rank in the SS upon the insistence of Kranefuss with whom he worked in BRABAG (*Tr. 8819 and 8820*). Kranefuss who had very close relations to the Reichsfuehrer SS, Himmler, was also the organizer of the so-called Circle of Friends of the Reichsfuehrer SS, a body that consisted mainly of prominent industrialists including high ranking SS officers (*NI-8106, Pros. Ex. 1974*), which will be dealt with in greater detail later. The defendant also claims that his honorary rank in the SS and his participation in the Circle of Friends, which "incidentally" both commenced about the same time, early in 1939 (*Tr. 8827, Document NI-9366, PE 285*), had "nothing whatever to do with Farben" (*Tr. p. 8834*), although he had stated in his own affidavit (*NI-6233, Pros. Ex. 1976*) that he (BueteFisch) is now of the opinion that his invitation to join the Circle of Friends and his promotions in the SS were merely due to the fact "that the SS intended in this way to create ever closer ties between itself and I. G." But one

does not have to rely upon the contradicting testimony of the defendant on that point. The fact that he became a member of the Himmler Circle in addition to his SS membership, although he could have become a member of the Circle without being a member of the SS proves that he firmly adhered to the ideals and principles of the SS. The importance the SS attached to the participation of the defendant in the Circle is also expressed by the fact that the promotions of the defendant were always approved in conjunction with other members of the Circle, and on the proposal of Kranefuss (*NI-6710-C* and *NI-6710-D Pros. Ews. 1577, 1578*). From the membership of the Circle of Friends of Himmler. (*NI-9971* and *NI-12148 Pros. Ews. 1581, 1596*) it can be seen that most of the prominent industries of the Third Reich were represented therein. Why the Reichsfuehrer SS Himmler wished to keep close relations to the leading industrialists of Germany, will be discussed in the following section.

The Circle of Friends of the Reichsfuehrer SS, Heinrich Himmler.

(82) The Circle was founded by Keppler, one of the earliest and most trusted collaborators of Hitler, sometime in 1932. About the same time Hitler appointed Keppler Commissioner for Economic Questions in the NSDAP. Thus the Circle served Hitler as an advisory organ before and shortly after the assumption of power (*Pros. Ew. 1599*). When Keppler's influence diminished as economic advisor of Hitler and Goering with Four Year Plan became the predominant factor in Germany's economic life in the middle thirties, Himmler took over the Circle of Friends for his economic interests and its name changed accordingly from Keppler Circle to Himmler Circle of Friends (*NI-12456, Pros. Ew. 1599*). About this time on 17 June 1936 Himmler was appointed chief of the German Police in the Ministry of the Interior and shortly thereafter issued his decree "which placed both the criminal police or Kripo and the Gestapo in the Security Police, and placed both the Security Police and the SD under the command of Heydrich" (IMT judgment, p. 262). Kranefuss acted as executive secretary of the Circle. He was related to Keppler and was also close to Himmler, and acted with respect to the operation of the Circle as his adjutant (*NI-8106, Pros. Ew. 1974*). Both Keppler and Kranefuss held leading positions in Brabag; Kranefuss was chairman of the Vorstand of Brabag, Keppler was chairman of the Aufsichtsrat. Buete fish was also a member of the Board of Brabag as well as Krauch (*NI-7767, Pros. Ew. 521*). It was convenient for Himmler to be in close contact with some of the leading German industrialists, because in addition to their economic advise, they gave him considerable financial support (*NI-12456, Pros. Ew. 1599*).

(83) The defendant admits that he joined the Circle about the

same time when he received his rank in the SS (*Tr. 8827, NI-9366, Pros. Ex. 285*). He knew that Circle would meet at regular intervals "to discuss questions of the day" and "to exchange economic opinions" (*Tr. p. 8827*). The Circle held regular meetings which continued also throughout the war on the second Wednesday of each month at the "Haus der Flieger" (house of aviators) (*NI-9971 and NI-8108, Pros. Exs. 1581, 1587*).

(84) SS General Wolff and chief of Himmler's Personal Staff states:

"Through these meetings the industrialists among the Circle of Friends became acquainted with the senior SS-leaders and work and ideals of the SS. Lectures were also frequently given by senior SS-members." (*NI-6025-F, Pros. Ex. 1582*).

Although several members excused themselves quite frequently from these meetings, the defendant seems to have always participated. This appears from a letter of Kranefuss to Himmler (*NI-8106, Pros. Ex. 1974*) in which he complains about the irregular attendance of certain members of the Circle. He writes in this connection:

"Without any loss whatever to the Circle of Friends, in my opinion, the participation of these gentlemen can be dispensed with, because their lack of interest in our meetings is in complete agreement with their attitude in other matters and problems. To be sure, I should regret the elimination of SS Brigadefuehrer Buerger, even though I agree with your opinion of him unreservedly. Unpleasant discussions, in the course of which I noted the absence of any understanding whatever and heard only more or less threadbare excuses, I have had only with Dr. Kurt Schmitt and Herr Walz." * * *

Buetefisch's name does not appear among those subject to this criticism.

(85) Lectures were a regular feature of the meetings of the Circle (*NI-6025-F Pros. Ex. 1582*). Although the topics differed, it can be safely stated that by far the largest aspect in these lectures was provided by themes related to the aims or achievements of the SS. A note signed by an SS Lt. of Himmler's Personal Staff, of 1 July 1942 reveals that the Reichsfuehrer SS Himmler himself determined the nature of the lectures to be held before the Circle:

"I spoke on the phone with SS Oberfuehrer Kranefuss and have told him that the Reichsfuehrer SS does not desire comprehensive basic lectures but rather touch on so-called high lights from the individual fields of work, e. g., on the combating of partisans, on the deployment of SS Oberfuehrer Ohlendorf in the Crimea which with short activity reports and episodes surely would prove as interesting as abstract general lectures." * * * (*NI-14519, Pros. Ex. 1975*).

This note was prompted by an inquiry from Kranefuss on 15 June 1942 to Himmler's personal adjutant, in which he stated:

"The Reichsfuehrer has expressed his desire that I always report the date of the next meeting of the Circle of Friends as early as possible, so that he may determine the subject matter of the next lecture and who the next speaker is to be. I should be very grateful, and I believe that I am speaking for all the gentlemen, if we asked for a lecture on Security Police and Security Service (Sicherheitspolizei und SD), for Wednesday, July 8.

"Here I should like to propose that the Reichsfuehrer request SS Oberfuehrer Ohlendorf, who always participates in these meetings, to prepare for this lecture, and that he informs him or decides with him who the lecturer or lecturers are to be and what topic shall be discussed." (*NI-8108, Pros. Ex. 1587*).

The nature of the Circle is further indicated by reference to subjects discussed such as: lectures of SS Colonel Behrends of the SS Racial and Settlement Office, on the re-settlement of racial Germans in the occupied territories (*NI-399, Pros. Ex. 1583*), and of State Secretary Naumann of the Reich Propaganda Ministry about the political situation in the armament field (*NI-332 Pros. Ex. 1292*).

(86) On 10 June 1942 the German authorities in Prague announced what happened in Lidice as follows:

"Because the inhabitants of this village, by their support and assistance to the assassins of SS-Obergruppenfuehrer Heydrich, broke the law so recklessly, the men have been shot, the women deported to concentration camps, and the children taken where they may have suitable upbringing. The buildings of the village have been razed to the ground and its name erased." (*NI-10149 Pros. Ex. 1588*).

On the evening of the same day, Kranefuss told the Circle of Friends:

"The SS and its Reichsfuehrer mourn these days for Obergruppenfuehrer Heydrich. We carried him to his grave yesterday. And the Reichsfuehrer and then the Fuehrer himself expressed what the deceased meant to us and will mean to us. You, however, the friends of the Reichsfuehrer, whose activities lie for the most part in civilian life, would perform an act of friendship for him and the SS, if you helped us to uphold amongst German people the memory of Reinhard Heydrich as that of an SS-man exemplary in every respect, in a manner truly befitting to him.

"The Reichsfuehrer said yesterday that he, the deceased, was feared by subhumans (Untermenschen), hated and denounced by Jews and other criminals, and at one time was misunderstood by many a German. His personality and the unusually difficult tasks assigned to him were not of a nature to make him popular in the

ordinary sense of the word. He carried out many harsh measures ordered by the state and covered them with his name and his person, just as the Reichsfuehrer does every day. Added to this—and I repeat here the words of the Reichsfuehrer—he had the difficult task of developing and leading an organization, which deals only with the dark sides of life, with inadequacies, deviousness, with ignorance as much as with ill will, with criminal instincts and asocial excrescences of human society.” (NI-8108 Pros. Ex. 1587).

The above quoted communique on the destruction of Lidice is still available today at the Records Building Frankfurt/M-Griesheim, where books and publications from Farben libraries are kept (NI-10149, NI-12398, and NI-12399, Pros. Exs. 1588, 1589, and 1590.)

Himmler's speech to the Circle at his Headquarters in December 1943.

(87) The Circle visited Himmler at his field headquarters at Hochwald in East Prussia on 12 December 1943. The defendant admitted his presence at this meeting (Tr. p. 8827). The most notable feature of the visit was a speech to the Circle by Himmler, during which he referred to his reputation as that of a “bloodhound” or “butcher” (NI-1240, Pros. Ex. 1593). In Himmler’s files located in the Berlin Document Center, a note written in Himmler’s own handwriting shows that the foreign workers problem was one of the topics of his speech (NO-5637 Pros. Ex. 1834).

Financial contributions through the Circle of Friends of Himmler

(88) The Circle made regular contributions to the SS amounting to over one million reichsmarks per annum, of which RM 100,000 was contributed by Farben through the defendant Bueteufisch together with the defendant Schmitz in the years 1941, 1942, 1943 and 1944. No contributions were larger than those made by Farben. The funds were used for Himmler’s “special tasks” and “for his purpose” (NI-8125, NI-6045-F, and EC-453, Pros. Exs. 1584,¹ 1586,² 1592). See also discussion supra par. 55). SS General Wolff states in his affidavit (NI-6025-F, Pros. Ex. 1582):

“The annual money gifts to the SS by industrialists amongst the members of the Circle of Friends were paid to Baron von Schroeder, who had the so-called special account ‘S’ at his Stein Bank, from where it was then transferred to the special account ‘R’ at the Dresdner Bank. Himmler himself and I, too, were entitled to withdraw money from that account.”

(89) At the occasion of Himmler’s appointment to Reich Minister of the Interior in the middle of 1943, Schroeder on behalf of the Circle placed over 1 million reichsmarks at Himmler’s disposal, and stated:

¹ Reproduced earlier in section VII C-4, volume VII.

² *Ibid.*

"A strong hand is now very necessary in the operation of this Department and it is universally welcomed but especially by your friends, that it was you who were chosen for this by the Fuehrer. Please be assured that we will always do everything in our power at all times to assist you in every possible way.

"I am pleased to inform you at this opportunity that your circle of friends has again placed at your disposal this year a sum slightly in excess of RM 1 million for 'special purposes'. An exact list showing the name of the contributors will be sent to you shortly." (*EC-454, Pros. Ex. 1591*).

These contributions constituted substantial financial assistance to the leader of a criminal organization during the height of its criminal activities (See judgments in IMT and of Military Tribunal II in the Pohl Case*).

(90) The judgment in the *Flick case* states on this point (Pages 11021 and 11022 of the Transcript of Tribunal IV) :

"A hundred thousand reichsmarks per year to a wealthy man or to one who pays from state funds is perhaps not too high a premium to insure personal safety in the fearful days of the Third Reich. This may be considered in mitigation but we are convinced that there was not any such compulsion upon their membership or contributions as we have discussed in the case of use of conscripted labor. Defendants in this count do not put their defense on the ground of fear but rather on lack of knowledge. *It remains clear from the evidence that each of them gave to Himmler, the Reichsfuehrer SS, a blank check. His criminal organization was maintained and we have no doubt that some of this money went to its maintenance. It seems to be immaterial whether it was spent on salaries or for lethal gas. So we are compelled to find from the evidence that both defendants are guilty on Count Four.*"

(91) Acknowledgements of Farben's contributions were made to both the defendants Buete fish and Schmitz (*NI-3807, Pros. Ex. 1595*). Schmitz ordered the payments by Farben, as the transactions involved the passing of credits through the Central Finance Administration with notice to the Office of the Central Committee of the Vorstand (*NI-12400, Pros. Ex. 1585*). Buete fish claimed that he himself did not contribute anything to the Circle of Friends (Tr. p. 8834) and that he merely passed on the request of Kranefuss to Schmitz on one occasion without knowing what happened afterwards (Tr. p. 8836). We have already discussed Krauch's version of this episode (supra, par. 55). Even after the first contribution Buete fish continued as a member of the Circle and further contributions were made by Farben.

(92) Himmler showed his gratefulness to the members of the Circle

*Vol. V, this series.

of friends in a letter to Baron von Schroeder of 25 August 1942 (NI-6045-F, *Pros. Ex. 1586*) where he states:

“Please inform all members of the Circle of Friends how very grateful I am to them for again contributing so generously over a million reichsmarks for my purpose.”

Farben's contributions were rewarded with the particular appreciation of the Reichsfuehrer SS, as it is shown in a letter Schroeder to Schmitz, of 16 March 1944 (NI-2856, *Pros. Ex. 1594*)¹:

“As you know, the Reichsfuehrer has always particularly appreciated this contribution, and you may be sure of his gratitude.”

Himmler's chief of Personal Staff, General Wolff stated (NI-6025-F, *Pros. Ex. 1582*):

“The relations between Himmler and the members of the Circle of Friends were good, during the time of my participation in the meetings of the Circle of Friends, and Himmler frequently took the gentlemen along with him on inspection tours in order to make them acquainted with the work and problems of the SS and to show them how their money gifts were used.”

(93) In the Circle were men who were leaders in their fields. The Party, government officials, SS representatives, and representatives of industry all got together to help Himmler. From government economic circles there were the following members: Waldhecker of the Reichsbank; Blessing of the Reichsbank and later of the government-sponsored oil company, Kontinentale Oel A. G.; Herbert Goering of the Ministry of Economics until 1938; Franz Hayler and Otto Ohlendorf who were predominately SS men but were at various times undersecretaries at the Ministry of Economics; and Hans Kehrl² who was successively in Keppler's economic office of the Party, in the Ministry of Economics, and in the war years head of the Raw Materials Office and of the Planning Office, an agency of the Central Planning Board. The Hermann Goering Works was represented by Karl Voss, head of its entire armament branch, (including the Skoda plant). The Ministry of Labor was represented by Wilhelm Boerger, and the Ministry of Propaganda by Werner Naumann, both of whom were SS officers. Fischboeck who was active in Aryanization in Austria shortly after the Anschluss (NI-6649, *Pros. Ex. 339*). Among the industrial concerns were the Vereinigte Stahlwerke represented by Voegler and later by Steinbrinck; the Flick Konzern, by Flick and Steinbrinck. Of the three leading banks of Germany, the Deutsche Bank was represented by von Halt; the Commerz-Bank by Friedrich Reinhardt; and the Dresdner Bank by two Vorstand members, Emil

¹ Reproduced in full in section VII C 4, above, volume VII.

² Kehrl, a defendant in the Ministries case, was found guilty of criminal membership in the SS. See section XV, volume XIV, this series.

Meyer and Karl Rasche,¹ and several members of its Aufsichtsrat including Flick, Lindemann, Schieber, and Walz. The Reichs-Kredit-Gesellschaft was represented by Olscher and the Stein Bank of Cologne by von Schroeder. Among SS leaders were Himmler himself, Obergruppenfuehrer Keppler; Obergruppenfuehrer Karl Wolff, Himmler's adjutant; Obergruppenfuehrer Oswald Pohl, the SS official in charge of the concentration camps and concentration camp labor; Brigadefuehrer Ohlendorf, a leader in the notoriously criminal activities of the Einsatzgruppen in Russia, et cetera (*NI-9971 and NI-12148, Pros. Exs. 1581, 1596*). The great majority of the members of the Circle were members of the SS either full time or part time.

(94) In this company was Buete-fisch of Farben. This was one of Farben's contracts for slave labor from the concentration camps. Farben officials probably classified their contributions to Himmler as "charitable." "Profitable" would be more accurate. What was defendant Ambros referring to when he wrote to ter Meer; "Our new friendship with the SS is proving very profitable" (*NI-11118, Pros. Ex. 1431*).

2. CLOSING STATEMENT ON BEHALF OF DEFENDANT BUETE-FISCH CONCERNING COUNT FOUR OF THE INDICTMENT ²

DR. FLAECHSNER (counsel for defendant Buete-fisch): Mr. President, Your Honors!

[These parts of the closing statement which deal with charges other than those contained in count four are not reproduced herein. They are recorded in the official mimeographed transcript, 7 June 1948, at pages 15012-15041.]

The prosecution considers Dr. Buete-fisch liable to punishment in accordance with Article II (*d*) of Control Council Law No. 10 of 20 December 1945 for accepting the honorary leadership appointment in the SS, and thus they refer to him as a regular member of an organization declared criminal by the IMT.

In order to assess this charge properly it becomes necessary to explain Dr. Buete-fisch's attitude towards political life altogether. I have submitted a large number of affidavits to the Tribunal in which Dr. Buete-fisch has unanimously been called a man completely unfamiliar with politics. Dr. Buete-fisch was a technical engineer, and I may well state, without exaggeration, a really passionate technical engineer. He was completely absorbed in his profession and the tasks resulting therefrom, and his spheres of duty covered so much territory that they indeed took up all the energy of this man. Dr. Buete-fisch was a specialist in his particular field, was acclaimed as

¹ Rasche, a defendant in the Ministries case, was found guilty of criminal membership in the SS. See section XV, vol. XIV, this series.

² Tr. pages 15042-15055.

such far beyond the borders of Germany and often consulted in this capacity. I have already described his activity as far as exchange of experience was concerned, and his efforts to promote chemical synthesis. Because he was so extremely busy in this comprehensive sphere of duties, he had no time for any other matters. However, Dr. Bueteffisch, the specialist, was not confining himself to his specific duties so that he would have ignored all events of everyday life. For instance, he also studied the problems which became predominant when the National Socialists came to power, and many witnesses testified that he was very critical of and opposed to the events which national socialism brought in its wake.

Dr. Bueteffisch never engaged in political activities; however, he always was prepared to help as far as was in his power when interferences were attempted and when shortcomings appeared. I would like to mention here as an example that he retained those chemists and engineers, whose dismissal had been demanded by the National Socialist authorities because of their Jewish origin, as long as possible. Furthermore, I want to mention that he helped those chemists who intended to emigrate who were under pressure from the Gestapo, and that he took measures to facilitate their emigration, as well as making it possible for other chemists to effect their emigration. Dr. Bueteffisch never sympathized with the National Socialists. He did not apply for membership in the Party until such time when the Nazi district leader called upon the factory managers of Leuna to apply for Party membership. Together with his colleagues Dr. Bueteffisch then applied for Party membership, but his application, contrary to that of the other ones, was rejected because Dr. Bueteffisch used to be a member of a lodge.

In 1937, when even the smallest and most insignificant government civil servant had difficulties in getting employment unless he was a Party member, the rejection of an application handed in by a man in such a prominent position meant a tremendous obstacle for him, and it was quite possible that this fact might have forced him to retire from his professional duties which were tantamount to his life work. A person whom the Party had designated unsuitable for acquiring Party membership could not possibly continue in a leading position, and for any length of time in the largest industrial enterprise of the Gau. Dr. Bueteffisch was fully aware of such repercussions, and as he had personal relations with Kranefuss in his capacity as technical advisor of the BRABAG, having been a member of the Vorstand of that company ever since 1938, he informed Kranefuss, who held a high SS rank, that his application had been rejected. Thereupon Kranefuss advised him to try once more to become a Party member by submitting a writ of petition which he, Kranefuss, promised to support.

This petition was successful, and in December, 1938, Dr. Buetevisch was admitted into the Party.* However, although Dr. Buetevisch was now a Party member, this did not change at all his basic opinions. As before, he opposed everything which he considered unwarranted interference. For example, when the Party attempted to exert its influence on industrial matters, Dr. Buetevisch opposed this move whenever he had a chance to do so. In this connection, I would like to refer to the Poelitz case when the Gau leadership tried to exert its influence on that company. Many other examples have been proved in my case-in-chief. Many affiants have also testified to the effect that Dr. Buetevisch's criticism as to measures of the political leaders could be very incisive when he disapproved of such measures, and it has also been proved that Dr. Buetevisch did not confine himself to merely criticizing things, but that he actively intervened when he had a possibility to do so. Indeed, he did have such an opportunity because of his personal relations with Kranefuss, who often intervened upon Buetevisch's request.

In this connection, I would like to refer to the case of Professor Gerlach, among others. In Spring 1939, Kranefuss, who held Dr. Buetevisch in very high regard, approached the latter asking him to accept an honorary rank in the SS. By this, Kranefuss thought that he could bestow a special honor on Dr. Buetevisch. However, Dr. Buetevisch himself was not entirely pleased with this idea and thought up excuses for not accepting, which Kranefuss did not heed. Dr. Buetevisch did not want to offend Kranefuss, and now he insisted on certain reservations in the hope that those reservations would inhibit Kranefuss to further pursue his intention.

He stated that he was incapable of performing duties in the SS, that he could not possibly swear the required oath, that he had no intentions of wearing a uniform, that he did not want to bind himself to obeying orders, et cetera. On his part, Kranefuss emphasized that Dr. Buetevisch's accepting an honorary rank meant nothing more than an honor bestowed upon him by the SS, and that this step did not mean that he would have to bind himself to any obligations, and that it was purely a matter of form. Following this Kranefuss arranged that Dr. Buetevisch received a relatively low rank in the SS, which was subject to the usual promotion procedure.

By joining, Dr. Buetevisch did not become one of those persons who were designated by the IMT in its judgment as regular members of a criminal organization. The IMT did not define the term "regular member." This term will have to be clarified as yet in the course

*Hitler, on 20 December 1938, wrote in the letter to the Gauleiter in Buetevisch's area, which permitted Buetevisch to become a member of the Nazi Party: "Subsequent to the report by the Chief of the Chancellory of the Fuehrer of the NSDAP, I order with respect to your recommendation, by way of reprieve, that Dr. Heinrich Buetevisch, Leuna, near Merseburg, may be a member of the NSDAP without limitation of membership rights in spite of his previous membership in a lodge. Adolf Hitler." (NI-6710-F, Pros. Ex. 1972.)

of interpreting the law and in the findings. The fact that, for example, the IMT exempted certain categories of various members of organizations and stated that those categories were not covered by its findings, shows that in the opinion of the IMT only such persons can be defined as regular members in accordance with the verdict, who were more than merely registered members, i. e., such persons who had some connections with the aims and objectives declared criminal by the IMT, even if such connections were of a rather limited nature. However, if personal connections of such persons to the organizations and their aims declared criminal by the IMT can be construed as having existed, this question can only be answered by establishing the fact that such a person can be called a member as laid down in the IMT verdict.

There are considerable discrepancies in the interpretation of the term "regular member" both in German penal law and as applied in practice by the denazification courts. I mentioned in my case in chief a decree of the Bavarian Ministry for Special Tasks in which honorary leaders of the SS are not considered regular members of the SS, and according to which persons are not punished for their membership in a criminal organization both in Bavaria as well as in Hesse in the occupation zone. There are a number of examples I can cite, for example, the former Minister of Economics Schmidt, Staatsrat Schieber, who was in charge of the over-all commitments of concentration-camp inmates, and who testified here as witness; men who were in uniform in the SS and had the rank of General, and who today are free although they had high, responsible positions in the economy under the Nazi regime.

In the British Zone a different view is taken in some cases, as has been proved by the verdict (*NI-15203, Pros. Ex. 2191*) of the Hamm denazification authorities in the case versus Schroeder submitted by the prosecution for identification purposes.

By way of explanation, I should like to tell the Tribunal that Baron Kurt von Schroeder was an honorary member of the SS, wore a uniform and had the rank of General in the SS, and had connections with Hitler as can be seen from Document Book 91 of the prosecution.

But even this particular verdict is no basis for a universal application by the denazification authorities, namely that the honorary leaders of the SS are to be considered members and must be punished as such. The above mentioned verdict bases its findings on the consideration that the culpability of an SS member was inherent in his promoting that organization and its objectionable aims. That this point of view coincides with the actual meaning of the indictment against the criminal organizations can be seen from the statements of chief prosecutor Jackson in the IMT session of 28 February

1946,¹ in which it is explicitly stressed that the motion, to declare certain organizations criminal, was aimed at bringing about punishment for having been accessories before and after the crimes. Also, the verdict of Military Tribunal II in Case 4 versus Pohl, et al.,² stated as the prerequisite for sentencing SS members because of their membership in a criminal organization, that such members could only be considered accessories in the criminal activities of the SS by their approval of such acts, and that because of this interpretation, the Tribunal had acquitted four defendants who had held relatively high SS ranks, because a participation in the crimes of that organization, as defined above, could not be proved in their case.

If British Zone decisions brought about minor punishments for SS honorary members in their capacity as members, such verdicts interpreted the charge of promotion of the SS by the defendants, because they had been honorary leaders, respected and well known personalities, who had participated in official functions as SS leader, thus furthering the reputation of the SS. Even if such a strict standard were applied, which I think is wrong because of the IMT exemption, for example, of the mounted SS [Reiter SS] from the group of members affected; even if such a strict standard should therefore be applied in the case of Dr. Bueteffisch, it will be impossible to brand this man a regular SS member. No evidence or proof has been introduced showing that Dr. Bueteffisch had any personal connections to and relations with the aims and objectives of the SS. At no time did Dr. Bueteffisch actively participate in promoting the aims of the SS. The prosecution has been unable to prove one single case where such an action of promoting can be shown. If in the winter of 1941 Kranefuss approached Dr. Bueteffisch with the request that the IG should also make a Christmas donation for the dependants of SS men who had been killed in action, the relaying of that request to Geheimrat Schmitz, who was responsible for such matters, does not constitute a promotion of the aims of the SS. That dependents of SS-men who were killed in action received assistance cannot be possibly construed as promoting the criminal objectives of the SS.

By joining the SS Dr. Bueteffisch did not enhance its reputation. During my case in chief I was unable to call on many affiants, even from among his most intimate colleagues and assistants as well as from among his friends, who were able to testify to the effect that they never knew of Dr. Bueteffisch's membership in the SS as an honorary leader. Furthermore, it has also been proved that Dr. Bueteffisch never appeared in SS uniform, and that he even did not own one. Nor did Dr. Bueteffisch take up or maintain connections

¹ *Trial of the Major War Criminals*, volume VIII, pages 353-377.

² Case 4, volume V, pages 964-970, this series.

with any SS formation or any other SS office to ensure personal advantages for himself or his firm from this honorary rank. In its verdict the IMT emphatically pointed out that to declare whole organizations as criminal could bring about gross injustice if the necessary safeguards were not heeded. Among others it drafted and promulgated a statement to the effect that the classifications, the sanctions, and the punishment should be kept uniform and should at all times dovetail.

I have referred to the procedure and practical work of the denazification courts and various related authorities as established by the occupation authorities in order to prove that in the final analysis the case of the defendant Dr. Bueteufisch would be adjudged in the same manner as indicated above and interpreted all over the Western German Occupation zones. I am of the opinion that this reminder might also be of use to the High Tribunal.

In judging the question whether Dr. Bueteufisch should be considered a regular member of the SS, we have once more to deal with the reservations on which he insisted towards Kranefuss, that is:

a. Dr. Bueteufisch was not to be under the command of the SS, thus he was not obliged and bound to obey.

b. He did not have to perform duties or participate in public meetings.

c. He did not have to wear uniform, and therefore he did not have to appear as an SS leader.

d. He was not sworn in.

All these reservations were respected up to the very end. According to my opinion they do not permit the conclusion that Dr. Bueteufisch is to be considered a member of the SS, for all that remains is the registration on the files as a member, without Dr. Bueteufisch personally engaging in the tasks and objectives of the SS.

One point is of particular interest, namely that those parts which refer to the reservations stipulated by him were taken by the prosecution as characteristic features of the SS in the trial against the chief war criminals, i. e., blind obedience towards the leadership, submission to an iron discipline and power of command, unqualified and unquestioning fighting for the Nazi ideology, and finally the oath of allegiance. In the trial against the chief war criminals the prosecution replied to a question of the court as follows:

“We consider such persons members of the SS who have sworn the oath of allegiance and who are registered in the membership files.”

Even in their final statement, the prosecution stressed before the IMT the decisiveness of this oath of allegiance. All this shows that the various reservations which Dr. Bueteufisch asked for and received when he was appointed to his SS rank, are basically in direct opposition to what is generally understood by a regular SS membership. To say

that a person was a member of the SS who insisted on such reservations is a contradiction in itself. Besides, Dr. Buetefisch cannot be considered a regular member of the SS for the simple reason that he did not take the oath. However, according to the IMT judgment a member of a criminal organization can be sentenced only if that person remained a member in the organization although he was aware of the criminal objectives of that organization. The prosecution did not specify the various criminal acts of the SS of which Dr. Buetefisch was alleged to have had knowledge, and how he was to have acquired that knowledge. The proof of this knowledge cannot be brought by simply referring to general events. Now the prosecution labors under the assumption that, in order to prove this knowledge, all they have to do is refer to the fact that Dr. Buetefisch participated in social events of the Circle of Friends surrounding the Reichsfuehrer SS, to which Kranefuss invited him. Already in the verdict against Flick* et al it has been established that this Circle of Friends did not constitute an association or organization, and that any participation in its diverse social gatherings has no bearing as to a criminal culpability. The evidence has also shown that no blame attaches to the participants of this Circle of Friends as to definite knowledge of the atrocities with which the SS has been charged, and that such knowledge was not communicated to them.

The prosecution refers to the announcement about the liquidation of the village of Lidice in order to prove the fact of knowledge, but this cannot be brought in for establishing the proof of such knowledge, according to the opinion of the defense as there is no mention in this announcement that it was in particular the SS which was responsible for the liquidation of that village. Besides, no proof has been brought at all to the effect that Dr. Buetefisch knew about this article. If it was published in a collection of pertinent records, which had been operated and compiled by the library of some Farben office in Frankfurt where it was in the archives, this is by no means a suitable way of acquiring knowledge of aims, nor does it necessarily imply that Dr. Buetefisch did know about these events. Among other things, the prosecution has submitted the obituary of Kranefuss for Heydrich, which the former was said to have held in the Circle of Friends, and claims that this would constitute proof of the knowledge of criminal objectives. However, in this respect it must be said that there is certainly no great inventive genius at work if somebody wants to prove that this particular obituary should have shown or should show to the defendant Dr. Buetefisch the criminal character of the SS. Actually, it is more important that Dr. Buetefisch did not have any knowledge at all about the above-mentioned address. He was not present when it was made, nor did he learn about it in any other way.

*Section XI, volume VI, this series.

To crown it all, it has not even been established, as proved beyond any doubt, that this speech was made at all. Other participants in the social gatherings of the Circle of Friends have also expressed their doubts as to this point, which has become evident in case 5 (the Flick case) before Military Tribunal IV. All other evidence which has been submitted in order to prove Dr. Bueteffisch's knowledge of the criminal objectives of the SS, which has been submitted by the prosecution, has been refuted. Unanimously, all the Nuernberg Military Tribunals have ruled that the defendants, and at that each of them individually, must be convicted of having had knowledge of the criminal objectives of their respective organizations, which ruling was applied in the case *versus* Pohl *et al.*, and in the case against Flick *et al.* However, the prosecution has failed to bring this proof. Furthermore, it cannot be said of the defendant Dr. Bueteffisch that he had special sources of information, and that as a consequence he knew more than others. Such an allegation must be ruled out altogether because in actual fact it amounts to this, that is, that a person can be convicted for something which he ought to have known, without the necessity of bringing the actual proof that he did know it. By doing this, the limits set by the IMT for the sentencing of persons because of their membership in a criminal organization would be exceeded. Moreover, Dr. Bueteffisch had no special source of information and the prosecution has failed to bring in any evidence to substantiate that claim. On the contrary, because of the tremendous amount of work in purely technical, engineering, and industrial fields Dr. Bueteffisch was so overburdened with various tasks that he was even less fortunate than others in obtaining information considering extraneous events outside his particular spheres of work. If in spite of the above-mentioned considerations Dr. Bueteffisch would be considered a member of the SS after all, another factor would have to be examined, namely, whether he could have been expected at all to resign his SS membership. Dr. Bueteffisch joined the SS shortly before the war; however, during the war resignations were not accepted as a rule. Anybody who handed in his resignation became subject to disciplinary or other court action. The SS considered resignations a disloyal attitude which was to be severely punished; if anybody resigned from the SS this action invariably resulted in the fact that the person concerned was declared politically unreliable.

All such persons were reported to the Reich Security Main Office in order to be put on their "Blue File," and it was only a question of time until such persons were sent to a concentration camp. Thus the defendant Dr. Bueteffisch did not even have the chance to resign from the SS. The two officially recognized excuses for resigning from the SS, that is, unfitness for SS service because of a chronic serious disease or joining the Wehrmacht as a regular soldier, did not apply

to him because, as an honorary leader, these reasons could not be referred to in the case of a resignation. A resignation on his part would therefore have been evaluated as a political demonstration, and the SS would have considered it as an act of disloyalty. Consequently, if Dr. Bueteffisch had learned of the criminal objectives of the SS during the war and if he had intended to hand in his resignation because of that knowledge, he would have been in a precarious position in the true sense of the word, and because of this he could not be expected to expose himself to such an imminent danger only in order to resign his membership which was purely a matter of form.

If Dr. Bueteffisch had been aware of the criminal character of the SS, it cannot be doubted that he would have attempted every means to get rid of his honorary rank. Already at the time when, in the spring of 1944, Kranefuss approached him to deviate from the reservations which Dr. Bueteffisch had insisted upon at the time of his joining and to don the SS uniform at certain public meetings, Dr. Bueteffisch was quite determined rather to face the dangers inherent in a resignation than to bind himself towards the SS in any way. And, when Kranefuss repeated his suggestion, Dr. Bueteffisch unswervingly stuck by his decision and asked him to take steps that he be removed from the registry of honorary leaders. Kranefuss knew well enough what risk this would involve and postponed the matter. After the attempt on Hitler's life on 20 July 1944 he pointed out to Dr. Bueteffisch that it had now become impossible to realize such an intention. On the other hand, Kranefuss never mentioned again that Dr. Bueteffisch should forego any of the reservations he had made.

All my statements which I have made up till now are in my opinion definite proof that the features characterizing a culpable membership in the SS, as defined in the IMT verdict, do not apply to the defendant Dr. Bueteffisch. Moreover, Dr. Bueteffisch cannot be considered a member of the SS according to the IMT verdict, for he did not promote the SS and its objectives in any way, nor did he have knowledge of the criminal nature of the SS. However, if an SS member is to be sentenced because of a culpable membership, this by no means presupposes that these specific facts have been proved per se; what it does presuppose is the fact that the member is personally responsible. However, this responsibility does not exist if special reasons made it incumbent upon the person concerned to retain his membership, provided this was sufficiently justified and could be excused on account of such specific reasons. The latter facts apply to Dr. Bueteffisch. When Dr. Bueteffisch was approached to accept an honorary rank, he was faced with an extremely critical alternative. If he had been called upon to become a regular member of the SS or joined the ranks of regular SS leaders, he would have definitely refused. As it was however, he was faced with a rather unusual alternative, that is, his

reservations were accepted and he was given an honorary rank which was only registered in the internal SS files. Therefore, Dr. Buetefisch had no reason to consider himself a member of the SS. Consequently, he had no reason to refuse. On the other hand, Dr. Buetefisch was also forced to consider what repercussions his refusal not to accept the honorary appointment afforded him, would have meant both for himself and for others.

The Chueden affidavit shows how difficult a person Kranefuss was, and how easy it was to offend him. Conversely, Kranefuss had supported Dr. Buetefisch in his various actions when he repulsed interferences on the part of Party offices, or when he made it his task to help persecuted people. Dr. Buetefisch would have been unable to utilize Kranefuss, if he had rejected the latter's offer (especially as he knew how sensitive Kranefuss was) to accept the honor which was to be bestowed upon him. Would it have been morally better and more justifiable to refuse a mere honorary rank, and by doing so, to rob himself of the chance to help others as before, or does it not even apply today that, by conscientious weighing the acceptance of a mere registered honorary rank, he did choose the lesser evil? Only such action deserved to be punished which must be rejected if measured against the existing ethical laws. An action however, which can be justified and approved of morally can never be subject to punishment. No matter what view is taken in evaluating the charges made by the prosecution under count four of the indictment, none of these views will converge into a condemnation according to which my client's actions should be punished by law, and which would make them appear damnable or abominable even from a purely ethical point of view.

In summing I can say the following: No matter how thoroughly the various counts of the indictment as far as my client is concerned are scrutinized, none of them will lead to the conclusion that they constitute an action which should be punished by law. Because of the short time at my disposal, I could not submit such a thorough scrutinizing in its entirety in my final plea, and I therefore refer to my closing brief.* On the other hand, the prosecution has failed to prove in how far Dr. Buetefisch has committed acts that are punishable by law. Whatever legal arguments are advanced, universal international law, Control Council Law No. 10, or other legal standards, the same identical decision will always be arrived at, that is:

That the defendant be acquitted!

*Not reproduced herein.

XI. CLOSING STATEMENTS

A. Introduction

The first four closing statements for the defense and the closing statement for the prosecution are reproduced below (subsecs. B-F). In the Farben case the closing statements of the defense, which required 6 trial days for their delivery, preceded the closing statement of the prosecution, which required 1 trial day for delivery. After the prosecution's closing statement, there were 12 rebuttal statements by counsel for the defendants which required one-half day for delivery.

In addition to separate closing statements on behalf of each of the defendants, there were two closing statements on behalf of all the defendants, both of which are reproduced herein. The first closing statement of the defense was on behalf of all defendants and it dealt with fundamental questions of law (subsec. B). The next closing statements were on behalf of the first two defendants named in the indictment, Krauch and Schmitz (subsec. C and D, respectively). The next closing was again on behalf of all defendants and it dealt with the evidence on crimes against peace (counts one and five) as it related to the individual responsibility of the defendants (subsec. E). The closing statement of the prosecution (subsec. F) refers a number of times to the two closing statements on behalf of all the defendants.

A number of the closing statements on behalf of individual defendants not reproduced herein actually dealt in great part with general defenses, such as arguments on the law with respect to spoliation and slave labor. Some of the general defense arguments in these closings are similar to those advanced in the closing statements in the Flick case, reproduced in volume VI, this series, section IX. The closing statements in the Farben case which are not reproduced herein may be found in the following pages of the mimeographed transcript: for defendant Schnitzler, pages 14716-14779; for defendant Gajewski, pages 14779-14804; for defendant Hoerlein, pages 14805-14833; for defendant von Knieriem, pages 14834-14858; for defendant ter Meer, pages 14859-14905; for defendant Schneider, pages 14906-14950; for defendant Ambros, pages 14951-14981; for defendant Buergin, pages 14982-15012; for defendant Buetefisch, pages 15012-15055; for defendant Haefliger, pages 15056-15066; for defendant Ilgner, pages 15067-15109; for defendant Jaehne, pages 15110-15139; for defendant Kuehne, pages 15139-15168; for defendant Lautenschlaeger, pages 15168-15202; for defendant Mann, pages 15203-15236; for defendant Oster, pages 15237-15256; for defendant Wurster, pages 15257-15273; for defendant Duerrfeld, pages 15273-15319; for defendant Gattineau, pages 15319-15363; for defendant von der Heyde, pages 15365-15383;

for defendant Kugler, pages 15384–15399; and a closing statement concerning the Farben concern itself, tr. pages 15400–15441.

The opening statements on behalf of the prosecution and on behalf of each of the defendants are reproduced above in section III.

B. Closing Statement for All Defendants on Fundamental Issues of Law¹

PROFESSOR WAHL (special counsel for all defendants):²

May it please the Tribunal.

In a critical survey of the big Nuernberg trial, George A. Finch, the Chief Editor of the *American Journal of International Law* pointed out, in one of the recent issues, that the Russian Professor Trainin, a member of the Law Institute of the Moscow Academy of Science, had had an extraordinarily effective influence on the contents of the London Charter, which he had signed as the representative of the Soviet Union. Originally the Allies had not intended to include crimes against peace in the indictment, and these crimes did not play any part in the warnings which the Allies addressed to the German Government before the cessation of hostilities. In London, however, Trainin's book *The Responsibility of Hitlerism from the Standpoint of Criminal Law*³ was influential. In this book, Professor Trainin states "in meting out punishment to the Axis war criminals, Russia would not permit herself to be restricted by traditional legalisms." The little success attained by previous attempts to create an international criminal law can be, he claims, explained by the fact that the purpose pursued by the capitalist countries was in reality not to combat international crimes, but to create a united criminal front against the Soviet Union. "This," he continues, "is by no means accidental. Its roots can be traced to the general character of international legal relations during the era of imperialism."⁴ These statements strongly influenced Jackson, who as Finch ascertained, uses almost the identical words in his report of 6 June 1945, which preceded the signing of the London Charter: "We must not permit the state of law to become complicated or obscured by legalisms developed in the era of imperialism for the purpose of making war respectable."⁵

¹ Reproduced in the mimeographed transcript, 2 June 1948.

² Prof. Wahl was approved as a special counsel for all defendants in the Farben trial with respect to questions of law. The Tribunal also appointed a general staff of defense counsel in addition to the principal and associate counsel for each defendant. See vol. XV, this series, subsection XIII G 5.

³ The English translation of Trainin's book is entitled "*Criminal Responsibility of the Hitlerites*." The Russian-to-German translation was used by defense counsel and quotation in the text were re-translated into English, which results in minor variations from the accepted English translation of the book.

⁴ *Criminal Responsibility of the Hitlerites*, page 7.

⁵ International Conference on Military Trials, Department of State Publication 3080; Division of Publications, Office of Public Affairs (Washington, D. C., United States Government Printing Office, 1949), page 51.

In particular, Trainin proposes to attribute personal guilt for crimes against peace not only to the members of armies and governments, but also to propagandists, capitalists, and industrialists. A significant light is thrown in this connection on the provisions of Control Council Law No. 10, Article II, Number 2f, concerning the criminal responsibility of the economic leaders [Wirtschaftsfuehrer] which, according to the text, is sufficient in itself to justify conviction, but which the prosecution understands to be merely a supposition of guilt.

Thus this trial in particular is overshadowed by the Russian ideology and by the fight against the old and revered legal traditions of the civilized world, which is stigmatized as an outcome of the capitalist and imperialist ideology. However worthy of respect may be Jackson's idealism, this is, nevertheless, his opinion, and not that of American jurisprudence or that of his colleagues on the Supreme Court of the United States. The more I searched the rich American legal literature, the more was this impression strengthened by my studies. Strong legal ethics were perceptible there which refute the Soviet insinuations, and I cannot refrain from quoting the words of Justice Murphy in the Yamashita case, though they were expressed in a dissenting opinion, because they disclose the deep feeling the crisis which justice is undergoing in such trials, and at the same time, emphasize the high and indestructible dignity of old legal traditions. Murphy states:

"The inalienable rights of the individual, including those guaranteed by the 'due process' clause of the Fifth Amendment, do not apply only to the nations which have excelled on the battlefield or to those which have dedicated themselves to the democratic ideology. They apply to all people in the world, whether victorious or defeated, whatever their race, color, or creed. They rise above all temporary popular passion and fury. Neither a court, nor the legislative or executive powers, not even the mightiest army in the world, can ever abolish them. Such is the universal and indestructible nature of the civil rights * * *"

He also states:

"The necessity of punishing war criminals does not justify the abandonment of our respect for justice * * *, to draw any other conclusion would mean that the enemy may have lost the battle, but succeeded in destroying our ideals."*

This Tribunal, too, is on the side of the law. For the first time in the course of the Nuernberg trials, it has appointed a special counsel of all defendants for fundamental questions of law, which it obviously does not regard as legalisms having only the purpose of complicating and

*U. S. Reports, 327 (Washington, D. C., United States Government Printing Office, 1946) pages 26 and 27, 29.

obscuring the trial. At this point, I should like to express my sincere thanks to the Tribunal for this. It is this very attitude which encourages me to express my doubts from a legal point of view without any hesitation; restricting myself, of course, to the most essential points, after having had the opportunity in my closing brief of discussing in detail the entire complex of questions.

Shortage of time will not permit me to discuss all questions of legal procedure, and I shall omit detailed evidence that this High Tribunal is an American Military Commission operating under an order of the Control Council.

I shall begin with the question whether this High Tribunal is *authorized and obligated* to take into consideration the extraordinarily grave doubts which were raised against the opinion contained in the IMT judgment by the international critics, especially in America.

To anticipate the outcome, the defense takes the standpoint that American courts are bound, on legal grounds alone, to acquit the defendants in the industrial trials at least, since the London Agreement is the sole basis for the IMT judgment and this must be described as a "bill of attainder" that is, as subsequent legislation for the punishment of past actions, and as an *ex post facto* law as understood in American law, and consequently does not empower an American court to impose a penalty. These conceptions of American constitutional law played no part in the IMT judgment because of the international nature of the Tribunal, so that to this extent, in view of the different nature of the problem, no precedent exists. If the intention of Article 10 of Ordinance No. 7 was to prohibit an American Military Tribunal from examining the IMT judgment from the viewpoint of the preservation of constitutional rights before accepting its findings, this regulation would itself be invalid because it would violate the American Constitution.

But even if the court in question is an international one, the objection retains its force, for it must not be overlooked that in accordance with the principles inherent in the obligation to observe precedent, the obligation always ceases if the material conditions which were dealt with in the precedent differed essentially from the facts now under consideration.

That is the case here. Whereas in the IMT, leaders of the state or other political figures in leading positions were concerned, this time it is a question of the punishment of private persons. This distinction is not of minor importance, especially in connection with the prohibition against retroactive criminal laws. Jackson himself defended in principle the validity of the precept *nulla poena sine lege*, but added:

"But these men cannot claim that such a principle, which in many legal systems forbids laws with retroactive effect, must also apply in their case. They cannot prove that they have ever in any situa-

tion based their actions on international law or concerned themselves with it to the slightest degree.”¹ The French Prosecutor Francois de Menthon in his speech for the prosecution on 17 January 1946 stated in similar vein that,

“* * * the juridical doctrine of national socialism admitted that in domestic criminal law even the judge can and must supplement the law. The written law no longer constituted the Magna Carta of the delinquent. The judge could punish when, in the absence of a provision for punishment, the National Socialism sense of justice was gravely offended.”²

After a lengthy quotation from a speech by the then juristenfuehrer³ Frank at the German lawyers’ diet of 1936, he continues:

“It would suit the defendant Frank and his accomplices very ill to find fault with the lack of special written penal provisions.”⁴

Kelsen, Professor of the University of California, makes use of the same argument when he writes:

“* * * the infliction of an evil which, if not carried out as * * * a reaction against a wrong, is a wrong itself. The nonapplication of the rule against *ex post facto* laws is a just sanction inflicted upon those who have violated this rule and hence have forfeited the privilege to be protected by it.”⁵

This shows that the punishment of the accused Nazi leaders was guided by the idea of retaliation, rejecting the objection of *nulla poena sine lege*, an idea of retaliation which must cease to apply in the case of the accused businessmen and industrialists. In view of the wide range of legal precepts found in precedents, it is essential to work out the necessary distinctions, and these distinctions must here lead to the inapplicability of the precedent, since the defendants in this trial cannot, like the defendants in the first trial, be charged with violation of the precept of *nulla poena sine lege*.

Even during the preliminary work in the American Government offices which preceded the London decisions, viewpoints arose which pointed in the same direction. Murray C. Bernays, who, as Colonel and Chief of the Special Projects Branch of the Personnel Division G-1, War Department General Staff, took part in the authoritative decisions of the War and State Department on the prosecution of the main war criminals, writes:

¹ Cf. *Trial of the Major War Criminal*, volume II, page 144.

² *Ibid.*, volume V, page 372.

³ Literally: Lawyers’ Leader. Frank was the head of the National Socialist Lawyers Association.

⁴ *Trial of the Major War Criminals*, volume V, page 372.

⁵ See “The Rule against *Ex Post Facto* Laws and the Prosecution of the Axis War Criminals”, in *The Judge Advocate Journal*, volume II, No. 3 (Fall-Winter 1945), page 46.

"All doubts and problems which arose in open discussion on criminal prosecution and many more over and above these were investigated thoroughly in the War and State Departments and other offices in Washington, before the plan was finally approved. As Chief of the Special Projects Branch of the General Staff, the writer can attest to this from personal knowledge, both of the original introduction of the plan and of its perusal step by step. There were those who advocated the punishment of the Nazi leaders simply by a decree from the Allied governments. They questioned the necessity and also the wisdom of legal proceedings. Others rejected the fundamental conception of the plan, including the precept that war of aggression is a crime. It is a tribute to the vitality of democratic traditions that before unanimity could be reached on the course to be taken, the American Government had to be satisfied that we should truly be doing justice, even in the case of such a brutal enemy and even in the face of provocation, the obscene cruelty of which has seldom found its equal."¹

Bernays also deals *expressis verbis* with the objection of *ex post facto* law and has no more to say on the subject than that Hitler wanted among other things to attack the United States as well, and brings as proof a document, however disputed, to show that Hitler, in a speech to his "fellow conspirators" in 1939, declared :

"I am afraid of only one thing, and that is that Chamberlain or some other filthy swine will turn up with a proposal for a change of mind. He will be thrown out, even if I myself have to stamp on his belly in front of all the photographers. The invasion and elimination of Poland begins on Saturday morning."²

In the same document it is stated that the speech was received with enthusiasm and that Goering jumped up on the table and danced. In view of the depravity of the German Fuehrer clique, Bernays wants to convince his readers of the senselessness of any legal objection to their being punished. Even if one could adopt this standpoint, the question remains: What have these businessmen and industrialists—none of whom took part in the Fuehrer's conferences, which are so important according to the IMT judgment—to do with the policy of the highest Nazi government clique? They have a right to full justice.

To refer now to count one concerning preparation for a war of aggression; the defense does not wish to be misunderstood: there can be no doubt that everything must be done to prevent wars of aggression in the future. The most important task would be to create an international organization which, by virtue of its authority, would be in the

¹ "Legal Basis of the Nuernberg Trials," *Survey Graphic*, January 1946; page 5 ff.

² *Ib.*

position to force a decision in all international dissensions by purely peaceful means. In such an organization, new penal standards would have a major role to play. Humanity has suffered too severely as a result of war not to long to the very core of its being for lasting peace. It must be stated, however, that at the outbreak of the Second World War, a legal organization of this type, in which the sovereignty of the various governments would be restricted by the existence of penal regulations governing a war of aggression, had not yet been achieved.

In the first place, the attitude adopted by the IMT to the thesis of *nulla poena sine lege* is not quite clear. It is first stated that this principle is a postulate of justice; in the same breath, we are told, however, that it in no way restricts the sovereignty of the individual states; but then again, so much at least of the principle is retained that, we are told, at the time when the action was undertaken, a crime in the legal sense must already have been committed, and all efforts are directed to the establishment of the fact that the criminal nature of the action had been a well-known fact for decades past.

This attitude is in itself only a half-truth. Are there crimes for which no punishment is prescribed? The IMT judgment replies that it was precisely in international law that there had always been *leges imperfectae* which, without involving express threat of punishment, had formed the basis of criminal proceedings, of which fact the punishment of violations of the Hague Land Warfare Convention was constantly furnishing proof. This comparison is invalid, however, for infringements of military law have always been punished by the law of common usage. They therefore rank as crimes even in the case of a country which is not a signatory of the Hague Land Warfare Convention. In this case, we are concerned purely with the law of common usage, among the hypotheses for which figure the proof of precedent and the *opinio necessitatis*. One can see that there is no crime without punishment, and that, in itself, suggests the conclusion that the outlawing of war by the Kellogg Pact does not stigmatize war as a crime in the legal sense, as there is no mention of punishment of the governments concerned, the only sanction provided for being the loss or rights under the Kellogg Pact on the part of the government violating the terms of the agreement.

In connection with the case of the German Kaiser, to which the IMT judgment refers, Kelsen, Professor of the University of California, rightly draws attention in his paper, "Will the Judgment in the Nuernberg Trial Constitute a Precedent in International Law?" (published in the "*International Law Quarterly*," vol. I, No. 2, Summer 1947, p. 167) to the fact that, apart from Article 227 of the Treaty of Versailles, there was no legal principle to be cited in proof of the fact that the German monarch was liable to punishment. He says:

“When the victors in the First World War intended to bring William II to trial—not for a crime against peace—but ‘for a supreme offense against international morality and the sanctity of treaties,’ they thought it necessary to insert the provisions establishing, with retroactive force, his individual criminal responsibility for acts he performed in his capacity as organ of the German Reich into the peace treaty signed and ratified by this state.”

For this reason, the United States established, in the Committee formed in 1919, the impossibility of proving a legal basis for the charge against the German Kaiser.¹

Accordingly, in its note dated 21 January 1920, refusing the Allies’ demand that the Kaiser be handed over to them, the Netherlands Government stated that it could not recognize any legal obligation to associate itself with an act of international policy on the part of the Powers:

“If in the future, we should succeed through the League of Nations in creating an international legal system having the authority to judge acts which have been classed as crimes by charters drawn up at an earlier date, and which, as such are sanctioned, then the Netherlands will associate itself with the new order of things.”

That is, the Netherlands Government saw in Article 227 of the Treaty of Versailles a retroactive penal law which was therefore not a legally defensible basis for the Allies’ demand that the Kaiser be extradited to them.

In fact the prevailing doctrine in international law, side by side with the observance of the sovereignty of the individual governments, was that the conduct of a war does not, in the eyes of the law, constitute a crime on the part of the members of the government. Kelsen draws attention to the fact that the term “criminal,” as applied to war in international law as it was at that time, did not in any way imply that the governments conducting the war were liable to punishment. He says:

“An illegal war may be called an ‘international crime,’ and has been so called in the Geneva Protocol of 1924 for the Pacific Settlement of International Disputes, and in a Resolution of the Eighty Eighth Assembly of the League of Nations (but not in the Briand-Kellogg Pact). This term, however, does not mean—as the International Military Tribunal erroneously declares in its judgment—‘that those who plan and wage such a war, with its inevitable and terrible consequences, are committing a crime in so doing.’”²

¹ James Brown Scott, “The Trial of the Kaiser,” House and Seymour, editors, *What Really Happened at Paris* (Charles Scribner’s Sons, New York, 1921), pages 237–239.

² *International Law Quarterly*, *op cit.*, page 156.

In this connection, the Committee Report of the Polish Delegate Sokal on the Geneva Resolution of 1927 is particularly informative. As is well known, this resolution was not ratified; it has, however, been introduced into the IMT judgment as proof of the legal validity of the argument that wars of aggression are criminal. In this resolution, war is described as criminal. Sokal states:

“While agreeing that a resolution does not constitute a legal instrument as such, materially augmenting security and sufficient unto itself, the Third Committee is unanimous in appreciating its high moral and educative value.” *

Moreover, Professor Max Radin of the University of California writes in “Justice in Nuernberg”, (*Foreign Affairs*, volume 24, April 1946, pp. 380–381):

“The word international crime used about an aggressive war in the Geneva Protocol of 1924 cannot be rated higher now than it was rated then, as a rhetorical term—a noble rhetoric, to be sure—but not a term with definite legal content.”

If, in fact, the application to war of the epithet “criminal” has merely a moral and educative value, the milder term “Outlawry,” used in the Kellogg Pact, cannot be used as the basis for establishing the liability to punishment of the governments involved. It was the intention of the fathers of the Kellogg Pact to impose certain moral sanctions on the aggressor, to expose him to the moral judgment of public opinion throughout the world. In “Nurenberg als Rechtsfrage”, [Nuernberg as a Legal problem], (Klett-Verlag, Stuttgart, page 42), my colleague Wilhelm Grewe, Professor of Constitutional and International Law at the University of Freiburg, writes:

“It is dangerous and indefensible if the agreement is interpreted in its true sense, to attempt, as was done in the Thirties and in the course of the recent war, to justify by means of the Kellogg Pact a partial suspension of military law and the laws of neutrality where the state violating the agreement was concerned. The attempt, however, on the part of Sir Hartley Shawcross, and with him his colleagues and the Tribunal, to deduce, in addition from the text and system of the Kellogg Pact direct criminal liability, under international law, of the individual persons responsible for the violation of the pact, appears to be totally and completely lacking in legal justification.”

The following are the factors opposing such an attempt: None of the governments signing the Kellogg Pact in 1928 in fact so much as

*Cf. “*Trial of the Major War Criminals*”, volume III, page 190; and, “*Nazi Conspiracy and Aggression*,” volume VIII, page 357.

thought of criminal liability of individual persons. So much can be clearly seen from a statement made by Secretary of State Kellogg before the Foreign Relations Committee of the Senate of the U. S. A. on 7 December 1928:

“How one can assume that the United States was under a moral obligation to go to Europe in order to punish the aggressor or the belligerent party, when no such proposal was made throughout the negotiations, and no one agreed to such a settlement and when, in fact, no such obligation exists—is beyond my comprehension. I cannot understand it. As I see the matter, we are under no more binding obligation to punish someone for violating a pact of non-aggression than we are to punish him for the violation of any other agreement concluded with us.”¹

Wilhelm Grewe² rightly comments:

“Does that mean that one presupposes the right to punish a person? On the contrary. It is obvious merely from the examination of the logical processes of the law that this would in itself imply the denial of the power to inflict punishment; for when has there ever been a case in international law in which the violation of an agreement by one party has bestowed upon the other the power to inflict punishment? Cancellation of the treaty, reparations, if need be, reprisals—those are the provisions made by the law to deal with cases of breach of agreement—but of the ‘punishment’ of the state violating the agreement or of the individual persons responsible for the violation thereof, there has never been any question. International law cannot be thus changed in its fundamentals from one day to the next while the world stands by and watches in silence.”

The Foreign Relations Committee of the Senate of the U. S. A. submitted the following report to the plenary session of the Senate on 15 January 1929:

“The Committee is of the opinion that neither the spirit nor the letter of the agreement provides for sanctions. Should any signatory of the agreement or any state later associating itself with the agreement violate any of the provisions thereof, there is nothing either in the letter or in the spirit of the agreement to indicate obligation or liability on the part of the other signatories to impose a punishment or resort to force against the state violating the agreement. The effect of the violation of the agreement by one of the signatories is to release the other signatories from all obligations

¹ Hearings on General Pact for the Renunciation of War before U. S. Senate Committee on Foreign Relations, session of 7 December 1928.

² Grewe, *op. cit.* pages 105 ff.

undertaken in that agreement towards the state violating the agreement.”¹

On 8 August 1932, Secretary of State Stimson said before the Council on Foreign Relations in New York:

“The Briand-Kellogg Pact does not provide for any compulsory sanctions. It does not demand of any signatory that it should use force in the event of violation of the agreement. It rather attaches supreme importance to the sanction of public opinion, which can be made into one of the most powerful sanctions in the world.”²

Moral sanctions against the state violating the agreement but not the liability to punishment of the individual persons responsible for the violation thereof were thus understood by the signatories of the Kellogg Pact to be the consequences of violation of the agreement.

The same conclusion can be drawn from the conduct of the Powers in earlier cases of violation of the Kellogg Pact. Radin, Professor of the University of California, writes (*Foreign Affairs, op. cit.*, p. 381):

“If the violation of the Kellogg-Briand Pact or of the Geneva Protocol constitutes a crime, either for the nation or for the persons instigating it, then the conduct at the time of all the powers that joined in creating the Tribunal at Nueremberg puts them in the unfortunate light of having acquiesced in what they now denounce as criminal. No official protest was made by these Powers when acts violating the Pact were committed. The personal indignation of such high-minded men as Mr. Stimson, Secretary of State, when Japan invaded Manchuria, was shared, so far as our records go, neither by the President nor the Congress. And if it was shared by the majority of the people, there is abundant reason to hold that at that time no substantial number of Americans would have approved of war on Japan because of it.

“Did the United States, did Great Britain, France, and Russia become accessories after the fact in these crimes when they declined to treat them as crimes and continued close relations both with the nations that had committed them and the persons who had instigated them? It is hard to understand why that conclusion does not follow.”

Finch in an article “The Nuernberg Trial and International Law,” published in “The American Journal of International Law” Volume 41, page 26, expressed a similar opinion:

“Moreover, the Tribunal failed to take into consideration or give due weight to the attitudes of the prosecuting governments toward

¹ See Congressional Record, 70th Congress, volume 70, part 2, page 1730. (2d session, 5-26 January 1929.)

² Henry L. Stimson, “Pact of Paris: Three Years of Development,” *Foreign Affairs*, volume 77, page V, (October 1932-July 1933).

the same events at the time they took place. For example, the prompt recognition of the annexation of Austria by Germany, and the failure of the League of Nations to act upon a protest filed by the Mexican Government demanding that the obligations of the Covenant be enforced at that time, would seem to negative the holding by the Nuernberg Tribunal that the planning and consummation of the annexation was part of an international crime."

The examples of connection with this point are multiple. The following should be mentioned: The Chaco war in 1934; the conquest of Abyssinia by Italy in 1935-36; the China-Japan conflict in 1937; and finally the Russo-Finnish war in 1939-40. In his lengthy plea before the IMT, my colleague Jahresiss, of the University of Cologne, rightly stressed the point that the entire system of collective security had broken down completely at the outbreak of the Second World War, that in none of these cases was there any mention of any liability of the governments of the aggressor states to punishment, that diplomatic negotiations were even taken up shortly afterwards, leading, in many cases, to the recognition of the annexation.

When all is said and done, we must concur with Professor Radin's opinion about the question of *ex post facto* law as expressed on page 379, in the work cited above: "I do not think that in the many discussions of the matter by Mr. Jackson and others the challenge has been met." And Professor Kelsen is right when he recognizes the London Agreement, that is "special international law," as the sole basis of the IMT judgment and refuses to accord the IMT judgment the significance of a genuine precedent in the sense of general international law. The chief editor of "The American Journal of International Law," Mr. Finch, comes to the same conclusion in his treatise mentioned above.

Finally, there is the anxious warning of the Harvard Professor, Manley O. Hudson, to guard the integrity of international treaty instruments against the falsification of their meaning. Under the heading, "Integrity of International Instruments," he writes in "The American Journal of International Law," Volume 42, January 1948, page 105:

"It is difficult to conceive of the possibility of making substantial progress in the development of international law unless a scrupulous respect obtains for the integrity of international instruments. Yet a tendency now seems to prevail in some quarters to undermine that respect by torturing the meaning of great international instruments and by forcing them to serve purposes for which they were never designed, purposes at variance with the desires entertained by governments when the instruments were brought into force.

“Evidence of this testimony was supplied by the International Military Tribunal at Nuernberg when it gave a spurious application of provisions of the Paris Treaty for the renunciation of war as an instrument of national policy.”

It can therefore only be a question of refuting the oft-attempted evidence that, despite the open break with international tradition, there was no infringement of the principle of *nulla poena sine lege*.

That, up to the IMT judgment no penal sanction for aggressive war had existed, even those admit who welcome the judgment as legal progress and regard it as characteristic of the gradual development of case law that new ideas of law permeate imperceptibly into jurisdictional practice without there being any question of a break with the past. This is a way of thinking that may possibly be feasible from the point of view of a historian, but from the standpoint of the judge it is a monstrosity. It is certainly true that, in the course of development, by the gradual abandonment of old legal conceptions, or the gradual introduction of new legal ideas, case law has adapted itself to the prevailing social and customary changes, but if there is any step in the development of law that requires a perfectly clear attitude as to whether the judge stands by what has been handed down, as is his duty, or whether he creates new law, which in principle should be left to the legislators, it is the introduction of the death sentence of an act for which, at the time of its commission, there was no question of penal sanction. To use here the parallels of those cases of extensive or restrictive interpretation of an old legal maxim, is, to say the least, an astounding lack of judgment, in which political considerations have more weight than legal impartiality. What sense would remain in the prohibition of *ex post facto* law if in extreme cases it could be swept away by such considerations? In any case, it was in the American Constitution itself that the principle of *nulla poena sine lege* was first formulated, although the bulk of American law is case law.

If the new perceptions of the legal-sociological school, such as those of the worthy Roscoe Pound, are to be used, without regard to the differences of method, as a basis for dogmatic solutions, then we are not far removed from that dangerous attitude which places political demands in relation to law on the same level as existing law. Kelsen rightly says:

“That the London Agreement is only the expression, not the creation, of this new law, is the typical fiction of the problematical doctrine whose purpose is to veil the arbitrary character of the acts of a sovereign lawmaker.”*

Neither is the conception at all true that the IMT judgment has really opened the way towards universal punishability of aggressive war.

*International Law Quarterly, volume 42, January 1948, pages 161 and 162.

The further away legal and political developments get from the end of the war, the more the trial of the German war criminals assumes the character of a special procedure, which, for the rest, leaves unaffected the accepted non-punishability of violations of international law.

The prosecution authorities, it is true, rightly asserted in their Trial Brief that the codification of new international law was planned to take place within the United Nations in the sense of the Nuernberg principles. Closer observation shows, however, that we are far from the realization of these plans. At any rate, the Committee on the Progressive Development of International Law, after having been occupied for 6 months with the task of codifying the principles of the IMT judgment, decided not to undertake the formulation of the Nuernberg principles because it was obviously a task that demanded careful and thorough study. The committee concluded with a resolution that it was not competent to discuss the material contents of the Nuernberg principles and that such a discussion would be better entrusted to the International Law Commission. It should further be emphasized that the representatives of Egypt, Poland, England, the Soviet Union, and Yugoslavia refused a majority decision of this committee which expressed the recommendation that the carrying out of the principles of the Nuernberg Trial and its judgment appeared to render desirable the creation of an authorized international court which could exercise jurisdiction over such crimes.*

Obviously, therefore, it is also wrong to base assertions, as Schick and Kelsen do, on the fact that Russia's internal penal code likewise contains a law of retroactive punishment, and to that extent also violates the principle of *nulla poena sine lege*. The Russian breach does not go nearly so far; for this penal law is directed against the counter-revolutionary persecution and suppression of Czarist times and the disorders of civil war, and was thus enacted after the full victory of the Communist revolution. In the present case, however, in the state of development reached in the summer of 1948, the conclusion can hardly be avoided that this trial was conducted, at the expense of the defendants, simply as though a far reaching change had taken place in the whole system of international law, whereas in reality the new ideas, even within UN itself, are still meeting with the strongest resistance and are still very far from realization in general international law. It goes without saying that this conclusion is not meant to throw doubt on the *bona fides* of the initiators of the Nuernberg trials; Jackson himself demanded with the greatest emphasis that the victors should apply the new principles to themselves also. But why has the new International Court of the United Nations at The Hague merely received competence for disputes between states in

*Cf. Franz B. Schick, "Crimes against Peace" in the "Journal of Criminal Law and Criminology," volume 38, May 1947-April 1948, page 464 ff.

the old style, without in the slightest taking into account the new ideas of the international responsibility of the individual as practiced in Nuernberg? In any case, an international criminal court has not yet come into being, nor will it do so in the near future, for, as is well known, the mere recommendation for a decisive organ within the League of Nations and within UN means the open avowal of strong opposition against the realization of the recommended innovation; which is certainly no wonder, when both the Soviet Union and England are counted among the opponents of such a criminal court.

This development in a sense stamps the Nuernberg courts precisely as exceptional courts, for which a special law has been created *ex post facto*. That is the sore point which explains the unusually sharp criticism of the Nuernberg trials in Anglo-Saxon quarters, into which I will not enter further here, to spare time.

I will only mention the Italian jurist, Vedovate, Professor of International Law at the University of Florence, who closes his examination of the Nuernberg judgment with the conclusion that it would have been more logical and more in accord with the juridical conscience to say of the defendants, in the words of Robespierre on Louis XVI:

“He was not a defendant, but an enemy. It was not a question of holding a trial, but of taking measures of public safety.”

Professor Wechsler, of Columbia University, sought to justify the IMT judgment through the special nature of international law, by setting up the unproved and unprovable thesis that the maxim of *nulla poena sine lege* was an adaptation of internal state law and by its nature was alien to international penal law. However, the IMT judgment itself endeavored to prove that its decision did not violate the precept of *nulla poena sine lege*.

The Netherlands Government also, when it refused to extradite the Kaiser—without at that time provoking any opposition—obviously adopted the opposite standpoint, and if international law is to be supplemented by the recognized legal principles of civilized nations, then Proclamation No. 3 of the Control Council proves that the precept which excludes retroactive penal law belongs to the great constitutional achievements of which all civilized nations are proud. At the same time, the proclamation of the Control Council condemned a relatively mild infringement of the precept of *nulla poena sine lege*. The National Socialist amendment to the penal code had only admitted the principle of analogy to a limited extent, and the Reich Supreme Court established that the principle of analogy would always be non-applicable when legislation had purposely left an act without prescribed punishment. In the present case, however, it is a question of revolutionizing the system of international law hitherto existing, of

sacrificing the main principle itself, which can never be justified by any kind of analogy whatever. That a new situation of international law can be created for the future by laws agreed upon by state treaties, even Wechsler would not deny, and it was just such a form of legal progress that the Netherlands Government had in mind when it declined on the basis of existing law to extradite the Kaiser.

It is precisely in international law that the danger exists of political passions favoring the abuse of law, and therefore the maxim of *nulla poena sine lege* is indispensable for this sphere of law. In an aide-mémoire of 6 August 1942—I am obliged for the quotation to Finch—the English Government states:

“In dealing with war criminals, whatever the court, it should apply the laws already applicable, and no special *ad hoc* law should be enacted.”

The result of these conclusions can be summarized as follows: The sentence of the IMT judgment for wars of aggression does not rest upon recognized principles of international law, but upon the agreement of the victor states, in which the German Reich did not participate. This agreement has the character of a bill of attainder and of an *ex post facto* law, and therefore cannot be applied by an American court, any more than can the Control Council Law resulting from the execution of the London Agreement; for an American court does not bow blindly before every act of legislation, but is bound and accustomed to examine its constitutionality. Even the International Military Court, despite the fact that it recognized the London Agreement in principle as law, held itself justified on grounds of considerations of international law to refuse to adhere to it insofar as it threatened with punishment crimes against humanity which belonged to the prewar period.

According to the foregoing, the Kellogg Pact does not come into consideration here. It is, nevertheless, the real foundation for the IMT judgment, and for this reason the following points must still be referred to in connection with present trial:

Kelsen's argument seems to me conclusive, that the pact to outlaw war at most only outlawed war as such, and not the planning and preparation for war. The acts involved in the “Planning and Preparation of Aggressive War,” given by Control Council Law No. 10 the status of an independent crime, are consequently not even covered by the Kellogg Pact. Moreover, the IMT judgment has itself recognized that armament in no way falls under the condemnation of the Kellogg Pact. In the section concerning Schacht, it states:

“But rearmament of itself is not criminal under the Charter. To be a crime against peace * * * it must be shown that

Schacht carried out this rearmament as part of the Nazi plans to wage aggressive wars.

* * * * *

“The case against Schacht therefore depends on the inference that Schacht did in fact know of the Nazi aggressive plans.”*

This is in accordance with the attitude of President Coolidge, who, referring to the military efforts of the United States in the World War, declared, on 10 November 1928, that it was the duty of the United States, to itself, and it was in the interests of civilization and of peace in its own country, as well as in the interests of regular and legal relationship to foreign nations, to maintain a commensurate fleet and army. Such a policy of supplementary guarantees was necessary, besides the pact to outlaw war. The cause of peace would be furthered actively by the pact and passively through military armament. In praise of the Kellogg Pact, Coolidge said that it was the most complete, and would prove the most effective, instrument for peace that was ever created, because this pact recognized “to the fullest extent” the duty of self defense and did not undertake—because such an undertaking was contrary to human nature—to create an absolute guarantee against war.

Furthermore, the Kellogg Pact did not contain any sanctions against private persons. The political leaders of a people might possibly, according to the train of thought of the IMT judgment, be made criminally responsible, but not private persons. Herein, above all, lies the weakness of the statements of Chief Prosecutor Jackson, who proves too much and therefore is unable to carry conviction in anything. Jackson argues in the following manner:

In war people are killed and property destroyed, both crimes in themselves, which however, according to the old conception, lose their lawless character through being committed in war. If, however, it is a question of a forbidden war of aggression, Jackson reasons, then this justification disappears and the acts of war become nothing more than a series of criminal acts. If that were correct, then every German soldier would be a criminal, liable to punishment for every shot he had fired in the war, and every one who has taken part in armament would be an accessory to these crimes. The IMT judgment itself passed over these arguments in silence, because they imply an impossible extension of the Kellogg Pact.

Apart from certain war crimes, it is an absolute departure from international law to punish private individuals, a procedure which must raise most serious doubts. International law is a law governing the relations between states; even governments could not

*In the opinion of the IMT, moreover, Schacht did not attain any such knowledge even through his proved participation in the occupation of Austria and the Sudetenland. *Trial of the Major War Criminals*, volume I, pages 309 and 310

hitherto be held responsible as individuals. Even under the laws of warfare, apart from a few exceptions established by the law of usage, an individual who had acted under government orders was able to exonerate himself from a criminal charge. This peculiarity of international law is based on good reasons. How could a government function if any citizen could make himself a judge on the political measures taken by his government? Who would protect him if he came into conflict with the laws of his country by invoking the provisions of international law? On 29 May 1931, the Supreme Court itself gave this point of view due consideration in the case of Mackintosh. This was a case of a Canadian Professor of Divinity, residing in the United States, who had applied for United States citizenship, but was only willing to sign the required loyalty clause under the reservation that he would be entitled to decide for himself whether any war in which the United States might engage was just or unjust within the meaning of the Kellogg Pact, because he could not bind himself to take part in a war which he considered unjust. The decision of the Supreme Court of the United States stated that American law, while it recognized the conscientious objector, could not acknowledge the right of a citizen to refuse his moral or armed help to the state, if it were involved in a war which in his opinion was unjust. Mackintosh, therefore, could not reserve to himself the right to make a specific political decision.

This is an ancient problem. It has already been stated by Rousseau, who made the greatest spiritual contribution to modern democracy, that the decision on questions of foreign policy would have to be reserved to the Cabinets; and it is an old English tradition that, in questions of international law, even the law courts obtain the opinion of the Foreign Office and base their judgment on it.

The criminal responsibility of the private person, which may not play any part in the question of the initiation of a war, has likewise no bearing on questions of the waging of war itself. Here, too, the decisions involved are of a highly political nature and must, of necessity, remain outside the judgment of the individual citizen; for that reason this point of view applies also with regard to other counts of the indictment referring to the economic exploitations of occupied countries. The utmost that has been developed by religion and ethics, and not by law, is the so-called right of resistance against certain tyrannies, which, however, has never been a duty.

I now turn to the second count, "plunder and spoliation," as well as to the employment of forced labor from the occupied territories.

In comparing the various legal systems one finds, time and again, confirmation that the legal solutions of certain problems in civilized countries are to a large extent identical, although their basic systems are entirely different, and consequently the reasons given for these

solutions differ from each other to a considerable degree. This phenomenon, which ever and again proves the unity of the civilized world, can equally be applied to other phenomena of social life. It has repeatedly been stated in Nuernberg that during the war respect for international law diminished in all countries and, hand in hand with the lower estimation of international law, which was considered formal and formalistic, there came those ideas which, with total war, proclaimed the slogan, "catch as catch can."

The Nuernberg trials remind the German people of the importance of international law, but at the same time—in view of the unstable legal principles on which the conduct of the occupying powers since the capitulation has been based—they produce great confusion and, among many people, even indignation. There exists the feeling that two different standards are being applied, especially in view of the fact that the highest occupational authorities have bluntly stated that the Germans have no legal protection. Since the capitulation, great discussions have developed on the meaning of the term "unconditional surrender," and the longer these discussions last, the more emphasis is placed upon the indestructibility of fundamental rights, on which also the relationship between the victor and the vanquished is based, and upon the inalienable nature of certain minority rights. There is one ray of light in this chaos, that is, the passage of the IMT judgment which says:¹

"These orders, then, prove Doenitz is guilty of a violation of the Protocol.²

"In view of all of the facts proved and in particular of an order of the British Admiralty announced on 8 May 1940, according to which all vessels should be sunk at sight in the Skagerak, and the answers to interrogatories by Admiral Nimitz stating that unrestricted submarine warfare was carried on in the Pacific Ocean by the United States from the first day that nation entered the war, the sentence of Doenitz is not assessed on the ground of his breaches of the international law of submarine warfare."

This sentence states nothing less than that a violation of international law cannot be punished if former enemy countries committed an analagous violation of international law, even if merely towards an ally of Germany. What is the legal significance of such a statement? Obviously, it does not assert that the violations of international law committed by both sides proves the existence of a usage which invalidated the violated international treaty, because it is *expressis verbis* stated that international law was violated, and the opinion of the Tribunal is laid down as to how proper conduct in accordance with

¹ See Trial of the Major War Criminals, volume I, page 313.

² The Naval Protocol of 1936, to which Germany was a party, reaffirmed the rules of submarine warfare as laid down in the London Naval Agreement of 1930.

international law could have been observed. It is rather a question of the objection of *tu quoque* being, of course, considered admissible. This calls for more detailed statements, and clarification becomes most necessary. Shakespeare's well-known saying in "Measure for Measure," "What know the laws that thieves do pass on thieves?" must of course, not be interpreted to mean that the poet considered the objection of *tu quoque* basically irrelevant, because the subsequent verses prove that Shakespeare assumes that the theft committed by the jurymen who takes part in the trial is not known to anybody, but this is the very prerequisite that is lacking here. It is not fair that judgments simply disregard facts incriminating the enemy states, as was done in the first trial in the case of Russia's attack on Poland, in order not to have to take up the question of the legal consequences resulting therefrom. Nor is it in order that they take the point of view that this question is not a part of the matter under consideration and is not the object of the trial because the indictment concerns Germans only.

In the history of law, the Romans already dealt with the problem of *tu quoque*. They reached the solution that the magistrate who had punished the perpetrator of a crime must, at the request of the perpetrator, permit himself to be tried on the same legal principles on which the perpetrator was punished. Justinian has perpetuated as common law this principle and its application to the judge who passes judgment by including portions of the work of Ulpian and Paulus under the special title of the Digests *Digetorum* 2, 2, 1 and 2, *Quod quisque juris in alternum statuerit ut ipse eodem jure utatur*. This point of view may suffice in a well-developed judicial organization. If today a German judge, who himself buys on the black market, sentences a violator of the consumer law, the principle of justice is being observed, because the perpetrator has the right to report the judge and thus bring about the punishment of the judge. In our case this possibility is lacking, because the organization of international tribunals is still in its initial stages. Therefore, a parallel to the legal reaction which is brought about by the accused raising the objection of *tu quoque* can only be looked for and found in times when judicial systems were still undeveloped—in the middle ages. However, at that time it was a recognized principle, at least where there existed an internal connection between the violations of obligations committed by both parties, that a person had to submit to judicial proceedings only if the claimant himself had fulfilled his own legal obligation. In Anglo-Saxon law, the principle of clean hands in the law of equity states the same thing as the maxim in the feudal law, *Fidem fragenti fides frangitur*. According to Planck, the leading expert on medieval legal procedure, there existed, at that time, in manifold application, the rule: Whoever does not fulfill his own obligations, has no right to demand justice. ("Das deutsche Gerichtsverfahren im Mittelalter," Braunschweig

1878, p. 389.) These are solutions deeply embedded in law itself and placed on the same level as the principle of equality and the most important sentence in the introduction to the *Corpus Juris Canonici*, according to which nobody may do unto others what he does not desire others to do unto him—and even with the biblical postulate: “Judge not, that ye be not judged!”

It must be admitted that, in an ordinary criminal trial, the defendant has of course not the right to refuse to answer because his judge and his accusers have committed a similar offense. Nevertheless, the idea somewhat recalls French law, insofar as the right exists there in a civil proceedings to reject the judge on the grounds that he is to be a party in a similar lawsuit. In fact, the right of rejection, which exists also in criminal proceedings, is nothing more than a refusal to answer before a court so constituted. However, for the mode of thought prevalent today, this refusal to answer a charge is certainly more customary in civil law. In a civil lawsuit, the defendant can apply the *exceptio doli*, if the complainant is obviously not inclined to fulfill his own obligations towards him.

It must now be asserted, however, that international criminal procedure, which is here concerned, possesses in its structure elements which the internal criminal procedure of the state against the accused does not have. The establishment of an offense against international law presupposes the establishment of a violation of international law, and this violation of international law affects first of all and quite certainly the relationship between state and state. Therefore, the defendant may, as for instance in the case of reprisals, put forward as justification the excuse that the state against whose subjects the offense against international law was committed has itself done injury to the subjects of the violator state. The violation of international law thus affects also the clarification of relations between the states involved to each other and to that extent contains elements which are present in civil law. It is a question here of the effect of the basic idea of reciprocity, which in the end rests on the fundamental equality of states. The IMT judgment therefore showed a fine perception when, without further substantiation, and excluding the point of view of reprisals, it simply acknowledged—as an exoneration for the defendant Doenitz—the fact that the Allies had committed the same violation of international law.

The decision in the case of Doenitz has moreover a further special significance for the present trial. The acquittal of Doenitz acknowledges that total war was carried on at sea. The same applies to the war in the air. Goering was not indicted before the International Military Tribunal because as Generalissimo of the German Luftwaffe he led the detachment of fighter aircraft in the German air offensive

against England in 1940, although in this case, too, violations were committed against the Hague Regulations of Land Warfare.

When in 1919 the Interallied Commission for the Punishment of War Criminals of the First World War wanted to decide on the punishment of Germans for "crimes against humanity," the Americans opposed this desire, pointing out that "crimes against humanity" was too hazy a term. Instead, they worked out a catalogue of 32 offenses, taken from the Hague Regulations of Land Warfare and the law of the usages of warfare, some of which I name as follows—a full list is given in my closing brief:

Killing of human beings, massacre, and systematic terror.

Systematic organization of hunger among the civil population.

Deportation of civilians.

Interning of civilians under inhumane conditions.

Forced recruiting of soldiers from among the inhabitants of occupied countries.

Plundering.

Confiscation of property.

Devaluation of currency and issuance of false money.

Wanton desolation and destruction of property values.

Intentional bombarding of open cities.

Unnecessary destruction of buildings and monuments, religious and charitable institutions, as well as establishments for education and art.

Destruction of merchant ships, or of ships for the transport of civilians, without warning and without necessary measures having been taken for the safety of passengers.

Destruction of fishing boats and lifeboats.

Intentional bombarding of hospitals.

Attacks on and destruction of hospital ships.

Violations of other Red Cross regulations.

Mistreatment of prisoners of war.

Employment of prisoners of war on prohibited work.

From this list of crimes against the agreements and customs of military law, the Nuernberg trials did not charge the German defendants with, or make grounds of punishment of, all the offenses which constitute so-called total war in the air and at sea. No charge was made on the grounds of the bombardment of open towns, although condemnation of Doenitz on the grounds of unrestricted U-boat warfare; no charge was made on the grounds of the destruction of hospitals, et cetera; that is to say, all offenses committed in the war at sea or in the air in the waging of total war were not included in the indictment because the Allies committed the same offenses.

It is most clearly apparent from the paper [Strategic Air Power: Fulfillment of a Concept] of the American Air Force General, Carl

Spaatz, in the April number of "*Foreign Affairs*," volume 24, 1946, pages 385-396, that total war against Germany was planned and carried through successfully. He does not justify the unrestricted bombing of Germany on the grounds that Germany had begun to raze towns in England, but says that the British had intended from the very beginning to bring Germany to her knees with the aid of the Air Force. Owing to lack of means, however, they could not achieve this alone, and the picture did not change until the Americans, who had been pursuing this strategic policy since the thirties, entered the war. In 1943, at a conference of the Allied Combined Chiefs of Staff in Casablanca, it was decided that unrestricted bombing should be carried out against Germany, its towns and industrial centers, thereby shattering its economy and destroying the moral resistance of the population.

I quote some sentences from Spaatz' paper [Ibid, pp. 388-390]:

"Strategic bombing, the new technique of warfare which Germany neglected in her years of triumph, and which Britain and America took care to develop, may be defined as being an independent air campaign, intended to be decisive, and directed against the essential war-making capacity of the enemy."

"British air leaders had this strategic concept in mind at the beginning of the war."

"The strategic concept had also been the focus of studies and planning in the United States Army Air Force in the 1930's."

"The critical moment in the decision whether or not this should be done came on 21 January 1943. On that date the Combined Chiefs of Staff finally sanctioned continuance of bombing by day and issued the Casablanca directive which called for the 'destruction and dislocation of the German military industrial and economic system and the undermining of the morale of the German people to the point where their capacity for armed resistance is fatally weakened.' To implement this directive there was drawn up a detailed plan, 'The Combined Bomber Offensive Plan,' which was approved by the Combined Chiefs of Staff, 10 June 1943, and issued to British and American air commanders. Strategic bombing at last had the green light; and it possessed a plan of operations of its own, with an approved order of priorities in targets, to achieve the objectives of the Casablanca directive. That plan called for bombing by night and by day, round the 'clock'."

German statistics give terrible figures concerning the effectiveness of the bombardment of Germany. Millions of civilians were killed, private property, in particular houses and factories, but also countless cultural monuments, hospitals, et cetera, were destroyed.

If total war made this type of destruction of human life and private property a method of war for both parties, then in my opinion the

theory cannot be maintained that the use of the economic potential of the occupied territories by the German Government constitutes a criminal violation of the Hague Rules of Land Warfare.

If a statesman sees that the war potential of his country is attacked by aerial warfare in a manner which cannot be reconciled with the law as we know it, he cannot be blamed on legal grounds for using, in the interests of his war effort, whatever industrial capacity in enemy countries is in his power. The initiation and gradual intensification of that German wartime policy in the occupied territories ran parallel with the increasing use, by the other side, of the methods of total war. The least that can be said is that in accordance with the principles of *tu quoque*, he must be denied the right to pass judgment who has himself waged war upon civilians in such ruthless manner. I am not discussing the moral aspect of the problem in this connection. Feilchenfeld, whose book I shall later discuss in detail, has formulated the question as follows: Should it be maintained somewhat unrealistically that states might be willing to lose wars by refraining from actions which are absolutely necessary if victory is to be achieved, or should not rather the revival of the old concept of *raison de guerre* be given careful consideration? In the interest of international law the second of these alternatives should in my opinion be rejected, since it would bring great misery upon mankind. In actual fact, however, the states have been nevertheless more inclined to act in accordance with what was called military necessity. What other explanation is there for the order given by Secretary of State Stimson that the first atom bomb be dropped on Hiroshima without previous threat or warning, although it would have been possible to issue either?

But we can leave the moral argument. What matters in this trial is the legal argument that aerial warfare and even atomic warfare having been waged against Germany and her allies irrespective of the limitations laid down in international law. Germany herself—let alone the industrialists and business men on the defendants' bench who acted solely in accordance with instructions issued by the government—cannot possibly be brought to justice by her very enemies for having committed offenses against military law, which, although they also involved civilians, were in fact far less serious.

The use of civilians for labor is a minus quantity compared to their killing, just as exploitation of foreign plants is a lesser incursion on personal property than their violent destruction by bombing. It is true that the Allies did not make use of these offenses in the same way to wage war as did the Germans. But, as the beginnings of Russian methods of occupation showed in the border states under belligerent occupation before the German collapse, this was only because the Allies had no opportunity of so doing, since the course of the war never gave them the opportunity for a lengthy occupation.

If one spares a moment's consideration for the conditions which have arisen since the armistice in the occupied territories, one cannot at any rate say that the exploitation of the economic potential of the occupied territories lies outside the range of their methods.

Against these arguments *a majori ad minus* one cannot object either that the seizure of factories and the compulsory employment of civilian labor is an entirely different matter from the effect of bombing, and therefore the conclusion that bombing is permissible is not cogent to the admissibility of the German occupation measures. In naval warfare there is an inner connection between a prize and a sinking, since in both cases property is actually diminished.

The Anglo-Saxons, as in many spheres of their law, still cling here to its older stages and altogether have never really fully adopted the limited conception of war, as defined by Rousseau and developed in the 19th century; it is only necessary to think of their restricted interpretation of article 23 (*h*) of the Hague Rules of Land Warfare on economic warfare, and their treatment of enemy property in general, where the right of confiscation by the crown still exists.

That the transgressions of international law committed by the Germans were of minor importance, of primarily an economic nature, is revealed by the considerations that the measures employed by the German occupation forces, in whatever legal form they were clothed, could apply only for the duration of the war. That the compulsory employment of forced labor was only a wartime measure is obvious. But even the seizure of a factory is of importance only during the war. There are three possibilities: Either the occupying power which has commandeered the factory wins the war, or it loses it, or the result is a deadlock. If it wins the war, it concludes the peace treaty on the basis of a capitulation and then legalizes its economic measures through the conclusion of peace—the same applies for the actual peace treaty in the case of a deadlock—or else it loses the war and the factory naturally returns to the possession of the occupied foreign country. Not for nothing does German penal law define theft (and pillage is a form of it), as the seizure of movable property belonging to someone else, since in the case of an immovable object, seizure has a different character from the outset, because the ultimate suspension of the rights of ownership of the person robbed cannot here be realized at all. If in the Hague Agreement one reads of pillage and spoliation, the first thing which actually enters one's mind is a picture of marauding soldiers who wrest people's movable possessions from them by force. Anything that disappears in this manner very seldom returns, unless some particularly striking objects, such as the crown jewels, are concerned, the identification of which is particularly simple for obvious reasons. In the case of immovable objects the position is different from the outset. It may be that not all the German authorities

thought of the possibility of an unfavorable outcome of the war from Germany's point of view when taking expropriation measures. The businessman, on the other hand, makes it his policy to allow for all eventualities in his calculations. For him at least, all transactions were, by their very nature, calculated to be effective for the duration of the war only.

To conclude this count, let us once more examine the book by the American expert on international law, Ernst H. Feilchenfeld, "*The International Economic Law of Belligerent Occupation*."* The author wrote the book during 1940 and 1941, which is particularly important because his expositions show the view an intelligent contemporary must hold of the continued validity of the Hague Agreement on the basis of the development of national and international law even before the worst experiences of this war.

(Recess)

DR. WAHL: I had stopped when dealing with Ernst H. Feilchenfeld's book, "The International Economic Law of Belligerent Occupation," and I said that the author wrote the book in 1940-41, which is particularly important because his expositions show the view an intelligent contemporary must hold of the continued validity of the Hague Agreements on the basis of the development of national and international law even before the experiences of this war.

Even Feilchenfeld cannot make up his mind to declare the Hague Agreements entirely obsolete. He rightly points out, however, that the picture of peacetime economy, the fundamental principles which the Hague Agreements wanted to maintain even during war, had, in consequence of the nationalization measures which had come into force since 1918, the increasing direction of industry, and national confiscations and quasi-confiscations, among which must be numbered foreign currency legislation, undergone profound changes by the time of the outbreak of the Second World War in comparison to the liberal times in which the [Hague] Conventions came into existence. Even the First World War had already revealed the tendency toward total war which, with its mobilization of the entire civilian population for war work, no longer corresponded to the conception for which Rousseau's limited theory of war, with the separation of civilians and military personnel, was intended. He therefore prefaces his book in Chapter I with a number of general sections, such as "The Nineteenth Century Background of Section III of the Hague Regulations," and "The International Economic Law of Belligerent Occupation Under the Impact of State Socialism and Total Warfare," and writes:

"The Hague Regulations assumed a definite kind of normal peace optimum, namely that prevailing in the nineteenth century. Since

*Carnegie Endowment for International Peace, Monograph No. 6, Washington, D. C. (Rumford Press, New Hampshire, 1942).

then this peacetime optimum has gone up in certain respects, but has gone down in others. (P. 18, No. 73.)

“In modern wars, a far higher percentage of civilians, including women, are called on for war work. Whole civilian populations are at least potentially made subject to forced labor for war purposes. Civilians of this kind can hardly be said to be private individuals in the sense in which this term was used when wars were supposed to be fought only by princes and armies. Their work and their wealth are of military relevance. A hostile belligerent may be tempted to treat them as such. (P. 19, No. 75.)

“If one considers the treatment now meted out to enemy property and civilians in belligerent countries and in naval warfare, one is driven towards the conclusion that the protection of civilians in occupied regions provided by the Hague Regulations is becoming a limited survival rather than the expression of universal trends and practices.” (P. 21, No. 85.)

Thus the trained observer could not but be uncertain in his legal conclusions and, in view of the practice of total war now being introduced by the nations on both sides, could not be conscious of wrongdoing if he acquiesced in the instructions and methods of his government in order to exploit the economic potential of the occupied territories.

Total war has stamped our time as the most inhuman in modern history. The individual is assessed by his government merely according to his value for the purposes of waging war, and the enemy considers himself justified, because he desires to cripple and destroy the war machine, as the terrible expression is, in also starving and bombing unarmed citizens and even in making low-flying attacks to shoot them down in the streets. The difference between soldiers and civilians appears to be obliterated. The civilian too, finds his life endangered, or forced labor makes him little better than a prisoner. The economic efforts of the big modern states, which, even in peacetime are organized in much the same way as a beleaguered fortress, are but a short step to forced labor. Indeed, so nearly have these efforts become the cornerstone of their economic charter that when the United Nations Commission on the Rights of Man met in 1947, Russia declared she would have to oppose the prohibition of forced labor and deportation.*

The circumstances being such, can it really be said that forced labor and deportation are inhuman war crimes according to the established principles of the law of all civilized nations, when even in peacetime such practices by the state are held to be admissible? But as expounded above, the purpose of the Hague Regulations was to preserve

*See Max Barth "Observations of a European" in the publication "Prisma" (Munich), December Number 1947, pages 14 and 15.

the freedom of the individual and his property as in time of peace, as indeed it did so in the happier days when the Hague Convention was drawn up. But let us suppose there are two totalitarian countries, with their highly organized economic systems, and that one of those has been occupied by the other by force of arms. If the Hague Convention is applied literally, then the occupying power would have to make of the occupied territories a paradise where the individual enjoys freedom of person and property, a condition unknown either to the occupying or to the occupied state since the change over to the totalitarian system. This example shows that the methods of the occupying power, which aim at the keeping of peace and order in the occupied territories—one has only to consider the problem of the unemployed in modern times—compel the occupant, by reason of the structural change in peacetime economy, to introduce also in wartime new methods of occupation, which cannot be built on the immovable foundations of the Hague code. Incidentally, the critics of the methods of occupation now being applied in Germany very often fail to appreciate sufficiently this point of view, even although after the capitulation other legal principles come into question.

I come now to the crimes against humanity—to a newly established offense under criminal law, the contours of which are only beginning to be outlined. This count introduces the third main argument—that of the penal responsibility of private individuals under international law.

The fundamentals of the argument were already touched upon when dealing with the question as to whether the Kellogg Pact established the individual responsibility of the citizen, in which connection reference was made to the Mackintosh Case. The idea then enunciated that the government of a country would lose its freedom of action if every citizen in the name of international law, set himself up as a judge of its political decisions, and at the same time the individual would be entirely without protection if he refused in the name of international law to carry out the orders of his government, shows the two sides of the question—the international and the national.

Let us take the international angle first. The Inter-Allied Commission for the Punishment of German War Criminals of the First World War turned down the conception of crime against humanity as being too vague. When considering the newly established criminal offense, the IMT judgment exercised reserve—indeed, to all intents and purposes it drew no inferences—because ordinary criminal law and the law governing warfare were deemed sufficient to deal with these crimes.

The lecture given at the Sorbonne by the French Judge at the International Military Tribunal, Professor Donnedieu de Vabre, the highest

authority on international criminal law, shortly after his return from Nuernberg, throws light on this point. He said:

“The Tribunal was also mindful of the need to uphold State autonomy, * * * This is shown by the stand taken by it concerning the count of the indictment—crimes against humanity—enunciated in the Charter and frequently mentioned in the indictment. The charge of crimes against humanity is likewise a newly-introduced element, insofar as it goes beyond criminal offenses according to law, such as murder, assault and embraces ill-defined acts which are not punishable according to ordinary law, such as persecution on political, religious, or racial grounds. To bring a charge for acts such as these is to run the risk of opening wide the door to arbitrary action * * * When Hitler planned to seize the Sudetenland and Danzig, he accused the Czechoslovaks and the Poles of crimes against humanity. Such accusations constitute a pretext for interfering in other nations’ internal affairs. They detract from their independence. They are a danger to peace.

“Lastly, they are alien to international law, as well as to the internal law of most countries. They could only be brought and upheld by violating both the spirit and the letter of the principle establishing what constitutes a crime and a punishment.”

But not only the introduction of a new delict is an *ex post facto* law, but also the holding responsible of individuals, the more so if the right to plead superior order is eliminated. So far, international law has not held private individuals responsible for the misdeeds of the political organs of the state. Thus, according to the rules of traditional international law the punishment of enemy war crimes is not admissible if the deed was not self-motivated, but committed in execution of superior orders; that is, if the deed can be imputed not to the individual perpetrator himself, but to the government of the state. In the famous standard work on English theory of international law, “International Law,” by L. Oppenheim,* we find this passage:

“Violations of rules regarding warfare are war crimes only when committed without an order of the belligerent government concerned. If members of the armed forces commit violations *by order* of their government, they are not war criminals, and may not be punished by the enemy; the latter may, however, resort to reprisals.”

We also know that the attempts have failed, in the case of violations of the laws of naval warfare, to subject U-boat commanders, by way of an international convention, to direct liability to punishment under

*L. Oppenheim, *International Law* (“Disputes, Wars, and Neutrality,” volume II Edited by A. McNair, 4th edition [Longmans, Green & Co. Ltd., London, 1926]), paragraph 253.

the terms of international law by considering them as pirates, being *hostes generis humani*.

The opposite point of view is taken in the Justice case judgment in Nuernberg.² The limitation of responsibility to "those who act directly on behalf of the state" as postulated during the IMT by the French Prosecutor de Menthon in his speech for the prosecution on 17 January 1946, is observed no longer. In accordance with the new version, any citizen of a state is supposed to have committed a crime against international law if it can be proved that he knew or should have known that in matters of international concern he was guilty of participation in a nationally organized system of injustice and persecution shocking to the moral sense of mankind, and that he knew or should have known that he would be subject to punishment if caught.

The theory is formulated so clearly that we are obviously dealing with a breach of the present provisions of international law, resulting in a recognition of *ex post facto* law. We do not of course wish to maintain that ordinary crimes should go unpunished, but the prosecution must charge the defendants with such crimes, and prove them.

It was at any rate one of the provisions of the French proposals submitted to the United Nations—which did not, however, gain the majority of votes in the 8th conference for the Unification of Criminal Law—which recommended more incisive measures, that particularly in the case of crimes against humanity, which usually spring largely from national institutions, responsibility be limited to the political leaders concerned, and the executive organs be subject only to the general criminal law.

By so doing the French proposal followed the tradition of international law as formulated, for example, in the Geneva Anti-Slavery Agreement of 1926.² That agreement was ratified by practically all the nations of the world, including the United States, although the latter did reject for their nation in a reservation with reference to article 5, section 2, compulsory and obligatory labor for public purposes which had been acknowledged as a tenet of international law by the rest of the world. Moreover, it is laid down in article 5 that compulsory and obligatory labor for public purposes is permissible even when it involves change of residence and when no remuneration is paid.

The end of section 3, article 5, reads as follows :

"It is in every instance the '*central authority*' of the territory concerned which shall be responsible for the use of compulsory labor or the obligation to work."

¹ *U. S. v. Altstoetter, et al.*, Case 3, volume III, this series.

² *Treaties, Conventions, International Acts, Protocols, and Agreements Between the United States of America and Other Powers, 1923-1937*, volume IV (United States Government Printing Office, Washington, D. C., 1938), pages 5026 and 5027.

In accordance with the provisions of section 3, the governments alone are to be held responsible under the terms of international law, whereas the individuals concerned are to be relieved of responsibility in accordance with the general principles of international law, as stated in detail above.

With reference to the national problems which arise in connection with this point of the indictment, I would like to start with a personal reminiscence: When one read, prior to 1933, of the atrocities committed during the Russian revolution, or of conditions in Russian forced-labor camps, one said: "Thank heavens we're in Germany and not in Russia. In Germany these things would be quite unthinkable!"

It may be supposed that similar thoughts come to the minds of American judges when they learn, in the course of the Nurnberg trials, of conditions in German SS camps, and they might say: "In America such things would be quite impossible." If an attempt is to be made to explain how these things were possible, which every sane German had thought to be absolutely impossible, it should above everything else be pointed out that the German constitution developed in such a way that it became quite impossible after a certain date to oppose any measures, however criminal, carried out by the state. At the beginning, national socialism scored some resounding successes, especially in combating unemployment, and even skeptics gave it a chance.

The government took advantage of that period of economic recuperation to throw over the whole of Germany a fine net of steel, and to turn the whole machinery of National Socialist power, not without reference to foreign examples, into a man-eating Moloch which left the people no choice. When the camouflage wore thin in places, and when perceptive men here and there realized in spite of propaganda that the government would not stop short of crimes, it was too late; and the process repeated itself throughout the land.

But that involves legal problems of extraordinary difficulty. Criminal law as we know it has not been called upon to develop, and has therefore not developed, a system which could have coped with the Criminal State (*état criminel*). Had not the state itself been considered until then as the exponent of legal order and legal progress? But in Germany, unscrupulous positivists had now seized power and forced the whole nation to serve their purpose. In a way it is obvious that the terrible conditions which prevailed in German concentration camps called for expiation under criminal law, and it is natural that in the first flush of indignation against these crimes the limits of complicity laid down in criminal law as then known were exceeded so as to include everything connected in any way with these crimes.

It is a characteristic feature of crimes against humanity, that a new type of crime is recognized in addition to such actions as murder,

bodily harm, etc., which are recognized as crimes in traditional criminal law, namely persecution for reasons of race, politics, or religion, which naturally increases the number of those responsible.

But it is precisely in the totalitarian *état criminel* that the number of those responsible is thus increased to an intolerable extent. Everybody who worked in Germany, at the front or at home, even if he was only paying taxes or tilling the soil, played a practical part in furthering the ends of the criminal regime by so doing, and was therefore an accomplice to the crimes committed by the government, provided he was aware of them.

But the IMT judgment has rightly opposed the theory of collective guilt; thus it distinguished clearly, in the case of the SS, between membership of a criminal association, and commission of the actual crime. In the IMT judgment we read:*

“The Tribunal declares to be criminal within the meaning of the Charter the group composed of those persons who had been officially accepted as members of the SS as enumerated in the preceding paragraph who became or remained members of the organization with knowledge that it was being used for the commission of acts declared criminal by article 6 of the Charter or who were personally implicated as members of the organization in the commission of such crimes, excluding, however, those who were drafted into membership by the state in such a way as to give them no choice in the matter, and who had committed no such crimes.”

That quotation also involves the second point of view by which responsibility under the terms of criminal law was limited, namely, the use of the concept of the state of emergency. If the SS man had no choice but to join the SS, he is not liable to punishment because he was a member of the SS, even if he was aware of the crimes committed by them, provided only he had committed no such crimes himself. But that formulation does not, of course, mean that the excuse of the state of emergency shall not apply to such other acts he may have committed because he had been forced to join the SS. Whether the unlawful order as such is accepted as an excuse or not, the compulsion brought to bear upon the person concerned has to be considered in any case. In the normal state, the subject can usually complain against an unlawful order, and higher authority will right the injustice. No such possibility exists in the *état criminel*. He who would complain courts self-destruction, or at least dire peril for himself and his family, in accordance with the principle of the collective responsibility of the family. There is nevertheless some point in the ruling of the London Charter with regard to the defendants in the first trial, who were all leading personalities of the state, that the order be considered as an

*Trial of the Major War Criminals, *op. cit.*, volume I, page 273.

extenuating circumstance, but not as exempting from punishment. Such men have better chances of protecting themselves in an emergency than have ordinary private citizens. That is why the concept of the state of emergency was largely used in exoneration of the defendants in the first trial in which ordinary private individuals were concerned, the Flick trial.* I should like to refer you to the lengthy quotation contained in my closing brief, which shows that it is simply inadmissible to ignore the fact that the individual is inextricably trammelled in the meshes of the state, and to postulate from the point of view of international law that the individual is liable to punishment as an accomplice to the crimes committed by the totalitarian state.

To come now to the defendants themselves; each one of them has submitted proof that during his whole life he strove to bring about human progress in the fields of social welfare, industry, medicine, and civilization and the many humane actions testify that each one upheld this way of thinking throughout the Hitler period. To cite only one example among many, let us recall here the questions of personnel policy which arose as a result of the government measures for eliminating Jews from the industrial life of Germany. These men are now charged with having employed forced labor, prisoners of war, concentration camp inmates, and for the treatment meted out to them.

How did these men come under the shadow of crime; how is it at all possible that such suspicion could come to rest on them?

The circumstances set out above give the answer. To understand the behavior of the defendants one must think back to the conditions which prevailed at the time. I will endeavor to explain their subjective position, that is, their motives. In so doing, I will take the attitude typical of the German intellectual, who was not interested in politics, to whom the National Socialist movement was a natural phenomenon, and who at first failed to understand fully the implacable seriousness of this ideology, having formed the mainspring for his intellectual life in very different times. The preoccupation of the individual with his more or less restricted specialized sphere of activity drew him, at first gradually, then in an increasing measure, into the set-up of the state and the Party, in which he, as a typical specialist, was chiefly satisfied that the work in his particular sector was progressing. Naturally, he was not unperturbed by certain concomitant circumstances of the totalitarian state, but at first he conceived these to be merely teething troubles; and hoped that the phase would pass.

Others too, told themselves that they must put up with these things because the main object was to stem the onrush of bolshevism against Europe, and history shows that the only way to fight an enemy armed with new weapons is to use his own methods. Only by adopting many of the ideas and measures of revolutionary France was Prussia

* *U. S. vs. Friedrich Flick, et al.*, case 5, volume VI, this series.

able, after the defeat in 1806, to find the strength to play a decisive part in the overthrow of Napoleon.

It was not until the war had broken out that the individual came to perceive that these secondary phenomena occupied the center of the scene, and he realized the brutality and cruelty of this state, although for most people the extent of the enormity remained concealed until the end.

Thus, to an ever-increasing extent did the fear of coming into conflict with the state, or of being destroyed together with his family as a saboteur, a defeatist, or an ideological opponent, become the underlying motive of his behavior. The closer he came into contact with the cruelties of the system, the more this fear grew. Hitler well knew the aversion of the ordinary German to his methods, and used every kind of threat to compel the people to bend to his will.

Notwithstanding, it would be incorrect to say that these men behaved in this manner solely from fear. The intellectual is wont to render to himself a minute account of his position and of the motives for his behavior. Every one of us has lived through hours under the past regime when naked fear excluded everything else. But with the return of a measure of calm, this gave way to other thoughts. The defendants, too, experienced the same thing. They, too, reasoned in a way that appeared to justify their conduct even from an objective angle. It must be left to the psychologists to decide to what extent this rationalizing was merely the result of inhibitions. Be that as it may, even in retrospect, some of these considerations must be construed as cogent reasons, contributing to produce a situation which must be regarded as a genuine case of a conflict of loyalties.

1. First the national problem. Should one commit acts of sabotage even at the risk of exposing one's people to defeat in the struggle for life and death—one's people whose sense of discipline and spirit of self-sacrifice are already strained to breaking point? One must realize the tragic inner conflict of the man who, torn between love of his people and his fatherland and the desire to have done with the criminal tyranny of nazism, sought in vain for a practicable solution. His children were serving at the front. Could he fail in his duty? For even as late as 20 July 1944, the belief was still widely held among the intelligentsia that the generals would succeed in overthrowing Hitler and bringing the war to a close while still avoiding total defeat.

2. Each one of these men was entrusted with grave responsibilities, not only towards the foreign conscripted workers, concentration camp inmates and prisoners of war, but also towards the free workers, who, in fact, formed the greater part of the staff, to say nothing of the remainder of Germany proper, of science, the churches, and that section of the press which, in spite of everything, had retained a certain freedom of its own—to all of them the help and support

of Farben was of importance. Could one be justified in forsaking them?

3. If the defendants had actually withdrawn from the scene of the crime and had gone to the front, or taken up other work, they would have had to admit to themselves that they would be continuing to serve the *état criminel*, further removed from the source of the crimes, it is true, but serving its purpose nonetheless effectively, and, moreover, without having taken any practical or effective step towards preventing the commission of the crimes, since their successors would be forced to act in precisely the way in which they themselves would have acted.

4. Yes, the defendants were justified in saying that they fulfilled a higher duty by remaining at their posts in order to oppose the evil insofar as this was within their power, and to strengthen the good, rather than by escaping from their responsibility, thus leaving the field open to an unscrupulous successor who would have served the regime well. When one considers that throughout Europe, the IG above all firms enjoyed a reputation as one of the leading enterprises in the sphere of social welfare work, it is impossible to exaggerate the importance of the danger of such a deterioration in conditions, a deterioration which, moreover, would have affected primarily the foreign conscript workers and the concentration camp inmates. There have been cases enough in which boards of management, through having had a single Nazi fanatic among them, found themselves frustrated in every effort to counteract Party aims and methods.

Thus, in addition to the state of emergency in which the defendants found themselves, there was the conflict of duties to which the Court might give mature consideration. The outside observer's first impression might well be that there was indifference towards the baseness of the SS state. The truth of the matter is quite the contrary. The situation was unique; the terrible pressure exerted as a means of compelling complicity in the achievement of the most dreadful aims of the state which did not shrink from the elimination of all that was best, left no choice, more especially as it was possible in this way, and in this way alone, to achieve at least some real measure of success in lessening the evil, with the result that it was precisely the man who was conscious of his responsibilities, and who thought less of his own danger than of his moral obligations, who felt compelled to follow the path chosen by the defendants. The problem resolves itself into the question of whether or not one looks upon the defendants as men of honor who could be relied upon in time of stress to follow the path dictated by their conscience.

Closer study of the crime has revealed a problem beyond the mere text of the law, a problem which, under the title of the "Choice of the Lesser Evil," moral theology has been dealing with for centuries,

indicating that it is permissible to create the external conditions of a criminal action, if in this way, a worse evil is prevented.

Professor Helmuth von Weber, Professor of penal law at Bonn, writes in the "Monatsschrift fuer Deutsches Recht," 2d year, volume 2, February 1948:

"The Nuernberg judgment expresses astonishment, nay indignation at the objection raised by the defendants on the grounds that they had acted on higher orders, and accuses them of duplicity, not to say, dishonesty. 'Many of these men,' so runs the verdict, 'have made a mockery of the soldier's oath of obedience to military orders. If it is more advantageous for their defense, they say they were forced to obey orders; if one reproaches them with Hitler's crimes, having established the fact that these were a matter of general knowledge, they say they refused to obey orders.' And yet this conduct can be justified not only on ethical but also on legal grounds, which can be recognized if one places oneself in the position of the recipient of the orders. Let us assume that his first reaction is to resolve, regardless of personal danger, to refuse to carry out the order. He then reflects on the consequence of such an action and becomes convinced—and rightly so—that someone else who will obey the order without further ado will replace him in the position which he vacates. He now resolves to remain at his post: if he cannot prevent the execution of the order, he can at least lessen its effects and limit the amount of harm done by it. In other words, the conflict of duties, given the choice between two evils, the lesser involving active cooperation, and the greater involving merely passive acquiescence, resolves itself by choosing the lesser of the evils. It is true to say of this case also that there is no choice which admits of the complete avoidance of wrong; the recipient of the orders has only the choice between two evils, and his choice of the lesser can be no grounds for reproach."

It is stated in another passage that, in given circumstances, one must recognize—

"that greater moral courage is often required to remain at one's post and to cooperate in the execution of orders, while striving to restrict the effect of such orders, and that much harm was prevented by such conduct on the part of men of principle under National Socialist domination. Legal opinion must not be allowed to overlook this fact. Moreover we must refrain from raising the objection that this evil could have been completely eliminated had all subordinate officials refused to obey orders. We are not concerned here with the collective guilt of an entire class, but with the criminal liability of the individual, and the judgment of such criminal liability must accept as its starting point the fact that the possibility of

unanimous refusal to obey orders on the part of any one class would have been a mere illusion.”

A few further words on the subject of conspiracy :

In my closing brief, I have presented evidence in proof of the fact that in former times it was the continental concept of a “complot” which corresponded to the Anglo-Saxon concept of conspiracy, but that this had disappeared from the books of penal law in the middle of the last century, because the indiscriminate mass judgment of conspirators, and the basing of judgment on assumptions of guilt which it is more or less impossible to refute, is no longer in keeping with the demands of our present legal system, namely that the individual be held responsible only for any contribution which he has knowingly made to the commission of a crime. The recognition of the crime of conspiracy therefore contradicts the recognized principles of the civilized nations.

For the rest, the most recent investigations conducted by Americans to establish the stage of advancement of the German armaments program at the outbreak of the war, of which investigations I have spoken in detail in my closing brief, have shown indisputably that Hitler’s preparations were totally inadequate for the conduct of a war, and that for precisely this reason the expert could not but look upon aggressive war as an act of madness. From this it is clear that, in contrast to the factors constituting guilt under the legal provisions governing conspiracy, nothing could have been further from the thoughts of the defendants than that Hitler was planning a war of aggression.

Your Honors, in view of the time limit imposed by the Court, I am forced to come to a close. The development of the totalitarian states, was, in itself, the widely recognized expression of the inner crisis of justice. The legal ground on which humanity stands is still unsteady. Our present need is for judges who, far from dealing yet a further and more overwhelming blow to the already shaken ideals of our legal tradition, will reestablish them so that they may become strong pillars in the building of a better world. Failing this, a cynical nihilism, bringing in its train we know not what unpredictable consequences, would fall to the lot of Germans; and the Western World would have failed in its great opportunity.

I should like to add two quotations, but must refrain from pointing out the many ways in which they apply to the present proceedings.

The first is by our poet Franz Grillparzer, the second by your Abraham Lincoln :

“To be just to oneself and other men, this is the hardest task on all the earth, and he who justice knows is monarch of this world.”

“Fellow-citizens, we cannot escape history. We of this Congress and this administration will be remembered in spite of ourselves. No personal significance or insignificance can spare one or another of us. The fiery trial through which we pass will light us down, in honor or dishonor, to the latest generation.”¹

C. Closing Statement for Defendant Krauch²

DR. BOETTCHER (counsel for defendant Krauch) : Your Honors : We have come to the end of a trial the type and extent of which may be characterized as unique. By submitting 6,545 documents, in more than 15,000 pages of transcript, on 140 days in session, by hearing 188 witnesses, we have struggled to get at the bottom of things.

Now it is time to sum up the result, with all the application befitting the seriousness of the matter and the dignity of the court, and also for the defense to contribute its share to the legal findings and—as it was once expressed in this trial—to help “to get us out of the wood.”

What then is the result?

It is customary in this trial that the case of the defense begins with an opening statement.³ This places the defense under the obligation to correlate the results of its case with this opening statement and to answer the question which worries counsel day and night: Was not too much said, too much promised in the opening statement? Did we succeed in our case in fulfilling the claims made in the opening statement? Dr. Krauch submitted to direct examination by this court and to cross-examination by the prosecution. Did he pass the test, thus questioned face to face? Within the time limits set by the Tribunal, which may be explained by the special circumstances of this trial, my final plea will only be able to give a blue print—if I may characterize it with a German expression often chosen for scientific work—of only the broad outlines of the viewpoint of the defense with regard to Dr. Krauch’s case.

All the details are laid down in the final brief,⁴ which had been drawn up in such a manner as to enable the Tribunal to obtain infor-

¹ “Annual Message to Congress, 1 December 1862,” *The Life and Writings of Abraham Lincoln*, edited by Philip van Doren Stern (The Modern Library, New York, 1942), page 745.

² Mimeographed transcript, 2 June 1948, pages 14600–14634.

³ The opening statement for Defendant Krauch is reproduced in vol. VII, section III C.

⁴ In addition to the closing statements, both the prosecution and defense submitted final briefs in the Farben case. The closing statements, even though they were read orally in open court, were also submitted in writing, so that translations could be made in advance and thus assure a more literal treatment of quotations, citations, and similar matters than would be possible by the usual system of simultaneous interpretation of court proceedings. See volume XV, section VII, “Handling of Language Problems Arising Because of the Bilingual or Multilingual Nature of the Nuernberg Trials.”

mation quickly whenever it desires to be instructed regarding any one point of the views presented by the defense on the individual questions.

In this closing statement we have dispensed with citing quotations from the documents and the transcript.

My closing statement has been submitted in writing; in the course of every problem dealt with therein, reference has been made in footnotes to the paragraph numbers (Text-Ziffern, hereafter called TZ) in my final brief, in which—in accordance with the suggestion of the Tribunal in the session of 13 April 1948—the incriminating evidence is placed opposite to the exonerating evidence. The footnotes herein refer to the paragraph numbers of the final brief, which are to be found on the left-hand margin of the individual pages of the final brief.

[Editor's note: The footnotes in the written copy of this closing statement have been incorporated throughout this statement even though no part of the final brief for defendant Krauch is reproduced herein.]

In order that the footnotes may also appear in the record, I request that my written closing statement be taken into the record.

I. *Count one of the indictment: participation in preparation for aggressive wars*

1. The IMT judgment forms the basis of the theory of the defense regarding the question of participation in the preparation for aggressive wars. According to this judgment, the evidence concerning the state of mind of a defendant must show that he had knowledge of Hitler's aims. For Krauch this knowledge could come from a possible participation in the four well-known secret sessions or from other sources. For neither of these possibilities did the prosecution submit any proof. That Dr. Krauch had *no close connection with Hitler* has been proved. He spoke to him only once, and not until May 1944, on the occasion of the well-known session¹ dealt with in the presentation of evidence.

Moreover, I refer to the statements of Dr. von Metzler, who treated in detail the application of the principles of the IMT judgment to this case on behalf of all defense counsel in the brief of 17 December 1947, and who will once more make a statement regarding this in his final plea.

As a substitute—poor, like every substitute—for the lack of evidence of close contact with Hitler and his intimate circle, the prosecution made the claim that Dr. Krauch was "*Goering's right hand,*" obviously with the intention of inferring Dr. Krauch's confidential knowledge of Hitler's plans for aggression from this designation. But even this interpretation has not been proved; indeed, it has even

¹ TZ. 1-5, 6.

been refuted by the evidence of the defense. Dr. Krauch was so far from being one of Goering's confidants that he saw Goering only about twice a year, and Goering told him in July 1939 that there was no possibility of a war. A number of witnesses from the circle around Goering, I refer to Milch and Goernert, confirmed the statements of Dr. Krauch.² Dr. Krauch could also not have been one of the initiated for one other particular reason: The fact that precludes from the very outset any possibility of Dr. Krauch's knowledge of Hitler's plans is the opinion that the authoritative Party circles had of him.

To be sure, the Party recognized Dr. Krauch's great technical ability without reservation, but politically they regarded him with extreme distrust. Abundant proof of these facts has been submitted.³ The cause for this distrust was Dr. Krauch's own attitude with regard to the National-Socialist ideology and the wishes of the Party; particularly his attitude with regard to Jews, the church, and science. This distrust of Dr. Krauch extended to the whole of Farben, which in its turn, under the management of Krauch and Schmitz, refused, as has been proved, to concede to the Party the influence in the Vorstand and Aufsichtsrat which they so strongly desired. How far this distrust went is shown by the order issued during the war, prohibiting the passing-on of any information to Dr. Krauch about the atomic experiments.

In view of these basic facts, the references of the prosecution to numerous details fail to achieve anything. No matter how many small pieces they fit together, the fact that Dr. Krauch had no knowledge of Hitler's plans for aggression cannot be argued away. This knowledge is thus not proved in any way by the reference to Krauch's participation in the large meetings of December 1936 and October 1938, where many German industrialists were assembled around Goering and Hitler in order to hear the government's views on the situation.⁴ Neither is this knowledge proved by the reference to Hitler's confidential memorandum about the Four Year Plan, which, apart from the fact that its contents do not disclose any aggressive intentions, only came to Dr. Krauch's knowledge in Nuernberg.⁵ These and many other things are details, which indeed show a knowledge of the promotion of rearmament, which Dr. Krauch himself does not contest, but which do not prove anything about his knowledge of Hitler's intentions of aggression.⁶ Along with millions of other Germans, Dr. Krauch saw in the rearmament a means of meeting a threat of aggression from the East, and this interpretation was based on the political

² TZ 7.

³ TZ 8, 9.

⁴ TZ 11, 12.

⁵ TZ 13.

⁶ TZ 16.

situation. For example, every sixth German had voted Communist in 1932, and all the propaganda until August 1939 was directed at the Communist menace. I recall the statement of Hitler's radio commentator, Hans Fritzsche, acquitted by the IMT, my concluding witness on the question of common knowledge among the German people of Hitler's plan of aggression. I recall the speeches of Hitler submitted in the volumes on German foreign policy. Through them all, like a red thread, runs the profession of love of peace and preparedness for peace, and from 1936 on, the Bolshevik danger is represented as the thing against which a dam must be erected.^{6a} How right Hitler was in this outline of his policy, by the way, might be confirmed by the political situation which had developed in recent months in Europe.

How lightly the prosecution takes things here, however, as in so many other points, is shown by a claim in [prosecution] Trial Brief, Part I, page 26, stating that Dr. Krauch must have concluded from the fact that the armament of Germany in 1938 had exceeded that of the neighboring nations, that Hitler was arming for an aggressive war. This interpretation of the prosecution amounts to the following: if the armament of a country has exceeded a certain limit then this nation is planning an aggressive war. The erroneous nature of this interpretation is apparent; if it were right it would have very strange consequences. Numerous German scientists have been obliged to work in the War Department on the basis of agreements. Dr. Krauch also received an inquiry from the War Department with regard to this. From the standpoint of the prosecution, one would have to advise these scientists and also Dr. Krauch first to have Mr. Sprecher give them exactly the ultimate limits of armament, upon reaching which, they must put a halt to their further activities, in order to escape the danger of being indicted.

Moreover, the prosecution still have to prove that Dr. Krauch was informed as to the extent of armament of the neighboring nations. In addition to this, however, the defense has proved that numerous experts were of the opinion that the German armament program was insufficient.⁷ I refer here only to the testimony of the witness Huenermann, the Chief of Staff of the Military Economics and Armaments Office, whose statement came at the close of my presentation of evidence. I refer furthermore to volume 3 of the Documents on German Foreign Policy where I have compiled the statements of twelve generals, and which could be summarized to this effect. All of these documents have one thing in common: the decisions which originated in Hitler's brain were not known even to the highest military leaders until the last minutes. And it is important for the question of good faith in the statements of the Reich Government that the national

^{6a} TZ 16.

⁷ TZ 17.

Wehrmacht was expressly characterized as a particular instrument of defense, and always as an armed force for the preservation of peace. It seems curious in this connection that according to the prosecution's Trial Brief, Part I, page 84, Hitler should have succeeded in deceiving even Poland, that is, the country which was most threatened, regarding his aggressive intentions; while Dr. Krauch, of all people, should have perceived the deception. Beyond all this, the defense then—although after the unconvincing case in chief of the prosecution it might have been superfluous to do so—began a counterattack (they themselves now fitting together the pieces of a mosaic picture) by demonstrating that a large number of actions by Dr. Krauch were in no way compatible with the objective, attributed to Dr. Krauch by the prosecution, of taking part in aggressive wars.⁸ Let me cite a few of these actions briefly. Dr. Krauch advised on the construction of the installations under his supervision from a commercial, not from a military point of view. What result this had for the conduct of the war has been shown by the result of the air raids on the petroleum plants, buna plant, et cetera. Iso-octane, important for the development of high-test aviation gasoline, was made available to foreign countries before 1939, while in Germany its production was not begun until after the war had started. Finally, the exchange of experience⁹ with foreign countries belongs in this category, in particular with Standard Oil in the field of hydrogenation. I wish to draw the attention of the Tribunal particularly to the affidavits of two men, Haslam and Howard, who occupy leading positions in the Standard Oil, from among the extensive amount of evidence covering this field. This evidence completely refutes the claim of paragraphs 50 and following of the indictment.

2. Now, beyond the documentary material, Dr. Krauch's knowledge and intent to take part in the preparation of aggressive wars has been concluded from his *position in the official organization of economy*. The importance of this position was inordinately exaggerated by the prosecution. The prosecution has been more than presumptuous, as in so many of its claims, in comparing Dr. Krauch to Schacht, and brought forward as an incriminating fact that he did not immediately, like Schacht, resign from his position after he, just as Schacht, had become aware of Hitler's aggressive intentions.¹⁰ How wide of the mark is this comparison!

The claim that Schacht had recognized Hitler's aggressive plans, as such, is also misleading. The IMT judgment explicitly stated the contrary. Dr. Krauch, however, rightly called further attention to the fact that his position could not be compared at all to that of

⁸ TZ 23-34.

⁹ TZ 30.

¹⁰ TZ 18.

Schacht. As Minister, Schacht was a member of the Reich Cabinet. Schacht was president of the Reichsbank and Reich Minister of Economics. In his hand the financing of the *entire* armament program was coordinated. Dr. Krauch, on the other hand, did not hold a position even remotely resembling that of Schacht. By no means did he have knowledge of the entire armament program, not even of a part of it, not even of the entire chemical sector, but only of that of the five special chemical problems.

But Dr. Krauch may also not be compared with any other of the persons sentenced by the Nuernberg IMT. All were supreme functionaries of the National Socialist regime, all were particularly characterized by the confidence of Adolf Hitler.

Sauckel, too, was a plenipotentiary general, but Sauckel was at the top, his office was a supreme Reich authority; Krauch was not a supreme Reich authority either in his capacity as Plenipotentiary General for Special Questions of Chemical Production or as provisional director of the Reich Office for Economic Development.^{10a} Sauckel "directed" the allocation of many millions of workers; Krauch did not "direct," but merely "acted as technical consultant" with regard to the workers required for the construction sites entrusted to him. It is not a question of the appearance, of the designation, but of the *reality* of the authority; and in this connection Dr. Krauch made clear his authority by his description with the aid of numerous documents submitted by the prosecution itself, which show his dependence on the decisions and powers of other officers, far outranking his.^{10b} It was indeed a characteristic of the Third Reich in general to govern with many authorities overlapping coinciding, and holding a subordinate position. Dr. Ambros put forth the best proof of this when he demonstrated to us in a diagram how almost innumerable official agencies took part in the construction of Auschwitz, consenting, recommending, advising, interfering.^{10c} In this connection we should also refer to the judgment of Military Tribunal II in Case IV against Pohl, where it states on page 8097 of the English transcript :

"At the outset of the testimony, the Tribunal realized the necessity of guarding against assuming criminality, or even culpable responsibility, solely from the official titles which the several defendants held.

"The Tribunal has been especially careful to discover and analyze the actual power and authority of the several defendants, and the manner and extent to which they were exercised, without permitting itself to be unduly impressed by the official designations on letter-heads or office doors."

^{10a} TZ 50.

^{10b} TZ 47 and 48.

^{10c} English transcript page 7873 ; German transcript page 7949.

In connection with portraying the character of other defendants, the prosecution also attributed selfish and ambitious motives¹¹ to Dr. Krauch in taking over his position, and on the basis of these motives cast aspersions on the whole of I. G. Farben. The defense is of the opinion that here, too, it has established clarity and has unearthed the real motives. Ambition, selfishness, ideas of military aggression, were not the motives which led Dr. Krauch to follow the call which had its origin in Goering's initiative, not in that of I. G. Farben; but rather the worry about the further development of industry and science, their protection against unpleasant Party influences, and the worry about finding workers, all this after discussions with the then chairman of the Aufsichtsrat of I. G. Farben, Bosch, whose commanding personality and anti-Fascist attitude has been presented in detail to the Tribunal.¹² Dr. Krauch correctly called attention to the fact that it was not unusual for an industrialist to step into an honorary government position, and I need only mention the phrase "dollar a year man" in order to convey to the Tribunal an idea of the circumstances which had an influence upon Krauch's decision.¹³ As the presentation of evidence has shown, Dr. Krauch was only an adviser and expert in all his positions, without any initiative of his own, without authority to make his own decisions. This thesis is propounded, not from cowardly fear of the judgment, hoping to minimize Krauch's position and activities contrary to the facts, but because it alone corresponds to the hard facts, corroborated by the presentation of evidence. From a large number of prosecution exhibits, Dr. Krauch listed a number of points in his direct examination, which clearly demonstrate the lack of any independent power of decision and the fact of his dependence on the decision of the offices above.¹⁴ The theory put forth above, that Dr. Krauch cannot be guilty of participation in the preparation for aggressive wars on the basis of his position and activities, also agrees with the judgments pronounced by the other Nuernberg Tribunals.

Military Tribunal V in Case VII (English tr. pp. 10491-10502), acquitted the two Chiefs of Staff, General Foertsch and General von Geitner, stating that they were only advisers to the Commander in Chief and had had no power of command of their own. Their knowledge of the existence of illegal actions did not fulfill the requirements of penal law. For this purpose, a person who orders, approves, or becomes party to the crime by his consent, is required. Since Krauch also, as his defense has proved, was active not in a decisive but only in an advisory capacity, the establishment of his innocence is justified by applying the above-mentioned legal principles. This also applied,

¹¹ TZ 41.

¹² TZ 41.

¹³ TZ 41.

¹⁴ TZ 42-48.

moreover, to the accusations made in the other counts of the indictment, since there, too, Krauch was always active only as an expert in an advisory capacity.^{14a}

3. So much for the actual position of Dr. Krauch. Now a few words regarding the activities which he pursued as Plenipotentiary General for Special Questions of Chemical Production and in the Reich Office for Economic Development. Through the description of Dr. Krauch and other defendants—above all, I mean Dr. ter Meer and Dr. Schneider—it has been made clear that the activities in the field of synthesis from 1933 on were nothing new, but went back to deliberations, work, and preparation, which took place long before that year.¹⁵ The prosecution makes the fundamental mistake of seeing the Four Year Plan only from the point of view of plans for an aggressive war.¹⁶ Certainly, the Four Year Plan played a part in the rearmament program, but its most outstanding motives were employment, saving of foreign exchange, the achievement of an extensive autarchy, and, in addition to matters which were also essential to the rearmament program, those of the civilian sector played an outstanding role. This aspect of the Four Year Plan has been confirmed not only by a number of witnesses but by the defendants themselves. There are also documents which testify to this, and in particular, contrary to the thesis of the prosecution, Hitler's confidential memorandum regarding the Four Year Plan constitutes no proof for aggressive plans, as a glance at this document itself shows.¹⁷

Now, as regards the occupation with petroleum, buna, nitrogen, et cetera, in this connection, may I only call to mind the idea of the so-called armament materials common to the trade.¹⁸ It is known to come from the United States, and it is the fundamental error of the prosecution that it has seen the production of that type of armament goods common to the trade, i. e., those which are important for peace as well as for war, only from the point of view of the preparation for an aggressive war. Innumerable completely false conclusions of the prosecution have been built on this fundamental error.

In this connection, a word about the hoarding of supplies, which the prosecution also regards only from the point of view of preparation for an aggressive war, should be spoken. As regards Dr. Krauch himself, I would like to state here that Dr. Krauch had no right in his official position to order or direct stockpiling. Moreover, reference should also be made here to the practice in other countries, and finally, the attention of the Tribunal should be called to the fact that at the outbreak of the war the amount of supplies available was such as to

^{14a} TZ 39.

¹⁵ TZ 55, 56, 57.

¹⁶ TZ 54.

¹⁷ TZ 54a.

¹⁸ TZ 55.

prove the insufficient state of armament for war. If there was only a 15 day supply of buna and a 6 month fuel supply, and powder and explosives as well only in relatively small quantities—all this has been proved by witnesses—the inference of the prosecution is thus refuted in this point as in all the others.¹⁹

What was true of the Four Year Plan is true also of the Karinhall and the Rapid Plan. The prosecution presents matters in such a light as to make both plans seem like something completely new, originating in the evil intent of Krauch. In this connection, again, documents submitted by the prosecution itself prove that they were only a compilation of plans for required production drawn up elsewhere, of which Dr. Krauch had not even known until then, and that the development of the products compiled in the Karinhall Plan was to take place in peacetime.²⁰ The same applies to the Rapid Plan, which the experts, Dr. Ehmann and Dr. Zahn, among others, have described to us as merely the compilation of the developments planned by the OKH even before June 1938.²¹ Referring to these plans, the prosecution speaks of Dr. Krauch's cooperation in the "planning."²² This mode of expression is inexact and unclear. In German usage, a sharp distinction must be made between :

a. Planning for required production, thus planning to cover a definite need for gasoline, buna, powder, explosives, et cetera, for definite purposes. This planning for required production was never Dr. Krauch's affair, but rather the affair of the Reich Ministry of Economics, the Army Ordnance Office, and the Ministry for Armament and War Production, et cetera.

b. Subordinate to this as to time and subject matter, and only after the planning of required production, comes the planning of construction for the factories which are to meet the requirements ascertained in accordance with *a* above. It includes the expert advice regarding the necessary construction material, machines, the best mode of work, the number and type of workers, et cetera. Krauch was employed only within the scope of this construction planning, as an expert and an adviser.

4. *Krauch's position and activities in I. G. Farben.*—Dr. Krauch had already discontinued his activities as member of the Vorstand—apart from certain duties in the process of transfer to his deputy—by April of 1936. The directing of Sparte I was transferred to Dr. Schneider as an acting deputy in 1936, and wholly in 1939. This conduct of Krauch originated in his integrity; he wanted to avoid under all circumstances being involved in a conflict of interests between the duties of his honorary position and possible wishes of I. G.

¹⁹ TZ 60.

²⁰ TZ 61.

²¹ TZ 62.

²² TZ 44-46.

Farben. In his honorary position he was not the spokesman of the interests of an individual plant, but he had to take care of the interests of the entire chemical industry of the Gebechem-Sector (Sector of the Plenipotentiary General for Special Questions of Chemical Production). This attitude of Krauch was established beyond a doubt by the testimonies of the other defendants; especially precise is Dr. ter Meer's statement in that respect:

"In these years, I repeatedly heard complaints from younger associates that Dr. Krauch had made decisions in the interest of competitors and not in Farben's interest. Therefore, I can confirm from this and from my own observation, that Dr. Krauch strictly observed the separation between his official business on the one hand and his position in Farben, which was only on paper, on the other hand."^{23a}

However, other witnesses also, as for instance General von Hanneken and Dr. Schieber, confirmed Dr. Krauch's clear observation of the separation line and his correct attitude.^{23b} Therewith, however, also that assertion of the prosecution is refuted which claimed that Farben rushed to take part in the Four Year Plan, and that the heads of the Four Year Plan and Farben entered a kind of alliance for the pursuit of selfish interests.²⁴ The last doubts in that respect surely were dispersed by the reading of the Basic Information of the Defense by Attorney at law Silcher, in which it is stated beyond any doubt that Farben did not gain any profits out of the Four Year Plan.

The prosecution put forward as a detail of its charge the fantastic figure that 90 percent of the personnel of Dr. Krauch's office were employees of Farben. The defense reduced this fantastic claim to the correct figure of approximately not even 30 percent. The defense likewise explained why this in itself insignificant number of employees of Farben was necessary.²⁵

Dr. Krauch demonstrated the same attitude of decency in his capacity as a member of the Aufsichtsrat as he had shown as a member of the Vorstand; from 1940 until 1945 he did not actually exercise his functions as a member of the Aufsichtsrat, a fact which was also proved by the presentation of evidence.²⁶ Apart from this fact, it has to be pointed out that legally speaking, members of an Aufsichtsrat consisting of twenty people cannot be made individually responsible for crimes committed by the Vorstand because, according to German law, neither the Aufsichtsrat as an entity nor the individual members were authorized to issue orders to the Vorstand. If the prosecution

^{23a} English transcript page 6794.

^{23b} TZ 63.

²⁴ TZ 65, 66.

²⁵ TZ 65.

²⁶ TZ 67.

advocated a different opinion, then it would not have indicted Krauch alone, but all members of the Aufsichtsrat as well.

Again I may be allowed to shed some light on the material which the prosecution has built up with reference to the activity of Dr. Krauch in the IG. The establishment of the Vermittlungsstelle W (V/W), upon which the prosecution dwelled so extensively, has already been reduced to its proper proportions during the case in chief of the prosecution.

The Vermittlungsstelle W was, as testified by a witness of the prosecution in the early stages of this trial, a kind of glorified letter carrier and not a sinister organization for active espionage, counterintelligence, et cetera.²⁷ The air-raid protection measures,²⁸ which were dealt with in this connection, find a natural explanation in the fact of Germany's endangered situation and the mobilization plans,²⁹ war games,³⁰ and all the other small matters, as for instance the establishment of the department, Counterintelligence,³¹ which the prosecution mentioned in this connection, were only carried out upon orders of the authorities and were considered as annoying and interfering with normal business routine. Referring to all this, I have to harp again on the old subject: that is, did not other countries and other peoples act in the same way? Replace IG by I. C. I. (Imperial Chemical Industries) for England, or du Pont for America, Montecatini for Italy, and at once the similarity will become clear to you. Is it not just a little naive, when the prosecution introduces in this connection Document NI-7796, Prosecution Exhibit 922, which contains a summary report compiled by the Vermittlungsstelle W concerning British "shadow factories"? It could be pointed out in this connection that this summary was made up from material published in English newspapers, to which everybody in Germany had access. The reason for the special secrecy rules and the utilization of the Vermittlungsstelle W in this connection was explained quite clearly by the defendant von Knieriem as necessitated by the more severe regulations concerning high treason, et cetera.

5. *Participation in the waging of aggressive wars.* Here, too, no culpability of Dr. Krauch is given. A participation in the waging of aggressive wars in his capacity as a member of the Vorstand, or as member of the Aufsichtsrat, is out of the question from the very beginning, particularly because Krauch did not exercise these functions during that particular time. Only the question has to be examined whether perchance a responsibility in the above-mentioned sense could be construed from the fact of his honorary position as

²⁷ TZ 68.

²⁸ TZ 71.

²⁹ TZ 70.

³⁰ TZ 72.

³¹ TZ 69.

Gebechem (Plenipotentiary General for Special Questions of Chemical Production). This assumption, too, is denied by the defense, just as a participation in the preparation for wars of aggression. Even the state of facts (der aeussere Tatbestand) of the waging of aggressive wars does not exist, because Krauch's activity was an insignificant one; insignificant because it concerned not only a relatively, but also an absolutely, small sector of chemistry, and because of the fact in his position he was not authorized to make decisions.

However, the state of mind (der innere Tatbestand) is lacking too, because the prosecution did not furnish sufficient evidence which would prove beyond any doubt that Dr. Krauch was absolutely sure that the wars since 1939 were wars of aggression. Our propaganda pictured these wars as defensive wars, especially by pointing out the fact that England and France had declared war on Germany, and Krauch—like all citizens of Germany—had no opportunity to obtain unbiased and objective information about this problem.³² For the sake of completeness I want to refer here to the well-known judgment of the Supreme Court of the United States of 25 May 1931, in the Macintosh case, which advocates the point of view that it never can be up to the individual citizen to examine whether a war in which his country is involved is a just or unjust war. In connection with this judgment, I introduced, as the last of the documents submitted to the Tribunal concerning the knowledge of the German people of the intention of waging aggressive wars, the statement of General Marshall, declaring that it is the duty of every citizen to fight for his country in case of war, regardless of its causes. Moreover, every kind of activity was placed from the start of the war under the ever increasing pressure for more production exerted by other authorities and offices, the avoidance of which—as explained during the trial by numerous witnesses and defendants in a variety of formulations and expressions—was impossible for everybody, if they did not want to endanger life and limb, not only their own but also that of their families.^{32a} In particular I refer to the statements of Professor Wahl concerning the state of necessity.

II. *Count two of the indictment: plunder and spoliation*

1. At the beginning, I have to bring to your recollection again the actual status of the position of Dr. Krauch in Farben. From 1936 on he did not actually exercise his duties as a member of the Vorstand, and from 1940, in the same way, he did not actually act as chairman of the Aufsichtsrat.³³ Therefore a possible responsibility of Dr. Krauch on these counts in connection with the charges made against the IG is out of the question from the very beginning.

³² TZ 74–77.

^{32a} TZ 74–77.

³³ TZ 78, 79.

2. With regard to the charges made in count two of the indictment, I do not deal with such trifling matters as for instance the trip to Poland by Dr. Wurster,³⁴ or the letter of 28 June 1941,³⁵ written by Dr. Ambros to Krauch, which were introduced by the prosecution; but I turn at once to the question whether the activity of Dr. Krauch as member of the Aufsichtsrat of the Kontinentale Oel A. G. brought about his criminal responsibility. Two points are at issue in this question: First, that the Konti-Oel, from the point of view of stock corporation law, was completely dominated by the Reich Ministry of Economics, and that beyond it, the Reich Ministry of Economics actually directed the business transactions of the Konti-Oel by way of orders and directives, so that the Vorstand had no right of decision. This legal position has been established by affidavits of the former member of the Vorstand, Blessing, and can be deduced also from several prosecution exhibits. If it is true that the Vorstand was not at liberty to act as it saw fit, then this was all the more true for the Aufsichtsrat which on its part—as already explained in a different connection—had no authority whatsoever to issue orders to the Vorstand.³⁶ Apart from these questions, which refer to the organizational set up of the Konti-Oel, a violation of international law caused by the activity of the Konti-Oel, cannot be construed for the very reason that the oil production of the Konti-Oel in Russia was quite insignificant and was not even sufficient for the requirements of the occupation army there. Thus, this excludes any violation of article 53 of the Hague Rules of Land Warfare.³⁷

3. With the help of extensive evidence which formed a part of the case of the defense for the defendants Haefliger and Dr. Ilgner, it has been clarified that for the questions identified by the code word *Norway*³⁸ a criminal responsibility of the members of IG is quite out of the question. Quite apart from this, the evidence for Dr. Krauch has proved that the increase of the aluminum production potential in Norway cannot be traced back to the initiative of Dr. Krauch. Even from the letter of 19 October 1940, written by a certain Herr Moschel, a document which has been given special emphasis by the prosecution and which indicates that Dr. Krauch had allegedly intended to bring about the largest possible participation of the IG in the later Nordag, it cannot be concluded that Krauch acted on his own initiative or for selfish intentions, because Krauch at once refuted this formulation, drawn up by an overzealous co-worker, with the remark that the quota of the IG had been fixed by agreements with the Vereinigte Aluminiumwerke, et cetera, as part of the European aluminum production program, and that it never could

³⁴ TZ 80.

³⁵ TZ 81 a.

³⁶ TZ 81.

³⁷ TZ 81.

³⁸ TZ 82.

be increased by more than 10 percent.³⁹ Thus, this fact eliminates the charge raised against Dr. Krauch by the prosecution. Apart from this, it is a fact that the IG never participated in the Nordag. Obviously, it seems to be the aim of the prosecution to punish even a mere intention, which, by the way, did not pursue any criminal objectives.

Dr. Krauch neither participated in the other foundations of the Nordisk Lettmetall, nor in the acquisition of the shares of the Norsk-Hydro which were in French hands, nor in the foundation of the Nordag itself.⁴⁰

4. The same is true with regard to the Francolor and Rhône-Poulenc transactions.⁴¹

Only two transactions of lesser importance remain to be clarified, one of which is known under the code name *Simonschacht*. Here too, a culpability of Dr. Krauch cannot be established. The expert adviser of Dr. Krauch inquired in Bad Kreuznach at the office of the Wehrmacht, which had jurisdiction over the evacuated territories, as to who had the authority to dispose of the machines and tools in question, and was subsequently directed to the Office of Military Economics and Armaments. Thereupon, the sole activity of Dr. Krauch consisted in inquiring, upon order of a government agency (the Reich Ministry of Aviation), at the Office of Military Economics and Armaments, that is, at another government agency which was named to him as having authority to handle such matters, whether the removal of generators and boilers from the plant located in no-man's land and exposed to the danger of shelling, was permissible. If thereafter Keitel, despite the objections raised by the Foreign Office with regard to the stipulations of international law, of which Dr. Krauch did not learn until he came to Nuernberg, issued the order for the dismantling, then Dr. Krauch cannot be made responsible for it. In the first place the causal connection between the conduct of Dr. Krauch and the dismantling of that single generator was broken by this intentionally and possibly illegally issued order of Keitel. Moreover, the state of mind (*der innere Tatbestand*) is lacking for the following reason: whoever asks a state authority for the execution of a certain measure may afterwards depend upon it that the state authority has examined such a measure as to its legality.⁴²

5. Finally, the dismantling of the nitrogen factory Sluiskil in Holland has been clarified, apart from other evidence, by the testimony of the witness Rumscheidt. The latter testified that Gebechem [Pleni-potentiary General for Special Questions of Chemical Production] had no influence upon the dismantling order as such and that he did not even take charge of the plant; this was done by the Economic

³⁹ TZ 82 a.

⁴⁰ TZ 82 b.

⁴¹ TZ 83.

⁴² TZ 84.

Research Corporation (WIFO) of the Reich Ministry of Economics. Krauch served only as an adviser concerning the utilization of machines, the dismantling of which was decided upon by other authorities.⁴³

6. For the evaluation of the inner attitude of the man Krauch, the defense submitted to the Tribunal material which indicates that Dr. Krauch prevented the dismantling of French, Belgian, and Dutch nitrogen factories, planned by German authorities. He demonstrated the same attitude as to the planned dismantling of the valuable laboratory of the Shell Company at Amsterdam, and he prevented finally also the incorporation of the German Fordwerke, which belonged to the American Ford concern, into the Hermann Goering Werke.⁴⁴

PRESIDING JUDGE SHAKE: The Tribunal will rise for lunch until one-thirty.

(Recess)

PRESIDING JUDGE SHAKE: You may continue, Dr. Boettcher.

DR. BOETTCHER (counsel for defendant Krauch): I am now turning to count three of the indictment, enslavement and mass murder.

III. *Count three of the Indictment; enslavement and mass murder.*

1. As representative of I. G. Farben, Dr. Krauch is not to be held responsible on this count. The facts under consideration here all took place after May 1940, thus at a time when Dr. Krauch was no longer a member of the Vorstand. As a member of the Aufsichtsrat, Dr. Krauch is not responsible for two reasons: first, on the basis of his partial withdrawal from I. G. Farben already mentioned, and secondly because—in conformity with the Trial Brief of the prosecution, Part III, pages 19 and 23—Dr. Krauch cannot be held responsible for crimes alleged under count three any more than can the other members of the Aufsichtsrat who are not indicted; it is decisive that according to German stock corporation law, the Aufsichtsrat has only certain supervisory functions, but is not superior to the Vorstand and has no right to give orders to the Vorstand. I refer to paragraphs 86 and following of the stock corporation law of 30 January 1937. For count three, then, only such responsibility of Dr. Krauch as originates in his honorary position as “Gebechem” is to be considered. The prosecution has attempted to prove that Dr. Krauch displayed criminal initiative, within the meaning of Control Council Law No. 10, in the scope of labor allocation. The defense is of the opinion that the prosecution has not proved this; rather that the defense has proved the contrary, namely the lack of any real initiative and, moreover, an irreproachable humane attitude on the part of Dr. Krauch.

⁴³ TZ 85.

⁴⁴ TZ 86.

2. For this question, Dr. Krauch first of all described in detail how, when he was asked for advice by the competent Ministries immediately after the beginning of the war, he recommended the so-called utilization of firms⁴⁵ in recruiting voluntary workers, in connection with the experience he had had with this type of employment of voluntary workers in the reconstruction of the I. G. Farben plant at Oppau, which was destroyed by an explosion in 1920. During the presentation of the evidence, the favorable experience which he had had with this utilization of firms was illustrated in detail.⁴⁶ In particular, the extensive welfare program was also proved.⁴⁷ This so-called utilization of firms does not violate any provisions of international law. Even the prosecution did not make this claim.⁴⁸ If it attempts to prove, however, that Dr. Krauch is responsible for compulsory measures which, for example, were taken for extending the work contracts which had been at first voluntarily concluded, or on the breaking of these work contracts, it has failed to bring forth any evidence in support of these claims. The defense has, moreover, proved that Dr. Krauch as "Gebechem" did everything in his power in order to help these workers in the face of the compulsory measures which had not originated with him, and to enable them to escape these compulsory measures.⁴⁹

3. Now, as the war situation led to a further manpower shortage, the so-called slave-labor program came into being with the appointment of Sauckel as Plenipotentiary General for Labor Allocation. This program will be treated in detail by Dr. Hellmuth Dix.

In connection with this, I would like to say with regard to Dr. Krauch:

a. It has been determined beyond the shadow of a doubt that Dr. Krauch did not take part in evolving and formulating the plan to bring foreign workers to Germany on the basis of the compulsory service laws. Quite apart from his own statements in this respect, this may be seen from the fact that he had no connections of any sort with the Staff of the omnipotent confidant of Hitler, the Plenipotentiary General for Labor Allocation, Sauckel, and that he was not on the same level in the official hierarchy as Sauckel, but was on a much lower level; in this connection the title "Plenipotentiary General" should—as has already been stressed—by no means mislead us; and besides, he had no power or authority, as had Sauckel. Dr. Krauch was completely removed from these things and this program. Indeed, as he himself stated and his colleagues confirmed, Dr. Krauch rejected the compulsory labor program first for ethical and then for practical reasons. Neither Krauch nor the employer firms could avoid the al-

⁴⁵ TZ 90 and 91.

⁴⁶ TZ 92.

⁴⁷ TZ 92.

⁴⁸ TZ 93.

⁴⁹ TZ 94, 95, 96.

location of foreigners, because otherwise the production pressure and the production quotas could not have been met. It was always explained that preference would be given to German workers; and Dr. Krauch himself, and after him, the witness Milch, related a conflict in the Central Planning Board, which led to disagreements when Dr. Krauch, contrary to opposing directives, demanded German workers.⁵⁰ The witness Schieber also recalls a similar incident. Apart from this general frame of mind and attitude, however, any initiative on the part of Dr. Krauch was completely lacking in questions of labor allocation. With regard to the employment of foreign workers enforced by the compulsory service laws, as well as to the employment of prisoners of war and concentration-camp prisoners, the following applies:⁵¹

First of all, a survey is required of how workers were allocated within the German war economy, and what activities Dr. Krauch performed for this allocation. As has been shown, Krauch did not carry out constructions on his own responsibility. The constructions requested by the Reich Ministry for Armaments and War Production, et cetera, as a result of the well-known production orders, were carried out by I. G. Farben, the BRABAG (Braunkohle-Benzin A. G.) the Hydrierwerk Blechhammer A. G.—I am mentioning examples only—and others. These firms and companies enlisted the workers necessary for this. They were the employers, they were responsible for the weal and woe of the workers whom they employed, they agreed upon the wage scales, they provided accommodations, food, free-time activities, et cetera, Dr. Krauch, as “Gebechem,” and his staff, gave consultations and advice with regard to the type of construction to be chosen for these edifices—in this connection, reference is made to Goering’s charges in the meeting with Hitler in May 1944, that Krauch had given the wrong advice—further with regard to the construction of the necessary machines, the consumption of material, and the deadlines in question; and one of the points requiring advice was an estimate of workers required, both as to number and type (technical workers, et cetera). The firms which carried out the authorized building on their own responsibility and at their own cost requested for their part the necessary workers, at first at their local employment office. If this local employment office could not meet the requested need, the firms applied to the Regional Employment Office; and if the latter was also incapable of meeting the request, to the Reich Ministry of Labor and/or the Plenipotentiary General for Labor Allocation. Krauch was then called in upon this request, for they would only make available to the individual plant the required workers which could not be obtained locally, if the office appointed as experts for this purpose by the highest authorities, that is, the “Gebechem,” declared that this requested manpower was necessary and in due proportion. In

⁵⁰ TZ 98.

⁵¹ TZ 88, 97, 98.

this connection, the "Gebechem" had the same status as a number of similar advisory offices, for example, the Director of the Economic Group Machine Construction, Lange, for the machine industry, and the Director of the Petroleum Department of the National Geological Institute, Professor Bentz, for natural petroleum.

An especially good example (instead of many others) for the correctness of the above description is [Document] Ambros 417, Ambros Exhibit 114. There, in the minutes of a discussion at the Regional Employment Office Katowice, it is stated:

"Our (i. e., the plant Auschwitz) desires in regard to the allocation of labor were presented to President Dr. Ordemann,"

and it is interesting to note from these minutes the specific request for German workers, for at the end the statement is made:

"The Regional Employment Office promised every conceivable aid, in particular in obtaining the requested 3,000 German workers, in order that the Regional Employment Office would not be burdened with further requests."

One could not prove the actual situation of labor allocation more clearly than by this document, which is only one example of many.

If one keeps in mind these simple and clear outlines the following requests, with regard to Dr. Krauch's position):⁵²

By no means can it be said that Krauch himself had the choice of a certain category of workers, whether foreign workers, prisoners of war, or concentration-camp prisoners, or that he himself had decisive influence on the allocation of a certain category. The tiny sector of the Gebechem, within the scope of the millions in the armament industry—with its worker requirements of 150,000 to 200,000 men, of which a balance of about 10 to 15 percent was always lacking and could not be satisfied—had to be supplied, just as did the requirements of millions of the militarily decisive armament industry (cf. EC-160, Pros. Ex. 2239), from the large general reservoir in Sauckel's care. These labor allocation authorities alone had the decision and authority regarding the type of employees who were to be allocated to the individual construction enterprises.

These very facts prove that Krauch's activities in matters of labor allocation could only have been of an advisory or consultant nature and that this opinion is not being stated in order to minimize Krauch's position or to deny, contrary to the actual facts, that he could take the initiative which the prosecution claims to be the basis for its opinion.

This position of Dr. Krauch has been proved and substantiated through many details, partly as listed in the prosecution documents themselves as well as in direct examination and through other evi-

⁵² TZ 88, 97, 98.

dence.⁵³ I want to point out especially that this merely consulting and advisory nature of Dr. Krauch's activities was also proved through the fact that the authorities superior to Dr. Krauch were not only in a position to take measures which were in opposition to his advice and his expert opinion, but that they actually did take such opposing measures.⁵⁴

I will now take up the question as to whether Dr. Krauch is liable to punishment because of the inhumane treatment of so-called slave laborers. Dr. Krauch's defense is of the opinion that Dr. Krauch is not responsible for the treatment of the workers for the simple reason that—as has already been emphasized—he was not the employer. Labor conditions were fixed by the individual plants and by the persons responsible for this task within the plant. The prosecution failed to submit proof that Krauch is responsible for any treatment of foreign workers which violated human dignity.

In addition to this, several other defendants, especially Dr. Schneider, Dr. Ambros, Dr. Wurster, et cetera, have submitted extensive proof that any treatment violating human dignity was absolutely out of the question. Krauch's attitude, on the other hand, is characterized by the fact that, although he was not a responsible employer, he nevertheless supported all measures connected with welfare in the plants to which he was assigned as an adviser and that for ethical reasons he gave many suggestions for social and human care, often—and this should be especially emphasized—contrary to the ideas of the Party authorities. He has submitted extensive material in order to substantiate the evidence submitted by the individual plant leaders of I. G. Farben who are accused in this trial.⁵⁵

b. With regard to the allocation to labor of *prisoners of war*, the evidence clearly revealed that Dr. Krauch's activities were in no way the cause for the assignment of prisoners of war, which would, incidentally not even have constituted a punishable offense. Besides, the prosecution failed to submit evidence that prisoners were used in any way for work which would not have been in agreement with international regulations. The labor authorities and the Wehrmacht were the only agencies to decide about the labor assignment of prisoners of war. As proved by the material submitted in the PW document book, it was the Wehrmacht alone which supervised whether the assignment of prisoners of war was carried through in a manner permitted by the provisions of international law.⁵⁶

The prosecution used as a basis for alleging an offense on the part of Dr. Krauch a letter which a coworker of his, Kirschner, sent to General Thomas on 20 October 1941, and in which Dr. Krauch recommends the

⁵³ TZ 88, 97, 98.

⁵⁴ TZ 88a.

⁵⁵ TZ 99.

⁵⁶ TZ 100.

assignment of Russian prisoners of war in the "armament industry." During the examination of Dr. Krauch, which was substantiated by testimonies of the witness Milch and several affidavits, a sort of chronological chart demonstrated that this suggestion of Dr. Krauch, which—as testified by his coworker—was incidentally the result of humane deliberations, could not have been the cause for any assignment of Russian prisoners of war which allegedly violated international regulations (though such violation was not proved).⁵⁷

All other charges of the prosecution concerning this subject, especially NI-2972, Prosecution Exhibit 481; ⁵⁸ NI-5765, Prosecution Exhibit 1371; ⁵⁹ and NI-13512, Prosecution Exhibit 1845,⁶⁰ should be mentioned here only insofar as they also do not prove any criminal actions on the part of Dr. Krauch. As for details, I refer to my closing brief.

Upon request of all defense counsel, I have submitted a document book dealing with the questions of the allocation and the treatment of prisoners of war, which I submitted during the session of the Tribunal of 4 May 1948.^{60a} The excerpts from commentaries for the interpretation of the respective provisions of the Geneva Convention, the regulations concerning the legal situation in Germany, the decrees of the Reich Minister of Labor, the orders of Goering concerning the assignment of Russian prisoners of war, all speak for themselves.

The same holds true for two affidavits which I introduced with regard to the question as to who was responsible for the enforcement of the provisions governing the employment of prisoners of war in accordance with the rules laid down by international law. It was the Wehrmacht and the officers which it appointed who had to supervise this employment in all details, particularly with regard to its legality under international law. I wish to draw the attention of the Tribunal particularly to that part of the German regulations which declared permissible their employment for construction and operation work in buna and in hydrogenation plants. Attorney at law Dr. Seidl will discuss in his final plea further details in connection with this question.

c. Now to the question of utilization of concentration-camp inmates:

(1) The prosecution regards as evidence of criminal initiative on the part of Krauch the fact that the so-called Goering order of 18 February 1941, NI-1240, Prosecution Exhibit 1417—which was addressed to Himmler, contains listed as the last of the recipients of a

⁵⁷ TZ 100a.

⁵⁸ TZ 101, 104.

⁵⁹ TZ 105.

⁶⁰ TZ 102.

^{60a} English transcript page 13357.

copy—in addition to three others who held positions of much higher rank, to judge from their standing and authority—also the name of Dr. Krauch. Well, the fact that somebody got a copy for information does not permit a conclusion as to his initiative. Dr. Krauch on his part has proved that both from a general point of view, and also, especially in the case of Auschwitz, he opposed the utilization of concentration-camp inmates; and we haven't only his testimony, but also that of the witness Goernert, who described that this order came about because Dr. Krauch, in contrast to Himmler, held the view that concentration-camp inmates should not be used. We further have the testimonies of his assistants.⁶¹

Dr. Krauch's action in communicating this order to the I. G. Farben⁶² is as little punishable as an identical action in Case 7. There the chief of the general staff of an army who had not only passed down, but even *drafted*, an order which violated international law, was not held liable to punishment [*Case 7, volume XI, this series, pp. 1287 and 1288*]. Nor can criminal initiative on the part of Dr. Krauch with regard to the utilization of concentration-camp prisoners be proved in the case of any of the other incidents mentioned by the prosecution. Neither can this basic fact be influenced by a number of details which the prosecution has introduced as evidence for an alleged initiative, such as the letters Pohl-Kranefuss, Kehrl-Krauch, et cetera. I shall discuss these details in my closing brief.⁶³

Quite apart from the question of initiative, it must be noted that in the findings of the other Nuernberg Tribunals, employment of concentration-camp inmates was not held to be a criminal offense. May I point out the opinion in the Flick judgment, and may I also call special attention to the opinion of Judge Michael A. Musmanno in the Milch judgment where he says explicitly that no charge of barbarity can be made with respect to the utilization of concentration-camp inmates for work, but that useful employment is preferable to inactivity in captivity:

“Concentration camp inmates were used for work and no charge of barbarity can be raised against this. Yes, useful employment is to be preferred to inactivity during captivity.”^{63a}

(2) As far as disgraceful treatment of concentration-camp inmates is concerned, which the Milch judgment rightly condemned, the prosecution has offered no evidence to prove that Krauch knew about such disgraceful treatment. The same applies to Krauch's knowledge of the experiments on human beings, and other atrocities in the Auschwitz concentration camp.

⁶¹ TZ 106, 107.

⁶² TZ 107a.

⁶³ TZ 108, 111–114, 116.

^{63a} See Concurring Opinion of Judge Musmanno, volume II, this series, page 806.

Dr. Krauch has left no doubts that he had investigated the rumors about bad treatment of concentration camp inmates and about atrocities in concentration camps. He described in a credible manner that the result of these investigations had been negative, and on one of the very last days of this trial the correctness of Krauch's claim was substantiated by the witness Muench. In addition, the defense has tried to present further proof for the veracity of Dr. Krauch's claim that he knew of no such incidents. In accordance with the old principle "*negativa non sunt probanda*" the defense cannot offer direct counter-evidence. But it has offered evidence with regard to Dr. Krauch's ethical approach in a case which was completely identical. Although entirely outside his jurisdiction, Dr. Krauch intervened with all the authority at his command and in a very impressive manner in the so-called oil shale case in Wuerttemberg. Apart from his statement, detailed affidavits are available on this question.⁶⁴ Dr. Krauch thereby was proved that he intervened in another case, which had no connection with the I. G. Farben, as soon as he learned about inhumane conditions, and the defense, therefore, deduces that Dr. Krauch's claim, that he would have taken action if he had known about what went on in Auschwitz, is true. The defense cannot believe that conclusions unfavorable to Dr. Krauch will be drawn from his decent attitude which was proved in the Schoemberg case.

Dr. Krauch raised his voice against disgraceful conditions; he offered resistance. How dangerous such an attitude was has been described by many witnesses. Contrary to all expectations, nothing happened to Dr. Krauch. It can, of course, be concluded from this that Dr. Krauch was in a position to offer a certain measure of resistance. One thing, however, is decisive: The opposition was not directed at the basic problem, but only at the "how," i. e., the manner in which the utilization and treatment of concentration camp inmates was handled. It probably appeared more suitable to Pohl as well to treat concentration camp inmates somewhat humanely in order to comply with production quotas and ease the pressure of production; but this example offers no proof concerning the question as to whether opposition could be risked, without danger to oneself and one's family against basic orders and directives which concerned the extent of war production, meeting of production deadlines, et cetera. All experts who have been heard on this point also in this trial also agree that such opposition against the "weather" was impossible; and as is self-explanatory, such a position could not be tolerated by the government, because the government was unable to permit any opposition whatsoever as far as pressure on production quotas were concerned, in view of the bottleneck in the manufacture of innumerable war-essential products, a fact which was proved in this trial.

⁶⁴ TZ 117.

Thus I come to the conclusion of my discussion of the various facts, offered both by the prosecution and the defense, with regard to counts one to three. In summarizing, I arrive at the following result: Dr. Krauch doesn't belong at all in this dock.

As I have already proved, he obviously no longer had any close connection with I. G. Farben after 1936. Thus, there was no basis to indict Dr. Krauch in connection with I. G. Farben.

Nor was there any reason to make him a defendant because of his honorary position in the government economic organization, since his position was far below the level which is of interest to the Nuernberg Tribunals. In the IMT the defendants were Cabinet members and specially outstanding confidants of Hitler. Dr. Krauch by no means belonged to this category.

In the so-called Ministries case (Case 11) there is no place for Dr. Krauch among the defendants, since these are only high government officials, the lowest being Under State Secretary [Unterstaatssekretaer] a rank which Dr. Krauch did not reach by far.^{64a}

The correctness of that conclusion is also evident from the fact that none of the other plenipotentiaries general—with the exception of Sauckel, who, as was shown, held a special position—was indicted, although a number of them ^{64b} held actual powers, in contrast to Dr. Krauch.

IV. To round off the picture which I was permitted to present to the Tribunal, it is only necessary to discuss a few points about Krauch the man. In line with his attitude of reserve, he refused in direct examination to say anything on this subject. It thus was left to the defense to prove his humane attitude by introducing a number of documents. This was done by explaining his attitude towards Jews and half-Jews,⁶⁵ whom he saved from persecution by the Nazis, whom he helped with the full weight of his personality. Undaunted, he held to the Church and its institutions, although this might have led to persecution in the Third Reich.⁶⁶ Moved with emotion, renowned scientists described how he defended the freedom of science against strong adverse Party tendencies, how he also stood up for persons who had fallen in disfavor with the Nazi regime.⁶⁷ He did all this by taking advantage of his honorary position, without which such comprehensive assistance would have been impossible altogether. And finally, we have proved a number of facts which I find essential when evaluating Krauch, the man. Dr. Krauch was one of the few who, when he heard of the humiliating treatment of concentration camp inmates, had the courage in the face of personal danger to offer re-

^{64a} TZ 118.

^{64b} TZ 48a.

⁶⁵ TZ 9b.

⁶⁶ TZ 9c.

⁶⁷ TZ 9a.

sistance, when he described these conditions to Pohl as "a disgrace to our culture" and demanded that the situation be remedied. He is one of the few who could prove that he investigated the rumors about disgraceful treatment of concentration camp inmates and atrocities in concentration camps; he cannot be blamed if the result was negative; this was due to the general situation, about which I refer to Dr. Muench's testimony. And finally, we have proved how, at the end of the war, Dr. Krauch, also in the face of personal danger, acted against the orders which aimed at destroying the last semblance of civilization which had already been seriously shaken by the war.⁶⁸ The picture is clear, the line is drawn; are there any doubts left, Your Honors?

Now then, let me testify on behalf of Dr. Krauch. I stand up for him; he is no war criminal; he is not a man who approved of the concentration camp atrocities, no narrow-minded Party man, not a man who participated in the slave-labor program; but a man who remained faithful to his career as a scientist and to his obligation toward true humanitarianism. Believe me, when for an entire year you are together with a man almost day-in day-out, you learn to distinguish between the things that are genuine and others which are but a pretense; between the true and the false, the inner value and the facade. For me, nothing did more to clarify the situation than the statement by the president of Standard Oil, Haslam, already quoted, who at a time when a flood of hatred and insinuations was being hurled against I. G. Farben, had the courage to pay tribute to the high standard of business ethics of I. G. Farben, and who in this connection singled out particularly the name of Dr. Krauch. Contrary to the German custom in the procedure governing criminal trials, the prosecution upon an instruction by the Tribunal will speak after the defense. Therefore, I cannot foresee in what tone the prosecution will deliver its plea. Regardless of the way in which it will compile it, regardless of the form in which it will present it, I have desisted from indulging in any generalizations, or exaggerations, such as the prosecution chose in its opening statement, its Trial Brief, and other occasional statements. I was thereby mindful of the words which the President of this Tribunal so often used in this courtroom: "Come to the point in your questions. Ask simple questions." And thus I have tried, in line with Dr. Krauch's and my own nature, to handle and describe things in a direct and simple manner. Behind this simple formulation, however, is concealed an ardent endeavor and a struggle with this overwhelming material which the prosecution caused us to arrange and to explain. It was necessary to present it along plain, practicable lines in order to make it easier for the High

⁶⁸ TZ 9c.

Tribunal to find justice. It would be the reward for this ardent endeavor if also the result of your examination, Your Honors, would be: This man is not guilty.

D. Closing Statement for Defendant Schmitz*

DR. RUDOLF DIX (counsel for defendant Schmitz): Your Honors! Allow me to preface my closing statement with a personal confession. I believe that no judge can find the truth in this trial or pass a just sentence, who considers as isolated phenomena, or, worse still, from a formalistic point of view only, the organic developments with which we are here concerned, or who imagines that he can allow himself to see everything in either black or white, or who believes that "facts" and "figures" alone suffice—and who fails to realize that he must plumb the depths of sociological and psychological research if he wants to understand the complexity of those organic developments which connect Farben, and, therefore, these defendants, with the origin, the rise, and the fate of Hitler and his Third Reich.

When considering my client, Schmitz, and his fate, a concept inevitably comes to one's mind which the most intelligent nation which ever existed, the ancient Greeks, developed in the course of their philosophical quest: the abstract concept and the concrete realization of a "moira," of ineluctable fate, whose experience of pleasure and pain is the predetermined consequence, independent of free will, of that "moira."

Eminently suited to the theory and practice of finance, interested in little else, devoid in particular of interest in, and talent for, things political, a law abiding citizen, an excellent "craftsman" in the sense in which Hedda Gabler was in Ibsen's play of that name, he was a man who worked quietly in the seclusion of his study, who was averse to any kind of public display, and who was at the same time, as all the witnesses agree, a great humanitarian—in short, the type of German who has always rightly been acclaimed throughout the world. But now, in the 68th year of his life, he appears as a defendant in a trial of a definitely political nature and with a definitely political background,—a trial which has been linked by the world press and by the prosecution with the dreadful and monstrous atrocities connected with the name of Auschwitz; a trial which involves world history, since one of the accusations levelled at the defendants by the prosecution states that they intentionally helped to unleash the most dreadful war of all times, that they were involved in the crimes committed by Hitler's praetorian guard, and in Hitler's rise to power and in the

*Mimeographed transcript, 2 June 1948, pages 14634-14662.

consolidation of that power, and, as the IMT stated, Hitler, although not alone guilty of all those things, had only a very small number of accomplices.

“How Could It Happen?” is the striking title of the book by a certain Stechert, a Socialist, working-class author. Stechert describes with that expert knowledge and lack of prejudice in political, sociological and psychological matters which is so rarely found in politicians, cramped as they are by ideologies and party politics, the chain of cause and effect which led to the victory of the Nazis in Germany and to their abuse of that victory—a victory which the last French ambassador in Germany, André François-Poncet, who was a man of very lively intelligence, has called “la victoire des boches sur les Allemands.”

Well, my client always has been, and still is, an “Allemand” of the best type, which has rightly enjoyed, at all times, the esteem of the discerning people among the nations of the world; he is anything but a “boche.” How did he come to be a defendant, sharing the fate of technologists, scientists, and businessmen, who by bringing about a praiseworthy alliance between scientific research and its practical exploitation, both scientifically and commercially, led a company, which must, *a priori* and *prima vista*, appear to the keen observer to be a benefactor of mankind rather than a criminal plague afflicting it. It is an old story that a criminal government can deprive of their splendor the achievements of science—destined to serve mankind—and can make them the instruments of crime, or at least of disaster. The fear lest such scientific achievements which might have brightened the lives of millions should be turned to such evil purposes has always been a nightmare to those scientists and to those others who financed them or who had something to do with financing them, as did my client. This fear in the person of Bosch, is described in a very moving manner by the witness Buecher in his affidavit, Schmitz Document 6, Schmitz Defense Exhibit 6. That your own atomic research scientists also entertain such fears, your Honors, is shown in a report with which I presume the Court is familiar, namely the Stimson report on the developments which preceded the decision to use the atom bomb against Japan. One would therefore imagine that we and all the defendants are in very good company, and experience should further teach us, that, in the words of Hamlet, the royal philosopher, there is always “something rotten in the State of Denmark” when the prisons and the docks of the criminal courts are crowded with those who are usually numbered among the best of their nation. Thus it was, for example, a symptom of the destruction of justice and of the life of society in the Third Reich that the physiognomy of the average prisoner and the average defendant changed; that the criminal type receded into the background and his opposite came to the fore; that the number of prisoners, detained

awaiting trial, whom a defense counsel had to visit in the prisons of the Third Reich actually reflected credit upon the defense counsel. Defense counsel in the course of his duty visited idealists from all sections of the population, Germans who had preserved intact their integrity of character and their independence of thought, representatives of socially elevated professions. Defense counsel visited prominent scientists and pastors, courageous leaders of the working class, honest soldiers and officers, in short, the elite of the nation, properly understood. Such a phenomenon is bound to arouse doubts as to the legal and moral justification even of such an outward appearance. It is the duty of every judge to examine whether such doubts are in fact justified. Should he realize that prejudice, fostered by falsification and by other legends, by party politics, by ignorance of conditions abroad, are the spiritual begetters of an indictment, he must approach his legal assessment of the facts with a maximum of circumspection, even, and especially, if on the face of it the facts would seem to suggest guilt for those who accept as true the things which I have described above as the result of legends, party prejudice et cetera.

In his opening statement before this Court, General Taylor has said: and I quote:

“The aim of the defendants was conquest. * * * The origin of the crimes with which the defendants are charged may be traced back over many decades, but for present purposes their genesis is in 1932, when Hitler had established himself as a major political figure in Germany, but before his seizure of power and the advent of the Third Reich. * * * charges that the defendants, together with other industrialists, played an important part in establishing the dictatorship of the Third Reich * * *”

And again I quote:

“When we charge an alliance between the defendants and Hitler and the Nazi Party * * *”

And again I quote:

“Without this cooperation, Hitler and his party followers would never have been able to seize and consolidate their power in Germany, and the Third Reich would never have dared to plunge the world into war.”

“Farben’s devotion to the Nazi party and the Third Reich continued to be ironclad * * *”

And many other passages.

In this connection the General, in the Flick trial, coined the phrase which proved so attractive on first sight, of the “Unholy Trinity”: National Socialism, Militarism, and Economic Imperialism. When

referring to these statements of his in future, I shall use that slogan, the "Unholy Trinity" for the sake of brevity.

All the statements made by the prosecution in the three industrial trials which have been or are being conducted here are, therefore, based on this thesis of the "Unholy Trinity," which is supposed to have been established as a historical fact and therefore, as part of the judicial knowledge of the Court. The whole elaborate structure of the charges brought against the defendants is therefore based on the thesis that the captains of industry and economy—and, in this case, the leaders of Farben—and the generals, put Hitler into power. This assistance, and more especially the financial assistance rendered by industry, and therefore by Farben, is not only supposed to have established his position of power, but also to have consolidated his dictatorship. And those industrialists, including these defendants, are supposed to have done all this in order to indulge their aggressive economic imperialist ambitions, even at the risk of war which might be the inevitable result of such a policy, even possibly a war intentionally conceived, as an instrument of such a policy.

But the prosecution has not even attempted to submit evidence to show that industry in general and Farben in particular rendered such assistance, that the so-called "Unholy Trinity," in fact, helped Hitler to seize and to consolidate power. They have assumed that thesis to be a historical fact, a fact which is generally known and therefore, part of the judicial knowledge of the Court: that, at least, is the only possible explanation of the fact that no evidence in proof of that thesis has been submitted. But there can hardly be any doubt that the thesis requires proof. Not even the prosecution would, I suppose, claim that statements of a factual nature for which proof was offered, or even circumstantially proven facts, and even reliable confessions made by the defendants themselves, would be satisfactory proof, especially for the charges made in count one of the indictment; but also, implicitly, for the charges referring to the imperialist exploitation of foreign countries by means of spoliation and enslavement, unless the prosecution had assumed the thesis of the "Unholy Trinity" to be proven fact. But if the thesis of the "Unholy Trinity" is rejected, the circumstantial evidence submitted by the prosecution loses continuity and cogency; it simply collapses. This will be proved conclusively in all the final pleas to be made by the defense. In proof of my remarks in connection with the evaluation of evidence I shall only cite four examples. Let us consider Farben's contributions to armaments production prior to 1 September 1939. One could perhaps call that contribution large considering the size and importance of the enterprise. The use of the adjective "large" depends, of course, entirely on the point of view of the beholder. But let me suppose, for the sake of argument, that these contributions to armaments pro-

duction can be described as "large." If the thesis of the "Unholy Trinity" is rejected, Farben's contribution to armaments production, for which, in the financial sector, my client was co-responsible, must be considered as completely harmless, natural, and obvious, devoid of any criminal character, without value as incriminatory evidence. It did not take the authority and the precedent established by the IMT judgment to show that armaments, as such, are neither criminal nor indicative of criminal intent. The opposite point of view would defame the most peace loving of nations. Thus nobody has ever dreamt of accusing Switzerland, or is likely to do so, of pursuing a policy of aggression, or planning aggressive war; it is, nevertheless, common knowledge that Switzerland has always endeavored in the interests of neutrality to adapt her armaments quantitatively and qualitatively to the political demands of the hour. Is the armaments production of these powers who are at this moment full of apprehension for world peace on account of the present international situation, to be considered as circumstantial evidence of plans which are criminal from the point of view of international law? To put that question is tantamount to answering it in the negative. But the Farben contributions to armaments production would appear in quite a different light if the theory of the "Unholy Trinity" could be applied: in that case this thesis would prove that there had been an intentional breach of the peace by aggression. The error in logic of a typical *petitio principii* is involved in the prosecution's whole argument.

A second example: Any decent and peace-loving industrial enterprise will put at the disposal of the government and the armed forces of its country, its archives, its foreign service—in short, the whole of its organization—if it is normally patriotic, even if no legal pressure or pressure of any other kind is brought to bear upon it. No man with any experience of life will blame a firm for such an attitude. But this attitude would appear in quite a different light if the thesis of the "Unholy Trinity" were true. Once again the same *petitio principii* in the structure of evidence submitted by the prosecution! A third example: The defendants state that they employed foreign workers in their plants unwillingly and under protest. This statement would not deserve credence if it could be proved that even before Hitler's advent to power the defendants had planned to put Hitler into power and to consolidate his position in order to enable him to exploit foreign manpower by means of compulsory labor. The prosecution's somewhat artificial concept of deliberate spoliation, too, would benefit considerably if the thesis of the "Unholy Trinity" were true. And the fact that my client rendered financial assistance from Farben funds to the Sudeten Aid Fund and its voluntary associations must seem to any unprejudiced observer to be absolutely harmless in view of the

political situation at that time. For details in connection with this statement I should like to refer you to our closing brief. All this would appear in quite a different light if it were an established fact that Schmitz and his colleagues had assisted Hitler in his attempt to seize power from the very moment when it became possible to do so, and had approved the aggressive and terrorist methods which Hitler used in the case of the Sudetenland and of Bohemia-Moravia.

There are many more examples of that kind. They illustrate the flaws in the evidence submitted by the prosecution. Their method in that connection is as follows: they base their assertion that the evidence submitted by them is conclusive, on the assumption that a false thesis, that is, that of the "Unholy Trinity," is true; whereupon the attempt is made to prove that thesis vice versa by means of the fictitious value of the evidence. To illustrate the point by means of count one of the indictment: If it were true that Farben had helped Hitler to seize and consolidate power on account of its aggressive and imperialist aims, its contributions to armament production would have been circumstantial evidence in support of count one of the indictment. This argument could be applied *mutatis mutandis* to the other points of the indictment. A determination on the part of Farben to help Hitler seize power could, on the other hand, only be proved if it could be shown that subsequent contributions to armament production served deliberately aggressive purposes. The whole of that presentation of evidence is, putting it crudely, like a cat chasing its own tail, or, in legal phraseology, a typical *petitio principii*.

Thus the prosecution opened its case with a legend—and the sources of legends are tainted at all times—from which rises the fog of an accusation based on resentment. It is the duty of the judges to disperse that fog by the bright sunlight of their investigations, lest this trial, too, remain under the cloud of an error born of the circumstances of the time, which will, I believe, be viewed with criticism and irony in the verdict of history in the not far distant future. In fact, criticism has already started. My client is a victim of this error of the time. In our time it is the greatest possible misfortune which can befall a man, or at any rate, which involves him in the very greatest danger, to have been, or even to be at this moment, an efficient, successful man holding high office. That holds true even where the foundations of such successes had been laid before the National Socialists came to power.

General Taylor has said that these men had not been indicted because they were industrialists. That may be so. But the only reason why they have been indicted—and I doubt if anybody can deny this—is because all the defendants were captains of industry, and were, therefore, in the opinion of the prosecution, accomplices in the crimes committed by the Nazi regime. This standpoint completely ignores

the findings of the IMT on the size and composition of the group of persons who knew, and who were guilty of, those crimes; and also the logical consequences of the IMT judgment, as well as the Flick judgment, in connection with the precarious position of German industry, and therefore of Farben, with regard to the terrorist methods of the regime. Schmitz has become a defendant solely because he is a prominent representative of those who at present are being hunted down and persecuted, owing to the mistakes and prejudices of the spirit of the time, i. e. a representative of the efficient men who gained high office. Allow me to remark in passing, for the sake of completeness, that a fiscal policy intent on expropriation first deprives these efficient people of the fruits of their efficiency; and the pack will always find an opportunity of hunting such an outlaw down and of rending him apart, either with printer's ink, or by means of a so-called political purge or in some other way. Schmitz was a great expert on economics, holding the very highest office in industry at the head of a concern which neither was nor is particularly liked by the spirit of this age. The Nazi ideology, too, was fundamentally opposed to capitalism—one of the several points on which it agreed with present-day ideologies. Schmitz was not in the least interested in politics, and was exceptionally reserved, politically as well as financially, in his dealings with the Nazis, under whose domination he must perforce work and live, as shown in the affidavits made by Krueger (*Schmitz Doc. 108, Schmitz Def. Ex. 101*), Singer (*Schmitz Doc. 73, Schmitz Def. Ex. 73*) and Abs (*Schmitz Doc. Schmitz Def. 72, Ex. 72*).

Yes, Your Honors, even financially. Any man who is familiar with the avidity of the Party, which under the cloak of charity and patriotism concealed a beggarly, mean, and, in part, corrupt nature—I refer you to Goering's birthday gifts—any man who knows what disadvantages and dangers were incurred by those people personally, and by the firms they represented, who tried to emulate the chastity of Joseph in their financial dealings with the Nazis (the risk was particularly great if they were administering a well-filled exchequer, as Schmitz did for Farben) will be greatly surprised to find, when studying the evidence submitted by us, how infinitesimal are those political contributions of Farben to which the prosecution objects, compared with its capital and with the sums expended on other social and charitable ventures. I shall refrain from dwelling at length upon the enormous sums which Farben expended upon research, in the first instance for research's own sake, without looking for the probable commercial value; because these eternally glorious deeds which Farben performed as a benefactor of mankind will be graven *aere perennius*, like the giant mountains unsullied by mistrust, hatred and fear, covetousness, error, prejudice or any other manifestations of

the spirit of the age and its "public opinion"—that spirit of the age which has placed in the dock, to the incomprehension of all those who know him personally, this honest and industrious gentleman, my client. Such a fate is really not in keeping with the tenets in accordance with which he set out in, and led, his life.

We, that is, my excellent assistant, Dr. Gierlichs, and myself, have dealt in the closing brief, with the details connected with these contributions and the arguments brought forward by the prosecution partly to save time, but also because it is easier to read such things than to listen to them. I should only like to mention two points here. Hitler had already come to power when, in February 1933, Farben paid into the 3 million fund of the industry for the three government parties, the NSDAP, the Deutschnationale Volkspartei, and the Deutsche Volkspartei, and also, through von Papen, in effect for the right wing of the Centre Party, (Zentrum) its due quota of RM 400,000. That Hitler was actually firmly established in power is shown by the fact that he was able to stage the Reichstag fire through his minions a few days later, in order to dispose of the Communist party; also that a few days later he destroyed all civil liberties and bulwarks of private business, and created the Gestapo, thus even at that time turning free citizens into fear-ravaged slaves. What do you think industry would have been compelled to pay had it not willingly paid the sum of 3 million reichsmarks ridiculously small as it was compared with the financial resources of industry and with the election campaign which was its ostensible object? Moreover, an election campaign, which logically involved a free election, was out of the question, since the parties of the Left had been crippled by terrorist methods. As far as the government parties were concerned, Hitler at first preserved the fiction of a coalition government of these four parties, then, however, proceeded to kill off his bourgeois partners politically. Schacht has rightly stated in Document Schmitz 30, Schmitz Defense Exhibit 30, that Hitler could easily have procured those funds elsewhere.

By making that contribution, industry did neither more nor less than it would have done for any government, that is, to render comparatively negligible financial assistance, provided it could expect the government not to be definitely hostile to private enterprise. But in the speech which preceded the opening of the fund, Hitler had said a few things which pleased industry. It was the habit of this amoral visionary, this lunatic and ratcatcher, to promise everything to anybody irrespective of contradictions, because to him a promise meant only a political weapon and not an ethical obligation to be fulfilled. This was the case with economic policy at home, as in the above instance, and also with foreign policy, where broken promises succeeded one another in rapid succession. So much for the 3 million reichsmarks, including the Farben contribution of RM 400,000, to which the

prosecution has attached so much importance in the industrial trials.
Tant de bruit pour une omelette.

On the subject of contributions to the fund for the widows and orphans of the Waffen SS and for the associations of Sudeten Germans—which took place after the Munich agreement—defense counsel for the defendant Schmitz have again chosen to present their arguments in the closing brief. I should only like to add the following on the subject of the fund for the widows and orphans of the Waffen SS. The IMT never so much as toyed with the idea of collective liability affecting the whole family; it gave a chance even to members of the SS to exonerate themselves. It never wanted to involve the widows and orphans of SS men killed in action. Such a fund is always hallowed; it makes all contributions legal and ethical. The civilized world knows no original sin in that sense. It is similar to the fundamental idea of the Geneva Convention and the Red Cross—when the enemy soldier has been wounded, or is ill, he is given exactly the same medical treatment as one's own troops. For similar reasons charity towards widows and orphans is not only entitled, but actually obliged, not to make distinctions simply because the husbands and fathers killed in action had at one time been SS men. That is the point at which we enter the temple of human kindness of which Zoraster sings: "Within these sacred halls man seeketh man." The remainder will be found in the closing brief.

Those charges brought by the prosecution against my client, which are not directed against him as the primarily responsible principal, or which merely include him in his capacity as financial expert or chairman of the Vorstand, or from the point of view of the so-called collective responsibility, will of course, be refuted by the defense counsel dealing with the subject concerned. I should, therefore, like to refer you to the pleas which will be submitted by my colleagues, and to those which have already been submitted by Dr. Boettcher and Professor Wahl. The legal problem of collective responsibility will also be dealt with separately by one of my learned friends. I do not wish to anticipate their arguments, which should be very interesting. The special position occupied by my client in his capacity as chairman of the Vorstand will be dealt with in our closing brief. I only wish to touch briefly upon the following point: there would seem to exist in this connection great confusion of thought on the part of the prosecution, and also the most incompatible interpretations of the concept of responsibility, and, therefore, a false conception of the meaning of "criminal negligence" in penal law. Please distinguish carefully between the various kinds of responsibility—moral, political, disciplinary, historical responsibility, and responsibility under civil and criminal law. In the legal arguments put forward by the prosecution all these concepts are used in such a manner as to confuse the legal issues.

The crimes under international law with which the defendants are charged by the prosecution are punishable, not in cases of mere negligence, but only if they were committed with intent or in cases of participation with intent, whether such participation be that of a co-principal, accomplice, instigator, or aider and abettor. Conspiracy is a different matter, and will be dealt with separately by the defense counsel concerned. In spite of the list given in Control Council Law No. 10, there is no getting away from the fact that it includes no forms of participation in such crimes with intent, apart from these mentioned above, which have been formulated by classical jurisprudence; and that it cannot, by definition, include any others. But within the scope of these clear-cut legal concepts, negligence as an element of guilt is relevant only if the person who acts negligently—that is, in such a way that his action or omission constitutes a violation of a legal or moral duty—knows all the facts which are relevant under criminal law as representing the constituent elements of a crime committed with intent, and acts in spite of such knowledge, thereby consciously risking that his action may have such possibly criminal effects; in other words, possibly intending the crime. We are, in short, dealing with the concept which the lawyer versed in criminal law calls *dolus eventualis*. Beyond these narrow limitations negligence is of no importance for the charges brought against the defendants by the prosecution in this case, and the only relevant question is that of intent.

I shall now return to the concept of “moira” which I mentioned at the beginning of my argument. It was, as has been stated above, the “moira” of the defendant Schmitz that he occupied a prominent position in industry at the time of the Third Reich. In accordance with the spirit of the age, that fact led to his presence in the dock, because the historically inadmissible and ephemeral legend of the alliance between industry, including Farben, and Hitler, of the so-called “Unholy Trinity,” has been accepted as true by the prosecution, which built upon that false thesis the whole structure of its case.

On behalf of the defense and, therefore, on behalf of the search for truth, I should like to acknowledge a debt of gratitude to this Tribunal for not making the prosecution’s failure to prove this their fundamental thesis an excuse for preventing us from disproving it, as happened in the Flick case, and as the prosecution proposed in this case. The evidence consisted mostly of documents accepted in evidence by the Tribunal and of the interrogation of the witnesses Lammers, von Raumer, and Kastl. The composition and presentation of that evidence caused considerable differences of opinion between prosecution and defense, and also between the Tribunal and the defense.

It was, in my opinion, impossible to disprove the fact that these defendants belonged to a social stratum which helped Hitler to power and assisted him in consolidating it, without showing at the same

time the factors which in reality led to disaster. Nothing happens without a cause. As to the second point we tried to prove, namely, that the leading men of IG did not belong to those forces, it was impossible to link the attitude of the leading men of the IG with the inquiry into the causative forces, simply because they had nothing whatever to do with those forces and were, on the contrary, opposed to them. It is impossible to submit negative proof, to show that such-and-such a thing was not causative, without at the same time submitting proof positive that such-and-such a thing was causative. It was, therefore, inevitable that the presentation of evidence should go back to the early history of the Nazi rise to power and to the consolidation of that power, that is to a very large, comprehensive and complicated subject with which it was impossible to deal exhaustively in one trial, as everybody knew from the outset. The evidence submitted in a court of law can never become a substitute for historical research, which would be necessary, if the subject were to be treated fully. All it can do is to give pointers and show the way; because falsifications of history and legends luxuriate, after such historical cataclysms, in the midden formed by the attempts of guilty men and their accomplices to throw their guilt upon others, by the hatred begotten by suffering, and the egotistical political interests of those who toady to the wielders of power in political life and in public opinion. The prosecution, too, has succumbed to the danger of completely misconstruing history, but, its members being foreigners, they cannot be blamed for this in the least. The task before this Court is the almost superhuman one of forming a just estimate of a difficult and controversial complex of problems of which only he can form a just estimate who has studied it for years to the exclusion of everything else, or who knows it from personal experience. That difficulty has only arisen because the prosecution put forward in this trial and in all other industrial trials, that unfortunate thesis of the "Unholy Trinity" as quoted above, founded upon it the whole structure of its case. That is how I came to deal with this difficult and elusive subject, owing to the special theme of my defense. The fault is not mine. By making an attempt to disprove that thesis (more than an attempt was out of the question in the circumstances), I did no more than my bounden duty, since that basic prosecution theory could not be allowed to go unchallenged.

The evidence speaks for itself, documents as well as testimonies. Although I was overruled on many points, it demonstrated at least the truth and accuracy of two theories contained in two documents, the contents of which have in part become evidence and, having been identified, may at least be quoted in the course of my argument. The first theory is contained in Stechert's book, "How could it Happen?"

which analyzes the problems and the complexity of the past from an elevated point of view :

“The widely popular theory that the big German industrialists assisted Hitler politically is objectively false. It is even more legendary than the theory that the Reichswehr consistently and deliberately aimed at world conquest. It might serve the purposes of political expediency to spread such legends, but the historian must be prepared to explode even those legends which might be extremely useful to him politically.”

The second theory is contained in Heiden’s book, “Adolf Hitler, the Age of Irresponsibility” (Europaverlag, Zuerich, 1936) page 311 :

“In accordance with a well-known legend, the German industrialists Krupp, Thyssen, and Voegler, together with the Junkers from east of the Elbe have made Hitler, the little corporal, the Prokurist of the firm Germany, so that he should do, on their orders the things which he has been doing for the past 3 years, or ‘a worm’s eye view of world history * * *’ ”

And a few lines further on :

“By the way, the three big industrialists who have to their credit the most concrete and noteworthy achievements of the postwar years, Carl Duisberg and Karl Bosch of the I. G. Farbenindustrie, and Carl Friedrich von Siemens, director of the concern of that name, did not assist Hitler, but opposed him.”

Your Honors, I think that we may have our recess now, having concluded these two quotations. I have another 25 minutes, and it may be expedient to recess now.

PRESIDING JUDGE SHAKE: We will rise.

(Recess)

THE MARSHAL. The Tribunal is again in session.

DR. RUDOLF DIX: Your Honors, I was speaking about the result of the presentation of evidence on the charge of the so-called alliance, and I quoted from two books which, in my opinion, presented the result of this presentation of evidence very well. In this connection, I should like to quote further a passage from a book which I recommend you, Your Honors, to study, together with the books by Stechert and Heiden, if you wish to gain some insight into this subject which is bound to be thoroughly alien to any foreigner. The book is by Konstantin Silenz (published by Birkhaeuser, Basel, 1946). I quote :

“Personal ambition may have played a part as it always does, but to assume that a group of ambitious big industrialists, big land-owners, bankers, and generals, the ‘moneybags’ and the ‘sword rattlers’ had ‘made’ Hitler and put him into power, would be taking a naive and superficial view of things. They had no more to

do with the 'making' of Hitler than they had to do with the 'making' of the crisis which gave him his chance. The membership of the Nazi Party was rapidly growing in all classes and professions, and so many members financed the Nazi movement, undoubtedly not entirely for selfish reasons, that it could presumably have got by without the finances of the 'Ruhr' or of any other particularly prominent group of persons."

In order to pronounce just sentence it is not necessary for this Tribunal to be familiar in detail with the underlying causes of developments in Germany from 1919 to 1945, or to have an exact idea of individual or collective guilt. The Tribunal must only realize that the large-scale inquiry into the origins of, and the criminal liability for, those catastrophic developments cannot be answered in the primitive manner in which the prosecution answers it, especially by the theory of the "Unholy Trinity," and that this thesis, in particular, is false. This seems to me to have been proved by the evidence accepted by the Tribunal, in the evaluation of which the Tribunal will, of course, require all its human understanding, political experience, knowledge of life, and general knowledge. Perhaps those members of the prosecution who were born in America have become the victims of a typically American idea derived from American history. In the United States, the state was created by the citizen. That has never been the case in Germany. In Germany, the citizen always found a ready-made state, *a priori* (to which he and some of his fellow citizens were perhaps actually opposed), towering above him. In Germany, economically powerful middle class groups have never had the power to influence the formation of the state, nor could they have had such power.

To this date the fate of Germany has always been determined from the outside or by individuals, at one time by the princes and the leading politicians, in recent times by a demagogue of the first order, or by anonymous forces which cannot be brought to trial. The parliament of the Weimar Republic, too, which was based on proportional representation, the Reichstag of the Weimar interregnum, did not represent the people responsible since responsibility was anonymous. This also applies to the party bureaucracy of the Weimar period. With apologies to Goethe, the creators of the Weimar constitution "willed the good" by trying to prevent irresponsible government, "but created evil" in a parliament of anonymous irresponsibility. Contrary to the hopes of its founders, the citizen of the Weimar interregnum lacked a sense of coresponsibility for the affairs of government.

The same applied in Germany to the power of money. That, too, has never been able, in Germany, to influence political developments or the structure of the state, as the wealthy bourgeoisie did in France after 1830 under the Citizen King. Those members of the prosecution

who were born in Germany and grew up into manhood there will agree with me on that point. In any case they will be unable to refute my statements.

It was inevitable that the needs be limited evidence on this point should prove nothing except the fact that big industry, at least Farben, did not function as a source of funds before Hitler came to power. Hitler's financial resources will form an interesting chapter in the objective historical research of the future. The documents submitted, especially the letter written by the former Reich Chancellor, Bruening, published in the "Deutsche Rundschau," show that these resources did not come exclusively from German sources. It is perhaps unnecessary, nor is it, one supposes, advisable from the point of view of international political tact, to go into detail at this moment. The reasons for the increase in the psychological prestige of the Hitler government in politics after it got into power are also to be found chiefly in the attitude of foreign countries. Here, too, foreign countries increased Hitler's prestige by bestowing honors upon him, and by political concessions, thus providing some extremely strong stays for an initially weak corset of moral authority—and especially of credit abroad—concessions, successes, and honors, which foreign countries had denied to the Weimar Republic, struggling as it was for political recognition. The lack of success of the Weimar Republic in the field of foreign policy weakened the Weimar democracy, whereas the opposite treatment granted to Hitler strengthened his position and that of the Third Reich.

When the number of seats of Hitler's party in the Reichstag increased from 12 to 107, the whole world started to compete for his favor. If I had the time I could quote for hours from the press and from world literature. But it is quite sufficient to read the Hearst press of that time, or the Knickerbocker interviews.

Lloyd George declared in 1936:

"Hitler is one of the greatest of the many great men whom I have met in the course of my life. Hitler is the George Washington of Germany."

I shall pass over in silence Lord Rothermere's eulogies in the "Daily Mail." Even a man like Churchill praised Hitler in public, wished his own country had a man like Hitler at a time of emergency, and advised von Kuehlmann, the late State Secretary under Kaiser Wilhelm II, to join the NSDAP; and the "Times" wrote in March 1938:

"It was one of the craziest mistakes of the peace treaties to prohibit the union between the Reich and Austria."

But today the prosecution blames these men on the dock for having rejoiced at the realization of that ancient dream of the German-Austrians and of the Germans in the Reich, the so-called "Anschluss," even

though they did nothing to bring it about, and were in complete ignorance of the methods by which Hitler realized that dream. I could go on quoting for hours from documents which are common knowledge throughout the world.

What then was the main factor contributing to Hitler's success in the world, and thus to the present misery of the world? Are the men in the dock to be numbered especially among those who played an important or even criminal part within these motive powers which are the cause of this world catastrophe? That is the question we have been examining for the past 9 months. The answer to that question must, in my opinion, be in the negative, and must lead to acquittal. What factors (one could debate the question for days) contributed in the last analysis to Hitler's successes? I shall limit myself to one quotation which does not deal exhaustively with the problem, but which at any rate throws a modicum of light upon it. Sumner Welles says in his book "The Time for Decision," Edition for the Armed Forces, page 38:

"It is strange now to recollect how lightly the rest of the world accepted this portentous development. It was only very rarely—and, surprisingly enough, least of all in the Foreign Offices of the Western democracies—that Hitler was seen to be the spearhead of the most evil force which had come out of Europe since the conclusion of the First World War. Business interests in every one of the democracies of Western Europe and of the New World welcomed Hitlerism as a barrier to the expansion of communism. They saw in it an assurance that order and authority in Germany would safeguard big business interests there."

There were many people who thought like that in Germany, and there were very few indeed—and I suppose it was the same abroad—who recognized at that early date that Hitler was anything but a bulwark against bolshevism, but, on the contrary, was himself the prototype of a Bolshevik, at any rate according to the Western World's conception of a Bolshevik, be that conception right or wrong.

As far as the alleged complicity of these defendants in Hitler's seizure of power and in the consolidation of that power is concerned, the defense can afford to limit its refutation of those charges to this general evidence and to these arguments. I have dealt with the further accusation of an alliance between the defendants and Hitler's plans for aggressive war in the opening passages of my plea; my colleagues will submit further arguments on that subject for all defendants, including my client Schmitz. I should like to state in this connection, quite briefly, the following: I myself have no doubt at all that the last war was not a defensive war on Hitler's part, but that it was rather "his war" in the sense in which the Empress Eugénie used the phrase

when she said: "c'est ma guerre." But I also know, from personal observation, that what Silenz says on page 188 of the book quoted above is absolutely true:

"The nation wanted peace, the whole nation, workers or scholars, farmers or bankers, industrialists or high-ranking civil servants. The number of persons who knew what the next point on the program was, for example, the attack against Poland, was undoubtedly surprisingly small. The number of those who began to fear that Germany was embarking upon an irresponsible policy was slightly larger. One of the directors of a large German bank said to me in private 1 week prior to the outbreak of war: 'We must avoid war in all circumstances. Frontier adjustments' (that was the only problem which came to his mind at all) 'do not justify bloodshed nowadays.' That was the opinion of the vast majority, if not of all the leaders of German industry in responsible positions and of the highest-ranking civil servants and generals. Hitler betrayed his own country when he unleashed the war in Europe."

My client Schmitz was one of the many who simply could not imagine that Hitler would use for purposes of aggression (which were as frivolous as they were stupid) the war potential, inadequate as it is proved to have been, for a major war in 1939. Farben had, of course, contributed its due share to the building up of this potential as a firm which was not chauvinistic but patriotic, loyal to its country, but at the same time open and receptive to outside influences.

I have nothing to say on behalf of my client with respect to the other points of the indictment, the refutation of which I shall leave to the defense counsel concerned, and I refer Your Honors to the closing brief.

We have reached the closing stage of the biggest industrial trial of all times, with a strong political background, in which the defendants have also been charged with purely political crimes such as conspiracy aiming at aggressive war. Schneider Document Book 7, submitted by my brother, contains a religious-moral-philosophical expert opinion of the highest quality, written by Pribilla, a member of the Society of Jesus, which is in keeping with the highest traditions of that order, whose scientific training and knowledge of life have become proverbial. It contains the following passage:

"In final consideration of my thesis, it impresses me as a contemporary commentary to the words which a holy and also politically outstanding Pope made in an also confused and turbulent era, in the middle of the storms of the great migration. One must ascribe special importance to these words, because they were included in the *Corpus Juris Canonici* and therefore recommended to all jurists as a

shining example. Innocent I (401–417) wrote in his letter of 13 December 414 to the bishops of Macedonia :

“‘It often happens that, if whole peoples or great masses have sinned, much goes unpunished, as it is impossible to haul so great a number before a court of justice. In such cases, past sins will be left to the judgment of God, but prepare most meticulously for any future recurrences.’”

Pribilla then continues :

“Our age ought to ponder the wisdom of that counsel.”

Your Honors, we, too, live in, and have passed through, times of “confusion and turbulence” which are unrivalled in the history of the world. The problems of criminal law confronting the judges of that time cannot have been more difficult for the human mind to solve in the 5th century than they are now. But we have chosen a different course, attempting to find the guilty men by means of these trials. It is not my business to criticize that decision of your government, influenced as it was mainly by political considerations. You will have noticed that my personal attitude to such an undertaking is one of extreme scepticism. As far as I am concerned, I have been convinced by Innocent I, and this personal conviction can only be strengthened by passages like the following taken from the book by Sumner Welles on the postwar period in America after the First World War, and which had been quoted above.

“Senate committees were indulging in long-drawn-out sessions to prove that the country had been plunged into the First World War solely because of the Machiavellian machinations of the arms manufacturers and of the international bankers.”

There is, after all, nothing new under the sun. And the philosophical maxim, “history repeats itself,” is, I am almost inclined to say, unfortunately, true.

And so is the human tendency to seek scapegoats for all disasters of complicated origins : and thus legends are born such as the prosecution legend of the “Unholy Trinity,” which has brought these men into the dock. When Hitler suffered reverses the cry went up, “the Jews are to blame.” The place of the Jews as scapegoat has now been taken by the “bloated capitalists,” which is the term of abuse now publicly bestowed upon the industrialist. Every age has its own scapegoats. Such human weakness becomes dangerous only when it affects the search for truth—and thus the practical administration of justice, and historical research. That is the reason why those wise people, the ancient Greeks, depicted Dike, the Goddess of Justice, with a bandage round her eyes, to protect her against the pernicious influence of contemporary prejudice.

Your Honors, I have reached the end of my statement. At Spa, after the end of the First World War the delegations of the Allied Powers and of Germany were discussing the question as to whether the so-called war criminals of the time should be brought to trial. During a recess an eminent British lawyer, a member of the British delegation, approached a friend of mine, who was a member of the German delegation, put his hand on his shoulder and reassured him with the following words:

“You know, it has nothing to do with any vindictiveness; it is only to punish those fellows who have really done wrong.”

I am convinced that that is also the intention of this Tribunal to punish only those fellows who have really done wrong. But pray bear in mind, Your Honors, that the list of the war criminals at the time was headed by Kaiser Wilhelm II and Field Marshal von Hindenburg. Whatever was or will be the verdict of history upon the last German emperor as a person and as a politician, it never did and never will regret that a wise and chivalrous sovereign, the Queen of the Netherlands, and her government, opposed the Allied demand that the Kaiser be surrendered, thus sparing the world the spectacle of the “Emperor in the dock.” As for Hindenburg, in less than 6 years the ambassadors and envoys of those same powers which 6 years previously had wanted to bring him to trial, made their obeisance in accordance with the protocol, and at a ceremonial reception presented the credentials of their governments to “Reich President von Hindenburg.” Times and opinions change rapidly.

But your verdict, Your Honors, must stand amidst the changes of the times and of opinions like a *rocher de bronze*, otherwise it will not have fulfilled its historic mission. May God bless your deliberations.

Referring to the evidence submitted on behalf of the defendant Schmitz, to our closing brief, and to my closing statement delivered today, I request you, Your Honors, to acquit my client, and to release him from jail.

E. Closing Statement for All Defendants on the Evidence on the Charges of Crimes Against the Peace¹

DR. VON METZLER (counsel for defendants Gajewski and Haefliger, speaking for all the defendants)² : May it please the Tribunal!

After a hearing of 9 months in a tense and agitated atmosphere which is usual in a court when a great issue is at stake, a gigantic trial is now entering on its final stage.

¹ Mimeographed transcript, 2 and 3 June 1948, pages 14663-14716.

² Dr. von Metzler succeeded Dr. Achenbach as counsel for defendant Gajewski during the course of the trial. (See vol. XV, sec. XIII G 4). Individual closing statements were also made on behalf of the two defendants for whom Dr. von Metzler was the principal counsel.

An incredibly vast amount of evidence on the activities of one of the biggest concerns in human history has been introduced by the prosecution. Although the defense since the beginning of this trial was and still is of the opinion that most of this evidence is irrelevant, nevertheless the defense had to cope with it and was compelled to introduce in its turn numerous documents, and to call quite a considerable number of witnesses.

It is now the responsibility of this Tribunal, as we respectfully submit, to scrutinize all this evidence put before it both as to its relevance and probative value. It is now up to Your Honors to divest the testimony of witnesses and affiants of all such human deficiencies as bias, prejudice, and fear, which quite naturally to some extent affect such testimony when feelings of political antagonism clash in a trial of such importance, and when a public opinion still conscious of the horrors of the last war exerts its pressure on all of those who are giving evidence relating to those terrible years which, for long, as we all do hope, will stand out as a warning to the living and future generations.

Counsel for both sides have been engaged in these past months in a bitter struggle tending to make out their cases. It is now up to Your Honors later on in closed court to take control of the scales of justice, and if in any particular case they should swing anything like even, to throw into them some grains of mercy so as to give the defendants the benefit of a reasonable doubt.

In an effort to limit under the aspect of relevancy the vast amount of evidence produced by the prosecution, the defense has filed on 17 December 1947 a motion in which it asked for a finding of not guilty under counts one and five of the indictment and with regard to the alleged acts of spoliation in Austria and Czechoslovakia, on the grounds of the irrelevancy of said evidence. So far this motion was successful only with respect to the alleged acts of spoliation in Austria and Czechoslovakia.

With Your Honors' permission, and upon instruction from all defense counsel, I therefore shall state now, once more briefly, the position of the defense as to the relevancy of said evidence under counts one and five. I am speaking now for all defendants, and not only for the defendants Gajewski and Haefliger.

To make myself quite clear, I do not propose to deal with the probative value of the vast evidence put before Your Honors under count one of the indictment both by the prosecution and by the defense. I, therefore, will not embark on a detailed scrutiny of said evidence. For, as we respectfully submit, it is the firm conviction of the defense that from a legal point of view, and on the basis of the principles developed by the IMT, all of this evidence is irrelevant and does not bear out the charges under counts one and five. For this reason, in my humble

opinion, it will suffice to view in a global manner the general categories of said evidence as grouped in the Trial Brief of the prosecution, bringing them in relation to the principles established by the IMT regarding crimes against peace.

At the outset, it may be worthwhile to survey the situation as it has so far developed in respect to charges of crimes against peace in the Nuernberg Tribunals trying German industrialists. In the first case of this nature against Flick and others, no such charge was raised by the prosecution although the Flick concern contributed in a substantial degree to the German rearmament and some of the defendants had leading positions in the industrial life of Germany.

In Case 10, *U. S. versus Krupp et al.*, upon a similar motion of the defense as filed in this Court, the Tribunal III in its session of 5 April 1948, ruled that the entire evidence offered by the prosecution under the charge of crimes against peace and a conspiracy to this effect was irrelevant, and therefore acquitted all defendants of said charges.* It is, in our opinion, rather significant that hereby a Nuernberg Tribunal has accepted the viewpoint of the defense regarding the inconsistency of such evidence with the principles developed in the IMT judgment, notwithstanding the fact that the accused industrialists who were acquitted of said charges were the leaders of one of the most important armament concerns of Germany which produced a substantial part of the weapons for the Nazi war machine before and after the outbreak of the war, and which therefore, according to a well-known slogan repeatedly used in various speeches of Hitler and his followers, was styled the "armory of the Reich."

Before arguing the relevancy of the different groups of evidence offered by the prosecution under count one, I propose not to go into the controversial question as to the legal aspect under which crimes against peace should be viewed. The controversy whether the rules governing this case should be derived from the German penal law or from a judicial system based either on the continental law of Europe or on the all embracing international law, this controversy can be completely left aside for the purpose of arguing the specific question forming the task of my address to Your Honors, namely, the relevancy of the prosecution's evidence under count one. For be it the German penal law, or the continental law of Europe, or international law as laid down in the IMT Charter of 8 August 1945, the decisive factor in assessing the criminal responsibility of the defendants under counts one and five are the principles developed by the IMT regarding crimes against peace as already argued in our motion of 17 December 1947. Insofar the interpretation of the just mentioned Charter by the IMT is of vital importance and its judgment must be regarded in itself a contribution to the law applicable to crimes against peace if we as-

*See "The Krupp case," volume IX, this series, pages 356-466.

sume, for argument's sake, that the IMT judgment is a precedent.

There is a certain irony that the prosecution, while repeatedly referring in different parts of its Trial Brief to the IMT judgment as an important precedent in arguing its case under counts one and five, has entirely disregarded the principles established by the IMT as to crimes against peace. The whole confusion in our opinion is due to the fact that originally the prosecution laid too much stress on the provision of Article II, paragraph 2 (*f*) of Control Council Law No. 10, saying:

“Any person without regard to nationality or the capacity in which he acted, is deemed to have committed a crime as defined in paragraph 1 of this Article, * * * if he held a high position in the financial, industrial, or economic life of any such country.”

As already argued in our motion, Control Council Law No. 10 has been issued pursuant to the IMT Charter in order to give effect to its provisions. Therefore the interpretation given by the IMT to said Charter rules also the provisions of Control Council Law No. 10, the latter having been issued before the IMT passed its judgment.

The prosecution, as already shown in our motion, apparently has abandoned its original theory that the above-mentioned provision of Control Council Law No. 10 shifts the burden of proof concerning the knowledge of Hitler's aims to the defendants, by saying on page 2 of its Preliminary Trial Brief, Part I: “This provision, we believe, is not intended to attach criminal guilt automatically to all holders of high positions.”

It should be noted in this connection that also the IMT judgment under certain circumstances recognizes the responsibility of businessmen for crimes against peace:

“Hitler could not make aggressive war by himself. He had to have the cooperation of statesmen, military leaders, diplomats, and businessmen. When they, with knowledge of his aims, gave him their cooperation, they made themselves parties to the plan he had initiated.”*

It is therefore the position of the defense that the provision of Article II, paragraph 2 (*f*), of Control Council Law No. 10 is of no practical value in assessing the criminal responsibility of the defendants for the alleged crimes against peace. The prosecution, by abandoning its original theory that said provision shifts the burden of proof to the defendants and by referring on page 2 of its answer to the defense motion to the above-quoted passage of the IMT judgment, practically make it clear that it does not attach any more weight to said provisions either.

*See *Trial of the Major War Criminals*, volume I, page 226.

It follows therefrom in the opinion of the defense that the responsibility of the defendants for crimes against peace should be judged exclusively according to the principles laid down in the IMT judgment as to said crimes.

The whole problem therefore turns on the question: what is "knowledge of Hitler's aims" within the meaning of the above-mentioned passage of the IMT judgment?

It is the position of the defense that much time would have been saved in this trial if the prosecution from the beginning would have paid more attention to this question (that is, to the state of mind required by the IMT for the commission of a crime against peace) before pouring out the incredibly vast amount of evidence on the degree of Farben's participation in German rearmament. Undoubtedly Farben contributed to a certain extent to German armament, just as well as all the other German firms engaged in the production of strategic materials did. Whether Farben's share in German armament production in its field amounted to 20, 30, 50, or 70 percent is of no interest in this connection. The only thing that matters is: Were the defendants personally responsible for the furthering of Hitler's aggressive plans; in other words, did they have knowledge of Hitler's aggressive aims?

This question therefore should be considered first and above all, before going into the details of Farben's participation in the strengthening of the German war potential. For to speak in the words of the IMT Judgment:

"* * * But rearmament of itself is not criminal under the Charter."¹

And further:

"His activities"—namely those of the Minister for Armaments and Munitions, Speer—"in charge of German armament production were in aid of the war effort in the same way that other productive enterprises aid in the waging of war; but the Tribunal is not prepared to find that such activities involve engaging in the common plan to wage aggressive war as charged under count one or waging aggressive war as charged under count two."²

If, therefore, the key problem under counts one and five of the indictment is the question: What is knowledge of Hitler's aims in the light of the principles developed by the IMT, it may be worthwhile to state briefly those principles and to contrast with them the theory adopted by the prosecution as to the state of mind of the defendants in its preliminary Trial Brief. In the opinion of the defense it will appear then that the prosecution's theory is in flat contradic-

¹ *Ibid.*, page 309.

² *Ibid.*, pages 330 and 331.

tion to those principles laid down in the IMT judgment, and therefore cannot be accepted as a legally sound basis for assessing the criminal responsibility of these defendants.

Now the prosecution argues that the IMT case is a different case, that the defendants there were governmental and military functionaries, whereas the defendants before this Tribunal are businessmen.

To this the defense replies: The very fact that the defendants in the IMT case belonged to the highest governmental and military functionaries of the Nazi system permits but one conclusion, if justice is to be done to the defendants in this dock.

In assessing the criminal responsibility of these defendants, who are ordinary businessmen, there can undoubtedly be adopted no stricter standard than in the case of the top representatives of the Nazi system who stood before the IMT. Does the prosecution really contend that the defendants in this dock knew more of Hitler's aims than men like Schacht, von Papen, Speer, Frank, Bormann, who were members of the former Reich Cabinet; or Sauckel, Kaltenbrunner, von Schirach, Streicher and Fritzsche, who held key governmental positions in the former Reich, and who all were acquitted by the IMT of the charge of having committed a crime against peace? It is inconceivable, and yet the prosecution apparently takes this viewpoint which in our mind is inconsistent with the principles of justice and fairness.

The theory developed by the IMT (as to what is knowledge of Hitler's aggressive aims) in this connection is briefly the following:

As appears from the grounds of the acquittal of the IMT defendants Schacht and Speer, who both in a substantial degree were responsible for German armament before and after the outbreak of the war, armament in itself is no crime against peace. Therefore no conclusion as to a knowledge of Hitler's aggressive plans can be drawn from the fact of a participation in the German armament, however substantial it may have been.

"Knowledge of Hitler's aggressive aims," according to the IMT judgment, is not identical with the so-called common knowledge of what Hitler might do or not do. It is a special knowledge of specific aggressive plans which Hitler revealed to a certain limited circle of his closest advisers, especially in four secret conferences which took place on 5 November 1937, 23 May 1939, 22 August 1939, and 23 November 1939. Therefore, the above-mentioned defendants in the IMT case have been acquitted on the grounds they were not informed about those specific plans.

The reasons why the IMT limited in the just described manner the responsibility for crimes against peace, may be derived from the following passage:

"This discretion is a judicial one and does not permit arbitrary action, but should be exercised in accordance with well-settled legal

principles, one of the most important of which is that criminal guilt is personal, and that mass punishments should be avoided.”*

In fact, if the state of mind required for a crime against peace would be judged by such vague standards as adopted by the prosecution, there would hardly be any sensible limitation of the circle of men responsible for such crimes in Germany, which would result in what according to the IMT judgment should be avoided, namely, mass punishments. For even the prosecution cannot deny that, apart from I. G. Farben, numerous other German firms and individuals contributing to the strengthening of the German war potential and that the knowledge that Germany was carrying out a rearmament program was not limited to the defendants in this dock.

In contradiction to this clear and precise definition of what is “knowledge of Hitler’s aggressive plans” adopted by the IMT, the theory of the prosecution on the state of mind required for a crime against peace is utterly vague and inconsistent with the above-described principles of the IMT judgment. I quote from page 10 of the Preliminary Trial Brief of the prosecution, Part I:

“This is the *knowledge* that such military power will be used for the purpose of carrying out a national policy of aggrandizement to take from the peoples of other countries their land, their property, or their personal freedoms. It is sufficient if there exists the belief that although actual force will be resorted to if necessary, such purpose will be accomplished by using the military power merely as a threat.

“And it is not essential that the defendants know precisely which country will be the first victim or the exact time that the property rights and personal freedoms of the peoples of any particular country will be under attack. It is sufficient that the defendants know that the military power will be used under the circumstances indicated for the purpose of taking away from peoples of other countries that which belongs to them.”

Now the question which, as I respectfully submit, Your Honors will have to ask yourselves later on in closed court is: Can there be any reasonable doubt that all defendants acquitted by the IMT of the charge of crimes against peace, taking into consideration their position under the Nazi regime, had at least the vague amount of knowledge which according to the prosecution is sufficient to convict a person under such a charge? It is the position of the defense that there can be no such doubt and that, therefore—if the ends of justice are to be achieved—the state of mind of the defendants in this case cannot be judged by the just-mentioned theory of the prosecution.

**Ibid.*, page 256.

Furthermore, there can be no doubt that this theory, if accepted, would inevitably result in a mass punishment which is to be avoided, according to the IMT judgment.

All this becomes particularly clear by following the line of argument adopted by the prosecution in its Preliminary Trial Brief, Part I, under the heading "State of Mind." On page 78 and following, the prosecution refers to the Nazi program and to Hitler's book "Mein Kampf." On page 89 and following, it reviews the political events in Germany from 1932 up to the outbreak of the war, saying on page 72:

"When viewed in the light of the political events occurring during that period, there can be no doubt as to the state of mind of these defendants."

And on page 89 the prosecution goes on to say:

"But, making every allowance for human credulity and indifference, the conclusion is inescapable that, long before the attack on Poland and well in advance of the Austrian and Czechoslovakian invasions, all highly placed officials of the Third Reich, and influential men who did business with them and had access to official information and opinion, must have known that the Nazi program of aggrandizement would be carried out even if it meant war, although they may not have known just when or how it would first break out."

Finally, on page 99, the prosecution says:

"The frenzied pace of the German armament efforts, the events of the recent months, and the widely publicized objectives of the Nazi Party made the future only too clear. If one may concede room for doubt before 1939, after the Wehrmacht's entry into Prague no one could longer doubt that the Third Reich was ready for war."

In applying this line of argument of the prosecution to the defendants who were acquitted by the IMT of the charge of crimes against peace, there can be not the slightest doubt, in my humble opinion, that all of these men under the theory of the prosecution in this case should have been convicted because all of them undoubtedly had the knowledge of the political events dealt with in the above-mentioned part of the prosecution's Trial Brief. And it furthermore should be clear that on the basis of the above-mentioned observations of the prosecution its theory would inevitably result in mass punishments.

It is the position of the defense, therefore, that the theory of the prosecution on the state of mind with regard to a crime against peace, and its line of argument followed under this heading of its Trial Brief,

is wrong and legally unsound for the purpose of assessing the criminal responsibility of these defendants.

It is most interesting to note that apparently the prosecution itself does not feel sure as to the soundness of its theory, because while giving in its Preliminary Trial Brief prominence to the publicity given to the program and aims of the Hitler movement, the prosecution in its answer to the defense motion of 17 December 1947,* in paragraph 10, makes the following significant statement:

“It is sufficient to note here that the prosecution does not contend that the wide publicity given to the program and aims of the Hitler movement over a period of years is enough in itself to establish beyond a reasonable doubt that the average person within Germany had the required knowledge. And the evidence must establish more than knowledge of the aggressive program and aims of the Nazi government and belief that there was a possibility that force would be used to carry out the policy of aggrandizement.”

I would say that this rather vacillating position of the prosecution as to what is essential in order to prove knowledge of Hitler's aggressive aims speaks for itself.

Now, the prosecution argues that the defendants were not just ordinary businessmen but held official positions in the German administration. Therefore, in the view of the prosecution, the defendants on account of these positions had more knowledge of Hitler's aims than an ordinary businessman. However, the prosecution failed to offer any proof on this allegation which is as vague as the other parts of its theory on the state of mind of the defendants. Moreover who could possibly deny that the official and semiofficial positions held by some of the defendants in the administration of the German economy, including the position of the defendant Krauch within the framework of the Four Year Plan, did not come up to the level of those held by the IMT defendants who were acquitted of the charge of crimes against peace?

In addition, the prosecution argues that after the outbreak of war on 1 September 1939, it appeared to be beyond question that the defendants knew of the aggressive character of this war. Again the prosecution has not offered any evidence bearing out this allegation, and once more the position of the prosecution on this point as in flat contradiction to the principles laid down in the IMT judgment. I may refer in this connection once more to the acquittal of the IMT defendant Speer, the responsible Minister for Armament and Munitions, and to that part of the grounds of his acquittal which I took the liberty to adduce a few moments ago. If the IMT did not consider the activities of the defendant Speer, in spite of the fact that

*Reproduced earlier in subsection VII B 3, volume VII, this series.

he was in charge of the entire German armament, a crime against peace, then it should be clear that these defendants who did not hold a position equal to that of Speer cannot possibly be implicated on the grounds that I. G. Farben's production after the outbreak of war was furthering the military strength of Germany. If the IMT acquitted the defendant Speer, then it certainly did not assume that he had a definite knowledge of the aggressive character of the war after its outbreak.

Now, the prosecution argues that Speer became Minister for Armaments and Munitions some time after all the acts of aggression by Hitler had been started and were well under way. However, this statement by the prosecution does not take away from the force of the argument of the defense. The crime of participating in the waging of an aggressive war continues until the end of such war. Therefore it cannot make any difference whether the actual aggression had already started and was well under way when Speer became responsible Minister for the German armament.

In addition I may point out that, with the exception perhaps of the defendant Schacht, all the IMT defendants acquitted of the charge of crimes against peace held important administrative positions also after the outbreak of war, and in spite of this fact were not found guilty of having waged an aggressive war.

The prosecution has argued, furthermore, that the acquitted IMT defendants did not participate in the same degree in the preparation and waging of the aggressive war as these defendants did and that the insignificant degree of such participation was the reason for their acquittal.

To this the defense would reply only: if the prosecution contends that any of these defendants participated in a higher degree in the preparation and waging of the aggressive war than a former member of the Reich Cabinet or a man who held a key administrative position under the Nazi system which, as the prosecution says, was in all its parts directed towards carrying out a national policy of aggrandizement, then such theory clearly shows that the prosecution has no knowledge at all what influence, as compared with even a prominent businessman, a top-ranking governmental official had and exercised in the Third Reich in synchronizing the efforts and activities of the German Nation with the aims of the Nazi policy.

Summarizing their above said arguments, the defense therefore would say that in order to establish a guilty mind on the part of the defendants under counts one and five of the indictment, the prosecution must prove in accordance with the principles developed by the IMT that each of the defendants was informed about specific aggressive plans of Hitler which could not leave any doubt in his mind as to the aggressive character of this war. Only in such a case the proof

offered by the prosecution would be beyond any reasonable doubt, and the prosecution would have made out its case.

In this connection the defense would point out that of course it is not necessary to establish that any of the defendants took part in those secret meetings at which Hitler revealed his plans of aggression to his closest advisers. In order to establish a guilty mind on the part of the defendants, it would be sufficient to prove that by some way or other they were informed of those plans.

Undoubtedly the prosecution has not offered any direct evidence bearing out such knowledge on the part of the defendants.

That the political events and the knowledge thereof mentioned under the heading "State of Mind" of the prosecution's Preliminary Trial Brief, Part I, do not constitute such a proof, has been already shown.

The only question, therefore, to be dealt with is whether the bulk of evidence introduced by the prosecution on Farben's activities before and after the outbreak of the war warrant a conclusion beyond any reasonable doubt that the defendants had the above-mentioned knowledge of Hitler's aggressive plans, in other words, whether the proof offered by the prosecution can be considered circumstantial evidence, beyond any reasonable doubt, of such knowledge.

All of us are aware of a spirit of the law of civilized nations which finds its expression in certain principles recognized throughout the entire civilized world. Among these principles are the following rules concerning the proof of a defendant's guilt in a criminal trial:

1. There can be no conviction without proof of personal guilt.
2. Such guilt must be proved beyond a reasonable doubt.
3. The presumption of innocence follows each defendant throughout the trial.
4. The burden of proof is at all times upon the prosecution.
5. If from credible evidence two reasonable inferences may be drawn, one of guilt and the other of innocence, the latter must be taken.

It is the position of the defense that under the just stated rules the entire evidence offered by the prosecution on Farben's activities does not constitute circumstantial evidence bearing out, beyond reasonable doubt, the contention that any of the defendants had knowledge of specific aggressive plans of Hitler.

Therefore, as has been already pointed out at the beginning of my argument, it will suffice to deal in a global manner with the different categories of the prosecution's evidence on Farben's activities. I will embark now on this task.

There is first of all the alleged financial support of Hitler and the Nazi Party by Farben. It is well known that the entire German industry as well as numerous German citizens made contributions to various agencies of the Nazi Party, and that these contributions were

part of a system worked out and organized by that Party. To derive therefrom a knowledge of Hitler's aggressive plans is, therefore, out of the question.

Next comes the vast amount of evidence dealing with the alleged cooperation of Farben with the German Army. As to this group of evidence as well as the other groups dealing with the creating and equipping of the Nazi military machine, the defense would respectfully invite the Tribunal to bear in mind that all activities of this nature might appear in a different light today on account of the knowledge which we now have of those events. It is therefore essential to put oneself in the position of an observer living before the outbreak of the war, before judging any activities which took place at that time.

And there is another point which in this connection is of utmost importance and which, in the opinion of the defense, has been utterly neglected by the prosecution. It does not suffice that the prosecution proves a knowledge by the defendants that Hitler was preparing for a war; the prosecution has to establish on the part of the defendants the knowledge of Hitler preparing an *aggressive* war. It is the position of the defense that a great deal of the confusion about the relevancy of the prosecution's evidence under count one has to be attributed to the fact that the prosecution when presenting its evidence did not pay enough attention to this point.

On the basis of these observations the evidence presented by the prosecution under the heading "Cooperation with the Wehrmacht" does not prove beyond any reasonable doubt that any of the defendants had knowledge of specific aggressive plans of Hitler. The creation and operation of Vermittlungsstelle W—on which the prosecution spent so much time in presenting its evidence—the alleged cooperation between Farben and the Army in the field of inventions and research, the conduct of map exercise and war games, the setting-up of mobilization plans, the conclusion of war delivery contracts, all these activities do not warrant a conclusion beyond any reasonable doubt that any of the defendants knew that an aggressive war was at hand. These activities, which besides were not confined to I. G. Farben alone, but by governmental decrees were spread over the entire German industry, can just as well be seen under the aspect of either preparing for a defensive war of giving Germany a more solid position in the sphere of foreign politics in the light of the well-known political theory of the "balance of power."

Next comes the evidence offered under the heading "Four Year Plan and Economic Mobilization of Germany for War." Again the same can be said as explained above with regard to the evidence produced on the alleged cooperation of Farben with the Wehrmacht. None of the evidence offered with respect to these activities of the defendants

within the framework of the Four Year Plan bears out beyond any reasonable doubt the allegation that any of the defendants had knowledge of the specific aggressive plans of Hitler. The existence and operation of the Four Year Plan were known to the German public. The program of autarchy had been discussed at that time in numerous newspaper articles and public speeches. Even if some of the defendants really had some more intimate knowledge of the details of this plan, as far as their field of production was concerned, this does not warrant the conclusion beyond any reasonable doubt that they knew the Four Year Plan was being carried out in preparation of an aggressive war.

The same holds true with regard to the incredibly vast amount of evidence produced by the prosecution under the heading "Creating and Equipping the Nazi Military Machine."

On page 26 of their Preliminary Trial Brief, Part I, the prosecution states the following:

"It will be seen that by virtue of the nature of the products manufactured and the fact that the contracts and negotiations were mainly with the military the defendants knew their production was to build up the Nazi war machine. In addition, the quantities of production and the circumstances surrounding such production, especially the timing of the consecutive accelerations in production planning and the fact that the military might Germany was building up far exceeded that of her neighbors, were such that the defendants must also have known that the war machine was intended to carry out the notorious national policy of aggrandizement."

To this the defense would reply that the prosecution has not offered any evidence bearing out the allegation that any of the defendants knew, beyond the special field of the production of which he was in charge, any data enabling him to survey the timing, acceleration, and extent of the entire German production of strategic materials. Only in such a case could the defendants have had the knowledge, to repeat the prosecution's words, "of the fact that the military might Germany was building up far exceeded that of her neighbors." The fact that, in reality, the military might of Germany did not by far exceed that of her neighbors, can therefore be left aside here.

Neither has the allegation of the prosecution been proved that the dealings in all these products of I. G. Farben mentioned on page 27 and page 41 of their Preliminary Trial Brief, Part I, were *mainly* with the military.

The defense therefore would say that the rise of production of strategic materials all over Germany does not warrant any safe conclusion as to a guilty mind on the part of the defendants under counts one and five of the indictment.

The same observations apply just as well to the erection of the so-called stand-by plants and to stockpiling of strategic materials, and they are equally valid as to the evidence produced by the prosecution under the heading "Use of International Agreements to Weaken Germany's Potential Enemies." Granting that the alleged activities of Farben in this field really took place as described by the prosecution, this again would not justify a conclusion beyond any reasonable doubt that the particular defendants connected therewith by the prosecution knew that these measures were taken in preparation of an *aggressive* war. For it is a universally known fact that at times of political tension stand-by plants are erected, strategic materials stockpiled, and the exchange of technical information between the industries of different countries subjected to certain restrictions. How could the defendants know that these measures ordered by the German government were steps on the road leading to an aggressive war and not merely measures of precaution in case of a defensive war?

The same holds true with regard to the evidence presented by the prosecution under the heading "Propaganda, Intelligence, and Espionage Activities." If knowledge of the Nazi program, even in the view of the prosecution, is not equivalent to knowledge of Hitler's aggressive plans required for a conviction on a charge of crimes against peace, how can then a propaganda giving publicity to the Nazi program abroad justify any safe conclusion as to a guilty mind on the part of the defendants under counts one and five? Nor can such a conclusion be drawn from any of the alleged intelligence and espionage activities on the part of any of the defendants. These activities fall within the same category as the equipping of the Nazi war machine, and therefore cannot be viewed exclusively in the light of the preparation of an *aggressive* war.

As to the evidence offered by the prosecution under the heading "Protecting Farben's Empire and Expanding it through Plunder and Slavery as Part of the Preparation for and Waging of Aggressive Wars and Invasions," the entire evidence referring to the alleged camouflage activities of IG also does not justify the conclusion as to a knowledge on the part of the defendants of Hitler's aggressive plans. Such activities, granting that they really took place, must be considered in the light of the political tension at the time of the Sudeten crisis, when according to the prosecution's view, they were initiated. Therefore, they can just as well be understood as measures of precaution in case that Germany should be involved in a defensive war.

Neither can the evidence offered by the prosecution on the alleged acts of plunder and spoliation be considered a proof of knowledge on the part of any defendants of Hitler's aggressive plans, for the same reasons stated above with regard to the production of war material by Farben after the outbreak of the war. On page 72 of the Preliminary

Trial Brief, Part I, the prosecution says that said acts were committed "in furtherance of the government program of integrating these industries into the German economy and using the resources of the conquered countries in waging each aggression and preparing for the next." Therefore the alleged acts of spoliation, even if they really should have taken place, must in this connection, namely, under count one of the indictment, be considered in the same light as the production of war material after the outbreak of the war in furtherance of Germany's war potential. If the IMT in this respect acquitted the defendant Speer as the responsible Minister for Armaments and Munitions on the grounds that his activities as well as the production of war material by the German industry did not constitute a crime against peace, then the same must be said with regard to the alleged acts of spoliation committed by Farben, in the prosecution's view, for the same purpose, namely, in furtherance of the German war potential.

The same applies to the last group of evidence offered by the prosecution under count one, namely, the alleged participation by Farben in the so-called slave-labor program. The purpose of these alleged activities is described by the prosecution on page 72 of its Preliminary Trial Brief, Part I, as follows:

"The use of slave labor by Farben also had this double aspect.

It not only enabled Farben to erect new plants and make huge profits, by increasing production, but the very erection of such plants and the increase of such production constituted a vital part of the preparation for and the waging of aggressions."

Therefore, the above observations made as to the alleged acts of spoliation apply also to Farben's alleged participation in the slave-labor program.

In reviewing therefore the entire evidence presented by the Prosecution under Count I, in the opinion of the Defense there can be but one conclusion that none of this evidence establishes beyond any reasonable doubt that the defendants had knowledge of Hitler's aggressive aims in the meaning of the IMT judgment.

(Recess)

On the basis of the above observations all of the defendants should be likewise acquitted under count five of the indictment, as we respectfully submit. For if the prosecution has not established beyond any reasonable doubt a knowledge on the part of the defendants of Hitler's aggressive plans, then as a matter of course a conspiracy to this end is out of the question. It is very significant in this connection that the prosecution has not offered any direct evidence on this alleged conspiracy. In its Preliminary Trial Brief, Part V, not a single exhibit is mentioned. The prosecution only argue in a general and rather vague manner by making reference to decisions of the United

States Supreme Court in cases which have nothing to do with this case. Again the prosecution entirely disregards what the IMT judgment stated as to the prerequisites for a charge of conspiracy in this respect. I may refer to the following quotation from the IMT judgment:

“The prosecution says, in effect, that any significant participation in the affairs of the Nazi Party or government is evidence of a participation in a conspiracy that is in itself criminal. Conspiracy is not defined in the Charter. But in the opinion of the Tribunal the conspiracy must be clearly outlined in its criminal purpose. It must not be too far removed from the time of decision and of action. The planning, to be criminal, must not rest merely on the declarations of a party program, such as are found in the 25 points of the Nazi Party, announced in 1920, or the political affirmations expressed in *Mein Kampf* in later years. *The Tribunal must examine whether a concrete plan to wage war existed, and determine the participants in that concrete plan.* * * * But the evidence establishes with certainty the existence of many separate plans rather than a single conspiracy embracing them all.”* [Emphasis supplied.]

This argumentation in the IMT judgment follows the same lines as the viewpoint taken by the IMT on the prerequisites of a knowledge of Hitler's aggressive aims. Again the IMT requires proof of concrete, specific facts, namely the participation in a concrete plan which is not too far removed from its execution. There is no such evidence offered by the prosecution. In this connection I may refer to the decision of the United States Supreme Court in the case “United States *versus* Falcone” quoted in the prosecution's Preliminary Trial Brief, Part V, page 5 and following, according to which the prosecution's proof in a conspiracy case must include, apart from the conspirator's knowledge of the unlawful act of the other conspirator, the intent to further, promote, and cooperate in said unlawful act. Again the prosecution has offered no evidence on such intent on the part of the defendants.

In concluding my arguments on this subject I may quote from the grounds of the just-mentioned decision the following significant passage which can be found in the Preliminary Trial Brief of the prosecution, Part V, page 5 and following:

“This difference is important for two purposes. One is for making certain that the seller knows the buyer's intended illegal use. The other is to show that by the sale he intends to further, promote and cooperate in it. This intent, when given effect by overt act, is the gist of conspiracy. While it is not identical with mere knowledge that another purposes unlawful action, it is not unrelated to

*Trial of the Major War Criminals, volume I, page 225.

such knowledge. Without the knowledge, the intent cannot exist. *United States v. Falcone* 311.4.S.205. Furthermore, to establish the intent, the evidence of knowledge must be clear, not equivocal. [*ibid.*]. This, because charges of conspiracy are not to be made out by piling inference upon inference, thus fashioning what, in that case, was called a dragnet to draw in all substantive crimes.”*

This is just what the prosecution tried to do in this case when presenting its evidence. It was piling inference upon inference without establishing clear and unequivocal evidence either of the knowledge on the part of the defendants of specific aggressive plans of Hitler, or of an intent to further, promote, and cooperate in such plans. In flat contradiction to the principles developed in the IMT judgment, the prosecution advanced a vague and ambiguous theory; it compiled a mass of irrelevant evidence, thus obscuring the real issue under these counts of the indictment, as it has been outlined—I may say, with wise foresight by the IMT—and therefore all their endeavors—however elaborate they may be—are doomed to failure.

On those grounds I therefore respectfully move this honorable Tribunal for an *acquittal of the defendants of the charges under counts one and five of the indictment.*

I shall pass on now, with Your Honors’ permission, to another general subject on which I am addressing this Tribunal again on behalf of all defendants, that is:

The General Theory of the Responsibility of the Defendants for the Alleged Crimes

I think I am justified in saying that this is the key problem of this trial, and that the aspect under which this problem is viewed is decisive in assessing the personal responsibility of each defendant for any of the specific crimes alleged under the different counts of the indictment. Therefore the question which—as I respectfully submit—Your Honors will have to ask yourself later on in closed court, namely, which general theory of responsibility constitutes a legally sound basis, is of vital importance and should be considered most scrupulously.

In my opening statement for Paul Haefliger I said that, in reviewing the incredibly vast amount of evidence offered by the prosecution on Farben’s activities, there was one point which struck me particularly. It is the incredibly small amount of evidence which the prosecution has introduced on the personal responsibility of each defendant. At the time when I submitted this opening statement I was not yet familiar with Part VI of the prosecution’s Preliminary Trial Brief dealing with its general theory of responsibility. I therefore was particularly curious to learn whether this part of the prosecution’s Brief confirmed or upset my general impression which I had outlined

*Decision rendered by the Supreme Court in *Direct Sales Co. v. U. S.* (319 U. S. 703).

in the above mentioned passage of my opening statement. And I may say that, after having read this part of the prosecution's Brief, I was more than ever convinced that the prosecution utterly failed in discharging the burden of proof which is upon it in this trial.

As already pointed out in this address, it is up to the prosecution to prove beyond any reasonable doubt the personal guilt of each defendant.

It is one of the leading principles of criminal law in all civilized countries that—as the IMT put it—criminal guilt is personal and that mass punishments must be avoided. Under this fundamental principle, which the IMT recognized even with regard to the criminal organizations dealt with in its judgment, it should be indisputably clear that in criminal law there is no collective guilt or responsibility deriving from the membership in a certain organization or body as for instance the board of directors of a company. It may be pointed out in this connection that the IMT, by acquitting the former Reich Cabinet, which was the incarnation of the political will of the German people, of the charge of a conspiracy to commit crimes against peace, recognized this fact.

And yet the prosecution, in advancing its general theory of responsibility in Part VI of their Preliminary Trial Brief, bases its arguments on the assumption of a collective responsibility of all defendants resulting from their membership in the Farben Vorstand or other boards. Thus the prosecution substitutes for the burden of proof which is upon it of a personal guilt of each individual defendant the submission of a theory which is as vague, as unsupported by facts, and as inconsistent with the principles of justice and fairness as its theory regarding the state of mind of the defendants under count one of the indictment. Therefore, also this theory of a collective responsibility of the defendants, deriving from their capacity as members of the Farben Vorstand, which apparently is intended to serve as a dragnet to draw in all defendants, is doomed to failure.

At the beginning of part VI of its Brief, the prosecution argues that each of the defendants, apart from his industrial positions, held high political, civil, and military positions in Germany; and that by using these positions and their personal influence, the defendants participated in the crimes charged in counts one, two, three and five of the indictment. This allegation, which I have dealt with already in my arguments under count one of the indictment, is not supported by any proof. To begin with, there is no proof of high political, civil, and military positions. The prosecution in this respect refers to its document books 11 and 66, containing the affidavits of all defendants on their positions. In reviewing these positions one cannot but admit that the prosecution, by maintaining that the defendants held "high" political, civil, and military positions, grossly overshot

the mark—to put it mildly. I would respectfully invite Your Honors to compare the positions held, for instance, by the defendants of the IMT trial with the official or semiofficial positions of these defendants, which in most cases amounted to nothing more than a membership in the staff of one of the so-called Economic Groups or other administrative bodies on a medium level without any political or military character at all, in order to understand properly the true significance of the influence which the defendants by virtue of these positions were able to exercise with a view to—as the prosecution put it—“preparing Germany for war” and to participating in “the waging of war by Germany.” And it is rather amusing to observe that the prosecution itself admits the weakness of its position by saying on page 2 of Part VI of its Trial Brief:

“We do not propose at this point to review the significance of each position held by each defendant. It is sufficient to note here that these positions, listed in Appendix “A” of the indictment, enabled the defendants to participate in a substantial way in many activities vital to preparing Germany for war and for the waging of war by Germany during a period of 12 long years.”

Unfortunately the defense cannot find any other passage, either in the Trial Brief or in the document books of the prosecution, in the significance of said positions of each defendant in connection with the alleged crimes it reviewed. The document books 11 and 66 of the prosecution by no means speak for themselves.

On the basis of these observations, the only possible conclusion is that the prosecution utterly failed to prove beyond reasonable doubt the personal guilt of each defendant by referring to those positions held by him. I do not wish to be hard on the prosecution, but I must say that its line of argument under “A” of Part VI of its Preliminary Trial Brief is a classical example of a complete misconception of the burden of proof, which is upon the prosecution, regarding the guilt of a defendant in a criminal trial.

The same holds true when we come to consider the arguments of the prosecution under “B” of Part VI of its Preliminary Trial Brief, regarding membership in the Vorstand.

On the basis of the above-mentioned observations that criminal guilt is personal, and that therefore there does not exist a collective criminal responsibility, the fact of having been a member of the Farben Vorstand or of any of its committees alone can never be regarded as sufficient proof of the criminal guilt of any such members under the different counts of the indictment. And yet the prosecution maintains this.

In substance, the prosecution's theory in this respect is the following:
The Vorstand of Farben is alleged to have initiated, approved, and ratified a policy and a program, the execution of which extended over a long period of years and which consisted of:

- a. Preparing Germany for an aggressive war and participating in the waging of such war by Germany.
- b. Plundering the chemical industries throughout Europe.
- c. Using slave labor.
- d. Ill-treatment of slave laborers, including medical experiments on concentration camp inmates and the furnishing of poison gas for their extermination.

In other words, the prosecution alleges that the Farben Vorstand initiated, approved, and ratified a general policy covering all crimes charged under the counts one, two, and three of the indictment, and that all defendants joined in such initiating and approving on account of their membership in said Vorstand.

Then the prosecution goes on to say, on page 3 of Part VI of its Brief:

"The fact that any individual Vorstand member may not have known of some particular detail involved in the carrying-out of a program which he had initiated, supported, or approved, is unimportant. It is certainly not the position of the prosecution that, in a giant concern of this size, any person could know all the detailed ramifications of the execution of all adopted policies. It may be that on occasion a specific act was taken in the carrying-out of a policy approved by the Vorstand which was not contemplated in the original program. But where, as here, the execution of any specific program extends over a relatively long period of time, those who are responsible for initiating that program and for carrying it out cannot claim that they did not know what was happening during its execution * * *. Those persons who were legally charged with running, and who did run, this concern, cannot escape liability by any alleged failure to have found out the main consequences of the policies they set in motion or subsequently approved."

On page 9 of its respective Brief the prosecution goes on to say:

"The fact that a defendant was a member of the Vorstand of Farben is of vital significance in two respects. In the first place, it meant that he, as one of the persons on the managing board of directors, substantially participated in the activities carried on through the instrumentality of Farben: in the second place, it meant that he knew of any matter of any importance in the affairs of Farben, even though he may not have known (although he could

have found out with the slightest investigation) of *many details* in connection with the administration of such matters.”

It is therefore the position of the prosecution that, in order to convict the defendants under the various counts of the indictment, it is not necessary to prove that each defendant had knowledge of each specific crime covered by the indictment, or of any details of such crime, nor that each defendant actively participated in the commission of such crime, because all these alleged crimes were committed—as the prosecution puts it—in execution of an alleged general policy and program initiated and approved by the defendants. Accordingly, the prosecution does not attach any weight to the fact that in the indictment certain individual defendants were connected with certain specific activities charged under counts one, two, and three, and allegedly took an active part therein.

In reviewing this theory of the prosecution, which I just took the liberty to outline, there can be, in my humble opinion, not the slightest doubt, that the prosecution's position is in flat contradiction to the above mentioned principle that criminal guilt is personal, that there exists no collective criminal guilt, and that therefore it is up to the prosecution to prove beyond any reasonable doubt with regard to each defendant, his personal participation in, and knowledge of, each specific crime charged under the different counts of the indictment.

The following analysis of the prosecution's theory will show the correctness of this conclusion.

To begin with, the prosecution has failed to prove the basis of its theory, namely the initiating, approving, and ratifying of the alleged *general* policy of the Vorstand covering the alleged crimes under the different counts of the indictment.

In the first part of my address dealing with count one of the indictment, I have already pointed out that the evidence offered by the prosecution does not bear out the allegation that the Farben Vorstand initiated, approved, and ratified a policy or program to commit crimes against peace.

The same holds true with regard to counts two and three. The prosecution has not introduced any evidence proving beyond reasonable doubt that the Vorstand of Farben initiated, approved, and ratified a policy and program of plundering the chemical industries throughout Europe, of using slave labor, ill-treating slave laborers, carrying out medical experiments on concentration-camp inmates, and furnishing poison gas for their extermination.

Therefore, the very basis of the prosecution's conception concerning the responsibility of the defendants has not been proved, and thus the whole theory loses its foundation. In addition thereto the prosecution's conception in substance is not a theory of criminal guilt under

counts one, two, and three of the indictment, but in the form advanced by the prosecution—rather a theory of criminal guilt under the conspiracy charge. This becomes sufficiently clear by referring to the observations made by the prosecution on pages 3 and 4 of Part V of its Preliminary Trial Brief dealing with the common plan or conspiracy:

“The nature of this conspiracy is that these defendants over a period of years, planned and conspired among themselves and with other persons to carry on the activities described in Parts I, II, and III of this Brief * * *. These activities were not isolated acts of individual defendants. On the contrary, such activities were part of a plan and program which had its roots and took shape at meetings and conferences of the defendants over a period of years—in the Vorstand; in the Technical Committee; in the Commercial Committee; in other committees and agencies, of Farben; in the exchange of correspondence, memoranda and reports; and through less formal meetings of the minds of the defendants.”

These observations of the prosecution made in support of its conspiracy charge correspond in substance to those forming the basis of its general theory of responsibility advanced in Part VI of its Preliminary Trial Brief, which I quoted a few minutes ago.

Now as to the conspiracy charge regarding crimes against peace, it has been shown already that the evidence offered by the prosecution does not support this charge.

As to the crimes charged under counts two and three of the indictment, according to the ruling of this Tribunal, no conspiracy can be assumed from a legal point of view.

It follows therefrom that again the entire basis of the prosecution's theory of the responsibility of the defendants arising from the alleged criminal policy of the Farben Vorstand is upset as the conspiracy charge with reference to count one of the Indictment has not been proved, and a conspiracy charge as to counts two and three of the indictment legally does not exist.

Apart from these general viewpoints which clearly show the utter unsoundness of the prosecution's theory, the defense would respectfully invite now Your Honors to consider the following facts, in the light of which it will appear that the only legally sound approach to the general problem of responsibility is on the basis of dividing the responsibility among the different members of the Vorstand in accordance with the special tasks which were assigned to them; in other words, on the basis of the principle of decentralization which was adopted within the framework of Farben, and which has been repeatedly quoted in the course of this trial.

As I pointed out already in my opening statement for the defendant Haefliger, the actual facts of the position of a defendant and

the actual scope of his tasks alone count when assessing his criminal responsibility for activities which fell either within or outside the scope of the business of which he was in charge. It is the position of the defense that, as far as criminal law is concerned, only a conception of responsibility based on such facts can be considered a legally sound theory for assessing the guilt of a defendant. On the basis of the evidence introduced by the defense, these facts are the following:

I. G. Farben—the English translation of “I. G.” being “community of interests”—originated from a merger of several independent chemical firms of major importance. This merger came about with reluctance since the managing directors of the various firms were afraid of losing their independence and autonomy. These misgivings were taken into consideration when framing the organization of the new concern, I. G. Farben. The result was that on the one hand all the managing directors of the various firms were taken over as members of the Vorstand of the new concern, and on the other hand the principle of decentralization was adopted within the organization of the new concern in order to preserve, as much as possible under the circumstances, the former independence and autonomy of those managing directors who were in charge of the firms which were merged into I. G. Farben. This resulted in a far-reaching division of working fields and of responsibilities among the different Vorstand members, who in the special field of which they were in charge were not dependent on the consent and cooperation of the other Vorstand members, unless particularly important matters were concerned which went beyond the framework of the ordinary business conducted by them. Within these limitations, therefore, each Vorstand member was independent in his own working field, and the practice developed that no other Vorstand member ever interfered with his conduct of business. This practice was not only founded on the historic facts prior to the merger of IG, which I adduced a few moments ago, but was justified also by highly practical reasons and necessities which left no other choice, namely:

1. The gigantic and ever-growing scale of business conducted by IG, which is not contested even by the prosecution, and of which the evidence gives a vivid picture; as an example I may refer to the chart introduced by counsel of von Knieriem in his document book V on page 313, showing the annual turnover of IG, which increased from 1,029 millions RM in 1926 to 2,904 millions RM in 1942.

2. Hand in hand herewith, the ever-growing staff of IG, again I may refer to said chart showing an increase of the staff from 93,742 members in 1926 to 187,700 in 1942.

3. As contrasted herewith, the ever-decreasing number of the Vorstand members which, according to the just-mentioned chart, dropped

from 79 in 1926 to 35 members in 1932, and from then onwards gradually decreased to 23 members in 1942.

It follows therefrom, as can also be seen from the aforementioned chart, that the figures showing the turn-over and number of staff per capita of Vorstand members developed as set out below :

A turn-over of 13 mill. RM and a staff of 1,187 in 1926.

A turn-over of 25 mill. RM and a staff of 1,900 in 1932.

A turn-over of 39 mill. RM and a staff of 3,332 in 1936.

A turn-over of 126 mill. RM and a staff of 8,161 in 1942.

This would mean that the respective figures of annual turn-over and staff of I. G. Farben, per member of Vorstand, as compared with 1926, had doubled by 1932, trebled by 1936, and increased tenfold by 1942.

These figures permit but one indisputable conclusion : As the number of Vorstands members did not keep pace with the ever-growing turn-over and staff of I. G. Farben, but, on the contrary, gradually decreased, it was actually and definitely impossible for any Vorstand member, and certainly far beyond his working capacity, to attend to all matters of the conduct of business within this—as the prosecution styles it—giant concern. Therefore a distribution of working fields and a division of responsibilities among different Vorstand members simply had to take place. It was a cogent necessity. There was no other way. This necessity is furthermore underlined by the fact that, in view of the great variety of products manufactured and sold by IG, necessarily a high degree of specialization developed among the Vorstand members, since it was not possible to conduct the business of a specific field of production or sale without a highly specialized knowledge. It results therefrom that none of the various Vorstand members, not only for physical reasons arising from his working capacity, but also for lack of special knowledge, was in the position to judge properly the activities within a certain working field of other Vorstand members, and therefore had to confine himself to his own working field.

This dividing of working fields and responsibilities resulted as a matter of actual practice in a considerable autonomy of the different plant and sales combines of I. G. Farben. Within these combines a further specialization and division of responsibilities took place according to the different products of these combines, which resulted in the setting up of special—mostly technical—committees and subcommittees, in which all matters, before reaching the larger committees, such as the TEA, and in the last order, the Vorstand, were thoroughly dealt with. Even the plants themselves within the different plant or work combines had a certain autonomy, especially in questions of employment and treatment of laborers, for which the local leaders

of each plant were responsible under the (German) law concerning national labor hereinafter discussed.

All the facts which I just took the liberty to outline are confirmed by a considerable amount of evidence introduced by the defense. I may point out in this respect in particular the affidavits of the former Vorstand members, Dr. Jacoby (*Knieriem 37, Gen. Def. Ex. 171*) and Dr. Pistor (*Oster 16, Oster Def. Ex. 19*), who are not accused in this trial, and the affidavit of the defendant von Knieriem (*Knieriem 34, Gen. Def. Ex. 170*), as well as the testimony of various other defendants and witnesses on this subject.

It follows from the foregoing observation that within the framework of I. G. Farben there existed an individual responsibility of the different Vorstand members for the business of their special working fields, and that therefore the principle of decentralization had materialized to a substantial degree. This however was not only a matter of actual practice, but also in full keeping with the requirements, not only of the bylaws of IG but also of the relevant German law.

The bylaws of I. G. Farben of 1928, which significantly have not been offered in evidence by the prosecution, provided in article 1, paragraph 2:

“If certain tasks have been assigned to the members of the Vorstand—then they have to carry them out independently * * * and take full and sole responsibility.”

These bylaws, which have been offered in evidence as Document Knieriem 27, General Defense Exhibit 168, then go on to state that, as an exception from this principle of individual responsibility, the Vorstand members may not render independent decisions in general and important matters.

The bylaws of 1938, offered in evidence by the prosecution as Document NI-8934, Prosecution Exhibit 337, although not containing an explicit provision to this effect, nevertheless implicitly accept the principle of the individual responsibility of the Vorstand members, which, in the meantime (owing to the size of the enterprise), had become a matter of course. This follows from paragraphs 2 and 3 of the bylaws, providing:

“It is further the duty of every Vorstand member to call attention to matters, the knowledge of which is of importance to the other Vorstand members, especially as it may facilitate for the latter the over-all appraisal of the entire business.

“The various Vorstand members shall, as a rule, submit particularly important matters, which go beyond the framework of the ordinary business conducted, to the full Vorstand for decision.” *

* Document NI-8934, Prosecution Exhibit 337, reproduced earlier in subsection IV C, volume VII, this series.

These provisions as a matter of course, presuppose an individual responsibility of Vorstand members for matters which were not reported as particularly important to the full Vorstand.

The principle of decentralized responsibility, however, is not only in full keeping with the bylaws of I. G. Farben, but also with the provisions of the relevant German law.

Reference in this respect is made to the legal opinion of a well-known expert in this special field of law, Dr. Walter Schmidt, submitted as Document Knieriem 39, General Defense Exhibit 280. I. G. Farben being organized under the German law, there can be no question that the legal aspect of the responsibility of a Vorstand member must be derived from the German law as well, namely from the Stock Corporation Law of 30 January 1937, and as far as labor questions are concerned—from the law concerning national labor, of 20 January 1934. The prosecution has recognized this fact by offering in evidence extracts from both laws. I may refer to Document NI-10038 Prosecution Exhibit 389 and 1861-PS, Prosecution Exhibit 393.

The Stock Corporation Law expressly provides in Article 71, paragraph (2):

“In case the Vorstand consists of several members, only all Vorstand members jointly are entitled to make declarations and to sign for the corporation, unless the articles of incorporation stipulate otherwise. The Vorstand can authorize individual Vorstand members to transact certain business or certain kinds of business.”

Hereby the principle of decentralization and individual responsibility is acknowledged by the relevant law.

The same holds true with regard to labor questions under the law concerning national labor, which provides in Article 2:

“The leader of the plant makes the decisions for the employees and laborers in all matters concerning the enterprise, as far as they are regulated by this law. He is responsible for the well-being of the employees and laborers.”

And in Article 3:

“In the case of legal persons and personal groups the legal representatives will be the leaders of the enterprise.

“The entrepreneur, or in the case of legal persons or personal groups, the legal representatives, can appoint a person who participates in the management of the enterprise in a responsible capacity as their deputy. This must be done if they do not direct the plant themselves.”

Therefore, the German law of that time prescribed the appointment of a special local deputy plant leader, who was responsible for all

labor questions in case the legal representatives of a company did not direct the plant themselves.

This again is a legal confirmation of a policy which I. G. Farben had followed already before said law came into operation, namely the appointment of local plant leaders who were responsible for labor questions affecting their plant, especially for the employment and treatment of workers. Thus it is clear that the Vorstand of I. G. Farben as such under the relevant German law had no responsibility for labor questions concerning a particular plant, a fact which may be of importance under count three of the indictment if, contrary to the opinion of the defense, the commission of a crime in any of the Farben plants should be assumed.

We have thus ascertained that the principle of the individual responsibility of Farben Vorstand members, adopted as a matter of actual practice for the scope of their working field with the exception of particularly important matters, if and insofar they were reported to the full Vorstand, was in keeping both with the Farben bylaws and the relevant German laws. It is therefore indisputably clear, that within these limitations a Vorstand member alone bore the responsibility under the bylaws of IG as well as under the German civil law. His individual responsibility therefore precluded any joint responsibility of the other Vorstand members except in cases where other Vorstand members might have violated their duty of supervision, of which I shall treat later on.

It goes without saying that the same holds true with regard to the criminal responsibility of a Vorstand member for any such activity within the scope of his working field. For if the civil law recognizes the individual responsibility of a Vorstand member in preclusion of a joint responsibility of the others, then, as a matter of course, the situation cannot be different under criminal law on the basis of the above stated, generally recognized principle that criminal guilt is personal.

Bearing in mind what has been said about the principle of individual responsibility of each Vorstand member of Farben for his special working field, the prosecution therefore, in order to discharge its burden of proof, has to establish on the part of each individual defendant—and not, as they have done hitherto, in a more or less global manner—that he personally participated in a specific crime mentioned in the indictment, and that he had knowledge of all details enabling him to judge the criminal character of the activity involved, as required by the law of all civilized nations in order to establish a guilty mind on the part of a defendant.

In flat contradiction to these principles derived from the aforementioned facts, the prosecution in Part VI of its Preliminary Trial Brief argue on the basis of global and vague assumptions. It con-

tends that through the instrumentality of the various committees and subcommittees of IG, the entire Vorstand was well informed about all important matters. That is nothing but an assumption and no proof of participation or guilt. The defense has offered evidence on the fact that the reports in the Vorstand, in the TEA, were concise and did not go into details because all matters were thoroughly discussed and dealt with in the various subcommittees, and because the other Vorstand members relied on the special knowledge and expert opinion of the reporting Vorstand member. Reference is once more made to the afore-mentioned affidavits of the former Vorstand members Dr. Jacoby and Dr. Pistor, and of the defendant Dr. von Knieriem. The prosecution entirely disregards the purpose of such reports which, according to the bylaws of 1938, Article 2, amounted to the following:

“It is further the duty of every Vorstand member to call attention to matters, the knowledge of which is of importance to the other Vorstand members, especially as it may facilitate for the latter the over-all appraisal of the entire business.”

Therefore these reports were intended to show only such main points as were essential to convey a survey of the business situation as a whole. The Vorstand and such large committees as the TEA and the K. A. [Commercial Committee] were only interested to learn whether a transaction of major importance affected in any way the interests either of other Sparten or Sales Combines or of IG as a whole. Therefore details which had no bearing on such interests as a matter of course were not included in these reports, all the more as the meetings of the Vorstand and TEA and Commercial Committee took place only about every 2 months and were of a short duration with a long list of agenda to be dealt with; for mere reasons of time therefore there was no possibility to go into details.

This is one more typical instance showing that the prosecution in arguing its case, entirely disregard the actual facts and especially the situation at a meeting of the Vorstand of such a giant enterprise. Has the prosecution really introduced any evidence bearing out the contention that, to take an example, in submitting the credit applications for Auschwitz to the TEA or Vorstand, the reporting Vorstand member mentioned the employment or treatment of concentration camp inmates, so that the other Vorstand members therefrom were able to gather the impression that these camp inmates were either employed exclusively upon the initiative of IG for purposes outside the scope of government production orders, or ill-treated by IG personnel—if we assume for argument's sake that these allegations of the prosecution are true! Or to take another example, has the prosecution offered any evidence on the fact that a Vorstand member reporting to his colleagues on a specific transaction with foreign partners, which the prosecution styles as an act of spoliation, brought to the knowledge of

his colleagues such details of said transaction as to warrant the conclusion on their part that this transaction was in violation of any rules of the Hague Convention? It is the position of the defense that no such evidence has been offered by the prosecution.

The prosecution entirely disregards the fact that all the numerous minor committees and subcommittees of IG were set up for the very purpose of handling all the details of a certain production scheme or business transaction for which the Vorstand member being in charge of the particular working field was responsible in accordance with the afore-mentioned principle of decentralization, and that this Vorstand member therefore did not report, and was not bound by the bylaws to report said details to the full Vorstand or any major committee, such as the TEA or the Commercial Committee, which served only for the exchange of information on points of general interest affecting other Spartan or Sales Combines or the enterprise of IG as a whole.

Therefore, contrary to the opinion of the prosecution as expressed in Part VI of its Preliminary Trial Brief, all these committees and subcommittees of IG were not intended to supply the Vorstand with full information on any details of a production scheme or business transaction, but on the contrary to relieve the full Vorstand of the responsibility of looking after all those details.

In fact the prosecution on page 9 of Part VI of its Preliminary Trial Brief more or less admits this fact by stating:

“In the second place, it” (namely the fact that a defendant was a member of the Vorstand) “meant that he knew of any matter of any importance in the affairs of Farben, even though he may not have known (although he could have found out with the slightest investigation) *of many details* in connection with the administration of such matters.”

If, therefore, according to the prosecution's own statement, a defendant did not know of many details in connection with the administration of matters coming under the jurisdiction of another defendant, then he cannot be found guilty on a charge of such gravity as raised in this indictment, because the prosecution has failed to prove beyond reasonable doubt that he was familiar with all particulars enabling him to judge the criminal character of the activity involved.

Now the prosecution in the above-quoted passage, by using the words, “* * * although he could have found out with the slightest investigation * * *” touches on a problem which has been a subject of thorough discussions in legal literature and court judgments of all civilized countries, the problem of a crime committed by omission.

The criminal law of all civilized nations provides that a crime can either be committed by way of a positive activity or conduct, or by way

of omission, that is in contravention of a duty to act and thereby to prevent the criminal effect.

As to the crime committed by way of positive activity, there is nothing much to be said from a legal point of view. It only should be stressed once more with reference to the degrees of participation mentioned in Article II, paragraph 2, of Control Council Law No. 10—its applicability being left aside for the moment—that knowledge alone of the criminal activities of another defendant is not sufficient to convict a defendant on charges of this nature, but that apart from knowledge there must be established some sort of a positive conduct on his part. I may once more quote the following significant passage from the judgment of Military Tribunal II in Case No. 4 (U. S. *versus* Pohl *et al.*, vol. V, *this series p. 1002*), giving a clear interpretation of the aforementioned provisions of Control Council Law No. 10:

“The only consent claimed arises from imputed knowledge—nothing more. But the phrase ‘being connected with’ a crime means something more than having knowledge of it. It means something more than being in the same building or even being in the same organization with the principals or accessories. The International Military Tribunal recognized this fact when they placed definite limitations on criminality arising from membership in certain organizations. There is an element of positive conduct implicit in the word ‘consent.’ Certainly, as used in the ordinance, it means something more than ‘not dissenting.’”

As to the commission of a crime by way of omission, it is acknowledged in the criminal law of all countries, that, in order to convict a person under this aspect, there must be established on his part beyond reasonable doubt a duty to act, which has been violated by him. Said duty may be derived either from the law or from a contract or agreement or from an activity of the defendant prior to the commission of the crime.

I may refer in this respect to the legal opinion of the well-known German professor of criminal law at the University of Munich, Dr. Edmund Metzger, which has been introduced as Document Knieriem 40/41, General Defense Exhibits 281/282, and which deals with the legal prerequisites of the criminal responsibility of managing directors of a stock corporation.

I do not propose to touch here on the question discussed in said opinion, whether the activities of these defendants should be adjudged under the German penal law or under rules derived from the Continental law of Europe, or from a still broader system of international law. Though the defense maintains that the German law should be applicable for the reasons stated in the aforementioned opinion, this is of no decisive importance for the question to be discussed here, namely the prerequisites of a crime committed by way

of omission. For the fact that such crime presupposes a duty to act, which has been violated, is acknowledged by the criminal law of all civilized countries. Furthermore, it should be equally clear that the question, whether and to what extent a duty to act existed on the part of these defendants, can be answered exclusively by referring to the theories developed by German commercial law and court practice, that is, the system under which I. G. Farben was organized, and according to which, therefore, the duty of the defendants to act and intervene can alone be determined.

Such duty to act in the case of these defendants amounts to the duty to supervise the activities of another Vorstand member, if the latter, as was the practice in I. G. Farben, had been assigned a special working field for which he was responsible.

I may again refer to the legal opinion of Dr. Walter Schmidt (*Knieriem 39, Gen. Def. Ex. 280*), and to the affidavit of the defendant von Knieriem (*Knieriem 34, Gen. Def. Ex. 170*) in which the range of said duty, that is, the supervision of the activities of a Vorstand member by his colleagues, is thoroughly discussed. I may summarize these observations as follows:

If a Vorstand member, as already shown, was not directly responsible for the activities of his colleagues within the latter's special working fields, he nevertheless had the obligation not to leave the business sphere of the other Vorstand members altogether out of sight.

This, however, did not imply his duty to interfere with the conduct of business within the working fields of his colleagues.

Therefore the Vorstand members were not liable to supervise the activities of any one of their colleagues by keeping a constant check on these activities.

Such interference and constant check—as a matter of actual practice in I. G. Farben—neither occurred nor even was permitted. The reasons are obvious.

On the one hand, such a check, in view of the giant size of Farben's business and the comparatively small number of Vorstand members, would have been definitely beyond the physical working capacity of any one of the Vorstand members.

On the other hand, as already mentioned, the great variety of products manufactured and sold by Farben required a highly specialized knowledge, so that a Vorstand member who was not a specialist outside his own working field also for this reason was not in the position to check effectively on the activities of another Vorstand member.

Last but not least, it was the practice in Farben, in selecting leading personalities, particularly Vorstand members, to demand the highest standards in regard to character and professional qualifications, with the result that, until such time as he had actual proof to the contrary,

each Vorstand member was assured that his colleagues were absolutely equal to their tasks and that they would perform them correctly, in full keeping with the requirements of any law whatsoever and to the best of their ability.

The duty of supervision which did not, for the just-stated reasons, amount to a constant check on the activities of each Vorstand member, therefore was confined to a general line. The essential factor was that the attention of a Vorstand member with regard to the other members' activities was directed towards satisfying himself on whether or not a particular colleague was *generally* managing his affairs according to recognized practices and whether, *on the whole*, he was equal to his tasks or *fundamentally* failing in this respect—according to the well-established principle of “men, not measures”.

On the basis of these observations, which are in full keeping both with German commercial law and with the practice adopted in this respect in I. G. Farben, the duty of supervision of a Vorstand member did not imply the obligation to find out, *on his own initiative*, without any reasonable ground of suspicion, what another Vorstand member was doing in his particular domain or whether or not he had failed to submit some points to the full Vorstand under the rules of the by-laws.

Only in cases where some *reasonably reliable information* reached the ears of some Vorstand member or where he had reasonable grounds for suspicion that a colleague was not attending to the affairs of his special domain as he should, said Vorstand member had the duty to investigate the matter and to take the appropriate steps.

It follows therefrom that a duty to act and intervene, based on actual practice as well as on law, arose only in case a report by Vorstand member to one of the committees or to the full Vorstand gave some reasonable grounds for suspicion on the part of the other Vorstand members that the reporting colleague in general, or in a particular case, might not be living up to his tasks.

After having outlined the range and scope of the duty of supervision of the Vorstand members with regard to the activities of their colleagues under the aspect of the actual practice and the *civil* law, I may turn now to the conclusions to be drawn therefrom with regard to the *criminal* responsibility of Vorstand members violating this duty of supervision.

Translated into the language of criminal law, this duty would imply the obligation to act and intervene if a report by a Vorstand member to any of the committees or to the full Vorstand gave some reasonable grounds for suspicion on the part of another Vorstand member that his colleague was involved in some criminal and unlawful activity.

It follows therefrom that none of the defendants under the rules of criminal law was liable to investigate any activities of his colleagues as

to their lawfulness without reasonable grounds for suspicion deriving from a report of said colleague.

Therefore, in order to convict any of the defendants for a crime committed by way of omission, that is, by a violation of his duty of supervision, it must be established in the first place beyond reasonable doubt that this defendant, on account of the knowledge he had of a criminal activity of another defendant, had reasonable grounds for suspicion obliging him to investigate same and to intervene.

This, however, is not yet sufficient. As under the criminal law of all civilized countries the chain of causality must be proved, the prosecution furthermore is bound to establish that, in case the defendant had performed his duty of supervision and had intervened, the criminal effect, caused by the activity of his colleague, would have been avoided. This implied three important conclusions:

1. If the criminal effect had been already brought about before the defendant was given reasonable grounds for suspicion, he cannot be convicted.

2. The same holds true if his intervention would not have resulted in preventing the criminal effect because it would have been enforced by the Nazi authorities anyway.

3. The same holds true if the intervention of the defendant in view of his actual position in the Vorstand would have been without any result.

After having established a violation of a duty to act and intervene, that is, an omission, and an interdependency of this omission and the criminal effect, the prosecution, last but not least, has to prove a guilty mind on the part of the defendant with regard to said omission. And here we have a fundamental difference between the civil and the criminal law, at least as far as charges of this nature are concerned.

Whereas under civil law a simple negligence in discharging the duty of supervision would be sufficient grounds for an action for damages against such a defendant, on the charges pending before this Tribunal, a defendant can be convicted only if he had deliberately and wilfully violated said duty. Therefore a defendant cannot be convicted, if he either on account of negligence overlooked something which should have aroused his suspicion, or if he acted carelessly by not investigating the matter, because he negligently assumed that the criminal effect after all would not come about.

A deliberate and willful violation of the duty to act and intervene implies, therefore, that the defendant knew that the criminal effect would come about in case he—the defendant—did not intervene, or at least that the defendant considered the possibility of such effect—and that he approved thereof. Therefore in this connection a “closing of the eyes” or “turning away”—to use two phrases popular with

the prosecution—are relevant only if the defendant had realized at least the possibility of the criminal effect and of preventing it by his intervention; and if, furthermore, the indisputable conclusion may be drawn from his behavior that he had approved of said effect. Otherwise no deliberate and willful omission can be established.

All these prerequisites of a guilty mind on the part of an individual defendant must therefore be proved beyond reasonable doubt by the prosecution if any of the defendants are to be convicted on the ground of not having intervened in a case of a criminal activity of any other defendant; granting, of course, that such activity has been proved as well.

It is the position of the defense that the prosecution has not established any of the aforementioned prerequisites of a crime committed by way of omission with regard to any of the defendants.

A survey of this nature would not be complete without mentioning one important factor which restricts the responsibility of the defendants as Vorstand members both in the case of an alleged crime committed by positive activity or by omission. I am alluding to the plea of necessity which must also be considered one of the fundamental principles of the criminal law of all civilized nations and which excludes criminal intent on the part of a defendant.

The nature of the plea of necessity and the underlying principle of this defense, in my humble opinion, cannot be styled better and more precisely than in the following passages from Wharton's "Criminal Law", 12th Edition, volume I, chapter III, part VII, subdivision 126; and chapter XIII, subdivision 384:

"Necessity is a defense when it is shown that the act charged was done to avoid an evil both serious and irreparable; that there was no other adequate means of escape; and that the remedy was not disproportioned to the evil."

"Necessity forcing man to do an act justifies him, because no man can be guilty of a crime without the will and intent in his mind. When a man is absolutely, by natural necessity, forced, his will does not go along with the act."

Now it has been argued by the prosecution that, according to the provision of Article II, paragraph 4, subdivision (b), of Control Council Law No. 10, the fact that any person acted pursuant to the order of his government or of a superior does not free him from responsibility for a crime.

It is the position of the defense however, that the aforementioned provision, which only deals with the plea of superior orders, cannot eliminate the plea of necessity, which is a fundamental principle of the criminal law of all civilized nations. Again I may refer to War-

ton's "Criminal Law," which contains in volume I, chapter III, part VII, subdivision 126, the following significant statement:

"The law of cases of necessity is not likely to be well furnished with precise rules; necessity creates the law, it supersedes rules, and whatever is reasonable and just in such cases is likewise legal."

It follows therefrom, that necessity as a plea of defense makes inapplicable also the aforementioned provision of Control Council Law No. 10, and it is very significant in this respect that the Tribunal IV in Case No. 5 (U. S. *versus* Flick *et al.*) assumed the same viewpoint. I may quote from the judgment the following passage (Flick case, vol. VI, this series, p. 1200):

"In our opinion, it is not intended that these provisions are to be employed to deprive a defendant of the defense of necessity under such circumstances as obtained in this case * * *. This Tribunal might be reproached for wreaking vengeance rather than administering justice if it were to declare as unavailable to defendants the defense of necessity here urged in their behalf. This principle has had wide acceptance in American and English courts and is recognized elsewhere."

On the basis of the aforementioned observations the plea of necessity requires that a defendant acted under a "clear and present danger." It is the position of the defense that the peculiar circumstances under which all of the defendants lived in the former Reich after the Nazis came to power constitute by themselves such a "clear and present danger," and that therefore the defendants on the grounds of said peculiar circumstances may advance the plea of necessity in all cases where the defendants by omitting a specific activity or by interfering with the activity of some other person or group of persons would have been in clear opposition to measures or a program adopted by the Nazi authorities.

This particularly holds true with regard to the so-called Nazi slave labor program with all its consequences, but can just as well be set forth with regard to other activities covered by other counts of the indictment. Again I may refer in this respect to the judgment in the Flick case, because in my opinion the peculiar circumstances under which the German industrialists including these defendants lived at that time in Germany cannot be described more emphatically than in the following passage on pages 10,993 and 10,994 of the mimeographed transcript (pp. 1200 and 1201, vol. VI, this series):

"We have already discussed the Reich reign of terror. The defendants lived within the Reich. The Reich, through its hordes of enforcement officials and secret police, was always 'present,' ready to go into instant action and to mete out savage and imme-

diate punishment against anyone doing anything that could be construed as obstructing or hindering the carrying out of governmental regulations or decrees.”

After having covered to the best of my ability the field of the general theory of responsibility, I may now, for Your Honors' convenience, briefly summarize my observations as follows:

1. Under the rules of criminal law there is no collective responsibility. Criminal guilt can only be personal.

2. In the case of major German Stock Corporations which had several Vorstand members in their management, a dividing of working fields and responsibilities among the various Vorstand members was customary and admissible both according to actual practice and to law.

3. In I. G. Farben such a dividing up of working fields and responsibilities was carried through to a considerable degree, owing to the peculiar circumstances which I took the liberty to outline to Your Honors.

4. There existed no duty on the part of the defendants based on law or actual practice to check constantly without any reasonable ground on the activities of a colleague. In view of the fact, that it was the practice in I. G. Farben in selecting its executives, to demand the highest standards in regard to character and professional qualifications, each defendant could rely on the correct conduct of business by his colleagues. On the other hand, each defendant was preoccupied to the limit of his working capacity by the special tasks assigned to him, and therefore in the first place had to see to it that his own work was done in a proper and orderly way.

5. As far as reports and decisions in the full Vorstand or in the TEA or Commercial Committee are concerned, only those points which appeared in the report or were discussed were relevant for these defendants who were not familiar with the subject. Moreover, it had to be assumed that the experienced knowledge of the reporting Vorstand member and his familiarity with the issue concerned was superior to that of his colleagues.

6. The prosecution has not established that any of the defendants in any particular case had reasonable grounds, deriving either from the special circumstances of the case or from the personality of another Vorstand member, to consider objectionable any specific activities of said colleague which are now charged under one of the counts of this indictment, and to investigate these activities accordingly. Therefore, in no case a violation of the duty to supervise and intervene, and consequently no “closing of the eyes” or “turning away,” has been established by the prosecution.

7. The crimes covered by this indictment can be committed only deliberately and wilfully, and not out of negligence. Therefore a

“closing of the eyes” or “turning away” could be punishable only if the defendant had realized at least the possibility of a criminal effect and of preventing it by his intervention and if, furthermore, he had approved of said effect.

8. The defendants may advance the plea of necessity in all cases where, by omitting a specific activity or by interfering with such activity, they would have been in clear opposition to measures of the Nazi authorities.

9. It is therefore the position of the defense that even if—contrary to their opinion—certain activities of one or several defendants directly involved should be considered criminal, no criminal responsibility of the other defendants can be assumed in any such case on the basis of all the aforementioned observations.

This, Your Honors, brings me to the end of my closing statement covering the general subjects of the relevancy of the prosecution’s evidence under count one and five, and the general theory of responsibility.

I am afraid that I took up Your Honors’ time in indulging in rather extensive legal arguments. But I thought it proper and fitting to do so to the best of my ability, as in my humble opinion the incredibly vast amount of evidence which kept pouring in during these past months at times nearly engulfed certain simple and basic legal rules long ago conceived by men free from feelings of vengeance and dedicated to that noble cause which so frequently has been abused, for which so many gave the last full measure of devotion, and which alone may revive in us the hope that, after all, human dignity will not perish from the earth, and this harassed world of ours will see a rebirth of freedom—the cause of justice.

F. Closing Statement for the Prosecution*

BRIGADIER GENERAL TAYLOR: Mr. President and Members of the Tribunal!

I. INTRODUCTION

In summing up at the close of this trial, the prosecution finds the case in such a posture as precludes any necessity for an extensive rehearsal of the evidence or restatement of the law. The evidence has, we believe, been well and truly translated and reported—thanks to the care and precision of the many persons who have worked so hard to bring that about—and the record not only provides an accurate and clear foundation for the grave purpose of the Tribunal’s judgment, but will stand the close scrutiny of the many persons in years to come who will seek to test the Tribunal’s judgment against the record.

*Recorded in mimeographed transcript, 10 June 1943, page 1539.

Prosecution and defense alike have made their case and filed their briefs. We believe that all questions bearing on a just decision have been clearly raised and, with a few exceptions to which we will in due course call attention, the argument on these issues has been closely joined. If the length of this proceeding has aroused question in some quarters, surely in the long run it will be generally realized that patience has been the best insurance of the rights of those who stand accused. The Tribunal has dedicated itself to the conduct of the trial with manifest devotion to the task at hand. Certainly no one who has followed the proceedings, and has listened to the arguments of the past week, can doubt that the defendants have been most ably represented by counsel, or that they have been accorded the fullest opportunity to establish their innocence.

The proven facts in this case, we submit, present a compelling claim to a firm and meaningful judgment. The prosecution does not come before the Tribunal to pray for a declaratory judgment on naked questions of law. This is a criminal trial. And if the proven facts require findings of guilt—as we believe they do—the judgment must be meaningful. If that is a desirable quality in any criminal judgment, it is doubly necessary in this one. For in this courtroom many hopes and fears are met. The issues in this case travel far beyond the confines of Nuernberg, and the impact of their solution here will be felt thousands of miles away and for many years to come. In a very deep sense, Nuernberg is the world in microcosm.

My colleagues at the prosecution bench have devoted their energies unstintingly to the presentation and illumination of the evidence embodied in the record before the Tribunal. That record is now closed, and on this last day we can do little more than strive, by selection and analysis, to reduce this case to such proportions as will enable at least its salient features to strike the mind in conjunction.

II. THE FARBEN RECORD

Accordingly, we will begin by taking a look at the evidence in this case as a whole. Needless to say, the defendants are on trial as individuals, and it has been the prosecution's task to establish the personal guilt of each defendant as charged. But the common denominator of this case is I. G. Farben, A. G., and the record we have made here is the "Farben record." Later on we will have something to say about the individual responsibility of these defendants for what that record contains. For the moment, we propose to summarize for the Tribunal, and set in their proper perspective, certain of the major criminal activities which were carried on by I. G. Farben, through its officers and agents.

Of course we do not propose to burden the Tribunal at this time with a comprehensive narrative of the evidence. For that we rely on our

briefs and the full record that has been made here. Several narrower aspects of the case, such as count four of the indictment, we will also leave to our briefs. Rather it is our intention to touch on certain aspects of the Farben record which are vital to a true understanding of this case, and which may help to shed light on some of the observations made by defense counsel in their learned presentations during the past week. In developing these aspects of the Farben record, the actions of various individual defendants will naturally be mentioned, but our present purpose will be to illuminate the record of Farben as an institution, rather than to evaluate the guilt of any individual defendant.

A. Counts one and five

In approaching the Farben record under counts one and five of the indictment—that is, those counts which charge the planning, preparing, initiating or waging of aggressive war, and conspiracy to bring about any of the foregoing—we believe that much potential confusion will be avoided if a very simple and elementary principle of criminal liability is kept ever in the forefront of our minds. This principle is that criminal guilt always requires two elements—action and state of mind. Both are essential. The fact that a man thinks, desires, or concludes is not in itself criminal, no matter how vicious or depraved these thoughts, desires, and conclusions may be. Nor is an act, standing alone, to be judged criminal regardless of the concomitant state of mind or knowledge. All this is very elementary, but it is very important, and it has been obscured here in recent days.

Careful observance of these principles is particularly important in connection with the charges we are now examining. This court and others sitting at Nuernberg and elsewhere are being called upon to enforce the doctrine of international penal law—born centuries ago, accepted by all major nations after the First World War, and first judicially applied by the IMT—that the deliberate planning and waging of aggressive war is a crime. That is a doctrine of the most serious bearing to the world and every nation in it, and it has never been of graver import than it is at this very moment. In applying this doctrine to the facts disclosed in this and other contemporaneous cases, it is the high duty of this and other Tribunals to ensure that the doctrine is neither extended beyond the bounds of reason, justice and hard common sense, nor contracted into a fleshless legal stereotype of no real meaning in these restless times.

On this general theme, we will have more to say when we conclude. What we wish to suggest now is that the elementary legal principle which we have stressed is the best safeguard against killing off this doctrine either by dropsy or malnutrition.

One other general point may well be noted. Some crimes, such as murder or robbery, can be committed by one man alone. Others,

such as a combination to restrain and throttle commerce, or piracy, can as a practical matter be committed only by a group of men acting in concert. Upon a few occasions in this courtroom one might have feared that an effort was being made to persuade us that Adolf Hitler alone planned and waged aggressive warfare, but in serious discussion we assume that all of us here would agree that the crime against peace falls very definitely in the latter category. Indeed, in this respect it far transcends either of the other examples we have given; the scope and magnitude of the task of gearing and tooling a nation to launch a major war staggers the imagination. And it may truly be said, as the IMT pointed out,* that in a sense all productive enterprises and services aid in preparing for and waging war; a breakdown in the shoe industry, a failure of domestic communications, or any other breakdown in an important cog of national economy or morale may be a serious setback to a war program.

It is because the above matters are so fundamental to a wise and just application of the doctrine against aggressive war that the prosecution has stressed again and again the fundamental principles of criminal liability. It will profit no one here, least of all the prosecution, to urge the statement or application of the doctrine against aggressive warfare in such a manner as to sweep within its purview thousands of more or less ordinary men and women. But it will grievously aggravate the risks to which civilization stands exposed—grave as they are now—if this doctrine is withered at the roots by the exoneration of those who are truly guilty of this terrible crime.

The prosecution has endeavored to suggest how, in our view, these basic principles of criminal responsibility should be applied to the crime against peace and to the facts established in the Farben record. It would, we think, be presumptuous of us to attempt an ultimate, all-inclusive definition. It is one of the most magnificent attributes of common law that it is refined and perfected in application case by case. We have therefore attempted to state the elements safely and conservatively rather than to explore the outermost periphery of the concept. As to the requirement of "action," we have suggested that it is necessary to establish substantial participation in and responsibility for activities which are vital to building up the power of a country to wage war. As to "state of mind," it is our opinion that there must be a showing of knowledge that military power would be used to carry out a national policy of aggrandizement in order to deprive the peoples of other countries of land, property or freedom—in short, a policy of conquest.

When we speak of "knowledge," we mean knowledge based on information of such amount and kind as must have brought conviction to a man in the position and circumstances of the defendants. When we

**Trial of the Major War Criminals*, volume 1, page 330.

speak of "substantial participation and responsibility," we mean activity in a responsible capacity directly connected with marshaling the nation's resources for war. We submit that these standards are as precise as standards of general application in the law can ever be, and that they are conservative in their scope.

Has the evidence established guilt under such standards? We think that the evidence is fully adequate to establish guilt beyond a reasonable doubt, and in a few moments we will touch on certain features of the evidence. Before passing to these substantive illustrations, however, we note with some regret that prosecution and defense counsel have not directly locked horns on this matter. The most comprehensive statement on this score was made by Dr. von Metzler speaking on behalf of all the defendants.* It is an able piece of advocacy, but we think the Tribunal will see on further examination that it totally ignores and assumes the non-existence of the very substantial body of evidence showing state of mind, and that it dismisses as irrelevant the evidence establishing participation. The first defect we will endeavor to remedy by calling the Tribunal's attention, later in this statement, to certain portions of the evidence which, we believe, conclusively show that the defendants knew that the military machine which they helped build would be used to launch a German program of military conquest. The evidence relating to participation we will touch on briefly and immediately.

With Your Honors' permission, Mr. Dubois will continue the reading of the statement:

1. Participation

MR. DUBOIS: Participation.

Overwhelming and unanswerable the evidence of Farben's substantial participation in and responsibility for planning and waging aggressive war may be, but irrelevant it is not. Throughout Germany there must have been thousands of men who, on the basis of confidential information, personal contacts, or otherwise, became certain in their own minds that the leaders of the Third Reich intended to and were about to use Germany's revived military might to launch a war of conquest in Europe, and who knew, when the invasions and war came, that they were aggressive acts of conquest. No doubt many such men and women were engaged in the type of productive enterprises or services the cessation of which throughout the Third Reich would have hindered the planning or waging of war. But we cannot expect the laborer to lay down his tools, the farmer to unhitch his plow, the doctor to give up his practice, or the businessman to abandon his ordinary course of business, even though these individuals have

*Closing statement on behalf of all defendants by Dr. Von Metzler, reproduced in subsection E above.

concluded, on the basis of reliable and convincing information, that the political leaders of their country are about to launch an aggressive war, and even though these activities may be of a type essential to the national economy and therefore necessary to the war effort. Such participation in preparing for or in waging war is neither substantial enough nor responsible enough to justify imposing criminal guilt.

It is for this reason that the prosecution has been at pains to prove beyond any doubt whatsoever that Farben's participation in preparing for and waging war was both highly responsible, and extraordinary in its scope and volume. Farben expanded and transmuted its productive facilities in a sustained and phenomenal effort over a period of years to create and equip the Nazi war machine, participated in a major way in the economic mobilization of Germany for war, including substantial participation in the carrying out of the Four Year Plan, furthered the military potential of Germany vis-a-vis other countries by other means, such as the stockpiling of strategic war materials, retarding production in other countries, and propaganda, intelligence and espionage activities, supported the Nazi Party program financially and politically, and finally, as an integral part of waging wars of aggression and preparing for new wars of aggression, exploited the economic resources and the manpower of the occupied countries. The entire matter of substantial and responsible participation in preparing for and waging war has been comprehensively dealt with in our briefs, and we feel that we would be wasting the Court's time to say anything more about it at this late stage of the case.

2. State of Mind

In approaching the question whether the Farben defendants knew that the German war machine would be utilized to support a program of conquest, we should bear in mind the obvious fact that, while act and state of mind are distinct elements of the crime, they are not unrelated. It is impossible to look into a man's mind and prove by direct evidence what thoughts or conclusions are present there. In all criminal trials we are forced to infer the state of the defendant's mind by evidence, in a sense circumstantial, of what he did or thought or said, of what facts of common knowledge he must have been aware, and of what other information was available to him. Therefore, the extensive and calculated scope of Farben's activities in arming the Wehrmacht during the years leading up to the outbreak of war must be considered, along with all the other available evidence, in making a judicial determination as to whether the defendants knew the use to which the German military machine was to be put.

Still another point is worth considering. Dr. von Metzler devotes considerable space to an argument that evidence as to facts of common

knowledge throughout Germany—such as political events, speeches, the contents of “Mein Kampf,” et cetera—is insufficient to establish guilty knowledge of the intention to wage aggressive war.¹ Of course, no such contention has been made. But it by no means follows that matters of general knowledge are irrelevant in determining the state of mind of these defendants. A person’s ultimate conclusion, as to such a matter as the existence of an intention to wage aggressive war, is based on a number of facts and circumstances, some of which may be generally known, and others highly secret. The defendants might have drawn very different inferences concerning the significance of many matters had the Chancellor’s name been Stresemann or Bruening rather than Hitler, and had the government been known as the Weimar Republic rather than the Third Reich. We must not attempt to determine the state of mind of these defendants only by the special knowledge available to them, but by the whole sum of their knowledge and information, and by their own acts as well.

We shall now give a few examples of items in the Farben record which illuminate the state of mind or intent of the defendants in connection with commission of the acts directed to preparation for a German war of aggression. A convenient starting point is May 1936, when Krauch joined Goering’s Raw Materials and Foreign Exchange Staff. This is the period that von Schnitzler described as follows:

“After 1936 * * * the movement [referring to autarchy] took on an entirely military character and military reasons stood in the foreground. Hand in hand with this, the relations between Farben and Wehrmacht became more and more intimate and a continuous union between IG officials on the one side, and the Wehrmacht representatives on the other side, was a consequence of it.”²

Shortly after this, the defendant Schmitz, on 26 May 1936, attended a meeting of Goering’s staff of experts on raw materials and foreign exchange, and heard Goering state that rubber and gasoline was vitally important from the point of view of waging war, that the mechanized Army and Navy was dependent upon oil and gasoline, that the waging of war hinged on a solution of the oil problem, and that rubber was the weakest point in the military mobilization situation. We think it is more than coincidence that in April and May of 1936 Farben reached an agreement with the German authorities for the construction of the first buna plant at Schkopau.

The Four Year Plan was announced in September 1936, and 1 month later, on 17 October, Schmitz reported to the Ausichtsrat “on the great tasks which Farben has with regard to raw materials in the Four Year Plan as announced by the Fuehrer.” In 1937, the details

¹ *Ibid.*

² Document NI-5197, Prosecution Exhibit 18, not reproduced herein.

of Farben's tasks in the Four Year Plan were particularized. In May 1937, the "Bible" of the Four Year Plan was approved and the defendant Krauch personally attended to the details in the planning relating to the fields which were Farben's specialty, namely, expansion and production planning in the fields of mineral oil and synthetic gasoline, synthetic rubber, synthetic fibers, and preliminary products for powder, explosives, and chemical warfare agents.

Furthermore, it is clear beyond a doubt that the official positions, in the Four Year Plan and other Reich agencies, which were occupied by Krauch and other Farben officials, made available to the Farben directors much secret information on the progress of German rearmament. As Krauch himself put it in his testimony :

"It was a simple calculation from the figures of explosives to be delivered, to calculate how many bombs were to be dropped and how much artillery fire was to be expected."¹

Such information made it possible for Krauch to point out to Goering in June 1938 that the figures with respect to explosives production furnished to Goering by the Wehrmacht were incorrect, and to suggest the necessary readjustments.

One further factual illustration of "action" as it bears on "state of mind" will suffice. Gasoline and oil, as we have indicated, were perhaps the most critical items in the functioning of the German war machine, and the defendants knew that, in the event of war, the demands that would be made upon their synthetic gasoline facilities would be enormous. In April 1939, just after the annexation of Bohemia and Moravia had been accomplished by military threats, and while the invasion of Poland was being planned, the defendant Krauch prepared another report in which he stated :

"In other words, the economic area of Greater Germany is too small to satisfy the military economic requirements as to mineral oil, and the newly and successfully taken up contact with south-eastern Europe shows us the only and hopeful possibility to insure supplies for the mineral oils economy completely, for many years, by securing this area by means of the Wehrmacht."²

The above are nothing more than scattered samples from a wealth of evidence, more fully dealt with in our brief, which not only establishes the extent of Farben's participation in preparing for war, but is also relevant in determining the state of mind of the Farben directors. More direct evidence as to their state of mind is not lacking, as we will see in a few moments.

First, however, it appears necessary to clarify another point on which we believe Dr. von Metzler has shot wide of the mark. Much of

¹ Mimeographed transcript, page 5096.

² Document EC-282, Prosecution Exhibit 455, reproduced earlier in subsection VII G 5, volume VII, this series.

the evidence on this point he endeavors to brush aside by repeatedly stating that "the prosecution must prove * * * that each of the defendants was informed about *specific aggressive plans* of Hitler".¹ He appears to contend that it is not enough that the Farben directors knew that the German military power would be used to launch a program of conquest. To establish their guilt, according to this argument, the prosecution must also show that the defendants knew precisely what nation would be hit over the head first, and the exact time at which this was to occur.

According to this theory, a man who joins with and supports a group of gangsters in an undertaking to rob a series of banks cannot be held criminally responsible unless he knew which bank would be robbed first, and precisely what time the robbery was scheduled to occur. Without examining at this time the extent to which the evidence in this case would meet even such a test of criminal responsibility, we would like to emphasize that such a requirement is alien to all generally accepted principles of criminal responsibility and, with particular reference to the concept of crimes against peace, would make the concept meaningless and futile. The absurd results which would follow have already been pointed out in our answer to the defendants' motion to dismiss count one of the indictment. We must remind the Tribunal that the Nazi program of conquest was highly flexible and opportunistic. As the International Military Tribunal found:

"The truth of the situation was well stated by Paul Schmidt, official interpreter of the German Foreign Office, as follows:

"The general objectives of the Nazi leadership were apparent from the start, namely the domination of the European Continent, to be achieved first by the incorporation of all German speaking groups in the Reich, and secondly, by territorial expansion under the slogan 'Lebensraum.' The execution of these basic objectives, however, seemed to be characterized by improvisation. Each succeeding step was apparently carried out as each new situation arose, but all consistent with the ultimate objectives mentioned above."²

Thus, for example, the absorption of Austria was the first item in the German program of conquest, but the actual annexation was not timed in advance; it was precipitated by Schuschnigg's decision to hold a plebiscite on the question of Austrian independence. Hitler himself did not foresee or plan the actual time at which the Anschluss took place. After the conquest of Austria and Czecho-Slovakia, Hitler, in his own words—

¹ Closing statement on behalf of all defendants by Dr. von Metzler, reproduced above in subsection B.

² *Trial of Major War Criminals*, volume 1, pages 225 and 226.

“Wasn’t quite clear at that time whether I should start first in the East and then in the West or vice versa. * * * Under pressure it was decided that the East was to be attacked first.”¹

Similarly, the invasions of Norway, the Balkan countries, and the Soviet Union all developed from what Hitler and some of the military leaders conceived to be the strategic necessities of the developing war. The choice of objectives and the timing of these attacks were largely governed by considerations which had no immediate relevancy to long term economic preparation for conquest. Accordingly, to impose such a requirement as Dr. von Metzler suggests is completely unrealistic, and reduces the whole concept of the crime against peace to an academic shibboleth.

It is, no doubt, for this reason that Dr. von Metzler shies away from the analysis of specific documents or testimony showing the state of mind of the defendants, and prefers to examine “in a global manner”—whatever that may mean—certain general categories of evidence introduced by the prosecution. But the question of the defendants’ state of mind cannot be adequately dealt with in such cavalier fashion. Nor can it be disposed of merely by calling attention to the acquittals by the IMT of such men as Speer, Sauckel, Streicher, Fritsche, and the others mentioned by Dr. von Metzler.² During the period when these aggressive wars were being planned and launched, Speer was a government architect and functionary in the Labor Front; Fritsche, a junior official in the Propaganda Ministry; and Sauckel and Streicher were provincial political bosses. The participation of these and the other acquitted IMT defendants in the planning and initiating of the aggressive wars, and the extent of their knowledge, may be gathered from the IMT record and judgment, but it does not help us to ascertain what the Farben defendants did or knew. We earnestly suggest to the Tribunal that it will be far more profitable to examine the specific evidence in the Farben case. On this point, we rely chiefly on our brief, but it may be useful at this time, by way of illustration, to look at some of the specific evidence bearing on the state of mind of the defendant Haefliger, Dr. von Metzler’s own client—evidence which is studiously ignored in his closing speech for Haefliger.

The defendant Haefliger, as a member of the Farben Vorstand, occupied a position of power and influence in Farben, but he is not what one could call one of the outstanding or dominant figures among the nineteen Vorstand defendants. A little over 10 years ago, on 11 March 1938, Haefliger attended a meeting of the Commercial Committee of Farben, held the day before the Nazi invasion of Austria.

¹ *Ibid.*, page 189.

² Closing statement on behalf of all defendants by Dr. von Metzler.

A memorandum dictated by Haefliger 5 days later is most revealing in showing only part of what Haefliger knew at that time. He wrote:

“Let us call to mind for a moment the atmosphere in which this meeting took place. Already at 0930 the first alarming messages had reached us. Dr. Fischer returned excited from a telephone conversation and reported that the Gasolin had received instructions to supply all gas stations [Benzinstellen] in Bavaria and in other parts of Southern Germany towards the Czech border. A quarter of an hour later, there came a telephone call from Burg-hausen according to which quite a number of workers had already been called to arms, and the mobilization in Bavaria was in full swing. In the absence of official information, which was made known only in the evening, we were uncertain whether simultaneously with the march into Austria which to us was already an established fact there would not also take place the ‘short thrust’ into Czechoslovakia with all the international complications which would be kindled by it. The first thing I did was to ask at once for a connection with Paris to cancel my trip to Cannes (molybdenum negotiations). At the same time, I suggested to Mr. Meyer-Kuester, who was already in Paris and to whom I talked by telephone, to watch developments closely, and to depart too early rather than too late. Furthermore, I requested him to induce Mr. Mayer-Wegelin, who also had already arrived in Paris, to return the same evening.

“Under these circumstances, of course, the conference on M-matters took on highly significant features. We realized suddenly that—like a stroke of lightning from a clear sky—a matter which one had treated more or less theoretically could become deadly serious, and furthermore, it became clear to us that the preparations which we had made up to now for the Grueneburg had to be considered rather defective after all. As I had up to now not sworn an oath on the M-matter, I heard only later (after I had sworn such an oath on 12 March in the Reich Ministry of Economics) in greater detail about the steps we had taken, which of course I cannot discuss here in detail.”*

In the months following this meeting of 11 March, Haefliger, together with the other defendants, was engaged in consolidating the German position in Austria and in preparing not only for the execution of the short thrust into Czechoslovakia, but also to reap the spoils of that short thrust. At the end of March 1938, and during the first week of April 1938, Haefliger was in Vienna negotiating with various German authorities and representatives concerning Far-

*Document NI-14507, Prosecution Exhibit 2014 is reproduced earlier in subsection VII O 5, volume VII, this series.

ben's control of the chemical industry in Austria. At that time, Haefliger took advantage of the opportunity, pursuant to a cue from Hitler's economic adviser, Keppler, to sound him out on the attitude of the German authorities as to Farben influence on enterprises in the Sudetenland of Czechoslovakia. Immediately thereafter, on 9 April 1938, Haefliger and Ilgner's deputy, Krueger, submitted to Keppler the "New Order for the Greater Austrian Chemical Industry." On 19 April 1938, Haefliger, together with the defendants Kuehne and Ilgner, attended a special Farben meeting on Austria, at which detailed discussions were held concerning taking over the Austrian chemical industry. The Commercial Committee meeting of 22 April, attended by Haefliger, discussed the steps necessary to take over the Austrian chemical industry and Farben's relations with Aussig in connection with its interests in Czechoslovakia. It was agreed that the Sudeten German press would be called upon for greater measures of publicity.

Following this meeting held in April 1938, where Farben's interests in Aussig were discussed, a special Farben meeting on Czechoslovakia was held on 17 May 1938, the results of which were reported to the meeting of the Commercial Committee on 24 May 1938, attended by Haefliger. At the May 1938 meeting, Farben's Commercial Committee with Haefliger present, discussed the "employment of Sudeten Germans for the purpose of training them with the IG in order to build up reserves to be employed later in Czechoslovakia."

After Germany took over the Sudetenland, Haefliger played an especially active role in connection with taking over the two important plants located in the Sudetenland, which were owned by Czechoslovakia's largest chemical concern, the Prager-Verein. In November 1938, Haefliger and other representatives of Farben and von Heyden (the two concerns which took over the plants in the Sudetenland) decided that the objective of the Czechoslovakian firm Prager-Verein to reestablish an independent production of nitrogen of lime in the remaining part of Czechoslovakia was to be opposed by appropriate steps through the Economic Group Chemical Industry.*

In June 1939 the question whether Haefliger should retain his Swiss citizenship became a Farben problem. The defendant von der Heyde was asked to take up this question with the competent Reich authorities. A secret letter was written by von der Heyde and Krueger, on 11 August, to Lieutenant Colonel Huenermann of the Military Economics Staff of the German High Command. This letter reveals that the question of Haefliger's citizenship had been discussed by the Farben Vorstand in view of the approaching war, and that the Vorstand had decided that particularly in the event of war Haefliger would be in a better position to serve Germany as a Swiss citizen. After pointing out that Haefliger had completely identified himself as a loyal German,

*Document NI-142741, Prosecution Exhibit 1906, not reproduced herein.

that he had served Germany in the First World War as head of the War Acids Commission, and that he wanted to become a German citizen, von der Heyde states:

“However, against this personal intention (of Haefliger), the Vorstand of our firm asked him in view of the export interests of the Reich and our concern, and especially in view of possible war complications, to abstain from acquiring German citizenship. In regard to the question whether Director Haefliger should acquire German citizenship or remain of Swiss nationality as hitherto, the consideration that Mr. Haefliger with exclusively Swiss citizenship would be in a position, as an expert in the chemical field, to render Germany very good services, is, in our opinion, of great importance. Thus, the possibility is given on the one hand, to have an expert who is loyal to Germany, unobtrusively negotiate abroad questions regarding war.”*

If we look at merely this part of the record with respect to the activities and knowledge of Haefliger, we see that to him the invasion of Austria was an established fact some time before it began, and that he had known for a long time that the little country of Czechoslovakia was slated to be taken over when the time was ripe. Not only did he know of the plans to take over Czechoslovakia, by force, but he made advanced preparations so that Farben would have its plans and even its reserves ready at the appointed hour. What is it that the defendant Haefliger did not know, which is essential for a guilty state of mind with respect to invasions and aggressive wars? Is it the defense contention that, although Haefliger knew that Czechoslovakia was to be taken over, he was uncertain just when this would occur, and that therefore he did not have sufficient knowledge of the aims of Hitler? It is true that at the meeting of March 11 he states that those present were uncertain whether simultaneously with the march into Austria, which to them was already an established fact, there would not also take place the short thrust into Czechoslovakia. Is it the defense contention that it is not enough that the defendant Haefliger knew that Hitler planned to take over Czechoslovakia, but that he must also have known the exact day on which Hitler planned to do this? If this is the defense contention, it seems to the prosecution that it is quite untenable. Even Hitler and the military leaders, as we have already pointed out, constantly improvised and changed their plans to meet changing circumstances.

The military men, the diplomats and the businessmen all had their roles to perform. It is natural that the military men were more concerned with military strategy and time tables. It is also natural that

*Document NI-14661, Prosecution Exhibit 2015, reproduced earlier in subsection VII O 5, volume VII, this series.

the so-called businessmen or industrialists were not concerned with the time tables and precise military strategy. It is no more important that Haefliger may not have known the exact day when the short thrust into Czechoslovakia was to come about, than it is that Ribbentrop may not have known the extent to which the synthetic gasoline program would feed the German war machine, or that magnesium metal was available in sufficient quantities for gun carriage wheels.

If it be true then that knowledge of the exact day when a country is to be taken over is unimportant, what else does the defense contend the defendant Haefliger should have known in order to be held guilty under the standards applied by the International Military Tribunal? Perhaps the defense will contend that since no shot was fired in taking over Czechoslovakia, and since the defendant Haefliger did not know whether or not a shot would have to be fired, that therefore the defendant Haefliger did not have the required state of mind. That the IMT did not require knowledge that a shot would have to be fired is clear. In the first place, even Hitler did not have this kind of foresight. Furthermore, the IMT judgment itself specifically ruled on this question. For example, in discussing the defense of the defendant Raeder, the IMT says as follows:

“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 22 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.”¹

There is one other contention which had been raised by some of the defendants in this case which we would like to comment upon briefly. It has been argued that the defendants participated in the rearmament of Germany in the belief that it was for a defensive war, and they did not believe they were participating in preparations for an aggressive war. No substantial evidence has been introduced by the defense to support the contention that any of these defendants really believed that Germany was threatened with invasion from any other country. In fact all the evidence is to the contrary. Although the defendant Krauch said that Goering and Hitler had stressed the danger from the East in their speeches in December 1936,² at the same time, the defendant Krauch testified that the West Wall had been constructed for defensive purposes.³ When asked to explain why the West Wall was created for “defensive purposes,” and why

¹ Trial of the Major War Criminals, volume I, page 191.

² Mimeographed transcript, page 5137.

³ Mimeographed transcript, page 5114.

no comparable wall was erected in the East, the defendant Krauch spoke of the possibility of a two-front war.* Krauch thus revealed what he and the other defendants had in mind when they spoke in their testimony of a "defensive war." Apparently, the defendants take the position that if other countries came to the aid of nations attacked by Germany, then the ensuing war was a "defensive war" on the part of Germany. In the eyes of these defendants, any action which Germany took to ward off these "international complications" resulting from German aggression could be justified as a measure of self-defense. This is precisely what these defendants have indicated again and again is at the heart of their concept of what constitutes a "defensive" war as distinguished from an "aggressive" war.

In our preceding factual discussion we selected the defendant Haefliger as an example. Compelling as the evidence as to his knowledge that the Wehrmacht would be used for conquest appears to be, it is in no way exceptional as among the defendants. Surely as to a number of them—Krauch, Schmitz, von Schnitzler, ter Meer, and Ambros among others—an even larger body of evidence as to state of mind is available, as we have shown in our brief.

We will have some further observations in conclusion on several of the more abstract legal questions which have been raised concerning counts one and five. We will proceed at this time to a brief survey of the Farben record under the other counts of the indictment.

Mr. Newman will take over.

B. Count two

MR. NEWMAN: Count two.

In a general way, we may distinguish the crimes charged under counts one, two, and three as directed against peace, against property, and against persons, respectively. To some extent these crimes overlap, and what we have charged under counts two and three are part of the facts constituting the crime charged under count one. However, the acts charged under count two were committed primarily against property. Where there is property, there must be an owner. What spoliation involved for some individual owners we have shown in one outstanding case, by producing the testimony of Dr. Szpilfogel. But property is also the wherewithal by which a community sustains the life of its citizens, and our main purpose in showing the acts of spoliation committed by these defendants has been to emphasize the exploitation of the economies of the conquered countries and the plunder of their industries, rather than the harm done to the individual owners. Exploitation as carried through by these defendants took on every appearance, from open looting, as in the cases of dismantling the Wola, Debica, and Blyzin plants in Poland or the Sluis-

*Mimeographed transcript, pages 5446 and 5447.

kil plant in Holland, to the "most cunningly camouflaged financial penetration",* as in the case of the French majority participation in Norsk Hydro.

Ever since wars have raged among peoples, the occupier has been tempted to plunder the country of the occupied. That is why, in order to maintain civilization, the Law of Nations, long before the Hague Conventions, laid down some basic rules restricting the occupant. The Hague Conventions of 1907 codified these rules in the Articles annexed to the Convention, more particularly in Articles 42 to 56. We do not propose to repeat the many aspects under which the activities of these defendants amounted to criminal spoliation. In view of the defenses stressed by them in their final statements, we shall emphasize only two of the basic principles expressed in the Hague Convention. One principle is that belligerent occupation which, according to its very nature, is something transitory and impermanent, should not be used to create a lasting and permanent change, for instance in the conditions of ownership. Another basic principle is that the occupied country should not be compelled to support the war effort of its enemy and thus cooperate in bringing about its own final defeat.

How completely the temporary character of belligerent occupation was ignored by these defendants appears from each individual case of planned and accomplished spoliation throughout Europe. In the cases of the Polish Wola and Winnica plants, the defendants von Schnitzler, ter Meer, and others asked for, and received, a license to dismantle the plants and remove equipment to Farben plants in Germany. Buergin and Wurster made far-reaching suggestions for dismantling other Polish chemical factories. The equipment of the Polish Debica factory was brought to Farben's Leverkusen plant. In Soviet Russia, Farben, mainly represented by defendants ter Meer and Ambros, drafted "trustee" agreements for the Russian buna plants for a 3-year period. Long-term contracts, intended to remain in force after the expiration of the trusteeship agreements, and preemptive rights for Farben covering the entire plants, were also suggested. The Continental Oil Company, of which Krauch and Buetefisch were directors, planned the wholesale plunder of Russian oil, including the oil deposits, the plants and their equipment. In correspondence between defendant Haefliger and another Farben employee, the Russian light metal plants were discussed, and, "as among ourselves," it was stated that stripping would be preferred to trusteeship. In Alsace-Lorraine, Farben, under the leadership of Jaehne and Wurster, partly leased certain oxygen plants for a 4-year period, and partly acquired outright title. Krauch was engaged in dismantling the equipment of the Simon Pit in Lorraine and shipping the equipment to Germany.

*Words used in the "Inter-Allied Declaration Against Acts of Dispossession Committed in Territories Under Enemy Occupation or Control" of 5 January 1943 (NI-11378, Pros. Ex. 1057, not reproduced herein).

The owners of the principal dyestuff factories in France were dispossessed in favor of a corporation newly organized, styled Francolor, in which Farben, mainly represented by von Schnitzler, ter Meer, and Kugler, acquired a 51 percent interest. The Continental Oil Company, to the knowledge of its board members Krauch and Buetefisch, dismantled French plant equipment to the extent of 12 million reichsmarks, and shipped it to other countries. In the field of French photographic products, Farben had already stated, in its New Order program, that it would be desirable to prevent further development of the French industry with respect to products which could be supplied by German production facilities. Defendant Gajewski saw to it that this program was carried through. In Holland, the most important nitrogen plant (Sluiskil) was dismantled, and part of the equipment shipped to Farben plants outside of Holland. In Norway, the German Reich planned a light metal development for the German Air Force which now, after it went wrong, these defendants call "exaggerated," "crazy," and "unsound." At the time, however, defendant Krauch recommended Farben's large scale participation since the project might become the key factor in Farben's control of the Norwegian hydro electric power works. In all these cases, in Poland, Soviet Russia, France, Holland, and Norway, the defendants aimed at permanent domination, at permanent dispossession of the rightful owners, and at permanent and controlling participation in the key industries involved. They utterly ignored the fact that belligerent occupation is temporary in character, and that the rules of warfare forbid the exploitation of the economy of the occupied territory on a permanent basis for the war needs of the occupying power.

Even now, after the results of these policies and practices are manifest throughout Europe, Dr. Wahl in his "Brief on Fundamental Questions of Law" tells us that:

"There are three possibilities: Either the occupying power which has commandeered the factory wins the war, or it loses it, or the result is a deadlock. If it wins the war, it concludes the peace treaty on the basis of a capitulation and then legalizes its economic measures through the conclusion of peace. * * * or else it loses the war and the factory naturally returns to the possession of the occupied foreign country."*

In other words, the Hague Conventions are meaningless and may be fully disregarded. If the occupying power wins the war, nobody cares, since the peace treaty of the victorious power "legalizes its economic measures." If, however, the war is lost, nobody cares either, since then, "the factory naturally returns to the possession of the

*Brief on Fundamental Questions of Law, by Dr. Wahl, reproduced in subsection B above.

occupied foreign country." This is, of course, a plain invitation to the Tribunal to nullify outright the laws of war as embodied in the Hague Conventions. The invitation is put forward with sublime disregard for the terrible injury which such activities may have wreaked on the internal economy of the occupied area during the belligerent occupation, and that the plundered properties may have been damaged, stripped, or removed thousands of miles and cannot "naturally return to the possession of the occupied country" without divine intervention. Is not this invitation quite in line with views expressed by Farben's lawyer Mayer-Wegelin reviewing Farben's attitude at the time in question? Speaking of the acquisition by Farben of oxygen plants in Alsace-Lorraine, he wrote:

"We put aside our doubts as to whether such acquisition was justified since * * * they were outweighed by the interest of I.G. Farben * * * in excluding outsiders. In other words: In order to maintain our oxygen position, we reached the result that we should assume the risk of having to return the property."*

Another of the laws of war, as expressed in the Hague Conventions, is that occupied countries and their populations should not be obliged to take part in operations against their own country. This prescribed purpose of using, for the military needs of the conqueror, the economy of occupied countries, their plants, equipment, and labor, is everywhere manifest in the activities of the defendants. During the first days of the war, when suggesting Farben as "trustee" for the Polish chemical plants, von Schnitzler pointed to the value those plants would have for the German war effort. The Reich Ministry of Economics, when finally complying with von Schnitzler's request, appointed the Farben directors Schwab and Schoener as "trustees" of the Polish enterprises for the distinct purpose that the Polish plants should "be adapted to the requirements of the German war economy." Ambros, when sending defendant Krauch a list of Farben experts for use in occupied Soviet Russia, trusted "that with these preparations made, the assurance is given that the Russian buna industry can be placed into our service quickly." Defendant Ilgner, in his circular letter to the Farben Vorstand accompanying Farben's New Order program for Norway, pointed to "the resulting concentration on German requirements" which "gives the signal for a definite alteration in the structure of Norwegian economy and Norwegian foreign trade". After the dye-stuff factories in France had fallen to Farben, the joint plan of the Wehrmacht and Farben provided that "the entire personnel of the Francolor plants which amounts to 3,500 employees and workers, will be engaged in manufacturing for Germany."

*Document NI-8581, Prosecution Exhibit 1238, not reproduced herein.

The general defense theory with respect to the facts which we have charged under count two has been developed by Dr. Siemers in his closing statement on behalf of the defendant von Schnitzler, and by Dr. Berndt on behalf of defendant ter Meer. We do not intend to deal here with such statements as that the defense has "proved the faultless economic form of the agreements" with the French firms, or such general contentions as that this affair reflects "continuous negotiations on a purely economic basis." It seems to us that much of this talk is "window dressing" and really not presented for serious consideration. There comes a time in analyzing occurrences under the Third Reich when serious-minded people must not lend dignity to repeated fabrications which divert us from the basic issues.

By reference to a very few documents, we may pierce the "wishful thinking" which, in our view, characterizes the very cavalier treatment which the defense has given to the evidence on this subject, and particularly to the contemporaneous documents. When the defendant Buergin wrote to the defendant Wurster in November 1939, shortly after both of them had made their investigations of the chemical industrial situation in Poland on the heels of the Nazi invasion, Buergin well knew what was afoot. Buergin states that "for Germany the following will be of interest for different uses".¹ This document is merely a complement to the Wurster report on his Polish trip, which shows even more dramatically his state of mind with respect to what Germany was after in Poland.² On 8 November 1939, Buergin and Wurster made reports on "their general impressions, as well as, particularly, on the technical condition and the economic situation of the plants inspected." During the same meeting Buetefisch, Oster and Jaehne also reported on other fields of interest within Poland, namely nitrogen plants, oil fields, and oxygen works. Von Schnitzler described some of the specific plans already well under way with respect to the role Farben intended to play in occupied Poland.³ Can it be seriously suggested that these defendants did not want to take advantage of Germany's aggression in Poland in order to expand their interests? And can it be any more seriously contended that the entire Vorstand did not know what was afoot after these reports by numerous Vorstand members? Can it be seriously contended that if Farben's acts in Poland were criminal, the entire membership of the Vorstand does not bear a full share of guilt, regardless of how the specific planning and execution of the program was distributed among them?

What about the other statements made by Dr. Siemers with respect to spoliation in Poland? The case of Wola, in his eyes, is—

¹ Document NI-1150, Prosecution Exhibit 1967, not reproduced herein.

² Document NI-1149, Prosecution Exhibit 1134, reproduced in subsection VIII C 2 above.

³ Document NI-1510, Prosecution Exhibit 2120, *ibid.*

“uninteresting with respect to international law for the simple reason that I. G. Farben neither bought the Wola nor acquired any other rights to it. * * * The fact that commissioners were appointed as trustees by the German civilian administration is a matter for the government office but not for I. G. Farben”.

Such is his statement in the face of the contemporaneous documents showing that von Schnitzler had to overcome the resistance of the Reich Ministry of Economics before he could persuade the Ministry that Farben employees should be appointed commissioners of the Polish chemical enterprises, including Wola.¹ And such is his statement in the face of von Schnitzler's letter to the Ministry of Economics of 10 November 1939² where he “takes the liberty” to make certain suggestions, among them that a buffer company be organized by Farben which “would furthermore be entitled to remove from the Wola plant, which has also to be closed down, all installations still fit for use, in particular the brand-new betaoxynaphthoic acid plant * * *.”

Speaking of the Polish Boruta plant, Dr. Siemers states that the Main Trustee Office East “on its own initiative made the suggestion of selling” (the Polish Boruta plant) “to I. G. Farben.” Ter Meer's counsel Dr. Berndt even more adventurously states that:

“IG wanted to lease the factory, a thing which would not have represented a change in the ownership. * * * The Trustee Office rejected this and proposed to the IG a purchase of the Boruta. * * * There was nothing left to do than to consent to the purchase suggested by the government office.”

Can it really be unknown to counsel at this stage of the trial that, long before there was any connection with the Main Trustee Office East, namely on 10 November 1939, von Schnitzler had already suggested to the Reich Ministry of Economics that,

“* * * it may be in the interest of the Reich to place the plant again in private ownership. * * * It should therefore not seem unreasonable that in such an eventuality I. G. Farben should be given priority rights with respect to the purchase of the plants”?³

This is fully in line with Kugler's statement that, as early as in the middle of September 1939, Farben “already certainly entertained the idea of acquiring one or the other of the (Polish) plants”.⁴ But Dr. Berndt now tells the court that the evidence has shown “without any doubt that the IG did not, from the beginning, plan measures in order to incorporate or annex these factories to its concern.”

¹ Document NI-2969, Prosecution Exhibit 2003, not reproduced herein.

² Document NI-8380, Prosecution Exhibit 1141, reproduced in subsection VIII C 2 above.

³ *Ibid.*

⁴ Document NI-12389, Prosecution Exhibit 1629, not reproduced herein.

In the case of France as in the case of Poland, the entire Farben Vorstand participated in, or was fully advised of, the spoliation being pursued there. Von Schnitzler and the deceased Vorstand member Waibel sent all members of the Vorstand a copy of the file memo of the first meeting of the French and German representatives at the Wiesbaden conference.¹ Ter Meer and Kugler now state that they were shocked by Envoy Hemmen's performance.² But, at the end of the day when this meeting took place, von Schnitzler wrote to Schmitz to inform him that:

"Thanks to the very methodical and energetic chairmanship of Herr Minister Hemmen we were able to get down to business at once, and shall now hear tomorrow morning what the French dye-stuffs industry * * * think of our 'claim to leadership.'" ³

This thorough-going understanding of the strategy of pressure was likewise shown when Farben had succeeded in getting its basic demands from the French. Von Schnitzler wrote to Hemmen,

"This would never have been accomplished had not the Reich agencies in both Wiesbaden and Paris helped and advised us in so outstanding a way."⁴

Certainly the French were not misled by any outward friendliness which the Farben representatives now claim characterized the negotiations. The French minutes of the second meeting reflect a heated exchange between Duchemin and von Schnitzler in which Duchemin makes it plain that Farben's proposals amounted to a "dictate."⁵ And the French insistence on a preamble on the Francolor Agreement showing the circumstances of pressure also revealed their feelings. Even Farben's French lawyers were concerned about the matter.⁶

With respect to the oxygen plants in Alsace-Lorraine which Farben "purchased" from the Reich, Dr. Siemers states that "the French property had already been confiscated for a longer period, and taken over by the German Reich with property rights," and that, if this act violated the Hague Conventions, "I. G. Farben did not participate in this violation of international law or in this criminal act, especially since it had no connection of any nature whatsoever with custodians." This is wrong as a matter of law and incorrect as a matter of fact. From a legal aspect we can confine ourselves to quoting from the judgment of Tribunal II in Case No. 4, the Pohl case:

"Any participation of Frank's was *post facto* participation, and was confined entirely to the distribution of the property previously

¹ Document NI-15225, Prosecution Exhibit 2195, not reproduced herein.

² Mimeographed transcript pages 12816, 13043, and 13163.

³ Document NI-790, Prosecution Exhibit 2193, reproduced above in subsection VIII D 2.

⁴ Document NI-15227, Prosecution Exhibit 2196, *Ibid.*

⁵ Document NI-15240, Prosecution Exhibit 2194, *Ibid.*

⁶ Document NI-15219, Prosecution Exhibit 2149, *Ibid.*

seized by others. Unquestionably this makes him a participant in the criminal conversion of the chattels, * * *¹

But apart from the irrelevancy of the defense from the legal point of view, the facts are otherwise. It has been shown that the confiscation of the oxygen plant at Schiltigheim, Alsace, perpetrated by the Nazi government, and the acquisition of the confiscated plant by Farben, were virtually one and the same act.² The order by which the Nazi government confiscated the plant preceded the acquisition of the plant by Farben from the Reich by a few days, and was made part of the purchase contract between the German Reich and Farben.

The deliberate purposefulness with which the defendants carried on throughout the occupational period is scarcely in line with their present protestations of innocence and ignorance. When Farben wanted something, it could always contact the proper Nazi power. This is true whether we have Wurster contacting the notorious Gauleiter Buerckel "about the Lorraine oxygen plants,"³ or Haefliger sounding out Hitler's confidant, Keppler, with respect to Farben's chance of acquiring Austrian and Czech enterprises,⁴ or Mann and Kugler making their round trip to Michel and Kolb and Neef and Bard in order to get their support for starving the French industry into submission,⁵ or von Schnitzler writing to SS General Greifelt and Max Winkler about Farben's plans to adjust its operations in Poland in line with Nazi racial and expansionist policies.⁶ It would be most improbable that the government officials could have concealed, even if they had wanted to, the barbaric nature of German occupation policies from experts such as these defendants, who were continually contacting them, and who received the most revealing reports on the policies of occupational exploitation and their results. In connection with the Continental Oil Company, of which he was a board member, Bueteffisch received a report concerning the Galician petroleum industry. Speaking of the manpower supply, this report stated:⁷

"If the present situation is allowed to continue, the state of exhaustion and the rapidly increasing number of deaths will make it almost impossible to maintain production * * * the chief difficulty for the plant lies in the feeding of the personnel * * * a really catastrophic degree of mortality has been reached. If only for reasons concerning the efficiency of the mineral oil industry, it is essential for rations to be increased."

¹ United States v. Oswald Pohl *et al.*, volume V, this series, page 997.

² Document NI-8358, Prosecution Exhibit 1235; not reproduced herein; and Comment, Preliminary Memorandum Brief (Part II, No. 18), page 21.

³ Document NI-15105, Prosecution Exhibit 2119, not reproduced herein.

⁴ Document NI-3981, Prosecution Exhibit 1072, reproduced earlier in subsection VII N 2, volume VII, this series.

⁵ Document NI-6839, Prosecution Exhibit 1241, reproduced in subsection VIII D 2 above.

⁶ Documents NI-1197, NI-806, Prosecution Exhibits 1859, 1148, reproduced in subsection VIII C 2 above.

⁷ Document NI-14577, Prosecution Exhibit 1982, not reproduced herein.

The ruthlessness with which the economy of the occupied countries was adjusted to the German war potential could not be expressed more bluntly. Even when we get to those defendants whose special responsibilities for the Vorstand were more restricted in their nature, the evidence is clear enough. Let us take for example the defendant Oster whose special field was the sale of nitrogen. In January 1942 he received de Haas's report on Germany's over-all plans for plundering Soviet Russia by stripping her cities, and shipping the usable equipment to Germany. In July 1942 he told the defendant von Schnitzler that he would have to be excused from an important meeting of Farben leaders because he had to confer daily with the competent authorities concerning the distribution of approximately 60,000 tons of nitrogen which was to be brought to Germany from Western Europe.¹

The basic idea underlying German occupational policy throughout Europe was German superiority. To both the government authorities and Farben it seemed natural that the "supermen" were to dominate, and that other people must expect to bow. When, after the collapse of France, Mann and Kugler made their round trip to the German military authorities in order to "negotiate for the planning of peace," a Farben report on these discussions was circularized which quotes the "noteworthy" and "unequivocal" statement of the German Ministerial-director Michel that the "historic chance of adjusting French economy to German requirements through appropriate encroachment on the French economic system, must be utilized completely and to the full."² This principle was fundamental. Farben's own suggestions in its numerous "New Order" reports for European countries were governed by the same basic idea. That the economies of the victimized countries were to be subordinated to the interests of Germany on a permanent basis was a matter of course, and not even worthy of discussion. From the report of the Farben employee de Haas it appeared that Soviet Russia was to be plundered "ruthlessly."³ Mann saw to it that the report was transmitted to each member of the Farben Vorstand and the Commercial Committee. With this over-all purpose in mind, Ambros could report thereafter, concerning Russian buna, that the contract between Farben and the German Reich needed only to be signed, except for the question whether "the processes and experience found in Russia" should be utilized within the Greater German Reich *exclusively* through Farben, and at what evaluation, or whether the German Reich should be allowed to participate. As Ambros believed Farben, in view of their achievements in buna, could demand "exclusive rights."⁴

¹ Document NI-676, Prosecution Exhibit 2115, not reproduced herein.

² Document NI-6839, Prosecution Exhibit 1241, page 5, reproduced above in subsection VIII D 2.

³ Document NI-2996, Prosecution Exhibit 1175, reproduced above in subsection VIII E 2.

⁴ Document NI-6736, Prosecution Exhibit 1186, not reproduced herein.

How could it be otherwise? The defendant ter Meer was asked by his counsel whether he thought that the Francolor agreement would have been completed even if government agencies had not intervened in any way. Ter Meer answered in the affirmative, stating that the Francolor contract was by no means unusual. As an example he referred to Italian dyestuff plants which Farben owned together with the Italian firm Montecatini. The Italian Government itself, as ter Meer boasted, had instructed the Italian enterprises to this effect: "We'll permit you to take over this firm only if you get together with the people in the world who understand something about the dyestuffs business, and that is the Germans."* It was this spirit, which even now prevails among the defendants which made it so natural for them to cooperate wholeheartedly with the Third Reich government, and to take the initiative and display the most vigorous activity in economic pillage throughout Europe.

If Your Honors please, Mr. Van Street will continue.

(Recess)

C. Count three

Mr. VAN STREET. Count three.

We come now to that part of the case where the lawlessness bred by these aggressive wars reached its pinnacle. Having embarked upon a program of criminal aggression which plunged the world into war, the aggressors not only ravished the economic resources of the countries they criminally invaded, but also set about to exploit and use as tools of this aggressive war effort the human beings living in those countries. What this over-all program—of tearing 5,000,000 foreign laborers away from their homes and their families, deporting them to Germany, and forcing them to work as slaves for the German war machine—meant, not only from a humanitarian point of view, but also for the cold-blooded purpose of sapping the strength of all European countries, has been proved and judicially determined again and again. This program, perhaps more than any other embarked on by the German aggressor, did more to prostrate Europe than any other facet of World War II. In addition to making slaves of the civilian populations of occupied Europe, the aggressor used prisoners of war in its armament industry and industries directly related to the war effort. And finally, to top it all, is IG Auschwitz.

The participation of these defendants in these criminal activities is so well established that there seems no need for extended comment here. The over-all defense to all of this has been what is variously termed necessity, duress, and compulsion. Aside from the legal aspect of any such defense, which has been adequately covered in our briefs

*Mimeographed transcript, pages 13046 and 13047.

and in the judgment of the IMT and other Tribunals, we would like merely to cite a few examples showing why there is no factual basis whatsoever for any such defense. The evidence has shown that in every field—foreign laborers, prisoners of war (in the armament industry), or concentration camp inmates—Farben took the initiative in obtaining such persons for use as slaves in Farben factories.

Let us keep in mind this defense of duress as we read from a memorandum of Farben's Bitterfeld plant, written by the defendant Buergin in July 1943, and relating to the "allocation of labor":

"We have just determined on the basis of a telephone conversation with Herr Kauffmann that the prospects for the allocation of more labor look very bad. As a result of the July drive it will probably not be possible to allocate more than 100 men to the dyestuffs factory and the Bitterfeld plants via the 'red slip method.' Of these approximately $\frac{2}{3}$ would go to Bitterfeld. It is said that for July the Gebechem [Plenipotentiary General for Special Questions of Chemical Production] received only a total allocation to the extent of the requirements of the dyestuffs factory and the Bitterfeld plants. Therefore it will not be possible to get more than mentioned above out of the July drive.

"Regarding the August drive, nothing is known yet at present. If, however, in view of high priority manufactures, such as tanks, Navy and Air Force, the Gebechem is to get as little in August as in July, then we can only count on a quota which bears relation to our urgent requirements.

"Negotiations about covering the requirements of the N-plant have been carried on in the Air Ministry by Dr. Perschmann. Herr Kauffmann is unable to say whether this has also been done in respect to the requirements for our E-metal department.

"We suggest that the department heads determine what amounts we will not be able to produce if we get no, or only quite insufficient, allocations of labor, in order to be able to give the Gebechem reasons for the urgency of the allocations.

"In view of the fact that during the next months there will not be relief with regard to labor allocation, it is recommended that it be pointed out again in the next plant meeting that restraint should be used in authorizing leave."*

On this memorandum, the defendant Buergin wrote on the margin "French personnel going on leave have to furnish guarantors: Private agreement with slave traders?" In his testimony, Buergin explained that by "slave traders" he meant to refer to the French and Belgian firms who supplied the workers. His counsel then asked him

*Document NI-14557, Prosecution Exhibit 1965, reproduced above in subsection IX D.

whether the expression "slave traders" was used in a "more or less jocular form," and Buergin replied:

"To what extent that was actually customary, I cannot tell you today. At any rate if it is my job, as I know it was the * * * firm's job to get people and to send them to work, and if the people maintain that they did not come quite voluntarily, then in my way of expression, a joke like that could perhaps be understood."¹

We forbear to elaborate on the suggestion that the people who "did not come quite voluntarily" might have had some difficulty in understanding the expression "slave traders" as a "joke."

Let us again keep in mind the defense of duress with respect to the illegal employment of prisoners of war as we read the following letter written in October 1941, from Kirschner of Krauch's office to General Thomas, Chief of the Office of Military Economy and Armament in the High Command of the Wehrmacht:

"During my visit, Professor Krauch developed an idea concerning the employment of Russian POW's in the armament industry, for the further development—and especially the execution—of which he considers you, dear General, to be the right man."²

With further bearing on the defense of duress and compulsion in the use of concentration camp laborers, we point out that, amidst the wealth of evidence showing initiative, there is also in evidence a document establishing how the Goering order, which has been relied upon so much in this trial as forcing Farben to employ concentration camp inmates, actually came about. On 25 February 1941, Krauch wrote to Ambros concerning "Buna Plant Auschwitz", as follows:²

"At my request, the Reich Marshal issued special decrees a few days ago to the supreme Reich authorities concerned, in which he again particularly emphasized the urgency of the project, and is constantly devoting his particular attention to the progress of those tasks of military economic production which have been entrusted to your care. In these decrees, the Reich Marshal obligated the offices concerned to meet your requirement in skilled workers and laborers at once, even at the expense of other important building projects or plans which are essential to the war economy."³

Three years later, in January 1944, we find Krauch writing to Kehrl, the head of the raw materials office of Speer's Ministry, as follows:³

"May I be allowed to point out, however, that the efforts of my office in such matters as the procurement of foreign labor within the restrictions set on the initiative of the individual employer by the

¹ Mimeographed transcript, page 8471.

² Document EC-489, Prosecution Exhibit 473, reproduced above in subsection IX D.

³ Document NI-11938, Prosecution Exhibit 2199, Ibid.

Plenipotentiary General for the Provision of Manpower [allocation of labor], and the employment of certain classes of manpower (prisoners of war, inmates of concentration camps, prisoners, units of the Military Pioneer Corps, etc.), have had an effect upon the speed of progress of chemical production, and upon that production itself, which must not be underestimated. I consider that the initiative displayed by my staff in the procurement of labor, a virtue which has proved its worth in the past, must not be repressed in the future.”¹

It is, of course, clear that when Krauch, Farben’s principal representative in the Reich Government, spoke of his initiative in procuring slaves as having had an effect upon the speed of chemical production, he was really saying that he had done a good job for Farben as well as for the German war effort.

We will not discuss in detail here the evidence relating to the mistreatment of foreign workers, prisoners of war and concentration camp inmates, in individual Farben plants, except for a few brief remarks with respect to I. G. Auschwitz. The evidence concerning mistreatment in other Farben plants is developed at some length in our briefs. Before discussing I. G. Auschwitz, a few comments are in order with respect to Farben’s role in supplying the poison gas used to exterminate concentration camp inmates, and in supplying Farben products to be tested in criminal medical experiments.

Mr. Minskoff will continue.

1. Farben Gas for Mass Extermination

Mr. MINSKOFF: Farben gas for mass extermination.

In our brief, we have analyzed the evidence establishing the role which Farben played in supplying Cyclon-B gas to the SS for use in the extermination of enslaved persons in concentration camps throughout Europe. We believe that the evidence establishes the following facts beyond a reasonable doubt:²

a. Several million of human beings were exterminated in concentration camps by means of gassing with Cyclon-B gas;

b. The defendants participated in these crimes, through Farben and its subsidiary DEGESCH, by virtue of their activities in connection with manufacturing the Cyclon-B gas and supplying it to the SS;

c. The defendants knew that human beings in concentration camps were being exterminated by gassings; and

d. The defendants either knew that the Cyclon B gas which DEGESCH manufactured and supplied was being used to carry out this

¹ Document NI-7569, Prosecution Exhibit 477, reproduced above in subsection IX D.

² Prosecution Final Brief, Part IV, pages 76-91.

program of mass extermination, or they "deliberately closed their eyes to what was being done."

2. *Criminal Medical Experiments with Farben Products*

In our brief we have also analyzed the evidence establishing that the defendants Hoerlein, Lautenschlaeger, and Mann are responsible for criminal medical experiments upon human beings, without the subject's consent. In our judgment, the evidence has established beyond a reasonable doubt that concentration camp inmates were subjected, without their consent, to criminal medical experimentation resulting in bodily harm and death; that these experiments were conducted for the purpose of testing the efficacy of Farben products; and the defendants Hoerlein, Lautenschlaeger, and Mann took the initiative in suggesting that Farben products be so tested.

3. *IG Auschwitz*

The Farben record at Auschwitz has been clearly revealed during the course of this trial. We reiterate that the whole attitude of Farben at Auschwitz can best be described by a remark of Himmler: "What does it matter to us? Look away if it makes you sick." A letter written in July 1942 by a Farben employee at IG Auschwitz to a Farben director at Frankfurt indicates the type of thinking which permitted an I. G. Auschwitz in our civilized world:

"You can imagine that the population is not going to behave in a friendly or even correct manner towards the Reich Germans, especially towards us IG people. The only thing that keeps these filthy people from becoming rebellious is the fact that armed power (the concentration camp) is in the background. The evil glances which are occasionally cast at us are not punishable. Apart from these facts, however, we are quite happy here * * *

"With a staff of such a size, you can well imagine that the number of accommodation barracks is constantly increasing and that a large city of shacks has developed. In addition to that, there is the circumstance that some 1,000 foreign workers see to it that our food supply does not deteriorate. Thus we find Italians, Frenchmen, Croats, Belgians, Poles, and, as the 'closest collaborators,' the so-called criminal prisoners of all shades. That the Jewish race is playing a special part here, you can well imagine. The diet and treatment of this sort of people is in accordance with our aim. Evidently, an increase in weight is hardly ever recorded for them. That bullets start whizzing at the slightest attempt of a 'change of air' is also certain as well as the fact that many have already disappeared as a result of 'sunstroke'."*

*Document NI-838, Prosecution Exhibit 1497, not reproduced herein.

The evidence has shown the “special part” played by the Jewish race at IG Auschwitz.¹ We have seen how human beings were used as machine tools, and their treatment determined solely by their efficiency in Farben war production. And since the Auschwitz main camp, which Farben incidentally helped to construct and enlarge in various ways established by the evidence, was able continuously to supply Farben with a fresh flow of these human machine tools, Farben did not have to worry too much about keeping the supply it had in good shape—not even from the standpoint of efficiency in production.

The evidence has also shown, again and again, that the diet and treatment “of this sort of people” was indeed in accordance with Farben’s aims.² Farben gave them enough food to keep them alive and moving until new replacements came along. “Evidently an increase in weight was hardly ever recorded for them.” If beating them meant more work for the moment—then they were beaten; if threatening them with being sent to the gas chambers meant they might work a little harder for the time being—they were threatened; if occasionally dangling a little extra scrap of food before their mouths meant a little more work—Farben was willing occasionally to part with this scrap of food. This Tribunal has heard a defense witness describe the mob scene which followed his throwing an apple core out of a window where inmates were working.³ If occasionally offering a bonus, when fresh supplies from the main camp were delayed in coming, might mean a little more production, Farben would resort to offering a few marks as a bonus.⁴

And finally we have seen how the bullets started whizzing at the slightest effort at a “change of air” and that thousands upon thousands disappeared as a result of a “sunstroke.”⁵ For when these human machine tools broke down completely, on the spot, they were disposed of then and there. We have seen that Farben even erected a special mortuary to accommodate forty of them at any one time.⁶ When these human tools did not break down completely, but became so worn out that they were useless to Farben, they were sent back to the main camp at Auschwitz as scrap—to be disposed of with the rest of the human scrap in the gas chambers at Birkenau.⁷ Farben even supplied the gas which was used for this purpose.⁸ And the methanol necessary to burn the bodies came from Farben.⁹ And finally we have

¹ Prosecution’s Final Brief, Part IV, pages 6–75.

² Prosecution’s Final Brief, Part IV, pages 28–44.

³ Mimeographed transcript page 11417.

⁴ Prosecution’s Final Brief, Part IV, page 72.

⁵ Prosecution’s Final Brief, Part IV, pages 28–52.

⁶ Document NI-14514, Prosecution Exhibit 1993, reproduced above in subsection IX D.

⁷ Prosecution’s Final Brief, Part IV, pages 45–52.

⁸ Prosecution’s Final Brief, Part IV, pages 76–91.

⁹ Document NI-12384, Prosecution Exhibit 1517, not reproduced herein.

seen how Farben took its share of the meager clothing which had been used to protect these discarded tools.*

The above facts have been proven beyond any shadow of doubt by the evidence introduced in the case. The only defense possible to all of this is that the particular defendants were not responsible for these conditions. More particularly, it is emphasized that they did not know what was going on.

More human beings were put to death at Auschwitz than were killed in World War I—more than were killed in World War II, excluding the casualties on the Eastern Front. Literally millions of people were put to death in the very backyard of one of Farben's pet projects—a project in which Farben invested 600 million reichsmarks of its own money. Is it conceivable that while the whole outside world was denouncing, as one of the greatest of all crimes, the murder of these people outside the very gates of IG Auschwitz, that the Farben officials did not know what was happening to the human machine tools upon which their very project depended for operation?

Even if we should forget for a moment that Farben had an investment in Auschwitz, is it possible that these defendants, with their sources of intelligence, did not know what was happening? The defendant Mann testified that Farben had more than 1,000 agents in 75 countries of the world, and he and many other defendants travelled abroad many times during the war. Some of them have admitted that they heard "rumors." Von Schnitzler spoke of hearing that Farben gas was being used to kill people at Auschwitz, and said he was horrified, but that he reacted only by asking "Do other people know about it too?"

But when in addition to this world-wide knowledge of the blackest chapter in the history of mankind, we take account that Farben itself was at Auschwitz cooperating closely with the main camp, what do these defendants expect us to believe they thought was happening? Witness after witness, including defense witnesses, have testified that gassings were common knowledge at IG Auschwitz. From the beginning, IG Auschwitz helped the main camp to enlarge its facilities by using Farben's ability to get material, and also by using Krauch's position in the government. A number of defendants visited IG Auschwitz, including the main camp. In addition to supplying the poison gas and the methanol, Farben paid 100,000 reichsmarks each year to the SS. In return for all this, Farben was assured of a continuous supply of fresh inmates, and was relieved of unfit inmates. In the light of this close cooperation between Farben and the SS, referred to by the defendant Ambros as "our new friendship with the SS," it is utterly inconceivable that the responsible officials of Farben did not know what was happening there.

*Documents NI-4827, NO-1257, Prosecution Exhibit 1484, 1829, not reproduced herein.

With the Tribunal's permission, Mr. Sprecher will continue.

III. RESPONSIBILITY

Mr. SPRECHER: III. Responsibility.

Such is the Farben record which this trial has laid bare. We have seen Farben integrating itself with the Nazi tyranny, turning its technical genius to the furnishing of gasoline, rubber, explosives and other commodities vital to the reconstruction of the German war machine, and emerging in Hermann Goering's entourage at the highest level of economic planning and mobilization for war. We have seen Farben poised for the kill, and subsequently swollen by economic conquest in the helpless occupied countries. Faced with a shortage of workers, we have seen Farben turn to Goering and Himmler, and persuading these worthies to marshal the legions of concentration-camp inmates as tools of the Farben war machine. We have seen these wretched workers dying by the thousands, some on the Farben construction site, many more in the Auschwitz gas chambers after Farben had drained the vitality from their miserable bodies. Viewing the case as a whole, the charges in the indictment have been proved a hundred times over, and every day of evidence in this trial has served only to make the record longer, clearer, and more terribly damning.

This is the record of I. G. Farbenindustrie Aktiengesellschaft—a legal entity—but the record was made by individual men. For these crimes someone is responsible. Farben was not a robot; it did not run by itself. When we use the word "Farben" we do not mean only the plants and materials and other physical properties of the corporation, nor do we mean only the legal concepts which constitute a legal entity. We mean also the individual men and women who worked in the plants and handled the materials. And we mean those fewer men who gave orders to the employees and agents of Farben and who directed, guided and controlled this vast complex of men and materials.

"Guilt is personal" we have heard defense counsel say, over and over again, throughout this long trial. With this general proposition the prosecution is in full accord, and in determining where to impose individual criminal responsibility for the Farben record we must apply principles of criminal law which are accepted in the legal systems of civilized nations generally. The requisite degree of participation, knowledge and intent, to support and justify a finding of guilt, must be established. We do not seek here to incriminate and hold responsible for the Farben record all the shareholders who owned the corporation, nor all the employees and agents who furnished the human thought and energy that made Farben "run," nor even all those who had some share in the guidance and control of the concern.

A. The Vorstand

"Guilt is personal" to be sure, but it by no means follows that individual guilt for the Farben record is nowhere to be found. Reading the closing statements of defense counsel this week and last, one is gradually lulled into the fancy that Farben was controlled and directed by some inhuman, superhuman will, and that these men in the dock were merely the piano keys on which the unearthly master played. We must guard carefully against being thus wafted away from reality to the realm of the supernatural. The Farben record was written by men, and somewhere exists the guilt for the crimes in that record. Such guilt may indeed be attributable in part to persons not present in the dock, but it can profit these defendants nothing that we have charged too few rather than all, and it is far better that we punish too few rather than too many. We charge and believe we have proved that the major share of responsibility for the record as a whole must be assumed by the nineteen defendants who were members of the Farben directing body known as the Vorstand. For certain portions of the record, the four defendants who were not members must share responsibility, but for the moment let us concern ourselves with the nineteen of the Vorstand.

In approaching this question of Vorstand responsibility, two matters deserve to be stressed. The first is that, as abundantly appears from the record, Farben was a cohesive organization with coherent policies, and a well-disciplined organization for carrying out those policies. Far-flung and varied as were its properties and activities, it did not lack for central direction. It was caused to pursue this or that course of action just as, under the captain's control, a ship is made to sail in one direction or another. This does not mean that the captain himself stokes the fires or spins the wheel or shoots the sun. For that he has engineering and navigation officers and other lieutenants. But a ship is commanded from the bridge, and Farben was commanded by the Vorstand.

The defense has sedulously endeavored to obscure this simple fact. Thus Dr. von Metzler, speaking on this general subject, told the Tribunal that

"* * * the only legally sound approach to the general problem of responsibility is on the basis of dividing the responsibility among the different members of the Vorstand in accordance with the special tasks which were assigned to them, in other words, on the basis of the principle of decentralization which was adopted within the framework of Farben. * * *"

*Closing statement on behalf of all defendants by Dr. von Metzler, reproduced above in subsection XI E.

Thereafter Dr. Metzler proceeded to discuss at length the autonomy of each individual Vorstand member within his special field, the protean nature of the Farben complex, and in other ways endeavored to reinforce his contention that each of the defendants can only be held criminally responsible for activities within his special sphere of competence.

Now, of course, it is true that the Vorstand delegated wide authority to its individual members in their respective fields. And it is certainly true that this consideration may in some matters affect the degree of criminal guilt on the part of the individual defendants. We may well punish more severely the Vorstand member who initiated, directed, and immediately supervised the details of a particular criminal program than one whose connection with the crime was limited to his responsibility for over-all management of the enterprise. All this is familiar ground.

But autonomy below does not negate responsibility above. To revert to the analogy of the ship, Dr. von Metzler would have us believe that the chief engineer was free to turn the engines on or off at will, and that the navigation officer was free to set his course for India or Brazil as struck his fancy. Such a ship would not live long in a stormy sea, and would soon run aground in even the calmest weather. Farben's enterprises were diverse, but they were not unconnected. They needed, in fact, the highest degree of coordination, and the whole structure of committees and Sparten and combines was carefully conceived to ensure flexibility of operations and autonomy as to detail, *subject to* coordination and direction by the Vorstand. The Vorstand delegated freely to its individual members within the scope of its general policies, but it did not and could not relinquish or shift the responsibility for over-all management.

The second matter which we wish to stress is that the criminal law of all nations has long recognized responsibility for acts of omission as well as commission. Of course, a multitude of the items of criminal conduct charged in the indictment are acts of commission. If I recklessly drive my automobile at 80 miles an hour through the streets of Nuernberg, the driving itself is an act of commission, and I cannot defend on the ground that my failure to put on the brake was an act of omission. When Krauch, Ambros, and Bueteffisch took the initiative with Goering and Himmler to bring about the allocation of slave workers from Auschwitz to construct the buna and gasoline factory, that was not an act of omission but of commission. When other Vorstand members learned of the Auschwitz situation and continued over a long period of time to approve funds knowing the criminal nature of the project, their approval was an act of commission. And these examples could be multiplied a thousandfold. But we are not imputing vicarious criminal responsibility, nor are

we invoking any novel principle of law, when we hold the defendants criminally responsible for a failure to act where they were under a duty to act. Persons who assume and undertake to operate a machine or guide the destinies of an enterprise—be it an automobile or a ship or a corporation—are under a duty so to exercise their power of control and so to discharge their management responsibility that the enterprise under their guidance does not embark on a criminal course of conduct.

Of course, the responsibility of an individual Vorstand member for criminal acts committed under the immediate supervision of another Vorstand member is not unlimited. These limits, too, have been stressed by Dr. von Metzler,* but he has overstated them to the extent that the responsibility of the Vorstand for the over-all management of the corporation dwindles to the vanishing point. True it is that details of particular operations might be beyond the knowledge of particular Vorstand members, and that under ordinary circumstances the members of the Vorstand were entitled to rely upon each other for honest discharge of their responsibility. But the charges in this case are not concerned with ordinary circumstances nor with normal details of peacetime operations. Whatever one may say about the life that these defendants led under the Third Reich, it was not dull. The defendants themselves have stressed again and again the extraordinary and novel circumstances which confronted them beginning in 1933 and lasting right up to the end of the war in 1945. The birth of a new political system, the establishment of a fearsome dictatorship, the emergence of the "police state," the sudden and enormous rearmament, with all the commercial and technical problems and opportunities which this posed for Farben, the probability of war looming ever larger on the horizon, the program of conquest which Hitler had publicly charted years before, the absorption of new countries into the Reich and the spread of German dominion over most of the continent, the opportunity for commercial and industrial expansion opened up by conquest, the problems with respect to the allocation of men and materials which the war presented—all these and many more raised questions of the utmost gravity for solution by the Vorstand as the governing body of I. G. Farben.

Nor did problems of such scope fall within the exclusive preserve of any one Vorstand member; they overlapped and affected every important facet of Farben activities. It makes a complete mockery of the whole concept of management responsibility to suggest that, faced with such kaleidoscopic and challenging problems of fundamental interest to the Farben enterprise as a whole, the individual Vorstand member could adequately discharge his responsibility of

*Closing statement on behalf of all defendants by Dr. von Metzler, reproduced above in subsection XI E.

management by confining his attention entirely to his own particular plant or line of business, and by relegating to other Vorstand members the solution of these matters which cut across all lines and divisions within the enterprise, and raised questions of such momentous material and moral importance. It is absurd, we submit, to conclude that the individual Vorstand members could have behaved or did behave in such ostrich-like fashion; the course of events under the Third Reich must have aroused in every Vorstand member the most consuming and vigorous curiosity as to how these new developments were affecting aspects of the corporate activities other than those with which he was immediately concerned, how other Vorstand members were coping with these developments, and what over-all policies and conclusions should be arrived at for general application throughout the enterprise. To take but a single example, the shortage of labor in Germany brought about by the impact of war was not felt only in one Farben plant or Sparte, nor was it felt only in Farben. It was a matter of general concern throughout German industry. The use of foreign slave labor involuntarily brought to the Reich, and the use of concentration camp inmates, was a solution of the labor problem which was, to use the mildest possible term, decidedly novel in modern western civilization. Under the most conservative and restricted concept of management responsibility, this and similar matters were such as to call for the most careful and conscientious consideration by any man who undertook the responsibility of membership on the Vorstand.

On this whole question of responsibility, a word or two should perhaps be said about the type of law—national or international—which should govern. It is the prosecution's position that, in determining what position the Vorstand occupied in the structure of the corporation, and what its powers were, the Tribunal should look to the German law. But, once these circumstances have been ascertained by reference to the German law, the question of criminal responsibility of Vorstand members for crimes under international penal law should not be determined by exclusive reference to German law, or indeed the law of any one nation, but by principles common to civilized legal systems generally.

If we may submit a hypothetical illustration, let us assume that the German Reich has enacted a German statute establishing the Reich Ministry of the Interior, and prescribing the duties, functions, and scope of authority of the Minister. Let us assume further that the same statute prescribed that, because the Minister is a government official, he shall not be held criminally responsible for any acts committed by him in the exercise of his official authority. If the Reich Minister were subsequently charged with the commission of interna-

tional crimes in the course of exercising his official authority, this domestic exculpatory provision would, we submit, not be governing. A court trying the Minister on such charges would, to be sure, look to the German statute to determine what the actual authority and responsibility of the Minister was. But once it had determined under German law that the Minister was authorized and competent within the field of activity in which the alleged crimes occurred, and that he had in fact knowingly ordered the commission of such crimes in his capacity as Reich Minister, they would then hold him criminally responsible under general principles of criminal law common to civilized legal systems, and would not allow the German exculpatory clause, alien to any normal concept of criminal liability, to frustrate and subvert the enforcement of international penal law. Of course, we are not confronted with any such dilemma in this case, and the above illustration is given only in the hope that it may help to clarify the theoretical basis of responsibility under international penal law.

Indeed, the German law on the authority and responsibility of the Vorstand is more than clear enough for the purposes of this case. The basic German statute—the Law on Joint Stock Corporations of 30 January 1937¹—provides, under the heading “Management of the Joint Stock Corporation”, that

“The Vorstand has to manage the corporation on its own responsibility in such a way, as the welfare of the enterprise and its staff (Gefolgschaft) and the commonweal (der gemeine Nutzen) of nation and Reich require it.”

Subsequently, this same statute tells us that,

“In their management of the business the Vorstand members must exercise the care of an honest and conscientious business manager.”

Commenting on these provisions, in his treatise on the Law of Joint Stock Corporations, Dr. Schlegelberger, as Under Secretary of the Reich Ministry of Justice, writes:

“The basic duties of the Vorstand. The exclusive right of the Vorstand to manage the corporation establishes for it also the duty for management. The Vorstand, with the care of an honest and conscientious business manager, is to further the corporation to the best of its ability and to attend to the protection of its interests.”²

¹ Document NI-10037, Prosecution Exhibit 387, reproduced earlier in subsection IV E, volume VII, this series.

² *Commentary on the Law of Joint Stock Corporations*, by Schlegelberger and others, Berlin, 1939 (par. 84, subpar. 1).

The defendant ter Meer has given a description of the functioning in actual practice of the Farben Vorstand, from which the following is an extract :

“As the meetings of the KA and the TEA preceded the Vorstand meetings, most of the Vorstand members had been advised in advance of the more important matters which were to come before the Vorstand. This was specifically the case with technical matters because more than half of the Vorstand members were also members of the TEA and because I admitted ‘guests’ from the commercial side, when commercial people were interested in particular points. Furthermore, Schmitz and von Knieriem participated regularly, von Schnitzler often, in the TEA meetings. I recall of no case where the decision previously taken in the TEA was reversed or substantially amended by the Vorstand. However, with respect to general commercial matters and general economic questions, there were often different opinions in the Vorstand meetings, such as the attitude toward a particular foreign concern, participations in other companies, etc. But we never reached a state whereby an actual vote had to be taken, because after some discussion had occurred, the opinion of the majority of those present was found out, and the decision was thereby taken without a formal vote or resolution of any kind. When the majority opinion was clear, Dr. Brueggemann, secretary of the Vorstand, merely saw to it that a final remark was inserted in the minutes to show the stand I. G. Farben took.

“The Vorstand meetings usually lasted all morning, normally from about 10 a. m. to 2 p. m. If matters were not concluded within that time, the Vorstand meeting was extended into the late afternoon. Ordinarily the chairman of the Vorstand opened the meeting and made a report of 5 or 10 minutes for the Central Committee of which he was also chairman. This report came more and more to be concerned solely with personnel appointments, contributions, and such matters. Thereafter I gave the report for the TEA meeting, which lasted ordinarily for 20 to 30 minutes. Thereafter, Dr. von Schnitzler, chairman of the Commercial Committee, gave a report which usually lasted for 30 to 45 minutes. Then the other members of the Vorstand who had inserted specific topics in the agenda of the meeting were called on and usually gave relatively short reports. In exceptional cases the technical members addressed the Vorstand with a more complete review of specific fields, as for example new developments in pharmaceutical research and application, the interrelation of German and foreign oil concerns, etc. But the majority of reports came from the leaders of sales combines or dealt with questions of a commercial or economic aspect. Discussions took place after each topic of the agenda. It is my impression that the participation of the Vorstand members in discussing commercial

matters was broader than the discussion of purely technical matters. This so much more as the commercial topics were easier to be understood when discussed in the Vorstand than the technical matters, especially when they referred to difficult chemical matters.”¹

It thus appears that the Farben Vorstand in practice functioned in such a manner as to meet and discharge the responsibilities imposed upon it under the German law of corporations. In the Vorstand meetings, as well as in the meetings of the subordinate committees and other high level management groups, the individual Vorstand members were kept informed of major developments within the field of the corporation's activities. That the activities charged as criminal in the indictment and established by the evidence in this case fall clearly within the category of “major developments” we believe is beyond argument.

We have already touched on the general principles governing individual responsibility for criminal acts of a corporation which must flow from membership in the Vorstand. The responsibility of Vorstand members for criminal acts committed under the authority of the Vorstand has been repeatedly recognized by German courts, and we will content ourselves with making reference to only two decisions which seem especially in point. In a case which came before the Supreme Court of Germany—the Reichsgericht²—the members of the Vorstand of a mining corporation were indicted for offenses against a statute regulating the employment of minors. It was charged that a violation of the statute was committed by way of omission. The court rejected the defense those plant directors appointed by the Vorstand, rather than the Vorstand itself, were responsible for the management of the plant involved. In holding the Vorstand members criminally responsible, the Reichsgericht said that the representative of a legal entity:

“* * * by dint of his right and duty to represent the legal entity, must ensure that the law, particularly the statutes enacted in the public interest, are adhered to. He is as responsible as, in other cases, the physical entrepreneur, if he (the entrepreneur) does not fulfill his duties. He (the representative of legal entity) must be regarded under the law as the responsible party instead of the entity which is not tangible but on whose behalf and for whose account he engages in business.

“This, under the general principles of law, is a matter of course. So much so, that in order to establish the criminal responsibility of the representative of a legal entity in cases like this, there was no need for an express provision” [in the statute involved].

¹ Document NI-5184, Prosecution Exhibit 330, not reproduced herein.

² Reichsgericht in Criminal Cases. Official Report, volume 33, page 261 et seq. (1900).

This judgment is by no means exceptional. Other German courts have applied the principles laid down therein.¹ Indeed, the Supreme Court of Bavaria² went beyond this decision, and imposed criminal responsibility even upon Vorstand members who voted against the particular course of action which was held criminal:

“The Vorstand must either assume full responsibility for operating the legal entity, or if it does not want to assume such responsibility, it must resign * * *

“Even those members of the Vorstand who disagreed with the act or omission which constituted the violation of the penal code are just as liable as those who supported the act or omission and obtained either result by a majority vote. Only by resigning from the Vorstand can criminal responsibility effectively be averted. A member who cannot make up his mind to take such a step, by the mere fact of keeping his position accepts as his own the very decision he had opposed when it was taken.”

These decisions of high German courts are in line with general principles of criminal responsibility well known in other civilized legal systems. The legal concept of a corporation or joint stock company has served many useful purposes in the world of commerce. But it is not one of the purposes of that concept that men who assume the high responsibility of directing a powerful organization such as I. G. Farben can shield themselves, when called to account, by pleading ignorance of the most fundamental policies and activities of the corporation, or by tearing the mantle of responsibility into individual shreds. To tolerate such an abdication of responsibility will do nothing but awaken the grave mistrust of millions of people in all countries who deal with or work for corporations, and will work great harm to companies and industry and to the integrity of the international business community. We ask this Tribunal to hold the defendants of the Farben Vorstand to standards of responsibility for criminal acts of the corporation similar to those applied generally in civilized legal systems, and we are confident that under such standards their guilt has been established beyond a reasonable doubt.

Mr. Charmatz will continue with the reading concerning individual participation.

B. Individual Participation

MR. CHARMATZ: B. Individual Participation.

The question of individual responsibility as among these defendants for the crimes in the Farben record does not, of course, hang solely or

¹ Cited by Bavarian Supreme Court in Criminal Cases, Official Report (*Sammlung von Entscheidungen des Bayerischen Obersten Landesgerichts in Strafsachen*), volume 33, page 37.

² *Ibid.*

even primarily upon their membership in the Vorstand. The direct participation of each of them in ordering and directing criminal acts, through the instrumentality of Farben, through the holding of governmental office, or otherwise, has been proved by a wealth of evidence. We have summarized the evidence of direct participation by each defendant in our brief, and we will not retread all that ground at this time. But a few illustrations will, we believe, be useful. The defendant Kuehne, for example, may be taken as a representative member of the Vorstand. He was not its chairman, nor was he the head of any of the three Sparten nor of either the Technical or Commercial Committees. But he was a member of the Vorstand throughout the period under consideration, and he was in charge of the Works Combine Lower Rhine, which had its headquarters in Farben's third largest plant, at Leverkusen. From the voluminous documentation concerning his activities, we will mention a few examples.

As Kuehne testified, the Leverkusen plant, which was his special charge, was "one of the most versatile chemical plants in the world", including "the inorganic departments, were the many-sided intermediate products plants, the dyestuffs plants, the photographic department, the buna plant, and the various synthetic plants, the various scientific laboratories, the large engineering departments, individual pharmaceutical production plants, and finally one rayon plant".¹ Kuehne was also, as he put it, "responsible for the workers, the care for the workers, and the employment of laborers in Leverkusen".² The many-sided character of the production within his special jurisdiction necessarily brought him knowledge of many aspects of German rearmament.

Soon after Hitler had become Chancellor of Germany, Kuehne called 149 of his department heads together for a meeting at the Leverkusen plant on 21 April 1933. Kuehne opened the conference by expressing his pleasure at the advent of the new government, and asked the leaders of his firm to work in the spirit of the new government for the welfare of Germany and of the firm.³ Before the meeting had progressed very far, the so-called "first measures" of air raid precautions were discussed in considerable detail. A large number of documents show a surprising concentration of interest in air raid protection even during these first months of the Nazi rise to power.

During 1933 and 1934, Kuehne made certain that his plant was attuned to the ideology of the German Labor Front and other Nazi organizations. In July 1935, Kuehne "advised [his departmental heads] to enter the German Labor Front" and was proud to note that

¹ Mimeographed transcript page 10088.

² Mimeographed transcript page 10087.

³ Document NI-8461, Prosecution Exhibit 170, reproduced earlier in subsection VII J 2, volume VII, this series.

Hossfeld, whom he described as a Gauleiter, had noticed and praised the work of the Leverkusen plant.¹ We need no better witness to the close relation of this German Labor Front activity to the foundation of "a real military economic preparation for war" than General Thomas, who made this clear in so many words.²

Beginning in 1935, experimental work on buna was being rushed at Leverkusen under close coordination with the highest military authorities.³ It was made plain that the requirements of the Wehrmacht would be decisive in the buna program. Kuehne was present at the first conference on synthetic oil at Ludwigshafen in January 1935 when among other things, the formation of BRABAG was discussed, and Bueteffisch reported on the relation of Farben to the entire BRABAG enterprise.⁴ During the same year, numerous military leaders visited Leverkusen to check the progress of projects other than buna.⁵ The stockpiling of pyrites was intensified during 1935, with the defendant Kuehne playing a significant role.⁶ The TEA, of which Kuehne was a member throughout the period in question, approved credits for the construction of new magnesium plants and the stockpiling of magnesium. In September 1935, Kuehne and the other plant leaders of Farben were advised of the reasons for the establishment of the "Vermittlungsstelle W"⁷

During the year 1936, Krauch began to spend most of his time in Berlin as a key figure in several of the government economic mobilization staffs, principally those headed by Hermann Goering. A letter from Kuehne to Krauch in April 1937 indicated that Kuehne made recommendations for staffing the Krauch office in a manner helpful to Farben.⁸ Beginning in 1937, Kuehne was asked by Vermittlungsstelle W to designate which departments of the Leverkusen plant would operate on a full time basis in the event of war, and which would have to be put on a part time basis or shut down.⁹ During the same year, Kuehne was personally directing the appointment of confidential agents for military economic matters in Leverkusen, and the manner in which supply agreements and agreements with sub-contractors would be handled where the Wehrmacht was involved.¹⁰

¹ Document NI-7245, Prosecution Exhibit 2065, reproduced earlier in subsection VII C 4, volume VII, this series.

² Document EC-14, Prosecution Exhibit 1613, not reproduced herein.

³ Document NI-4713, Prosecution Exhibit 546, reproduced earlier in subsection VII B 2, volume VII, this series.

⁴ Document NI-7769, Prosecution Exhibit 518, not reproduced herein.

⁵ Document NI-7381, Prosecution Exhibit 650, not reproduced herein.

⁶ Document NI-8843, Prosecution Exhibit 749, reproduced earlier in subsection VII I 2, volume VII, this series.

⁷ Document NI-4627, Prosecution Exhibit 139, *Ibid.*, subsection VII H 2.

⁸ Document NI-15015, Prosecution Exhibit 2070, *Ibid.*, subsection VII G 5.

⁹ Document NI-4628, Prosecution Exhibit 186, not reproduced herein.

¹⁰ Document NI-15004, Prosecution Exhibit 2069, not reproduced herein.

By the end of 1937, experiments on Tabun (poison gas) were already being conducted at Leverkusen.¹

In August 1938, Kuehne published an article in a German magazine in which he stated:

“The conception of achieving military preparedness is closely allied with the motorization of Germany, although the latter is also being carried out for other reasons * * *. The carrying out of the motorization program is closely connected with the safeguarding of German oil and motor fuel supplies.”²

From this quotation it is clear that the Four Year Plan did not appear to Kuehne as being primarily an economic recovery measure. The following month Dr. Struss, a Farben official associated with the Technical Committee, addressed a letter to numerous Vorstand members, including Kuehne, dealing with transportation and delivery problems which might arise in the event of mobilization. This directive was based upon the express assumption “that deliveries cannot be made to Czechoslovakia, Russia, France, England, or overseas countries”³ This was written just 10 days before the Munich agreement, and reveals Farben preparing for the contingency of war in case Hitler’s aggressive threats against Czechoslovakia proved ineffective, and a “shooting war” resulted. At this same time, Kuehne was informed that the Central Committee of Farben had placed 100,000 reichsmarks at the disposal of the German Sudetenland Free Corps.⁴

Kuehne played a particularly important role in extending Farben’s interest into Austria, and in adjusting the Austrian economy in harmony with the purposes of the Four Year Plan and German rearmament. Just a few days before the invasion of Austria, the Farben Chemicals Committee, of which Kuehne was Chairman,⁵ was endeavoring to increase its influence upon the Skoda-Wetzler firm, and less than a month later, the Chemicals Committee was planning negotiations to procure a 70 percent controlling interest in Skoda-Wetzler. When Farben’s objectives in Austria had been achieved, Kuehne became general director and chairman of the Vorstand of one of the principal new firms established at that time, Donau Chemie. The Jews were removed from management of the Austrian firms within a few months, and Kuehne approved settlement of “non-Aryan” claims “for not more than 60 percent of the amounts to which they

¹ Document NI-9770, Prosecution Exhibit 653, not reproduced herein.

² Document NI-15013, Prosecution Exhibit 2072, reproduced in subsection VII F 2, volume VII this series; also see mimeographed transcript, pages 10247 and 10248.

³ Document NI-7213, Prosecution Exhibit 233, not reproduced herein.

⁴ Document NI-1318, Prosecution Exhibit 834, reproduced in subsection VII 4, volume VII, this series; and 388-PS, Prosecution Exhibit 1041, not reproduced herein.

⁵ Defendant Kuehne was a member only of the Farben Chemicals Committee.

have a legal claim".¹ After the problems of ownership and control had been disposed of, Kuehne immediately turned to the establishment of a mobilization calendar for Donau Chemie. In March 1939, one of Kuehne's subordinates informed Vermittlungsstelle W that "Dr. Kuehne agrees that you include the plants of Donau Chemie, A. G. into the general mobilization plans."² Two months later, the same subordinate of Kuehne was writing that the preparations for mobilization "can be completed without difficulty before the deadline expires."³ Thus, between the time of the conquest of Czechoslovakia and the attack on Poland, Kuehne saw to it that the newly acquired Austrian plants were absorbed completely into Farben's general pattern of mobilization for war. Indeed, on the very day that Bohemia and Moravia were invaded (15 March 1939), Kuehne's "mobilization deputy" for Leverkusen attended a conference on mobilization which ran the gamut of all problems incident to the outbreak of war: Production, manpower supply, transportation, security questions, mobilization orders, changes in shifts and employment of women in case of mobilization, air-raid precautions, etc.⁴

In October 1941, after the war was well under way, Kuehne conferred with Funk, the Reich Minister of Economics, and subsequently advised Schmitz that Funk was fully aware of Farben's vital role in the war. He quoted Funk as saying that:⁵ "Naturally, coal, iron, guns, and procurement of materials were necessary for waging war, and the importance of these industries must not be underestimated. However, one thing we must establish, namely, that without the German IG, and its achievements, it would not have been possible to wage this war." Kuehne, in his own words, "was overjoyed" and thanked Herr Funk "in the name of the whole IG".

Mrs. Kaufman will continue.

MRS. KAUFMAN: From 1938 to 1944, Kuehne was chairman of Farben's Southeast Europe Committee. In October 1938, together with other Farben leaders, he made plans for taking over the Aussig-Falkenau plants in Czechoslovakia. In later years, after the German Armies overran the Balkans, he became chairman or a director of a number of enterprises in southeastern Europe.

But his connection with Farben's exploitation of the German-occupied countries was by no means confined to the Balkans. He attended numerous meetings of the Vorstand, the Technical Committee, and the Commercial Committee when Farben's plans and activities in all the occupied countries were discussed and approved. He attended,

¹ Document NI-9627, Prosecution Exhibit 1101, not reproduced herein.

² Document NI-14750, Prosecution Exhibit 2073, reproduced earlier in subsection VII H 2, volume VII, this series.

³ Document NI-14747, Prosecution Exhibit 2074, *ibid.*, subsection VII O 5.

⁴ Document NI-7215, Prosecution Exhibit 239, *ibid.*, subsection VII H 2.

⁵ Document NI-15027, Prosecution Exhibit 2064, *ibid.*, subsection C 4.

for example, the important meeting of the Vorstand on 8 November 1939 when Wurster and Buergin reported on their tour of investigation in conquered Poland. He attended the meeting of the Commercial Committee in November 1940, when von Schnitzler reported on negotiations to acquire control of the French dyestuffs industry, and received a copy of von Schnitzler's report on the meeting at Wiesbaden with the French owners. He attended the Technical Committee meeting a month later when ter Meer reported:¹ "An agreement has been reached with the French dyestuffs group whereby we are assured of a decisive influence on French dyestuffs production." He was present at the Vorstand meeting in July 1941 when von Schnitzler reported the successful conclusion of negotiations with respect to Francolor, and at the meeting of December 1940 when Mann revealed the proposed license agreement with Rhône Poulenc. Kuehne's deputy, Dr. Warnecke, was present at a meeting in April 1940 when Meyer-Kuester reported that "the Norwegian economy will be mobilized to work for us," and Kuehne himself attended a Vorstand meeting in February 1941 at which there was a "detailed discussion" on the entire Norsk Hydro project, and at which "it was emphasized that IG has considerable interest in gaining a firm footing in Norway." Kuehne received a copy of the de Haas report on Germany's economic policies for Russia by which he became informed of the plans to strip industrial cities, and that "bigger firms like Farben" would not be excluded from participation in "reconstructing" the East.

As head of the Works Combine Lower Rhine and plant leader of the Leverkusen plant, Kuehne was thoroughly informed about the problems of labor supply and labor procurement, and of its solution by the use of foreign slave labor. He was a member of the Plant Leaders Conference, under the direction of Schneider, at which everything from sick reports to disciplinary measures concerning foreign workers was discussed.² He was present at the Employees Advisory Council meeting of 11 March 1941, at which it was stated:

"There is unanimous agreement that, in spite of many difficulties and in spite of the average inadequacy of the work obtained from foreign and compulsory labor, it will not be possible to dispense with them in the future either. Satisfaction is expressed generally that cooperation with the authorities and the German Labor Front in this sphere is favorable."³

A report of July 1943 shows the Leverkusen plant informing the labor authorities that if the plant itself had not taken the initiative in procuring foreign labor, the failure of other agencies would have caused

¹ Document NI-4859, Prosecution Exhibit 345, not reproduced herein.

² Document NI-6095, Prosecution Exhibit 394, not reproduced herein.

³ Document NI-7107, Prosecution Exhibit 1350, reproduced in subsection IX D above.

an embarrassing situation.¹ As late as August 1944, Leverkusen was still requesting the assignment of eastern workers.² In December 1941 a Leverkusen circular noted that no social contact was permitted with the Polish workers, and described certain arrangements for segregating the Poles as much as practicable.³ Leverkusen did not take advantage of official regulations authorizing leave for Poles because it was assumed that the Poles would not return to work.⁴ The Leverkusen plant received foreign workers through the Wannet and Francois recruiting firm in Belgium, a firm of the type that the defendant Buergin referred to as "slave traders." In January 1942, Kuehne reported the importance of increasing the number of foreign workers and of retaining those already present in Leverkusen. In May 1943, it was reported in the Technical Management meeting at Leverkusen that female eastern workers should be withdrawn from easy jobs to replace men on more difficult jobs.⁵ Kuehne was almost always present at the meetings of the Technical Directors of the Leverkusen plant when labor matters were thoroughly aired.

During the early part of 1941, Kuehne heard the reports on the proposed Auschwitz project both in the Technical Committee and in the Vorstand.⁶ He joined with his Vorstand colleagues in the decision that IG Auschwitz was to be financed by millions of marks of Farben's own funds rather than by the government.⁷ All together, the appropriation for Auschwitz by the Technical Committee, and ultimately the Vorstand, amounted to some six hundred million reichsmarks. Kuehne was present in the Technical Committee and later in the Vorstand meeting when the credits for the construction of Monowitz were presented and approved. There is not the slightest indication that he or any other Vorstand member raised any objection.

We have reviewed in summary fashion some of the acts of the defendant Kuehne which show how unrealistic and far from the truth it would be to assume that each member of the Vorstand devoted himself exclusively to the special fields of activities in which he took the leadership and knew nothing of other important affairs of the corporation. The very fact that a person, after years of experience in Farben, became a Vorstand member meant that he was thereafter expected to participate in the councils of the concern and play his part in shaping general over-all policies. To do this he could not, and did not, close his eyes to what Farben was doing in fields other than his specialty. A Vorstand member kept in touch with general affairs of the concern

¹ Document NI-8965, Prosecution Exhibit 1378, *ibid.*

² Document NI-8964, Prosecution Exhibit 1393, *ibid.*

³ Document NI-7066, Prosecution Exhibit 1372, *ibid.*

⁴ Document NI-1071, Prosecution Exhibit 1386, not reproduced herein.

⁵ Document NI-6125, Prosecution Exhibit 1370, reproduced in subsection IX D above.

⁶ Document NI-7604, Prosecution Exhibit 1418, not reproduced herein.

⁷ Documents NI-7604, NI-9542, NI-11114, Prosecution Exhibits 1418, 1419, and 1421, not reproduced herein.

not only through Vorstand meetings, but through the various and numerous subordinate committees, and through constant conferences and communications with other Farben officials in order to achieve the necessary degree of internal coordination.

We have used Kuehne as an illustration of this point, but the answer would be the same regardless of whom we might select. The Farben records reveal that, after Buetefisch and Gattineau visited Hitler in 1932 and received Hitler's assurance of support for the synthetic gasoline program, "the leading men in I. G. Farbenindustrie made the important decision to maintain Leuna in full operation, even if this entailed sacrifices."¹ Does the defendant Schmitz contend that he did not know the true nature, purpose, and result of this visit to Hitler? In 1936, Farben reached an agreement with the German authorities for the construction of the first buna plant at Schkopau. Does the defendant Hoerlein, as a member of the Vorstand, the Central Committee and the Technical Committee during the whole period from 1933 to 1945, suggest that as a Vorstand member he blindly approved this project without knowledge of the vital significance of rubber and gasoline in the Wehrmacht's rearmament program? Was Buergin the only defendant who knew that the French and Belgian forced labor procurement firms were "jocularly" called "slave traders"? The documents show that Krauch advised Ambros, ter Meer and Duerrfeld that he had succeeded in persuading Goering to issue the order allocating Auschwitz concentration camp inmates to the Farben construction project. Did ter Meer and Ambros keep this fact to themselves when the Technical Committee and the Vorstand approved funds for IG Auschwitz at their next meeting? The defendant Oster was specially concerned with nitrogen, but he was a member of the Vorstand and regularly attended Commercial Committee meetings which dealt with mobilization questions and with Farben's plans and activities in Austria and Czechoslovakia. Is it credible that the defendant Oster—who had learned as early as January 1936 that: "Even if Oppau and some of the more dangerously placed [nitrogen] plants should have to stop production due to enemy action, the remaining capacity would be more than sufficient for war requirements"²—did not understand the meaning of these mobilization conferences or the purpose of the project he approved as a member of the Vorstand? The defendant Wurster was plant leader of the Ludwigshafen-Oppau plant and head of the inorganic section; Ambros was head of the organic section. Wurster has told us that he used to ride around the plant on his bicycle to check up on conditions in the interests of the

¹ Document NI-14304, Prosecution Exhibit 1977, reproduced earlier in subsection VII C 2, volume VII, this series.

² Document NI-13564, Prosecution Exhibit 2112, reproduced earlier in subsection VII H 2, volume VII, this series.

workers. Did he not know what Ambros was doing at the same plant in the field of chemical warfare agents, and could he have avoided discovering that Ludwigshafen was a principal headquarters for coordinating the activities of IG Auschwitz?

In concluding this discussion of responsibility, we may note that the defendants have made extensive use of a defense which we may describe as "the sins of others," or, more idiomatically, "passing the buck." Where possible, of course, the effort has been to blame someone not connected with Farben for the crimes of the Farben record. In the case of Auschwitz, of course the SS has been made to shoulder the entire blame. For many months, until the documents conclusively proved otherwise, Goering was solely responsible for the order allocating Auschwitz inmates to the Farben construction project. But when it has not been possible to pass the buck to someone outside Farben, it has been passed to deceased Vorstand members or other persons down the line, and even around within the dock. The commercial men have explained that they could not understand the ramifications of what the technical men were doing, and the technical men have denied any real knowledge of what the commercial men were up to. This, of course, is merely another facet of the defendants' effort to shatter the concept of criminal responsibility into such small pieces that we cannot pick them up and put the pattern together again. This technique, of course, has no more legal validity in this trial than it had actuality from 1933 to 1945.

MRS. KAUFMAN: General Taylor will now continue with the prosecution's statement.

(Recess)

GENERAL TAYLOR: Mr. President, before continuing with the statement, the prosecution has noticed a mistake on page 50 of our statement, which we would like to correct. On page 50 the tenth line from the foot of the page, it is stated that the defendant Kuehne was the chairman of the Farben Chemicals Committee. In fact, he was a member but not the chairman, and we would like to ask that the reporter make an appropriate correction in the record.

PRESIDING JUDGE SHAKE: That correction will be made.

IV. GENERAL DEFENSES

GENERAL TAYLOR: Mr. President, we have traced in outline the Farben record, and we have dealt with the general principles and the evidence relating to the responsibility of these defendants for the crimes revealed by the Farben record. There remain to be considered certain general defenses, of broad scope and far-reaching implication, which have been put forward on behalf of all of the defendants. These defenses appear, to a greater or less extent, in prac-

tically all the closing statements by defense counsel, but perhaps achieve the greatest degree of concentration in Dr. Wahl's learned statement entitled "Fundamental Questions of Law."

Firstly: The Defense That the Crime Against Peace is Not Yet a Crime.

In the first part of his plea, Dr. Wahl has restated the argument, ably presented before the International Military Tribunal by Dr. Jahrreiss, that the planning and waging of an aggressive war was not generally acknowledged to be a crime during the years in question—that is 1933 to 1945—and that therefore the punishment of the defendants before the IMT, and of the defendants in this case, was and would be legally invalid as in violation of the maxim *nullum crimen nulla poena sine lege*—better known to American jurists as the rule against *ex post facto* law.

Now, this matter has, of course, been widely discussed in recent times and particularly since the First World War. Furthermore, the question is foreclosed in this proceeding by the express provisions of the Tribunal's basic jurisdictional enactment—Control Council Law No. 10—as it was foreclosed before the IMT by the provisions of the London Agreement and Charter.¹ Both because the basic law is binding and because the point is far from novel, we do not propose to argue the question *in extenso*. But we ask leave to point out several considerations which are, we believe, beyond dispute.

The doctrine that the deliberate launching of an aggressive war is a mortal sin against civilization and a crime against the peace and against mankind, far from being novel, is centuries old. Its rebirth in modern times is substantially coincidental with the revival of the law of nations itself. Grotius, the seventeenth century father of modern international law, taught and urged upon society the distinction between a just and an unjust war.² Nearly two centuries ago, in 1758, in his classic "Law of Nations," Vattel wrote:

"Whoever takes up arms without a lawful cause has, therefore, no rights whatever; all the acts of hostility which he commits are unjust.

"He is answerable for all the evils and all the disasters of the war. The bloodshed, the desolation of families, the pillaging, the acts of violence, the devastation by fire and sword, are all his work and his crime. He is guilty towards the enemy, whom he attacks, oppresses, and massacres without cause; he is guilty towards his people, whom he leads into acts of injustice, whom he exposes to danger without necessity or reason—towards those of his subjects who are ruined or injured by the war, who lose their lives, their property,

¹ *Trial of the Major War Criminals*, volume I, page 219.

² Grotius, *De Jure Belli Ac Pacis*, Books II and III.

or their health because of it; finally, he is guilty towards all mankind, whose peace he disturbs and to whom he sets so pernicious an example.”¹

For a century and a half, the teachings of Grotius and Vattel and their many followers were the stuff of sermons and lectures, but not of treaties or judgments. But the unprecedented destruction of life and property during the First World War, and the terrible economic and social dislocations which followed in its wake, brought home to all peoples and governments the realization that war is as much of a threat to the survival of humanity as murder is to the individual. From 1923 to 1929 substantially all nations—individually, in treaties and declarations, and through international organizations such as the League of Nations—denounced and outlawed war and declared the deliberate launching of aggressive war to be an international crime. In 1923, the League of Nations sponsored the draft of a Treaty of Mutual Assistance which declared that “aggressive war is an international crime.” The Geneva Protocol of 1924 for the Peaceful Settlement of International Disputes, signed by 48 governments, also declared that “a war of aggression constitutes * * * an international crime.” In 1927, the Eighth Assembly of the League of Nations, by unanimous vote of 48 delegations, including Germany, Japan, and Italy, adopted a declaration the preamble of which stated that “a war of aggression can never serve as a means of settling international disputes, and is, in consequence, an international crime.” In February 1928, at the Sixth Pan-American Conference of 21 American Republics, it was unanimously resolved that a “war of aggression constitutes an international crime against the human species.” Six months later at Paris, 63 nations, again including Germany, Japan, and Italy, signed the General Treaty for the Renunciation of War—the Kellogg-Briand Pact—and thereby renounced and condemned war as an instrument of national policy for the solution of controversies. The Kellogg-Briand Pact was generally construed, at the time of and subsequent to its signature, as making aggression unlawful. The Government of the United Kingdom publicly espoused this view in 1929,² and the United States Secretary of War, Mr. Henry L. Stimson, declared in 1932 that, as a result of the Pact, war “has become illegal throughout practically the entire world.” In short, during the decade from 1923 to 1932, hardly a year passed without one or more solemn denunciations of aggressive war as illegal and criminal by substantially all the nations of the world, and it is against this legal and historical background that the provisions of the London Agreement and Law No. 10 must be considered.

¹ Vattel, *The Law of Nations or The Principles of Natural Law* (Translation of the edition of 1758 by Charles G. Fennick ; vol. 3, Carnegie ed., 1916), page 302.

² *Trial of the Major War Criminals*, volume III, pages 100 and 101.

As we stated earlier, the juridical basis of the crime against peace has already been ably discussed and adjudged at Nuernberg by Mr. Justice Jackson, Sir Hartley Shawcross, Professor Jahrreiss, and the International Military Tribunal itself. In all humility, the prosecution finds it difficult to go much beyond what has been said in the past in this courtroom by these distinguished jurists, and, with all deference, we suggest that Dr. Wahl's statement, learned as it is, sheds little new light on the question. Dr. Wahl, like Dr. Jahrreiss contends that, failing some international treaty or agreement which not only declares aggressive war to be criminal, but also prescribes the punishment and establishes a court for the trial of offenders, the launching of aggressive war may indeed be sinful, but it cannot be criminal. We believe that this view is based on a totally erroneous conception of the true nature of international penal law, and the way in which it has developed during the past century. We may well be on the brink of an international penal law to be enacted and codified by international legislation, and enforced by courts of general international jurisdiction. But at least up to the end of the Second World War—during the years with which we are now concerned—international penal law developed, like the common law, by judicial exposition and enforcement of principles which had won general acceptance, as reflected in treaties, declarations, and other official and authoritative pronouncements.¹ This has nowhere been stated with greater clarity and precision than by Mr. Stimson, who writes of the IMT judgment as involving crimes against peace:²

“Now this is a new judicial process, but it is not *ex post facto* law. It is the enforcement of a moral judgment which dates back a generation. It is a growth in the application of law that any student of our common law should recognize as natural and proper, for it is in just this manner that the common law grew up. There was, somewhere in our distant past, a first case of murder, a first case where the tribe replaced the victim's family as judge of the offender. The tribe had learned that the deliberate and malicious killing of any human being was, and must be treated as, an offense against the whole community. The analogy is exact. All case law grows by new decisions, and where those new decisions match the conscience of the community, they are law as truly as the law of murder. They do not become *ex post facto* law merely because until the first decision and punishment comes, a man's only warning that he offends is in the general sense and feeling of his fellow men.”

¹ See subsection XI B above (Dr. Wahl, for all defendants on Fundamental Issues for Law).

² Henry L. Stimson, “The Nuremberg Trial: Landmark in Law,” in *Foreign Affairs*, volume 25 (January 1947), page 185.

Indeed, as the IMT pointed out, Dr. Wahl's argument would apply equally to the laws and usages of war and the Hague and Geneva Conventions, none of which prescribe specific penalties for their violation or establish courts for their enforcement. Yet, for many years past, military tribunals have tried and punished individuals guilty of violating these rules.¹ To this Dr. Wahl can only make the meaningless rejoinder that:

"This comparison is invalid however, for infringements of military law have always been punished by the law of common usage * * * among the hypotheses for which figure the proof of precedent. * * *"²

We need hardly point out that this argument is self-destructive. Every new development in common law springs from a new case posing a new problem; that is what we mean by a "case of first impression." No doubt counsel for the defense in war crimes trials in years gone by made precisely the argument Dr. Wahl is making here; indeed, a very parallel argument appears to have been made at the famous Breisach trial in 1474.³ The argument failed at Breisach, it failed to prevent the laws of war from attaining judicial validity and, we earnestly suggest, it must fail today. No one with any understanding of the nature of common law will confuse a case of first impression with *ex post facto* law; such a case imposes *ex post facto* punishment only if it erroneously enforces a standard of conduct which has not won general acknowledgment. On this point, too, Mr. Stimson has spoken authoritatively:

"The charge of aggressive war is unsound, therefore, only if the community of nations did not believe in 1939 that aggressive war was an offense. Merely to make such a suggestion, however, is to discard it. Aggression is an offense, and we all know it; we have known it for a generation. It is an offense so deep and heinous that we cannot endure its repetition.

"The law made effective by the trial at Nuremberg is righteous law long overdue. It is in just such cases as this one that the law becomes more nearly what Mr. Justice Holmes called it: 'the witness and external deposit of our moral life'."⁴

Secondly, Mr. President, The Defense That War Crimes Have Ceased to be Crimes.

When he comes to counts two and three of the indictment, Dr. Wahl turns full circle. Aggressive war, we have been told, has not yet attained the status of a criminal concept. War crimes, we are now told,

¹ *Trial of the Major War Criminals*, volume I, pages 220 and 221.

² Dr. Wahl's Brief, subsection XI B, above.

³ George Schwarzenberger, "A Forerunner of Nuremberg: The Breisach War Crime Trial of 1474," in the *Manchester Guardian*, 28 September 1946.

⁴ Stimson, *op. cit.*, page 185.

are the outmoded offspring of nineteenth century liberalism. Discussing the writings of an American authority on international law,¹ Dr. Wahl appears to regret that the author "cannot make up his mind to declare the Hague Agreements entirely obsolete," but quotes approvingly a passage written in 1940 or 1941, when German forces were occupying a large part of Europe, which states:

"If one considers the treatment now meted out to enemy property and civilians in belligerent countries and in naval warfare, one is driven towards the conclusion that the protection of civilians in occupied regions provided by the Hague Regulations is becoming a limited survival rather than the expression of universal trends and practices."²

We forbear to inquire what circumstances in the world around him led the author to make this pessimistic observation. It is more important, we think, to note that Dr. Wahl, having endeavored to erase the first half of the indictment by crying "too soon!" now endeavors to expunge the second half with the admonition "too late!" In short, part of the indictment is premature and the remainder obsolete.

Most of Dr. Wahl's argument on this point is an effort to sustain and establish the proposition that, because naval and aerial warfare attained a new pitch of violence during the recent war, the Tribunal should therefore ignore the laws and customs of war relating to belligerent occupation. This point of view has been urged by the defense in other trials here. It was analyzed and disposed of by Tribunal V in Case No. 7,³ and by Tribunal II in case No. 9,⁴ and the prosecution has commented on this theory on several prior occasions.⁵ We have little to add to these earlier statements and judgments. Dr. Wahl has gone so far as to suggest that "the measures employed by the German occupation forces, in whatever legal form they were clothed, could apply only for the duration of the war."⁶ Surely it will be but scant comfort to the friends and relatives of the thousands of Auschwitz inmates who died on the premises of I. G. Auschwitz, or were discarded there as fit only for Birkenau, to learn that the policies and practices which caused this slaughter were temporary. In any event, it seems to the prosecution that here Dr. Wahl is taxing our credulity too heavily. We perhaps cannot envisage in every detail what Europe

¹ Dr. Wahl's Brief, subsection XI B, above.

² Ernst H. Feilchenfeld, *The International Economic Law of Belligerent Occupation* (Carnegie Endowment for International Peace, Washington, D. C., 1942).

³ U. S. v. List, *et al.* (the Hostage case), volume XI, this series, page 1317.

⁴ U. S. v. Ohlendorf, *et al.* (the Einsatzgruppen case), volume IV, this series, pages 466-470.

⁵ U. S. v. Flick, *et al.* (Rebuttal Statement), volume VI, this series, pages 1172-1185; U. S. v. List, *et al.* (Rebuttal Statement), mimeographed transcript page 10390, ff; U. S. v. Ohlendorf, *et al.* (closing statement), volume IV, this series, pages 378-382.

⁶ See subsection XI B above.

would be like today if Germany were still the Third Reich, if German arms had been victorious, and if German peace prevailed from the Atlantic to the Volga, but at least some details are reasonably clear. The plans which the leaders of the Third Reich entertained for the benefit of the peoples of other European countries were set forth in a multitude of books and pamphlets and speeches, and they are matters of common knowledge. Does Dr. Wahl seriously expect us to believe that German occupational policies towards the Jews would have changed after the Third Reich had cemented its military conquest? Are we to assume that the enslavement to forced labor of Poles, and of other nationalities so often scorned as "inferior" peoples, would have come to an end? It would be idle, we think, to multiply such questions. Himmler and Darré and Ley, and the Farben documents in this very case, have given us the answer. We find no basis in the record of this or any other trial, or in any facts of common knowledge, to warrant us in indulging Dr. Wahl's assumption.

For the future, Mr. President, it is perhaps more deeply significant to grasp the altogether destructive effect which these views would have on the integrity of international law. Indeed, under the twin impact of "too soon" and "too late" there is nothing left.

Mr. President, Mr. Amchan will continue.

MR. AMCHAN: Mr. President, "Window Dressing" and its Relation to the Credibility of the Defense Case.

The evidence submitted by the prosecution in this case consists in the main of contemporaneous documentary records of I. G. Farben or of various German Government agencies. In some special fields, Farben records were destroyed, and in those cases we have endeavored to fill in the record of the documents of other government agencies or by the testimony of former Farben employees and government officials. Despite certain gaps, however, the documentary evidence is not only voluminous but highly incriminating, and the defense has adopted a special line of explanation with respect to many of these documents, which they themselves have labeled "window dressing." The general nature of this defense is that the defendants did not really want to cooperate with the Third Reich in preparing for and waging war, or in exploiting the populations and properties of occupied countries, and that therefore they frequently worded their documents and reports in such a way that Nazi Party or government officials would not be able to discover how uncooperative Farben really was.

In a few moments, we shall review some of the evidence bearing on this very question; it is certainly true that the phrase "willingness to cooperate" does not adequately describe Farben's attitude since we will find Farben again and again taking the initiative rather than merely expressing the desire to be helpful. We think this evidence will clearly establish that, in fact the Farben leaders had no reason to con-

ceal their motives and activities from the Party and government officials, but first it will be interesting to examine a few examples of this alleged "window dressing," and to note the relationship which they bear to the whole question of the credibility of the defense case.

An early example of "window dressing" occurred in May 1938, about 2 months after the meeting of the Commercial Committee, described by the defendant Haefliger, at which the incipient invasion of Austria and the possible "short thrust" into Czechoslovakia was discussed. At the meeting in May, the Commercial Committee discussed the employment of "Sudeten Germans for the purpose of training them with IG in order to build up reserves to be employed later in Czechoslovakia."¹ The Farben witness Frank-Fahle explained this as follows:

"When the development in Czechoslovakia started, everybody could see that Hitler planned to get the German part of Czechoslovakia back * * *. We in the IG had also some imagination and read in the papers about the atrocities against Sudeten-Germans * * *. But knowing that Hitler had—I am sorry to say—success in his foreign political actions without being stopped by anybody—when he occupied Austria, he was not stopped by anybody—we knew that he might succeed without causing a war in regaining the German part of Czechoslovakia. The point for us in the IG was to be a little more careful than in the case of Austria. In other words, If Hitler succeeded, which he did, in getting part of Czechoslovakia in a peaceful way, the IG should not again be found to have done nothing. It resulted that we asked our representatives in Czechoslovakia * * * not to continue to employ the non-Aryan lawyers * * * but for 'window dressing,' we employed some Sudeten-German lawyers."²

In this case, as we see, "window dressing" was used, not to conceal any "uncooperative" activities, but to support Farben claims in Czechoslovakia.

Another example of "window dressing" was offered by the defendant Gajewski, who had testified that a new Farben plant for photographic film, constructed in 1938, had no relation to rearmament. Gajewski was shown a letter³ which proved that he had represented to the Reich Ministry of Economics that the principal purpose of the new factory was "to enable the Air Force to cover its requirements of

¹ Document NI-6221, Prosecution Exhibit 833, reproduced earlier in subsections VII O 5, volume VII, this series; NI-6073, Prosecution Exhibit 1612, not reproduced herein.

² Extracts of testimony of Witness Frank-Fahle are reproduced in subsections V C 1a and VII O 6a, volume VII, this series. Complete testimony is recorded in mimeographed transcript, pages 1942-2053; 9788-9826.

³ Document NI-13530, Prosecution Exhibit 1947, reproduced earlier in subsection V C 3, volume VII, this series.

aerial film in accordance with the demands of the Reich Air Ministry." This letter Gajewski explained as follows:

"When I want to build a plant for color films, I can't tell the authorities at a time like that that I want to make color film * * *. They would have said 'I won't give you any iron for that. But if I go to them and say 'I want to make aerial film, too,' then I get it immediately * * *. We pretended something to give as an excuse so we would get approval."

Then the defendant Gajewski was asked:

"Q. Now, Dr. Gajewski, do I understand you to say that you intended to deceive the Wehrmacht with respect to the purpose of construction of this plant?

"A. Well, deceived—let's call it 'window dressing.'

"Q. Well, would that have been sabotage in the German Reich?

"A. One could interpret it that way * * *."

The defendant Ambros testified that Farben kept the Francolor plant in production in order to support the French economy. When he was shown a series of documents stating that in fact the main purpose was to produce materials needed by the Wehrmacht he, too, explained such documents as "window dressing." Similarly, von Knieriem explained his memorandum detailing the military benefits which Germany received from Farben's dealings with the Standard Oil Company as "window dressing" in case these relationships were investigated by the Nazi legal authorities. But perhaps the most unique type of "window dressing" is employed by the defendant Haefliger, who appears as a German national or a Swiss national, according to the needs of the situation. As we noted earlier, in August 1939 Haefliger wanted to renounce his Swiss citizenship and become a German citizen, but refrained from doing so at the request of the Farben Vorstand so that he could "render Germany very good services" and "unobtrusively negotiate abroad questions regarding war."² During the war, we find him in Germany as a German citizen, and we see him travelling abroad as a Swiss citizen. And finally, to top it off, his counsel pleads on his behalf:

"It is for the first time that a foreign national appears in the dock of one of the Nuernberg Tribunals, and it is a tragic irony, that this man who is indicted for crimes against peace and humanity is a citizen of a country—and even represented it for several years after the Nazis came to power, as a consul—which for generations was

¹ See extracts from Gajewski testimony on "window dressing" reproduced earlier in subsection V C 3, volume VII, this series. Also mimeographed transcript, page 8313.

² Document NI-14661, Prosecution Exhibit 2015, reproduced earlier in subsection VII O 5, volume VII, this series.

regarded as the incarnation of neutrality and love of peace and freedom.”¹

Since this matter of “window dressing” has been raised by the defense, the prosecution finds itself bound to advert to certain testimony by the defendants in this courtroom which can perhaps most charitably be described as “window dressing.” Some stress has been laid by several of the defendants on individual efforts which they made, allegedly at great risk, to befriend and protect unfortunate Jews.

Such representations have been made, for example, in connection with the annual contributions of 100,000 reichsmarks to the notorious “Himmler Circle” which were made by Farben each year, beginning in December 1941. In view of the fact that the first such contribution was made at the time when Farben was negotiating with the SS for additional inmates from the Auschwitz concentration camp for use in constructing the Auschwitz buna plant, and particularly in the light of the defendant Ambros’ description of the “profitable” nature of our “new friendship with the SS,” the prosecution, not unnaturally, attached some significance to these contributions. However, the defendant Krauch assured us from the witness box that the true reason for the contributions, as told to him by Schmitz, was in order to put Farben in a better position to secure the release of the Jew Arthur Weinberg—a former Jewish member of the Aufsichtsrat of I. G. Farben—from a concentration camp.² This testimony was buttressed by an affidavit from Weinberg’s son-in-law (Count Sprety), purporting to confirm the testimony that Schmitz had helped, or endeavored to help, bring about Weinberg’s release by intervention with Himmler for that purpose. Cross-examination of Count Sprety, however, elicited the fact that Weinberg was first deprived of his liberty by confinement in a concentration camp in June 1942, over 6 months *after* Schmitz decided to make the contributions to the Himmler Circle, and 4 months after the actual transfer of the funds.

One other example will suffice. The defendant Gajewski urged in his defense that he had been constantly in trouble with the SS and the Gestapo because of his opposition to the Nazis, and submitted to the Tribunal the affidavit of a certain Dr. Ollendorff in order to substantiate the contention that he had taken the part of Jews at great personal risk. On cross-examination, Gajewski was confronted with a document showing that he had informed the SS in November 1938 that Dr. Ollendorff intended to leave Germany, that it would be in “the general interest of the economy not to permit Dr. Ollendorff to go abroad for the time being,” and further that it would be “advisable

¹ Closing statement of Dr. von Metzler on behalf of the defendant Haefliger, reproduced above in subsection XI E.

² Tr. pages 5158 and 5159.

to have his home searched.”¹ It was further developed on cross-examination that Gajewski never told Dr. Ollendorff, who furnished the affidavit in generous ignorance, that it was Gajewski himself who had thus laid the ground work for Ollendorff’s arrest and detention in a concentration camp.²

Fear and Coercion

Testimony of the foregoing character, we submit, must not be overlooked in assaying the last major general defense which has been urged upon the Tribunal. Almost all the defense counsel have argued that the defendants cannot be held criminally responsible for acts which, allegedly, were committed under the stress of necessity induced by fear of the tyrannical, oppressive regime of the Third Reich. We believe that this defense, assuming its legal validity, is based upon demonstrably false factual assumptions as far as these defendants are concerned, and that the evidence in this case completely cuts the ground from under such a plea.

Indeed, the evidence showing that these defendants themselves took the initiative, and that the acts charged against them as crimes were performed not only voluntarily but eagerly, is so compelling that we would normally be inclined to pass over the question of the legal sufficiency of this defense, were it bottomed upon proven facts. But the legal question which this defense raises, albeit academic in this case, is of fundamental importance in the wise application and development of international penal law. The defense of necessity, or of compulsion by fear and coercion, or some analagous plea, has been made in all the Nuernberg trials, and, indeed, in almost all war crimes trials, and we may be reasonably sure that it will be raised in future trials as well. It is for these reasons that we venture a few observations on the point, though realizing they may be superfluous in the light of the evidence in this case.

The defense of necessity or compulsion is closely related to, but by no means identical with, the so-called defense of “superior orders” which is frequently raised in military cases. The reason that superior orders are sometimes given weight in military cases, not as a defense but as a plea in mitigation, is based upon two quite distinct ideas. The first is that an army relies strongly, in its organization and operations, on chain of command, discipline, and prompt obedience; the soldier is in duty bound under ordinary circumstances, and also under very extraordinary circumstances, to carry out his commander’s orders immediately and unquestioningly. The second reason is that

¹ Document NI-13522. Prosecution Exhibit 1957, reproduced earlier in subsection VII C 4, volume VII, this series.

² Mimeographed transcript pages 8325-27. See also extracts from testimony of Gajewski, subsection VII C 5*d*, volume VII, this series.

the soldier stands in fear of prompt and summary punishment if he fails to carry out orders or obstructs their prompt execution by over-much questioning. Despite the weighty import of these two factors, the military law of most nations, including Germany, provides that a soldier is not required to carry out orders which he knows to be criminal, and in fact may be held criminally liable for their execution if he was aware of their criminal nature. A tribunal trying a soldier for an offense committed with full knowledge of its criminal character may, nonetheless, allow the plea of superior orders to be given such weight in mitigation as in its judgment the ends of justice require. These principles have been confirmed in numerous judgments and decisions under the laws and customs of war, and have been amply explored in numerous judicial opinions in Nuernberg and elsewhere.

In criminal cases involving civilians, however, many of the governing considerations are very different. It is quite true, of course, that every citizen owes a duty to obey the lawful injunctions of his government. But the organization of ordinary civilian society cannot be compared to that of an army; even under an authoritarian regime, it is much looser and leaves far more scope, initiative, and choice to the civilian in the governance of his own manner of life than is the case in an army. So too, the civilian stands in fear of punishment if he disobeys the law, but alternatives and choices open to a civilian faced with an illegal statutory decree are far wider than those available to soldiers. No legitimate parallel can be drawn between the excuses open to a soldier acting in the heat of battle, and those open to a civilian pursuing a course of conduct over a period of several years.

In domestic penal law, of course, the necessity or coercion urged as a defense does not ordinarily arise out of compulsion exercised by the government itself, but rather out of threatening conduct on the part of another individual or group of individuals. The defense goes under a number of names: "Necessity",¹ "compulsion",² "force and compulsion",³ and "compulsion, coercion and compulsory duress."⁴ Most of the cases where such defenses have been passed upon have involved such situations as two shipwrecked persons endeavoring to support themselves on a floating object large enough to support only one of them, the throwing of passengers out of an overloaded life boat, or the participation in crime under the immediate and present threat of grave bodily injury. The legal principles to be applied in passing on such defenses have been variously stated, but there appears

¹ *Wharton's Criminal Law*, volume I, (12th Ed. 1932), sections 126-128, 642 and 643.

² *Ibid.*, Section 124.

³ *Ibid.*, Section 137.

⁴ *Ibid.*, Section 384.

to be no great difference as between the legal systems of various nations. Thus section 52 of the German criminal code states:

“A crime has not been committed if the defendant was coerced to do the act by irresistible force or by a threat which is connected with a present danger for life and limb of the defendant or his relatives, which danger could not be otherwise eliminated.”

An authoritative statement of Anglo-American law on the subject is:

“The fact that a crime is committed under coercion and compulsion, in fear of instant death, may be set up as a defense to the prosecution for the commission of such crime; but, to be available as a defense, the fear must be well-founded, and immediate and actual danger of death or great bodily harm must be present, and the compulsion must be of such a character as to leave no opportunity to the accused for escape or self-defense in equal combat. It would be a most dangerous rule if a defendant could shield himself from prosecution for crime by merely setting up a fear from or because of a threat of a third person.”¹

A classic statement of this rule, by Lord Denman, is, in summary, that no man, from fear of circumstances to himself, has the right to make himself a party to committing mischief on mankind.² More recent decisions of American courts tell us that a threat of *future* injury is not sufficient to raise a defense, that threats from a person who is a mile away at the time of the commission of the crime is no defense, that the risk of combat with a relentless companion does not, in any degree whatsoever, justify the slaying of an innocent man, and that there is no principle of law which would justify or excuse anyone in taking the life of an innocent man to protect himself.³

The application of these principles in the field of international penal law, where the defense of necessity is based on alleged fear and coercion exercised by the government itself, is, as we have suggested, a question of great moment in the development of international law. In their application to civilians, these principles were considered in the judgment of Tribunal IV in Case No. 5,⁴ and in their application to governmental and military officials they have been discussed in practically every judgment rendered in Nuernberg. With all respect to the judgment in the Flick case, we think the defense of necessity was there allowed a scope which stretches, if indeed it does not exceed, the appropriate limits. Certainly it goes far beyond what has been previously allowed in cases under domestic penal law, where the de-

¹ *Ibid.*

² Cf. English Reports, volume CLXXIII, *Nisi Prius IV* (*Regina v. Tyler and Price* [1839]), Stevens and Sons, Ltd., London, page 643.

³ *People v. Repke*, 103 Mich 459 (1895); *Leach v. State*, 99 Tenn 584 (1897); *Rizzolo v. Commonwealth*, 126 Pa. 54 (1889).

⁴ *United States v. Friedrich Flick et al.*, volume VI, this series, pages 1199-1202.

fense has rarely, if ever, been successful unless the threat of bodily injury was present and immediate, rather than future and possible or even probable. We respectfully suggest to the court that international crimes committed under color of official tolerance or government edict have most frequently occurred in the past, and will most frequently occur in the future, under tyrannical and dictatorial governments. Making all allowances for the hard realities of life under such a regime, the law should not be so devitalized as to encourage the abdication of that individual and community sense of moral responsibility which is the most powerful influence in checking such widespread crimes and atrocities. As the IMT stated with respect to the London Charter, and as is equally applicable under [Control Council] Law No. 10:

“* * * the very essence of the Charter is that individuals have international duties which transcend the national obligations of obedience imposed by the individual state. He who violates the laws of war cannot obtain immunity while acting in pursuance of the authority of the state if the state, in authorizing action moves outside its competence under international law.”¹

If international law does not mean this much, it means very little.

But let us return to the situation that actually confronts us in this case. Whatever disparities of decision or emphasis there may be between the Flick case and other cases, it is universally agreed—and was expressly held in the Flick case—that the defendants can draw no comfort from the defense of necessity if it appears that their criminal action was taken on their own initiative, or transcended what was required of them, or that fear and coercion in fact played no part in their decision to take such action. What does the Farben record show? We have analyzed it at some length in our briefs² and will content ourselves here with a brief recapitulation.

In the light of the documentation in the record, and the clear proof of the gigantic, protean, and energetic contributions which Farben made to the re-creation of the Wehrmacht, it is clear that any claim that the defendants were under duress during the years preceding the outbreak of the war in 1939, is baseless. We know that Farben took the initiative from the very beginning, when Bueteifisch and Gattineau enlisted Hitler's support in 1932 for Farben's synthetic oil program. We have seen how impressed the military and civilian government officials were with the terrific initiative which Farben subsequently displayed in the field of synthetic gasoline.³ We have read the notes

¹ Trial of the Major War Criminals, volume I, page 223.

² Final Brief of the Prosecution (Part V), pages 2-11.

³ Documents NI-3975, Prosecution Exhibit 517, and NI-6630, Prosecution Exhibit 540, not reproduced herein.

of the meeting between the defendants ter Meer and Kuehne and General Kesselring, at which Farben vigorously pressed for an increased share in the manufacture of electron metal for the Luftwaffe, and urged that another firm (Wintershall) should be excluded from this business because Farben "had acquired great merit for developing the electron metal" as well as because Farben "had developed a safe process of filling the textile cylinders" [their code word for incendiary bombs] "quite different from the methods previously used."¹ We have seen that Krauch pushed Farben's interests in the synthetic rubber field so vigorously that it aroused complaints in the German Army Ordnance Office itself.² We have read the letter to Krauch stating that the recent development of poison gases was due to "the driving forces of industry, especially of I. G. Farben".³ Surely Krauch was not coerced into accepting his high position on Hermann Goering's staff in the Four Year Plan; all the Farben elder statesmen approved this move. And, when Krauch realized, in June 1938, that the OKW's armament calculations were erroneous, he displayed great initiative in bringing the errors to Goering's attention and in drawing up the so-called Karin-hall plan. Krauch himself has told us that:⁴

"I had the feeling that they were going to war. Dr. Bosch told me in June 1938, and that was when I went with the wrong figures of Loeb to Goering and said to him, 'We can't go to war because the figures are all wrong. We will lose the war on this basis.'"

It is equally difficult to take the defense of necessity seriously if we look at the evidence under count two of the indictment. In the case of the Polish dyestuffs factory, von Schnitzler's offer of Farben "experts" met with coolness, if not actual resistance, on the part of the Nazi government officials. Farben's ultimate success in Poland was due to persistence and perseverance. At first, Farben succeeded in having its representatives appointed as trustees of the Polish factories;⁵ then a lease was suggested;⁶ finally, Farben acquired title.⁷ In the case of the oxygen plants in Alsace-Lorraine, Wurster and Jaehne took the initiative in approaching the government authorities, and reported that the result for Farben was "very gratifying" because in the course of the discussion it appeared that "an agreement according to our wishes could be reached."⁸ As a result, Farben succeeded

¹ Document NI-7285, Prosecution Exhibit 578, reproduced earlier in subsection VII E 2, volume VII, this series.

² Document NI-4626, Prosecution Exhibit 552, not reproduced herein.

³ Document NI-5687, Prosecution Exhibit 438, reproduced earlier in subsection VII G 5, volume VII, this series.

⁴ Document NI-6768, Prosecution Exhibit 437, page 13, not reproduced herein.

⁵ Document NI-1093, Prosecution Exhibit 1140, reproduced above in subsection VIII C 2.

⁶ Document NI-8375, Prosecution Exhibit 1143, not reproduced herein.

⁷ Document NI-6831, Prosecution Exhibit 1150, not reproduced herein.

⁸ Document NI-14738, Prosecution Exhibit 2062, not reproduced herein.

in acquiring title to some of the plants,¹ while others were leased to it.² There were oxygen plants in Belgium and Holland as well. With respect to these, Farben's policy was, according to its own records, to "offer technical and commercial help and intimate, in a cautious form, our preparedness to take an interest in the plants should the Reich Minister of Economics so desire."³ Is the Tribunal now asked to believe that the acts charged under count two were committed under the stress of fear and coercion? It certainly is not an oppressed or frightened spirit which pervades the Farben circular letter of 1942 exhorting its agencies "to be on the alert when the places named in the enclosure are occupied by the German troops so that we can get in touch immediately with the competent authorities."⁴ The enclosure in this letter listed Russian factories in the fields of dyestuffs, plastics, rubber, etc., as far away as western Siberia. In the case of Norway, Krauch and Buergin recommended and brought about Farben's participation in exploiting Norwegian industrial installations for the German Air Force, with the avowed purpose of obtaining control of the Norwegian hydroelectric power works, and because Krauch saw in the project "a unique opportunity in I. G. Farben's aluminum field."⁵

In passing to count three of the indictment, we may pause to note that the defendants have not hesitated to stress the initiative which they displayed in connection with matters which are thought to reflect credit on themselves. The defendant Hoerlein, for example, made much of his "fight for the freedom of science" in combating a decree issued by Goering in 1933 which forbade experimentation upon animals.⁶ We forbear to suggest that such a decree for the benefit of animals, misguided as it would have been, might conceivably have had a beneficial effect less than a decade later, when Farben drugs, among others, were used for experiments on human beings, because the defendant Hoerlein claims that, in his fight against the Goering decree, he "was the representative who carried on the struggle in Germany against a hateful and powerful opponent." Indeed, Dr. Wahl has expanded upon this claim and applied it to all the defendants:

"Yes, the defendants were justified in saying that they fulfilled a higher duty in remaining at their posts in order to oppose the evil, insofar as this was within their power, and to strengthen the good; rather than in escaping from their responsibility, thus leaving the

¹ Document NI-8358, Prosecution Exhibit 1235, not reproduced herein.

² Document NI-8372, Prosecution Exhibit 1228, not reproduced herein.

³ Document NI-14738, Prosecution Exhibit 2062, not reproduced herein.

⁴ Document NI-7468, Prosecution Exhibit 1187, not reproduced herein.

⁵ Document NI-8033, Prosecution Exhibit 585, not reproduced herein.

⁶ Mimeographed transcript pages 6137 and 6164.

field open to an unscrupulous successor who would have served the regime well.”¹

But did the defendants “oppose the evil insofar as this was within their power”? Did not they themselves “serve the regime well”? Let us take a last look at the Farben record. We need not look very far to see where the initiative, energy, and driving force of IG Auschwitz came from. It is here in this room:

1. It was Krauch who requested the issuance of the original Goering order making 8,000 to 12,000 inmates of the concentration camp Auschwitz available for building the buna plant at Auschwitz.²

2. It was Krauch’s suggestion that the Himmler Order to the SS was issued, implementing the Goering Order.³

3. It was Buetefisch who translated these two decrees into action by securing from SS Lieutenant General Wolff the necessary commitments of concentration camp labor for IG Auschwitz.⁴

4. A few days later, it was Duerrfeld who obtained a promise from the commandant of the Auschwitz concentration camp for the delivery of 700 concentration camp inmates, and the further promise that the head office of the Reichsfuehrung would obtain concentration camp inmates from other concentration camps by transfer to Auschwitz.⁵

5. The Farben Construction Management asked for a thousand unskilled and skilled workers for the first year of the construction of IG Auschwitz from the concentration camp and set as an estimate for the second year the requirement for 3,000 concentration camp inmates.⁶

6. When SS Obergruppenfuehrer Pohl visited IG Auschwitz, it was Ambros who complained of his labor difficulties and elicited from Pohl a promise to allocate inmates to the Monowitz concentration camp, and to supply additional inmates from all other German concentration camps.⁷

7. It was Ambros who procured concentration camp inmates for the building of Falkenhagen and for the construction firm of Luranil, which was 100 percent owned by Farben,⁸ and managed by Ambros.⁹

8. It was Ambros who contacted SS Lieutenant General Pohl to get concentration camp labor for Gendorf.¹⁰

¹ Brief on Fundamental Questions of Law, by Dr. Wahl, subsection XI B above.

² Document NI-1240, Prosecution Exhibit 1417, and NI-11938, Prosecution Exhibit 2199, both reproduced above in subsection IX D.

³ Document NI-11086, Prosecution Exhibit 1422, *ibid.*

⁴ Document NI-9819, Prosecution Exhibit 2349, not reproduced herein.

⁵ Document NI-11115, Prosecution Exhibit 1426, reproduced above in subsection IX D.

⁶ Document NI-15148, Prosecution Exhibit 2200, *ibid.*

⁷ Document NI-14489, Prosecution Exhibit 2130, reproduced above in subsection IX D.

⁸ Mimeographed transcript, page 8124.

⁹ Mimeographed transcript, pages 8139, 8140; also document NI-10854, Prosecution Exhibit 1427, not reproduced herein.

¹⁰ Mimeographed transcript, page 8122, ff.

9. Ambros was not under duress or coercion when he wrote to ter Meer stating that "our new friendship with the SS is proving very profitable."¹

10. On 24 March 1943, the minutes of the 23d Farben Construction Conference reveal, under the heading "Employment of Prisoners" [inmates], that:²

"It was arranged with SS Lieutenant General Schmitt, acting as deputy for SS Lieutenant General Pohl, that by 1 June the number will be raised to 5,000 and later on to 6,000."

11. On 9 September 1943, the minutes of the 25th Farben Construction Conference reveal that:³

"There are 6,500 prisoners in the camp, of whom 5,400 are actually employed * * * An increase in personnel is hampered by the difficulty of finding accommodation."

12. On 10 December 1943, the minutes of the 26th Farben Construction Conference reveal that:⁴

"It is endeavored to obtain 7,200 prisoners [inmates] for employment. Inmates are also being employed in the branch construction sites of Guenthergrube and Janina."

13. There is not a scintilla of evidence that any of the members of the Farben Vorstand were laboring under fear or duress when they approved the credits for the Farben Auschwitz construction project, after receiving reports from ter Meer, Ambros, and others at meetings of the Vorstand and at various committee meetings.

14. After 2 years of Farben experience in Auschwitz, Krauch wrote directly to Himmler in July 1943 urging that the same "method" of solving the labor problem be used in other localities. In this letter he stated that he was:

"* * * particularly pleased to hear that during this discussion you hinted that you may possibly aid the expansion of another synthetic factory * * * in a similar way as was done at Auschwitz, by making available inmates of your camps if necessary. I have also written to Minister Speer to this effect and would be grateful if you would continue sponsoring and aiding us in this matter."⁵

¹ Document NI-11118, Prosecution Exhibit 1431, reproduced above in subsection IX D.

² Document NI-11141, Prosecution Exhibit 1503, *ibid.*

³ Document NI-11143, Prosecution Exhibit 1509, *ibid.*

⁴ Document NI-11144, Prosecution Exhibit 1511, *ibid.*

⁵ Document NI-10040, Prosecution Exhibit 1526, *ibid.*

15. In February 1944, Krauch once again gave instructions to follow the Auschwitz example:

“In order to overcome the continuous lack of labor, Heydebreck must establish a large concentration camp as quickly as possible following the example of Auschwitz * * *.”*

This is a small part of the Farben record at Auschwitz—a record so clear that it defies distortion. This is not a record compiled under duress or fear; it is a record of the voluntary acts of these who stand accused.

With Your Honor’s permission, General Taylor will conclude.

GENERAL TAYLOR: In summary, may it please the Tribunal, if there are doubts or hesitations about the outcome of this trial, they can hardly arise from the matters we have just discussed. These men may tell us that they did not understand what they themselves were doing, or that they acted under stress of fear, but the record speaks for itself. We will not find the real source of uneasiness stated in any of the headings of the many and able briefs which defense counsel have filed, for the most soul-searching doubts are those which arise in one’s own mind, conjured up by events in the world around us. In the last analysis, the question in this case is whether we have faith in the intrinsic validity and practical efficacy of international law in this day and age.

I mean it as no criticism of defense counsel that this fundamental doubt has been carefully nourished by them, particularly during the past week. But it is an easy step from the doctrine of “too soon” and “too late” to a desperate if not cynical conclusion that the world is a ruthless and unmoral pasture in which the wolves fare better than the sheep. What are the forces today which awaken these doubts, and are they truly doubts or are their mistaken fears?

Once again, Mr. Stimson has divined one of the most basic causes of our hesitancy. He writes:

“What happened before World War II was that we lacked the courage to enforce the authoritative decision of the international world. We agreed with the Kellogg Pact that aggressive war must end. We renounced it, and we condemned those who might use it. But it was a moral condemnation only. We thus did not reach the second half of the question: What will you do to an aggressor when you catch him? If we had reached it, we should easily have found the right answer. But that answer escaped us, for it implied a duty to catch the criminal, and such a chase meant war. It was the Nazi confidence that we would never chase and catch them, and not a misunderstanding of our opinion of them, that led them to commit

*Document NI-13512, Prosecution Exhibit 1845, *ibid.*

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* Document NI-13512, Prosecution Exhibit 1845, *ibid.*

their crimes. Our offense was thus that of the man who passed by on the other side.” *

In this passage Mr. Stimson is speaking of pre-war times, but the parallels to the present day are only too easily perceived. During the 3 years that have passed since the end of the war in Europe, mankind has not crossed over the Jordan. Small but terrible wars rage in Greece and Palestine, the light of democracy and freedom flickers ever more feebly in other lands, and the chorus of international voices is discordant. In our country, the fear of war has been revived by these disturbances and we are constrained to look once more to our own defenses. There is talk of “cold war,” and meanwhile men and women die in real wars, and the echoes of persecutions and atrocities will not be stilled. Is it small wonder that some are moved to ask, “Is there a law, and if so where is it?”

Murky and disheartening as these circumstances are, they represent, if Your Honors please, the shortcomings of the police force, but not of the law. In legal perspective, this is an old story. The King’s Peace is not easily established. In ancient times, through many a century, the robber baron sallied forth from his castle to rob and kill the wayfarer, and toyed with the lives and happiness of the serfs on his manor, and died unpunished in his bed. No doubt on many occasions not only judges and clerks, but tradesmen and peasants were moved to cry that there is no law, and many a defendant smarted because others, perhaps more powerful, sinned with impunity. The very steps that our own country is taking today to see that its armory does not grow rusty are dictated by parallel considerations, and find their most fundamental moral justification in that it is their purpose to fend off, not to conquer. Despite the restlessness of the times, no voice is raised today in defense of conquest, and no voice is heard to say that aggression is not a crime. There is no longer any real doubt about the law against aggression, any more than there was doubt about the law against murder or robbery in Bracton’s time. The judges in Bracton’s day may often have seen the King’s Peace set at naught, but we can well be thankful that they did not despair and reject the very law that gave men hope of future peace and security.

Your Honors, if the complexion of world affairs has darkened since the inauguration of this courtroom, and if the shadows have lengthened during the course of this very trial, in the long run the law may thrive best on what now appear as obstacles to its universal enforcement. I am sure that all of us in the courtroom want to see this torn land once again “ready to bloom and grow fruits,” as Dr. Silcher put it yester-

*Stimson, *op. cit.*, page 184.

day, but we do not want to reap another harvest of dragons' teeth. Nor can a healthful and peaceful European community be restored by drawing a shroud over the dead without benefit of inquest. Solemn as is the obligation that the defendants be given every benefit of a full and fair trial, equally solemn is the obligation to the millions in whose behalf these charges are brought that they be given the protection of law and order in a war-weary world.

We thank Your Honors.

PRESIDING JUDGE SHAKE: Is that all, Gentlemen of the Prosecution?

Then the record may show that the arguments of counsel for the prosecution have been concluded.

XII. FINAL STATEMENTS OF DEFENDANTS TO THE TRIBUNAL

A. Introduction

Under Article XI of Ordinance No. 7, "each defendant may make a statement to the Tribunal" after the closing statements have been concluded. In the Farben case 14 defendants of the 23 defendants who stood trial elected to make such personal statements, including the defendants Schmitz and von Schnitzler who had elected not to testify in their own behalf. Each of these fourteen statements by the defendants is reproduced below (subsection B).

B. Final Statements of Defendants*

PRESIDING JUDGE SHAKE: In accordance with the order heretofore entered by the Tribunal, it is now ready to hear the final statements of such of the defendants as have indicated their desire to address the Court. As the defendants are called they may leave the dock, come to the podium, and address the Tribunal. May I remind them that the order contemplates that they shall use not to exceed 10 minutes and if they can and will keep themselves within that limitation it will avoid the necessity of calling when the time has expired.

The defendant Krauch may now address the Tribunal.

1. DEFENDANT KRAUCH

DEFENDANT KRAUCH: Mr. President, Your Honors:

When I heard the final plea of the prosecution yesterday, I often thought of my colleagues in the United States and in England and tried to imagine what these men would think, when they heard and read these attacks hurled at us by the prosecution. For after all, they, too, are scientists and engineers; they had similar problems. They, like us, were called upon by the state to perform certain duties. That was true then, before the world war, and that is true now, as we know from information received from the United States. A citizen cannot evade the call of the state. He must submit and must obey. The specific duty which I had to perform involved problems of caring for unemployment and their solution. This was a task that no conscientious engineer could have refused, especially nobody who, like myself, had for years observed the terrible effects of this unemployment and had wondered whether he could not do something, could not make some contribution towards eliminating this unemployment.

Now we—and I, too—have been accused by the prosecution of having served a criminal government. No one mentioned this aspect at

*Transcript pages 15600-15638.

the time either in Germany or abroad, and no prosecution raised its warning voice. All the more are we sometimes filled with bitterness when we ask ourselves why we, who did only what many other citizens did too, are here in the dock. The day before yesterday we had an opportunity to hear the final plea of Mr. Silcher who described very well the services performed by German chemical industry, and particularly by I. G. Farben. I must say that I listened to his words with some pride for I saw that these were services which benefited not only the German people but all of humanity.

Today this enterprise to which my whole life's work was devoted is facing a dark and obscure future. Many of my most efficient associates and their families are facing ruin, and their fate worries me more than my personal fate. I may perhaps express a general thought here.

It is the task of a technical man to see today the problems of tomorrow and to devote himself to them. One of these problems, which I was working on was the production of synthetic fuel by means of hydrogenation of coal, that is by chemical processes, after it had been discovered that the natural petroleum resources of the world were being exhausted and that certain political developments were occurring. I am today filled with a certain satisfaction when I see that in the whole world scientists and economists are dealing now with this problem by means which we—and I had an important part in it—had developed 20 years earlier. At that time we exchanged experiences with great foreign companies—I mention only the United States—in such a friendly way that the recollection of this cooperation is one of the most happy recollections of my life.

I know it is fate that progress is not usually recognized. That has always been the case. As a rule progress is combatted and attacked and it even happens that, as the prosecution has done, base motives are ascribed to this struggle for progress. The technical man recognizes this, but continues to work nevertheless. Occupation with natural sciences is a high and noble profession. It, too, is a struggle but not a struggle with men. It is a struggle with nature, with matter. Nature is not deceptive and cannot be deceived. It can be approached only with truth and respect, and only in this way can its problems be solved.

It is perhaps, in a sense, tragic that this experience has made us technical men all too often trust those working with paper and with words more than with deeds. You can understand that it was a sacrifice for me to give up this work which I loved and to follow the call of the government to help in the Four Year Plan; in short, to leave the struggle with nature and to take up the struggle with paper work in administration for which I really was not suited. I did so because

I thought that I would help science and industry. I worked to this end, and I am happy that I did so.

There was another sacrifice that I had to make. I had to leave my associates to whom I was very much attached and had to get along with strangers. I did this, too, although it was very difficult for me. I had been very close to the worker, too; as a research man I was dependent on the work, the industry, the powers of observation, the enthusiasm of the workers which very early had made me see—not a slave—as the prosecution says, but a comrade and a human being in the worker. That is how I always looked on the worker.

This occupation with natural science convinced me very early that there is a higher law above the laws of man, a law whose first commandment is humanity. I have tried to keep this commandment and observe it. Therefore, I consider the prosecution's charges especially hard.

How unfounded this charge is you may see, for example, from my conduct in the Schoenberg case. I have nothing to add to this and the other prosecution charges, since my counsel Dr. Boettcher has exhausted all these points so excellently that I cannot thank him better than by stating that I have nothing to add.

I ask Your Honors, however, to reestablish my honor which has been attacked by the prosecution, by acquitting me.

2. DEFENDANT SCHMITZ

PRESIDING JUDGE SHAKE: Defendant Schmitz will address the Tribunal.

DEFENDANT SCHMITZ: Mr. President, Your Honors:

My state of health made it impossible for me to testify, myself, on the witness stand to the enormous charges with which the prosecution has overwhelmed me and my colleagues. This trial which has been going on for over a year now has not lessened the shock which these attacks occasioned. I have only one answer: my conscience is clear and I feel free of all guilt.

For that reason the charges of the prosecution are especially depressing; doubly so, because these charges affect not only myself and my codefendants but are aimed at ruining the good name of our company to which our devotion and our life work were given and to which we all feel deeply bound; and so I will take advantage of this one opportunity in the course of this trial to make a personal statement, in addition to assuring you of my innocence, and, as former chairman of the Vorstand of Farben, to thank all those who had the courage to testify for Farben. "A friend in need is a friend indeed."

We have learned the truth of this saying; many a person whom honor and duty would have obliged to raise his voice here to serve

the cause of truth and justice was silent for reasons of expediency or even raised his voice to serve his own interests and not truth. All the deeper is the feeling of gratitude to those who, ignoring all these considerations, tried really to see to it that what had been the truth for 20 years remained the truth before this Tribunal.

I personally was filled with special satisfaction by a statement which, unfortunately, arrived too late and which came from the field of work which from 1930 to the outbreak of war was not only an important part of my professional work but to which I was also personally devoted; that is, the International Nitrogen Convention which included ten European countries. The French General Lavre said, in an affidavit dated 11 May 1948 and intended for this Tribunal, after describing my work as president of the Convention Internationale de l'Azote:

“In the course of these many meetings I had occasion to have frequent conversations with Dr. Schmitz. I must report on this subject that whether because of my age and the function which I held, or whether from a personal feeling of sympathy which I shared equally, Dr. Schmitz always demonstrated toward me a deference expressed so delicately that I have always been extremely grateful to him and that I wish today to express my gratitude.

“In numerous conversations which I had under these various circumstances with Dr. Schmitz, he never gave me occasion to think that he could possibly belong to the Nazi Party, that he could even have any sympathy for this party, and he never let me feel that his efforts as an executive of I. G. Farben Industry could be directed in a subversive manner against the peace of the world and against France in particular.”

To these words of an upright man, spoken without any animosity which the affiant might have felt as a Frenchman, I have nothing to add.

A last word to clarify one question which has been brought up here so often in the last few months. How could such a big enterprise be directed at all and how was it directed? Two words characterize the work of the Vorstand of I. G. Farben: common sense and confidence. Common sense in the standards of the decisions to be made in big things and in small, and applying this principle in the daily work meant that a business transaction was sound only when, in the final analysis, it could satisfy both partners; but confidence was the bond between the responsible men who in such difficult times were at the head of IG, no lighthearted confidence but a deep feeling of trust, based on the knowledge of the technical and—which is more important—the human qualities of all concerned.

A word from the opening statement of my defense counsel made a deep impression on me, the quotation from the book, "*De Civitate Dei*" by St. Augustin :

"What difference does it make under what government a mortal lives as long as those who govern do not force those who are governed to Godless and unjust acts?"

It was the tragedy of our lives that we, like our whole people, could not evade this compulsion of an absolute dictatorial and inhuman system at all times, and today, we, like our whole people, are faced with the ruins of our life work ; but it was not our guilt either in a criminal sense or in an ethical sense and so, at the end of this trial, I am deeply convinced that our trust in one another was justified and that the escutcheon of our enterprise, the IG, is clear.

For many months while I have been under arrest I have been carrying with me an article from an American newspaper which I have thought about in many sleepless nights. It deals with the attitude of one of the greatest men of your history, your president, Abraham Lincoln, his views on justice. As a lawyer in a trial he made the following statement—and I quote :

"The best judge of human character that ever wrote has left these immortal words for us to ponder :

"'Good name in man or woman, dear my Lord, is the immediate jewel of their souls ; who steals my purse steals trash ; 'tis something, nothing ; 'twas mine, 'tis his, and has been slave to thousands ; but he that filches from me my good name robs me of that which not enriches him and makes me poor indeed.'"

Your Honors, the good name of our IG and our own good name is, in the last analysis what this trial is about. I trust that you will give back to Farben and to me this most costly possession.

3. DEFENDANT VON SCHNITZLER

PRESIDING JUDGE SHAKE: Dr. von Schnitzler.

DEFENDANT VON SCHNITZLER: Your Honors, since I did not take the witness stand during the trial, I should like to avail myself of this opportunity in order to explain in a few words what I consider to be of importance for the evaluation of the evidence and the arguments submitted in my case.

Two principles have guided me I believe all through my life ; love for peace and respect for my fellow men. I come from a family of Rhenish industrialists and bankers, and from this sphere of life I have learned that progress and peaceful living together are only possible if all interests are reconciled in an honest way. This opinion was confirmed by a round-the-world trip in 1907-1908, when I got

my insight in the interlacement of the world economic relations. I learned how far the wealth of a people is dependent on that of all the others, how sensitive is the mechanism of mutual give and take and I recognized that in the last analysis the basis for living together can only be mutual understanding and confidence.

The First World War, which finished abruptly a non-precedented prosperity and threw the whole world—especially Germany—into long lasting misery, was a bitter experience to me, and I hoped that I would never see such events for a second time. I got a deep aversion to all which might endanger peace. Therefore I have always been a follower of such a German economic policy which aimed at creating a basis of confidence towards our former enemies and which tried to fulfil the conditions of the Versailles Treaty, even if they were extremely hard. I always have spoken in favor of Germany's participation in the League of Nations. In the early twenties I joined the Union Intellectuelle Européenne, an international cultural institution working for reconciling the European peoples, and developing a great activity in Germany through the German "Kulturbund." I supported and promoted the weekly "Europaeische Revue," edited by this confederation, in moral and financial respect, and by contributing essays. The "Europaeische Revue" became a victim of the Third Reich, because it adhered to the ideas of the League of Nations.

In the field of my own profession in which I was working since 1912, in the beginning in one of the parent firms of IG, I tried to act in the same reconciling manner. As early as 1919, Carl von Weinberg, one of my closest associates, who has been frequently mentioned in this case, employed me in international dyestuffs negotiations. I later continued his work, and I being in a leading position in the field of dyestuffs I initiated an understanding of the dyestuffs producers of all Europe and helped to realize it. The cartel agreements mentioned in the course of the trial and partly submitted in their exact wording can be regarded as a proof for my endeavors and for my success. Towards the same end of international cooperation my activity served in matters pertaining to international exhibitions and fairs and in particular my activity as German Commissioner General for the World's Fair in Barcelona.

During all my life I have been very fond of the French language, literature, and arts; I therefore consider it an especially cruel and unjust misunderstanding that the prosecution charged me with having wanted to damage French economy. It has always been my wish and vivid idea to throw a bridge to the French world and to help in filling up the ditch separating Germany and France. This is proved by my activity in the German-French trade negotiations from 1925 to the outbreak of the war, and by my endeavors to intensify the existing connections with the Belgian economy within the semiofficial Comité

Belge-Allemand. As my wife has a Belgian mother, my connections with Belgium have always been very close.

The idea of national socialism never corresponded to my nature. National socialism was authoritarian and totalitarian, it permitted only what followed the line of its ideology. A businessman, however, especially if his interests exceed the borders of his own country, has learned that his own wish cannot be an absolute canon for his actions and is never allowed to be such, but that he always has to take into consideration the interests of his partners. This was the basic difference between my views on life and the principles of national socialism. Unfortunately I, like many Germans, fell for the illusion that one could influence and improve an authoritarian psychosis by personal activity. More prudent and more experienced men than I am, fell for this illusion. The visits of Simon, Eden, Halifax to Berlin, and Mr. Churchill's benevolent judgment, strengthened my mistake, as I have always been an admirer of British statesmanship.

Moreover another fact induced me to believe that one was right in making formal concessions to national socialism. The chemistry negotiations in Moscow in 1924 and 1929 showed me in a terrifying way the Bolshevistic nature. At our second visit we had to dissolve our branch office in Moscow, because our Russian employees were thrown into unbearable scruples of conscience because of being spied upon by the GPU. The collapse of the liberal bourgeois parties in Germany to which I adhered, convinced me that Germany had to choose between national socialism and bolshevism. Under these circumstances I considered it the right way to make the attempt to come to terms with national socialism in order to save the German people from chaos.

How formal these concessions were, to what an extent they were opposed to my innermost feeling and how little I was trusted by the Party circles, is proved by my relations to the Gauleitung in Frankfurt which grew worse and worse. The enmity of the Gauleiter was a continual danger for me, for my family, and in a certain sense also for the firm. But I felt responsible for the firm and its thousands of workers and employees and therefore I believed it my duty to make these concessions.

I spoke just now about the formal concessions which I considered necessary, but I want to emphasize that I never made any concessions in such fields which in the beginning I designated as my principles of life: respect for men and love for peace.

Numerous affiants confirmed that I tried, by even frequently endangering myself, to help those persons who had to suffer under national socialism because of political and racial reasons. I never approved or tolerated anything that would violate the dignity of my fellow men. I never supported anything that was aimed towards war. When, in

March 1939, Hitler entered Prague, the final record of the German-British industrial discussions was being edited in Duesseldorf in which I had assisted. The English industrialists were just as surprised and shocked as we were. I felt completely deceived by my own government. This step was bound to shake the international confidence in German policy completely. Already at that time I saw the danger which might follow such an action. I recognized that a war would destroy the work of my life and I looked to the future with fear and distrust. Here is the origin of all my apprehensions of 1939: I did not believe in war—as is proven by my actions in the private and business sphere—but I feared war. I had no connections at all with persons who knew Hitler's aggressive plans.

I did not use the war to take away something from other persons unlawfully or to procure something for my firm without being convinced that it was right. Nobody was harmed by the transactions in which I participated. It could not be my interest to endanger Farben's reputation and my own, by measures which might have been doubtful or even criminal from a moral or business viewpoint. All enterprises in which Farben, through my participation, acquired interests in the course of this war, benefited through the association with Farben, and all these enterprises, with regard to which the prosecution accuses me of plunder and spoliation, were only able to keep up their production and sales because Farben supported them by its capital, its technical experience and its knowledge. Many a worker and employee, whether Frenchman or Pole, will perhaps still remember today, that it was due to Farben that he did not lose his job during the hard wartimes. I think that in the occupied territories I never forgot the responsibility which we owed to the economy and population of the country concerned. Our personal relations, especially with the French, were undisturbed all through the war. It was impossible to assume in 1941 that Marshal Pétain whom President Roosevelt had distinguished by sending him a special ambassador and who, as defender of Verdun, was world-famous, later on would be considered as traitor by the French. In my opinion, a law signed by him could never violate the interests or the honor of France.

The collapse in 1945 caused my complete psychic breakdown. Only a person who personally experienced the last months of the war in Germany, the complete disorder and the endless terror of the air raids, and who was responsible for several thousand staff members in inadequate air raid shelters, who was permanently endangered by the terror of the Party authorities during the last stages of the war, only he is able to understand the psychic emotion caused by these events. These emotions were just like a physical injury. It caused weakness and inferiority complexes, above all, however, despair and resignation. In

that state of mind I was arrested on 7 May 1945. The Tribunal is well aware of all further events.

If, in conclusion, I look back on the many years of my professional career, if I recall again all that the evidence reminded me of, if I examine and evaluate all my intentions and actions I can say with sincere conviction: I never intended anything wrong and I always acted in accordance with my sense of duty and my conscience. I believe and trust that the juridical examination of my actions by the Tribunal will also show that I did no wrong.

4. DEFENDANT HOERLEIN

PRESIDING JUDGE SHAKE: Professor Hoerlein.

DEFENDANT HOERLEIN: Mr. President, Your Honors: As a layman with respect to legal matters, I believed that the prosecution would give facts in their closing statement, which at least, in their own opinion, would give them the right to claim individual guilt. Instead, the prosecution merely mentioned my name again in connection with the general charge of criminal medical experiments, ignoring the result of the presentation of evidence, and without giving any concrete facts.

It is so simple to make charges, but it seems to be difficult to acknowledge errors. What is my case really like? My life work was research and its application to the health problems of the whole world. I worked for humanity, for the honor of German science, for the benefit of German economy, for my firm, and for my family. There was no conflict of interests and no conflict of conscience in all of these goals.

The Elberfeld plant which I organized for pharmaceutical purposes, and which I managed, was the smallest unit of Farben which was taken care of by a technical Vorstand member, but I would not have traded with any of my colleagues, and I refused another position which was offered me, which was a larger sphere of work, because the tasks which I had in Elberfeld were unlimited and were devoted to one of the greatest problems of humanity, namely, health.

A great American inventor, Victor Heiser, who, for 20 years, travelled in the Far East for the Rockefeller Foundation, in his book, "An American Doctor's Odyssey," described his tasks as follows:

"My choice was to open the golden window of the East to the Gospel of Health; to let in knowledge so that those teeming millions who had no voice in demanding what we consider inalienable rights, should also benefit by the discoveries of science, and that in the end they, too, could have health."

The search for drugs to combat tropical diseases was one of our aims at Elberfeld. I shall mention merely one of these problems, our strug-

gle against malaria. Hundreds of thousands of soldiers of all nations in this war have had their lives and health preserved by atabrine, and millions of people may in the future be saved from death by malaria by this invention of the Elberfeld laboratories.

Atabrine is today internally recognized as superior to quinine. In future, I hope better drugs may be found, but no one can deny the accomplishment of Farben in proving that malaria, a disease from which a third of mankind is suffering, can be conquered by a product which can be produced in any quantity desired.

Our research was carried out on a basis of private enterprise and I do not want to lose this opportunity to thank my firm for entrusting to me the funds to carry out our work, and I also want to thank my Vorstand colleagues for letting me work as I wished and not calling upon me for other things.

Heiser's farewell letter to the President of the Rockefeller Foundation contains the following sentence, and I quote :

"The only possible reward for a life devoted to the public branch of the medical profession is, of course, such professional standing and respect as one may earn and the keen satisfaction of unselfish service to others."

I am proud that before this Court many scientists of international reputation have paid tribute to my work. The prosecution, however, in their opening statement called me and others of my colleagues, a "damaged soul," and an "architect of catastrophe". They accused me of crimes against humanity, and tried in their case to prove this monstrous statement. I hope, however, that the Tribunal has been convinced by the presentation of evidence by my counsel that these charges are unfounded.

I am, therefore, awaiting your decision with calm and confidence.

5. DEFENDANT AMBROS

PRESIDING JUDGE SHAKE: Dr. Ambros.

DEFENDANT AMBROS: When the prosecution's statement yesterday showed once more that the prosecution, in spite of the defense evidence, holds to its hypotheses, I realized that the lack of understanding on the part of the prosecution lies not in realities, but deeper. It does not understand the circumstances, and does not understand my feeling and attitude.

For me as a chemist, my highest goal was the scientific work for all humanity and the earnest struggle to supply Germany with vital goods. That the totalitarian state seized the results of this work for its plans I learned only much later. At that time, however, my work was not subject to my own free will. Only in working on technical projects for the benefit of all could I, as a chemist, find inner satisfac-

tion and the fulfillment of my profession; in the laboratories, in the planning offices and in technology I sought and found my field of work, not in political or military planning. I was not a politician; I was not a military man, nor an official. I was engrossed in my work as a chemist, and this my work resulted from the structure and the traditional development of chemistry. It was only the state which forced this work into degrees of priority, to measures of expediency, and demands for expansion. This was foreign to me, but I could not evade it.

I almost envy the people, now that I have been in this trial, who never ran the risk of becoming the focal point of such state interests. If, during the course of the war, I had to use my technical experience and knowledge in other countries too, I was not thinking of plunder and spoliation. On the contrary, I built up there too. I never wanted material gain or profit, and I never got it. I felt that I was working together with all of the workers. All the deeper am I affected by the charge of having committed crimes against humanity.

When, at the end of 1946, I was arrested by order of Nuernberg, I had no idea of becoming indicted, and I therefore believed that everything could be quickly cleared up by a frank discussion. That, for example, I would be connected with the atrocities of the Concentration Camp Auschwitz, I could not understand. I was shocked when I learned for the first time from documents in other trials of the events in the Concentration Camp Auschwitz, but I cannot deal with this charge of the indictment in any other way, than to say simply that I learned of all of these things only after the collapse. The indictment refers here to things which happened outside of my sphere of work and which are so horrible that even today they surpass my powers of imagination.

I must deny emphatically any causal connection with these things. My conscience is clear.

I trust in your just judgment.

6. DEFENDANT BUERGIN

PRESIDING JUDGE SHAKE: Dr. Buergin.

DEFENDANT BUERGIN: Your Honors, to serve technology, and to be of service to humanity was the slogan of my work. In the 1914-18 war I served the Fatherland as an officer. After the war, we had to work to regain what had been destroyed and lost, and together with millions of Germans, who had made enormous sacrifices of goods and blood, we had to regain for German products the old respect inside and outside of our borders. This matter was the primary task of industry capable of export, and specifically that of German chemistry. Export is a vital question for Germany.

During my completely non-political career as a chemist, as a plant leader, as a Vorstand member of Farben, I worked according to this guiding thought. When in 1938 I took over the Bitterfeld plant as manager and Vorstand member, in view of the enormous social activities of IG, I received a rewarding task, not only in the technical field. The outbreak of war, a year later, unfortunately suppressed one's own initiative in all fields to a large extent. Nevertheless, the foreign workers who took the places of the drafted German workers, were taken care of as well as possible.

During my work in France after the war, I learned from conversations with French workers, who had been employed in Germany, that they liked to think back to the time when they were in Germany and that they had returned home with increased technical and language knowledge.

The picture that the prosecution has drawn of the circumstances under which the foreign workers lived, is completely distorted. Your Honors, an inspection of the place would have shown you its real conditions best. Besides, we must not forget that the constant air raid dangers in the last years of war brought Germans and foreigners together in their common distress—brought them closer together than it would appear today.

After a thorough examination of my former work, for which I have had ample opportunity here, I may say, that I feel free of the guilt which the prosecution is trying to prove against me. I am convinced that the Tribunal will judge my actions justly, and will give me an opportunity to work in freedom with all men of good will toward a better future in which I have not lost faith even today.

7. DEFENDANT HAEFLIGER

PRESIDING JUDGE SHAKE: Dr. Haefliger.

DEFENDANT HAEFLIGER: Mr. President, Honorable Judges: From Thomas Carlyle originates the sentence,

“There is no act more moral between men than that of rule and obedience. Woe to him that claims obedience that is not due to him and to him who refuses it. God's law is that there is a divine right or else a diabolic wrong at the heart of every claim that one man makes upon another.”

It is my tragic error not to have perceived that it was diabolic wrong which was hidden behind the claims, the fulfillment of which Hitler exacted from the German people, and that he and his small clique of conspiring revolutionists deceived and shielded from them his aims.

There is no better way to illustrate the nature of an absolute dictatorship than Erasmus of Rotterdam did in the 16th Century with reference to Henry VIII, and other potentates when he said :

“How terrible the threats of princes * * * at the scream of the eagle, people tremble; the senate yields; the nobility cringes; the judges concur, the clerics keep silent; the lawyers assent, the laws and constitutions give way, neither right nor religion, neither justice nor humanity avail.”

Translated to the Hitler dictatorship, how was it possible that he succeeded in the highly developed twentieth century to impress his view upon a great and capable people? Solely in that he based his rule directly upon the demagogically aroused masses, and created them an organization of watchdogs and stool pigeons, who little by little became more and more efficient. It was the army of “small Hitlers” which omnipresent, visibly and invisibly infiltrated the whole of the public, as well as the private life, sowing distrust and suspicion among everybody, threatening all those of other opinions in their personal liberty, and which finally succeeded in smothering every free word. This was the ever-growing army which served Hitler as an instrument of his power, he himself being inaccessible and shunning all contact with the intellectual world, and which gradually brought about those conditions which Erasmus had pictured so strikingly four centuries ago.

During my detention in the Preungesheim jail, I wrote a letter dated 26 September 1945, to my friend Dr. Guenther Frank-Fahle, who was in prison too, in which I drew a comparison between our life in Preungesheim with the conditions of life in the Third Reich, so similar to those existing in the prison.

Frank-Fahle had been ordered by the chief interrogator, Mr. Ritchin, to deliver to him a report about our prison life. My letter was attached as an annex to his very concise report, which, by the way, contains among other facts, the incidents I recently related here in the witness box. As time does not permit me to read this letter here in full, I will restrict myself to quoting the following passage:

“What would happen to a prisoner for breaking the prison regulations or obstructing the same? He would probably soon land in a dungeon on bread and water for extra punishment. What would happen to a person who would make himself conspicuous in criticizing and counteracting the Nazi rulers? He would land very soon in one of the ill-famed concentration camps; just like in prison, he would be found out sooner or later, because in this doomed country there was not even any privacy left. Nazi functionaries of all kinds poked their noses into the most intimate, private affairs, by the help of secretly questioning neighbors, household servants, employees and so on. Might not this silence imposed upon us in prison be compared with the silence we had to observe in Nazi Germany toward our wider surroundings, in our offices, in public places, where you could not dare to use open language for fear of unknown spies

and informers being around, who like the guards of the prison, could hunt you for a single incautious word, or later on, as is well-known, even on account of a political joke or on remarks overheard which could have been interpreted as defeatism?"

The story will have to be written of how the German people got more and more hopelessly entangled in this plague, by the threat of drastic measures by their rulers, especially of the Gestapo which in time became more and more cruel. And finally it was reduced to a mass without a will and to an object which had to obey and to be silent, just as in prison. Living in Germany since 1909, as a Swiss, my mental attitude from the beginning invariably had been not to mix in political matters and to face the German politics from the angle of a neutral observer.

I was fully absorbed by my profession. My acquaintances and my friends were throughout open-minded, world-experienced men. Is it to be wondered that strong sympathy connected me with Germany, well understood, with the other, the tolerant, broad minded and peaceful Germany? But all the time it was my view to remain Swiss. After 1933 my situation, however, became increasingly more difficult, in view of the growing narrow minded nationalism and chauvinism. I felt myself watched by small Hitlers who by no means belonged to the circle of the defendants here present. And I, therefore, was glad that after my nomination as a Swiss consul, at the end of 1933, I was able to confirm my neutrality visibly also to the outside. I was well aware that under the Nazi regime the maintenance of my nationality meant that I had to sacrifice all hopes to candidacy as a successor of my senior colleague, Mr. Weber-Andraea, and to be entrusted with the responsibility of the Sales Combine Chemicals of IG when he, as it was supposed, would retire in 1936. But by no means a reproach is made thereby to the IG, for it was entirely my own decision not to remove this obstacle by a naturalization.

Besides, it is probably a rare case that a man in my position in any foreign country could be active for over 30 years without acquiring the citizenship of his host country. Furthermore, it would be a complete error to assume, for instance, that the IG thought it advantageous to make use of me for being a foreigner. This, in fact, never happened. If, in 1939, Dr. Krueger, in order to help me in my fight to retain my Swiss nationality, on his own initiative, had to take this step of a cloaking maneuver on my behalf, as set forth in his respective affidavit, this throws a further significant spotlight on the kind of ideas you had to resort to under the prevalent conditions in the Third Reich.

As to the only foreigner in the Vorstand of IG, it would have been naturally quite impossible for me to oppose any decisions or measures deemed to be necessary in the national interests. The very fact that

during all those critical years I never had cause for the slightest suspicion that the IG management in an alleged conspiracy with Hitler was working up to an aggressive war is a further proof for the absurdity of this allegation, as pointed out already by my defense counsel, Dr. von Metzler, in his final plea. How could I possibly, as a Swiss consul, knowingly myself participate in the preparation of an aggressive war which, in all probability, would at the least extremely endanger the country which I had the honor to represent officially?

I have never felt, of course, as an instrument of Hitler nor as a capitalist, but all the time as a worker in the services of the I. G. Farben.

I was proud to have been assigned in it the field of activity which permitted me, as an honest businessman, to contribute a modest share to a friendly and peaceful international cooperation. Neither greed for money nor for power were the motives which stimulated me, but a joy and the enthusiasm for the task allotted to me. If any men must have known that a war means not enrichment but impoverishment, they were I and all my colleagues. And now, at the end of a laborious life, I am facing monstrous charges.

Honorable Judges, I know you will not let yourselves be influenced by a systematically poisoned atmosphere. I confide in your justice and I am looking forward to your verdict with calmness and a clear conscience.

8. DEFENDANT ILGNER

PRESIDING JUDGE SHAKE: Dr. Ilgner.

DEFENDANT ILGNER: Your Honors, after more than 3 years as a prisoner I am allowed to speak my final words today. It was a long and bitter probation period on which, however, I now look back without bitterness and resentment. In such days, when a great part of humanity has suffered, and is still suffering, the misfortune of the individual is of minor importance.

During the last years the American prosecution preparing this trial was very much interested in my person, at least at the beginning. For a long time I could not find out the reason. I only suspected it; I know it today. The motive is to be found very far back and goes like a red thread through the last 20 years, beginning with the press campaign against Farben in New York on the occasion of the foundation of the American I. G. Chemical Corporation, in 1929, in which I took an active part. That was about the same time when Farben supported in a decisive way the foundation by the Ford Motor Company, Detroit, of the German Ford plants in the Rhineland. At that time the same Frank Garwan, who in his capacity, as Alien Property Custodian confiscated the entire patents of Farben during the First World War, wrote the well-known severe article "Cui Bono?" directed against Farben in the New York Times.

A few years later, when in 1933 the boycott campaign was started against the exports of German industry, Farben was exposed to especially severe attacks in the United States, again by the same circles. One year later, in 1934, when Ivy Lee, the publicity advisor of the Standard Oil Company of New Jersey, who had also advised Farben, was slandered in the American press campaign by a competitor, the press campaign against the IG—this time also directed against my person—it started again like a heavy thunderstorm. After a pause of many years this campaign was renewed even more intensively when Great Britain entered the war. In 1940, a pamphlet was published in New York entitled “The Apocalyptical Horsemen of I. G. Farben.” After the collapse in 1945, the ghost of this pamphlet noticeably and invisibly influenced the inquiry work of the Bernstein Committee. The report of this Bernstein Committee, however, was the basis of the indictment.

The Nuernberg trials had a high ethical aim: to give the world a new and better justice. Whether this aim has been achieved, or what has been achieved in reality, will be judged later on by history. Today, 3 years after Armistice Day, the time probably has not yet come to judge the demoniac events of the past decades; however, these cannot be understood or measured by human standards alone—as great as these may be.

The conqueror considers the world from another angle than the conquered does. But with respect to one thing the advantage is on the side of the conquered: his eyes have seen more danger and more misery than those of the conqueror; his mind is keener and more vigilant towards the future. The German people have been living in a crisis practically uninterrupted for the last 30 years. What is happening in the world today with regard to many things—we know it only too well—is almost a repetition of our own experience.

Everybody who lived in Germany during the past years knows how from the bottom of our hearts we longed for civilized legal conditions and normal relations with the rest of the world, to get away from the situation created by this revolutionary dictatorship. This good will, this front of people of good will, was especially strong in the internationally-minded industry. In the circle of my associates in I. G. Farben there were many people of good will. It is true, nothing is perfect in this world, and all men have their weak sides, even more so in a period of such a confusion of all standards. However, I was and am happy and proud that I was a member of the Vorstand of an enterprise which even in the past darkest years of German history and in spite of the grave burden which I. G. Farben, too, had to bear, always held its escutcheon in clean hands.

We knew what I. G. Farben meant for the German people. Our exports were a decisive contribution towards feeding and clothing the

German people. In the best sense of the word—we belonged to the German people. No German shareholder had a holding of as much as one percent of the capital stock; more than half a million workers, employees, small shareholders, savers, and deserving pensioners looked to their supporter: I. G. Farben. I have always considered myself to be an industrialist who, above all, was responsible for the well-being of those men who were entrusted to him.

In addition thereto I considered it the task of my life to bring about international understanding in economy, that is, cooperation based on equality and peace. Therefore, the charges of the prosecution with regard to Norway affect me especially. One does not treat one's friends badly, and if today the Norwegians were to condemn my actions during the war, then Norsk Hydro would not take care of my wife and my children in such a kind way and send packages to them, as they do.

As regards the present economic situation of Norsk Hydro, and in order to supplement my statements made in the witness stand concerning the termination of the work on the magnesium plant commenced during the war and the expansion of the water-power plant Maar, I wish to refer to a press interview given by Director-General Eriksen of Norsk Hydro, which was published a few days ago. Eriksen states that his plant is now in a position to supply the world demand for nitrogen as far as it was supplied by Farben before the war. But this was made possible only by the extension of the water power plant Maar with the assistance of I. G. Farben during the war.

If today, as the prosecution has stated, a better and fairer world is to be built, that cannot be done by trying to defame decency in the eyes of the world.

I conclude my statement with the honest desire that the respect of human beings for one another may be the basis of collaboration of the peoples throughout the world in a peaceful competition and that the conquered may see in the enemy of yesterday the face of his brother of tomorrow. This is the only way, in my opinion, in which humanity can come from the chaos of today to the order of tomorrow.

9. DEFENDANT JAEHNE

PRESIDING JUDGE SHAKE: Dr. Jaehne.

DEFENDANT JAEHNE: Your Honors, a great American, Jefferson, once said something to this effect: The meanest robbery is the robbery of honor. It gives the robber nothing and takes everything from him who is robbed. To defend oneself against such a robbery is a moral duty of the individual and even more so if the individual belongs to a group which was in high repute throughout the world.

I am personally mentioned only once in the whole indictment, as a member of the big Beirat of the Reich Group Industry. That is no doubt not a crime in itself. What was presented by the prosecution in the trial and in the final plea yesterday has been made so clear by my defense counsel, Dr. Pribilla, and by my testimony from the witness stand that I have nothing to add to it factually or legally. Only a personal remark. In the long time that I was in custody I have had an opportunity to think about my life, my principles, and my actions. As a technical man I am for clarity, and I hold with sober facts; either a thing is true or it is not. And I can only say: What the prosecution asserted was not true, either for Hoechst or for I. G. Farben. One could become bitter when one sees how one acted in former times and how one is now treated and what names one is called. And yet we human beings must not lose faith in a moral world order and a future, better world, if we are not to despair.

Your findings, Your Honors, can contribute to the formation of this better world, but it might destroy the germ of it. After all, it is often the small things, the almost unnoticeable things, that really change the world. They last; the obvious things are effective only in the present. Thus, now, in spite of all the accusations of the prosecution, I am convinced that the quiet work in the research laboratories of Farben will continue to have its effect when the nonsensical charges in this trial have long been forgotten.

10. DEFENDANT KUEHNE

PRESIDING JUDGE SHAKE: Dr. Kuehne.

DEFENDANT KUEHNE: May it please your Honors, I was 9 years old when on the estate of an uncle, I found a book of chemistry and from then on my decision stood firm: I was going to become a chemist; and I became a chemist and, despite all opposition raised against it, I believe I may say that I became a good chemist and above all, I became a passionate chemist. I couldn't imagine anything better than to hold my chemical instruments in my hand or, later on, to work in the factory on new production processes.

At a very early date I was given an executive position in a small plant and from that time on my special care was devoted to my workers. From my early youth I always esteemed every person who was capable of achieving anything, irrespective of the position he may hold, and my workers felt this, too. Other things outside the sphere of my work and my music I did not bother about. I was antimilitarist. I recognized, and still recognize, that an army is an expensive and dangerous toy for generals and politicians. I hardly concerned myself with politics and, above all, I detested party politics. It was only twice in my life that I came into close contact with party politics, and

in both instances it was to my own personal disadvantage. The first time it cost me my position when, for reasons of fellowship, I defended the Social Democratic sentiments of one of my workers; and on the second occasion I succumbed to the same illusion, that millions of other people succumbed to, but this time it was a tragic destiny, not only for me personally but for my whole country and people because we could have no idea what course of development that one man would take whom we thought to be the savior of Germany from political and economic chaos.

Your Honors, with the best will in the world it is impossible for you to appreciate the sentiment of my people that it necessarily had before 1933. Your Honors live in a rich country full of prospects and development. You are not surrounded by neighbors who envy you for your industrial and political expansion and are suspicious of it. What the German people felt and why Hitler came to power was best expressed by the great German poet, Ricarda Huch. She herself was a militant opponent of Hitler, and she wrote:

“Hitler would not have been able to hold such a numerous and such an enthusiastic and passionate following if it wasn't for the fact that the German people, downtrodden in the mud by its enemies, hoped to be able to find a resurrection through this man. For many years it had felt degraded and helpless and had borne the contempt of its opponents; and now all of a sudden in its own midst it heard a proud and strong, even provocative voice. The degraded people took a breath of relief. The liberator, the savior, had come. The movement that now began to follow and surround Hitler seemed to most people as though its objective was to regain for Germany the esteem that it had formerly held.”

May it please Your Honors, it was neither the German people nor its industry that, after the awful and atrocious experiences made in World War I, desired a new war and, least of all, IG who, in the last war, had lost its great export business. This has been justifiably emphasized often. In the New York Herald Tribune of 4 October 1947, it reads, as an excerpt from a speech held by the Secretary of Defense, Forrestal, as follows:

“Mr. Forrestal denied that there was any historical validity for the Marxist theory according to which industrialists desired war for the sake of material gains. Mr. Forrestal said that there was no group anywhere that was more in favor of peace than the industrialists.”

The American industry at the present time is undergoing to a much greater degree the same development that we underwent at the time of rearmament: that is to say, demands concerning air-raid protection, mobilization plans in the event of war, counterintelligence, and

much more of the same type. It is even experiencing the stockpiling of atomic bombs without any industrialists being charged on that account for participating in aggressive warfare. And you have to bear in mind, Your Honors, there is no nation on your country's borders which is a menace to you industrially or ideologically, or that envies your industry.

The problem of taking in foreign labor was one you never had to deal with. Streams of workers go to your rich and wealthy country. You cannot possibly understand the sentiments of a people that is pressed into a small territory and over and over again sees that its efforts for an improvement of life are taken from it. If it expands industrially, then there are other countries immediately stepping in with tariff protection and depreciation of currency. Its colonies were taken from it without any hope of regaining them. It is only in poor countries, only in countries whose hope for reconstruction is being utterly taken that dissatisfaction and national movements arise.

In view of the suspicion that the party entertained against me as a former Free Mason, and for which reason, after a short membership in the Party, I was actually expelled from the Party from the end of 1933 to August 1939 and was placed under police supervision, I cannot very well be called a coconspirator of Hitler in a war of aggression during the critical times involved.

It is a matter of course that throughout the war, being a German, I did my duty to my people and country to the extent that I could reconcile with my conscience, with religion, and humanity. While acting in my position I retained this attitude even under circumstances that involved personal danger for myself. This attitude was such a matter-of-fact thing in my case that it never even occurred to me that I should procure testimonials for later evidence.

I trust, Your Honors, that I have been able to convince you of my sentiment and attitude even in instances where I have not been able to produce documentary evidence against general charges raised by the prosecution. I ask Your Honors to pass an early judgment. Just as some of my other colleagues, I have reached that phase of life which the Bible designates as being three score and ten. I have been under arrest for 14 months and every day that goes becomes more and more irreplaceable, and what has been inflicted on us physically and morally cannot be compensated for. The point now is to have our honor reinstated, which only yesterday, was again debased in the eyes of the world by unfounded charges raised by the prosecution and of which there is a saying: "It is better to lose your life than your honor." I confidently hope that Your Honors will reinstate the honor that we held.

11. DEFENDANT WURSTER

PRESIDING JUDGE SHAKE: Dr. Wurster.

DEFENDANT WURSTER: May it please the Tribunal, there is little that I can add to the words of my defense counsel and to my own explanations given in the witness stand, but there is one thought that I would like to express at the end of this long trial.

When in June of last year I was hospitalized in Ludwigshafen and the indictment was served upon me, and even more so when at the end of August last year I was transferred to Nuernberg, I sometimes had to overcome a certain feeling of bitterness.

I hope that the presentation of evidence by my defense counsel has shown that in my actions I was never guided by the idea that the life and the future of human beings could be built on a basis of brutal force and of wrong-doing. Especially the selection of contemporaneous documents relating to the treatment of foreign workers at Ludwigshafen presented by my defense counsel should show—I believe—one thing: during the years of my life and of the history of my country which were difficult beyond saying, I endeavored with all my strength to stand for the idea of humanity even during the hard years of war. I may be permitted to say that I succeeded in doing so within my possibilities. In the war year of 1943, the synod of our so-called confessional church emphasized among other things:

“We should not forget those who are almost helpless. Public opinion should not influence a Christian in this respect. Our brother is whoever is helpless and needs our assistance without any distinction of race, nationality, or religion.”

I regarded these words as more than an empty phrase. The hard reality of life meant, however, continuous struggle in order to achieve the best of the day.

After the German collapse, upon the order of the occupation authorities and with the full confidence of the working people and their representatives, I started to remove the consequences of the war in our heavily damaged factory at Ludwigshafen in order to create a new basis of peaceful existence for those people who had always shown loyalty to the factory and who stood before its ruins full of worry. In spite of all daily difficulties and privations, the hope increased from month to month that I would be permitted to realize my ideas of the social and economic future of such a big factory without all the obstacles that had been opposing this work during the preceding years.

All of a sudden the indictment took me away from my work of reconstruction that had lasted for more than 2 years, without my previously being given any opportunity to state what I had to say with respect to the issues of these terrible accusations.

This is something that I could not understand, and even today cannot understand, and this is the root of the bitterness which I mentioned at the beginning, and yet I have learned during the course of this trial to overcome the feeling of bitterness for being torn out of my work. I have learned to understand that it is impossible to build up a better life and to heal the wounds of the past in the shadow of these accusations.

This is not only true with respect to my own person, but also applies to the whole factory of Ludwigshafen to which I belonged as a chemist for almost 25 years, and the social management of which was entrusted to me for nearly 10 years.

I recognize that it is my duty, also towards this work, to stand here in my own behalf, and to remove the shadow of these tremendous accusations, not only from my own person, but also from my former collaborators in the whole factory.

I hope and I am firmly confident that my defense counsel and I, myself, succeeded in doing so, and that is the reason why I anticipate your verdict, Your Honors, with full confidence and trust.

12. DEFENDANT DUERRFELD

PRESIDING JUDGE SHAKE: Dr. Duerrfeld.

DEFENDANT DUERRFELD: Mr. President, Your Honors, since the collapse, the name of Auschwitz is closely connected with the concept and idea of crime and destruction, and any decent German upon hearing this word is covered by the most profound shame, and the shame is so great that even those people who know that the name of Auschwitz as an IG Works had quite a different meaning before the collapse, even these people hesitate to have any contact with that name, and this is understandable from a human point of view. It may however, seriously prejudice the finding of the truth, if propaganda and an overenthusiastic indictment endeavors to erase the demarcation lines between the two spheres, that is the IG Works and the concentration camp. Therefore, in this regard, I am grateful for this trial, and particularly grateful to my counsel, Dr. Seidl, that it had been possible to clarify in an unimpeachable manner what was actual truth, and is actual truth. The concentration camp and IG have been two entirely different spheres, two different spiritual worlds, outwardly and manifestly they are joined by the same name, but there is a deep abyss between the two. Over there you have the concentration camp; here you have the IG plant; over there you have destruction; here you have reconstruction by IG. There orders of lunacy; here you have creative achievement. Over there you find hopelessness; here you find the boldest hopes. Over there you find degradation and humiliation; over here you find concern for the individual man. Over there you find death, and over here you encounter life.

I am grateful to my destiny, for permitting me to contribute my share in clarifying the clear demarcation line between the two spheres, of course also in view of the fact that it is necessary for me to defend the honor, not only of myself, but the honor of my four children as well, and particularly also for the sake of the thousands of people who contributed their work to IG and to myself personally.

I am deeply distressed that there are innumerable people, Germans and foreigners, who are now under suspicion just for the sake of this name, "Auschwitz," suspected of being collaborators of a crime, merely on the basis of the fact that they had no idea, and that in good faith they contributed their work to this IG plant.

For 3 years in conjunction with my men, I struggled like a soldier, by order of my superiors, on behalf of this IG plant; I struggled with ideas. For 3 further years I now have suffered for the sake of this same work. I used the word, "I suffered," not in order to complain that for the sake of this work I was overcome by deprivation, by need and disease; I faced all of this because I did not make life easy for myself.

My own conscience has been the sharpest of all prosecutors, and when bringing up new statements of facts concerning the concentration camps there were always new questions that my conscience placed before me. As far as I myself and my directives are concerned, the answer was and remained simple. I did nobody any harm, nor did I order anybody to be harmed. I deprived nobody of liberty, nor did I order such deprivation of liberty. I did not mistreat anybody, nor did I order anybody to be mistreated, and I think there was nobody in this plant who did more work than I did. Nobody lost life or health pursuant to directives issued by the plant, and wherever within the jurisdiction of the plant I saw or heard of an injustice I destroyed it in its very roots. But beyond this statement, I honestly tortured myself for many weeks and many months with the question whether, owing to the fact that I had not had sufficient knowledge of things or had perhaps been negligent, I might possibly have *omitted* doing something that should have been done. But also on this point I have now gained clarity and truth.

Surely mistakes have been made, technical and organizational, and surely it was not possible for me to see and hear everything, as the technical chief of an enterprise employing 30,000 people and covering 10 square miles. I could not possibly have been everywhere. Such a man has many tasks as his duty. But as far as the charges of the prosecution against me are concerned, I feel free of guilt in general. Not even today do I feel myself guilty of any sin of omission. On the contrary, I think that it was not a little that I have contributed in favor of the people who were placed in my charge. There are hundreds of letters and affidavits which corroborate this belief of

mine, and which actually only brought it to my attention for the first time. There was not one single soul who, due to anything I did, lost life or health, and I do not know of any single case where I might have acted differently, or how, I might have acted differently.

Obviously the controlling and critical visitors did not know that either, because nobody told me about it. There were many hundreds of prominent visitors in the plant, superior IG officials, executive engineers, technical commissions, the Commission of leading Construction Engineers, the Transport Commission, executives of the Social Welfare Department, many works chiefs of other IG plants; furthermore, the works were visited by hundreds of chiefs of large industrial enterprises, by research men, and scientists. There were military men and officials there, generals and Ministers and an innumerable amount of supervisory government authorities representatives. Further there were prominent members of many European states; there were Frenchmen and Belgians, Italians and Croats, Czechs and Swiss; there were private and official delegations; there were members of legations and of the Geneva Red Cross.

Your Honors, there were many who grieved over the fate of the prisoners, but there was not any single one of these hundreds of intelligent and critical visitors who ever raised any criticism or any reproaches or even only any misgivings as far as our work was concerned and our social welfare attitude, what we heard was thanks and appreciation. Should all of these people actually have been blind?

I have before me Your Honors, the book of a former inmate of the Monowitz camp, our camp IV, entitled "Devil and Damned," that was published last year in Switzerland. The name of the author is "Kausky." He was a political persecutee, being a Social Democrat. I do not know him myself, but I esteem him for the sake of this book, not by any chance on account of the fact that throughout the entire book, which deals with camp IV and with the IG, not one single serious charge or complaint is raised against I. G. Farben, because there is not the name of any single member of IG named in this book, or pilloried in this book, although he does deal with many SS people, but I esteem him because it offers a psychological analysis of the deep tragedy of the life of an inmate. It is most depressing, for example, to read the following statement on page 175:

"In his specific job, each one pursues his own interests without consideration to anyone else. The camp became the high school of egotism. The more intelligent people saw much and learned much in the camp. They became more intelligent, they became more clever, but nobody became a better man for that. Life in the camp was far too hard, and we unexpectedly were faced by a situation in which there was a collision between our own and alien interests. There will be very few people who are capable of saying of them-

selves that they always and in all situations obeyed the categorical imperative, and there is presumably not one of us survivors who is entirely free of guilt.”

Is this not a key for many testimonials by inmates?

I have no hatred against those who testified here against the Farben plant, Auschwitz, and the spirit that prevailed there. I well understood, and only too well, that they were embittered by a hard destiny, which, however, was not within the responsibility of IG. I feel only too clearly, and it is the case today, more than at any other time, that the world will not achieve its aim of peace unless men learn to forgive one another.

13. DEFENDANT GATTINEAU

PRESIDING JUDGE SHAKE: Dr. Gattineau.

DEFENDANT GATTINEAU: May it please Your Honors, the facts that refute the charges of the prosecution have been presented by my counsel. I merely wish to add a few words that may possibly show my personal attitude. I have retained the humanitarian ideals of the young student throughout my professional life. I had aimed at opposing radicalism in politics as well as in my personal sphere. I continued in this effort even after the Weimar epoch had broken down and the idea of collecting the young conservative powers and their constructive energy in the Conservative People's Party had failed.

This attitude nearly cost me my life. Therefore, feeling the responsibility toward my family, from 30 June 1934 on I withdrew from all political activity and devoted myself exclusively to my profession. Therein I was guided by the principles that had been taught me by men like Bosch and Duisberg. Wherever I was given the task of leading followers, I have tried to solve this problem by combining the economic effect with the social rise of my staff. Today, at the end of the trial, I am convinced, as I was at its beginning, that none of my actions constitute a crime according to any law that I know of.

Therefore, I cannot but join in the motion of my defense counsel.

14. DEFENDANT VON DER HEYDE

PRESIDING JUDGE SHAKE: Dr. von der Heyde.

DEFENDANT VON DER HEYDE: May it please Your Honors, to begin with, in the course of this trial I was thrice faced with the question, "Am I guilty or not guilty" in the sense of the indictment. On the 14th day of August 1947, you, Mr. President, addressed this question to me in this same courtroom. At that time the question primarily was one of juridical significance. Not knowing the evidence in detail that the prosecution was going to introduce, but supported by my own conscience, I gave you the answer, "Not Guilty."

In conjunction with Dr. Hoffmann—and I wish to avail myself of this opportunity of thanking him sincerely for the excellent help and aid he gave me—I believe that I was able to prove that the statements I gave you on the 14th of August 1947 were justified, but there was a second time that I was faced by the same question, “Guilty or not Guilty.” This time it was myself who posed this question, and it was my conscience who was the prosecutor, and my prison cell was the forum and public present. If a man has been confined for 15 months in a cell, then he has many hours more for self-contemplation, and I would say he has much more opportunity to institute trial proceedings against himself than there are actual days of court procedure here in this courtroom. During those hours I endeavored to examine and to justify my action. I put myself back into those years and into those circumstances, and it was both from the ethical and humanitarian point of view that I posed myself the question: “Was there any time, anything that today under the same circumstances you would see your way clear to do differently, because now you recognize it to be an injustice or a wrong?”

May it please Your Honors, even in those proceedings held by myself with my conscience, I came to the same result. I do not consider myself guilty in the sense of the indictment.

PRESIDING JUDGE SHAKE: The Tribunal has called the names of all of the defendants who have indicated a desire to speak on their own behalf. If perchance any defendant has since concluded that he would like to address the Tribunal, we shall be glad to afford him that opportunity now.

The Tribunal has heard the evidence in this case, the arguments of counsel, and the personal statements of the defendants who asked for the privilege of addressing the Tribunal.

This long trial began 14 August 1947. It has now come to a close. At the end of this session the Tribunal will go into recess to deliberate upon its findings and its judgment. Counsel and all parties concerned will be given due and timely notice when the Tribunal has reached a decision, and is ready to make public announcement of its findings.

In the meantime this Tribunal is in recess.

XIII. DECISION AND JUDGMENT OF THE TRIBUNAL, STATEMENT BY JUDGE HEBERT, AND SENTENCES¹

THE MARSHAL: The Honorable, the Judges of Military Tribunal VI. Military Tribunal VI is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: You may report with respect to the attendance of the defendants, Mr. Marshal.

THE MARSHAL: May it please Your Honors, all defendants are present in the Court.

THE PRESIDENT: The Tribunal has received unofficial information of the terrible tragedy that occurred last evening at Ludwigshafen, and I am sure that I speak for the Tribunal, as well as for all who are assembled in this room, when we express our sympathy for the deceased and pay a tribute to their memory, as well as to the families of those who have suffered in this unfortunate incident.²

(The assemblage rose in silent tribute)

You may be seated.

Dr. Dix.

DR. DIX (counsel for defendant Schmitz) : May I express to you and to this Tribunal our heartfelt thanks, and the most heartfelt thanks in the name of these men here, in the name of the defense, and in the name of the unfortunate sufferers.

THE PRESIDENT: Pursuant to an order of 6 July 1948 this Tribunal has been reconvened for the purpose of publicly announcing its judgment in Case 6, the United States of America *vs.* Carl Krauch, and others. Signed copies of the judgment have been deposited in the office of the Secretary General. If there are variances between the transcript of the proceedings and said filed copies of the judgment, the latter will prevail and the Tribunal hereby directs that the transcript shall be corrected accordingly.

Judge Hebert will begin the reading of the judgment.

JUDGE HEBERT: The United States of America, plaintiff, *vs.* Carl Krauch, *et al.*

OPINION AND JUDGMENT OF THE UNITED STATES MILITARY TRIBUNAL VI

Organization of the Tribunal

United States Military Tribunal VI was established pursuant to Ordinance No. 7, promulgated on 18 October 1946, by the Military Governor of the United States Zone of Occupation within Germany.

¹ Mimeographed transcript pages 15639-15834, 29 and 30 July 1948.

² The Presiding Judge refers to an explosion at the Ludwigshafen plant in the French Zone of Occupation in which a large number of persons lost their lives.

The members hereof were appointed by the President of the United States by his Executive Orders No. 9868, dated 24 June 1947 and No. 9882, dated 7 August 1947, respectively, and were designated as Tribunal VI and organized as such by Headquarters EUCOM, General Order No. 87 dated 9 August 1947 and effective 8 August 1947. On 12 August 1947 this case was assigned to the Tribunal for trial by the Supervisory Committee of Presiding Judges of the United States Military Tribunals in Germany, in conformity with Article V of said Ordinance No. 7, as amended 17 February 1947.

Jurisdiction

The Tribunal derives its basic authority from Control Council Law No. 10, promulgated by the responsible representatives of the occupation forces of the United States, Great Britain, France, and the Soviet Union in Germany on 20 December 1945. The purpose of said law was declared to be to establish a uniform legal basis for the prosecution of war criminals and other similar offenders, and to give effect to the Moscow Declaration of 30 October 1943, the London Agreement of 8 August 1945, and the Charter of the International Military Tribunal (hereinafter referred to as IMT) issued pursuant thereto.

The Indictment

This proceeding was begun by the filing of an indictment in the Office of the Secretary General by the duly appointed Chief of Counsel for War Crimes on 3 May 1947.

The indictment consists of five counts. It purports to be drawn under the provisions of Article II of Control Council Law No. 10. Count one charges the defendants with the commission of crimes against peace through the planning, preparation, initiation, and waging of wars of aggression and invasions of other countries. Count two charges that the defendants committed war crimes and crimes against humanity through participation in the plunder of public and private property in countries and territories which came under the belligerent occupation of Germany. Count three charges the commission of war crimes and crimes against humanity through participation in enslavement and forced labor of the civilian population of countries and territories occupied or controlled by Germany, the enslavement of concentration-camp inmates within Germany and the use of prisoners of war in operations and illegal labor. It also charges the mistreatment, terrorization, torture, and murder of enslaved persons. Count four charges the defendants Schneider, Bueteffisch, and von der Heyde with membership in a criminal organization. Count five charges the participation by the defendants in a conspiracy to commit crimes against peace. The counts will be further set forth

as they are reached for discussion and determination in the course of this judgment.

The Issues

A copy of the indictment in the German language was served upon each defendant at least 30 days before the arraignment. All of the defendants, except Carl Wurster, Carl Lautenschlaeger, and Max Brueggemann, who were absent on account of illness, entered formal pleas of "Not Guilty" in open court on 14 August 1947. The defendants Wurster and Lautenschlaeger subsequently entered like pleas, and Brueggemann was severed from the case and ordered held subject to subsequent proceedings, upon a showing that he was physically unable to stand trial. The indictment and the pleas of "Not Guilty" to the charges contained therein constitute the issues upon which the case was tried.

The Trial

The trial opened 27 August 1947, and the evidence was closed on 12 May 1948. The case was prosecuted by a staff of 12 American attorneys, headed by the Chief of Counsel for War Crimes. Each defendant was represented by an approved chief counsel and assistant counsel of his own choice, all of whom were recognized and competent members of the German bar. In addition, the defendants, as a group, had the services of a specialist of their own selection in the field of international law, several expert accountants, and an administrative assistant to their chief counsel. The proceedings were conducted by simultaneous translation into the English and German languages and were electrically recorded and also stenographically reported. Daily transcripts, including copies of exhibits, in the appropriate language were provided for the use of the Tribunal and counsel. The following tabulation indicates the magnitude of the record:

	<i>Prose- cution</i>	<i>De- fense</i>	<i>Total</i>
Documents submitted (including affidavits).....	2, 282	4, 102	6, 384
Affidavits submitted.....	419	2, 394	2, 813
Witnesses called (including those heard by commissioners).....	87	102	189
Pages of the transcript (not including the judgment).....	-----	-----	15, 638
Trial days consumed (not including hearings before commissioners).....	-----	-----	152

Between 2 and 11 June 1948, the prosecution consumed 1 day and the defense 6½ days in oral argument. Each defendant was allotted 10 minutes in which to address the Court in his own behalf, free of the obligation of an oath, and fourteen availed themselves of this privilege. Exhaustive briefs were submitted on behalf of both sides.

Interlocutory Rulings

It is deemed appropriate to call attention to some of the more significant rulings made by the Tribunal during the progress of the trial.

(a) Article VII of Military Government Ordinance No. 7 provides that, "The Tribunals * * * shall admit any evidence which they deem to have probative value (such as) affidavits," and "shall afford the opposing party such opportunity to question the authenticity or probative value of such evidence as in the opinion of the Tribunal the ends of justice require." Among the guaranties for a fair trial accorded defendants by Article IV of said Ordinance is the right "to cross-examine any witness called by the prosecution." The Tribunal ruled, therefore, that it would receive affidavits in evidence, subject to the right of the opposing party to test the same by cross-examination, if production of the witnesses was requested and they could be produced for that purpose, and that in instances where the witnesses could not be made available the opposing party might procure counter affidavits from the affiants or submit interrogatories for them to answer, in lieu of cross-examination. In instances where the witnesses could not be cross-examined, counter affidavits procured, or answers to interrogatories obtained, the Tribunal, on motion, struck the affidavits from the evidence. Consistent with this ruling, the Tribunal also refused to admit, over objection, the affidavits of deceased persons.

(b) During the presentation of its case in chief, the prosecution offered a number of statements made by defendants prior to the filing of the indictment. These offers were objected to on the ground that such defendants would thereby be compelled to give evidence against themselves, in contravention of fundamental principles of enlightened criminal jurisprudence. The Tribunal ruled: (1) That, if voluntarily given, such statements were competent as admissions against interest; but (2) that if the defendants making such statements did not take the witness stand and thereby subject themselves to cross-examination, such statements would not be regarded as evidence against the other defendants, but that the Tribunal would limit its consideration thereof to the defendants making such statements. In one instance the Tribunal rejected the purported statement of a defendant upon a showing that the same was given while said defendant was under duress.

(c) In response to a motion filed by counsel for the defendants, the Tribunal ruled that, as a matter of law, a common plan or conspiracy does not exist as to war crimes and crimes against humanity, as those offenses are defined in Control Council Law No. 10. At the same time, the Tribunal held that the acts described in sections A and B, under count two of the indictment, would not, as a matter of law, constitute crimes against humanity, since they related wholly to alleged offenses against property; nor would said acts constitute war crimes, since they

pertained to incidents occurring in territory not under the belligerent occupation of Germany. This ruling will be further noticed under that part of the judgment devoted to count two of the indictment.

(d) During the trial the defendants were granted rights of access to the captured Farben papers in the Office of the Chief Counsel for War Crimes.

(e) The Tribunal refused to pass upon a number of motions raising questions of law and attacking the sufficiency of the evidence, since it felt that it would be in better position to determine such matters after it had had the benefit of the final arguments and briefs of counsel and a timely opportunity to review the large volume of evidence. These issues will be determined by this judgment.

Farben as an Instrumentality

Counts one, two, three, and five of the indictment each allege that "All of the defendants, acting through the instrumentality of Farben and otherwise with divers other persons," committed the acts charged therein. It is also stated in counts one, two, and three that said defendants "were members of organizations or groups, including Farben, which were connected with the commission of said crimes."

The designation, Farben, as used in the indictment, has reference to Interessen-Gemeinschaft Farbenindustrie Aktiengesellschaft, which is usually abbreviated to I. G. Farbenindustrie A. G., and which may be freely translated as meaning "Community of Interests of the Dyestuffs Industries, a Stock Corporation." The corporation is generally referred to as IG in the German transcript of the proceedings and as Farben in the English.

Farben came into being during 1925, when the firm of Badische Anilin- und Sodafabrik of Ludwigshafen changed its name to the present designation and merged with five of the other leading German chemical concerns. From 1904, however, some of these firms had been working under community of interest agreements, and in 1916 they had formed an association council to exercise a measure of joint control over production, marketing, and research and for the pooling of profits. By 1926 the merger had been effected with a capital structure of 1.1 billion reichsmarks, which exceeded by three times the aggregate capitalization of all the other chemical concerns of any consequence in Germany.

Under the leadership of Dr. Carl Duisberg, the first Chairman of the Aufsichtsrat, and of Dr. Carl Bosch, who succeeded to that position in 1935, Farben steadily expanded its production and its economic power. In 1926 the firm had a staff of 93,742 persons and an annual turnover of 1,209 million reichsmarks. By 1942 the staff had increased to 187,700 persons and the turnover to 2,904 million reichsmarks. At the peak of its activities the yearly turnover of the firm exceeded three billion reichsmarks.

Farben owned or held participating interests in 400 German firms and in about 500 firms in other countries. It also controlled some 40,000 valuable patent rights. The prosecution denominated the firm, "a state within a state."

Particularly outstanding were Farben's achievements in chemical research and in the practical utilization of its discoveries. Among the many pharmaceutical products which Farben developed and sponsored may be mentioned aspirin, atabrin, the salvarsans. Two of its trademarks, the "Bayer-Cross" in the pharmaceutical field and "Agfa" in photography, are well known throughout the world. In the industrial sphere Farben was a pioneer in the development of the intricate processes by virtue of which dyestuffs, methanol, the plastics, artificial fibres, and light metals are commercially produced on a large scale. The firm played an especially important role in the discovery and development of the processes for making buna rubber, nitrogen from the air, and gasoline and lubricants from coal. It is noteworthy that three Nobel prize winners have been Farben scientists, and that the firm's products won nine grand prizes at the Paris Exposition in 1937.

An enterprise of the magnitude and diversified interests of Farben necessarily required a comprehensive and intricate plan of corporate management. We shall here merely sketch the broad outlines of these, leaving details for further notice in connection with particular subjects and problems.

The *stockholders* of Farben numbered approximately a half million. There was an annual meeting, usually attended by financial representatives of groups of shareholders, at which reports were received and considered, capital increases and amendments to the charter were approved, and members of the Aufsichtsrat elected.

The *Aufsichtsrat* comprised 55 members at the time the merger was effected, but this number was reduced to 23 in 1938 and to 21 by 1940. This body was in the nature of a supervisory board, somewhat comparable, functionally, to those members of a board of directors of an American corporation who are not on the executive committee and who do not actively participate in the management of the business. Under German law the Aufsichtsrat elected and removed members of the Vorstand, called special meetings of the stockholders, and had the right to examine and audit the books and accounts of the firm.

The *Vorstand*, somewhat like the executive committee of a board of directors, was charged with the actual responsibility for the management of the corporation and represented it in dealings with others. When the Farben merger took place in 1925-1926, its Vorstand consisted of 82 members and most of its functions were delegated to a working committee of 26 members. In 1938 the Vorstand was reduced to less than 30 members and the working committee was abolished.

There was also a central committee within the working committee, which survived the abolition of the latter. The Vorstand met, on the average, every 6 weeks and was presided over by a chairman, who, in some respects, was regarded as its executive head and in others merely as *primus inter pares*.

In addition to their joint responsibilities, the members of the Vorstand were assigned to positions of leadership in specific fields of activity, roughly grouped under technical and commercial categories. We shall very briefly call attention to these agencies.

The *Technical Committee* (TEA) was composed of the technical members of the Vorstand and the leading scientists and engineers of Farben. It dealt with questions of research, development of processes, expansion and consolidation of plant facilities, and credit requests for such purposes. Beneath it were 36 subcommittees in chemistry and 5 in engineering. The technical committee had a central administrative office in Berlin, called the TEA-Buero, and the 5 engineering subcommittees were grouped together as a Technical Commission (TEKO).

The *Commercial Committee* (KA), as distinguished from the technical committee, concerned itself primarily with financial, accounting, sales, purchasing, and economic political problems. The full committee consisted of about 20 members, including, in addition to Vorstand members, the heads of the Sales Combines and other administrative agencies.

Mixed Committees. Coordination between the technical and commercial committees was achieved through special groups that drew their personnel from both fields. The more important of these were the Chemicals Committee, the Dyestuffs Committee, and the Pharmaceuticals Main Conference.

The numerous Farben plants were operated on the so-called leadership principle. A major unit was usually under the personal supervision of an individual Vorstand member, though in some instances one member was responsible for more than one unit, while in others a division of responsibility prevailed within a plant, according to production. Unity in policies of management was achieved by grouping the plants geographically and also in accordance with the character of production.

The *Works Combines* constituted the basis for geographical coordination of the Farben plants. The four original combines were the Upper Rhine, the Main Valley, the Lower Rhine, and Central Germany. In 1929 a fifth, called Works Combine Berlin, was added. The works combines coordinated such matters as over-all administration, transportation, storage, et cetera, in their respective areas.

The *Sparten* constituted a means of coordinating Farben production activities on the basis of related products. Thus, Sparte I

included nitrogen, synthetic fuels, lubricants, and coal; Sparte II embraced dyestuffs and their intermediates, buna, light metals, chemicals, and pharmaceuticals; Sparte III, synthetic fibers, cellulose and cellophane, and photographic materials.

Sales Combines were established to handle the marketing of the four principal categories of Farben products. Each combine was headed by a Vorstand member, with deputies. These were the Sales Combine Dyestuffs, the Sales Combine Chemicals, the Sales Combine Pharmaceuticals, and the Sales Combine Agfa (photographic materials, artificial fibres, etc.).

The *Central Finance Administration (ZEFI)*, was established in 1927, in connection with an office designated *Berlin NW 7*. To this was added the *Economic Research Department (VOWI)* in 1929, and the *Economic Policy Department (WIPO)* in 1933. In 1935, a central office for liaison with the armed forces, called *Vermittlungsstelle W*, was added. This office dealt with such matters as mobilization questions, military security, counterintelligence, secret patents, and research for the armed forces. Each Sparte was represented on its staff.

Unlike the antipathetic attitude of American law toward centralized control of affiliative business enterprises, German law, and to a large extent continental legal systems, encouraged combinations, sometimes rendering them mandatory. Illustrative of this attitude are the following examples:

A *Konzern* was a group of legally separate entities which were, functionally, under unified management. Farben was sometimes referred to as a *Konzern*, since it included a number of legally distinct enterprises.

A *Kartell* (cartel) was a contractual combination of independent business firms to eliminate competition and regulate markets. Most cartels were international in character and some of them were worldwide in the scope of their operations. Several American firms were affiliated with them and Farben was a party to a large number of such agreements.

A *Syndikat* (syndicate) was a more or less localized refinement of the cartel principle that maintained centralized control over production quotas and sales of certain specific products in Germany. Typical of these was the *Stickstoff-Syndikat (Nitrogen Syndicate)*, of which Farben was a leading member.

We conclude this brief resumé of Farben by noting the principal positions held by the several defendants in the firm, together with their affiliations with various political, governmental, technical, and professional groups, to which we have added a showing of the periods of time during which they have been incarcerated in connection with the charges for which they have been on trial before this Tribunal.

AMBROS, OTTO—Born 19 May 1901, Weiden, Bavaria. Professor of Chemistry. 1938–45, member of Vorstand, Technical Committee, and Chemicals Committee; chairman of 3 Farben committees in the chemical field; plant manager of 8 of the most important plants, including Buna-Auschwitz; member of control bodies in several Farben units, including Francolor.

Member of Nazi Party and German Labor Front; Military Economy Leader; special consultant to chief of Research and Development Department, Four Year Plan; chief of Special Committee "C" (Chemical Warfare), Main Committee on Powder and Explosives, Armament Supply Office; chief of a number of units in the Economic Group Chemical Industry.

Detained in prison from 17 January to 1 May 1946 and from 13 December 1946 to date.

BUERGIN, ERNST—Born 31 July 1885, Wyhlen, Baden. Electro-chemist. 1938–45, member of Vorstand; 1937–45, guest attendant and member of Technical Committee; chief of Works Combine Central Germany and member of Chemicals Committee during same periods; chief of the Bitterfeld and Wolfen plants; member of various Farben control groups in Germany, Norway, Switzerland, and Spain.

Member of Nazi Party and German Labor Front; Military Economy Leader; collaborator of Krauch in the Four Year Plan; chairman of technical committee for certain important products, Economic Group Chemical Industry.

Detained in prison from 23 June 1947 to date.

BUETEFISCH, HEINRICH—Born 24 February 1894, Hannover. Doctor of Engineering (physical-chemical). 1934–38, deputy member of Vorstand; 1938–45, full member of Vorstand; 1933–38, member of Working Committee; 1932–38, guest attendant in Technical Committee; 1938–45, member of Technical Committee; 1938–45, deputy chief of Sparte I (under Schneider); chief of the Leuna works; chairman or member of control groups of many Farben concerns in the fields of chemicals, explosives, mining, synthetics, et cetera, in Germany, Poland, Austria, Czechoslovakia, Yugoslavia, Roumania, and Hungary.

Member of Himmler Circle of Friends; member of Nazi Party and German Labor Front; Lieutenant Colonel of SS; member of NSKK and NSFK; member of National Socialist Bund of Technicians; collaborator of Krauch in the Four Year Plan; Production Commissioner for Oil, Ministry of Armaments; president of Technical Experts Committee, International Nitrogen Convention, et cetera.

Detained in prison from 11 May 1945 to date.

DUERRFELD, WALTER—Born 24 June 1899, Saarbruecken. Doctor of engineering. Not a member of the Vorstand nor of any committees;

1932-41 senior engineer of Leuna works; 1941-44, Prokurist of Farben (a position analogous to attorney-in-fact) and chief of construction and installation at the Auschwitz plant; 1944-45, director of Auschwitz plant.

1937-45, member of Nazi Party; 1934-45, member of German Labor Front; 1932-45, member of National Socialist Flying Corps (captain, 1943-45); 1944-45, district chairman for Upper Silesia, Economic Group Chemical Industry; 1918, received the Iron Cross, Class II; 1941, War Service Cross Class II; 1944, War Service Cross Class I.

Detained in prison from 9 June to 17 June 1945, and from 5 November 1945 to date.

GAJEWSKI, FRITZ—Born 13 October 1885, Pillau, East Prussia. Doctor of chemistry; 1931-34, deputy member of Vorstand; 1934-45, full member of Vorstand; 1929-38, member of Working Committee; 1933-45, member of Central Committee; 1929-45, member of Technical Committee (first deputy chairman 1933-45); 1929-45, chief of Sparte III; 1931-45, chief of Works Combine Berlin; manager of Agfa plants; member of board in numerous other subsidiaries and affiliates, including DAG.

Member of Nazi Party and German Labor Front; member of National Socialist Bund of German Technicians and of Reich Air-Raid Protection Bund; Military Economy Leader; member of several scientific and economic groups.

Detained in prison from 5 October 1945 to date.

GATTINEAU, HEINRICH—Born 6 January 1905, Bucharest, Rumania, of German parents. Lawyer. Not a member of the Vorstand but member of Vorstand Working Committee, 1932-35, and of Farben's Southeast Europe Committee, 1938-45; 1934-38, chief of Farben's Political Economy Department; officer or member of control groups in a dozen Farben units and subsidiaries in Germany and southeastern Europe.

1933-34, Colonel in the SA; 1935-45, member of Nazi Party; 1936-45, supporting member of National Socialist Motor Corps; 1934-45, member of German Labor Front and National Socialist Welfare Organization; member of Council for Propaganda of German Economy; member of Committee for Southeast Europe of the Economic Group Chemical Industry; holder of Cross for Distinguished Service, Class I and II.

Detained in prison from 11 October 1945 to 6 August 1946 and from 11 October 1946 to date.

HAEFLIGER, PAUL—A Swiss national, born 19 November 1886, Steffisburg, Canton Bern, Switzerland. Commercial school graduate. Retains his Swiss citizenship and served as honorary Swiss consul in Frankfurt from 1934-38; acquired German citizenship in 1941 and relinquished it in 1946; 1926-38, deputy member of Vorstand;

1938-45, full member of Vorstand; 1937-45, member of Commercial Committee; 1938-45, member of Chemicals Committee; 1944-45, vice-chairman and deputy chief for metals of Sales Combine Chemicals; member of Farben's Southeast Europe, East Asia, and East Committees. Chairman or member of control groups in several Farben units, including concerns in Germany, Austria, Czechoslovakia, Norway, and Italy.

Was not a member of the Nazi Party but was a member of the German Labor Front.

Detained in prison from 11 May to 30 September 1945 and from 3 May 1947 to date.

VON DER HEYDE, ERICH—Born 1 May 1900, Hong Kong, China, of German parents. Doctor in agriculture. Never a member of the Vorstand or any committees; 1939-45 "Handlungsbevollmaechtigter" with Farben (literally, a "person authorized to act" as distinguished from a "Prokurist" or general attorney-in-fact); 1936-40, attached to Farben's Economic Policy Department, Berlin NW 7; 1938-40, counterintelligence agent for Berlin NW 7, and for a short period deputy to Schneider as chief of Farben's Counterintelligence Branch, High Command of the Armed Forces.

1937-45, member of Nazi Party; 1934-45, member of German Labor Front and member of the Reiter (mounted) SS (captain 1940-45); 1942-45, attached to the Military Economy and Armament Office, German High Command.

Detained in prison from 28 April 1947 to date.

HOERLEIN, HEINRICH—Born 5 June 1883, Wendelsheim, Rhine Hesse. Professor of chemistry; 1926-31, deputy member of Vorstand; 1931-45, full member of Vorstand; 1931-38, member of Working Committee; 1933-45, member of Central Committee; 1931-45, member of Technical Committee (second deputy chairman 1933-45); 1930-45, chairman of Pharmaceutical Committee; manager of Elberfeld plant.

Member of Nazi Party, German Labor Front, National Socialist Bund of German Technicians; member of Reich Health Council; officer or member of several scientific bodies.

Detained in prison from 16 August 1945 to date.

ILGNER, MAX—Born 28 June 1899, Biebesheim, Hesse. Doctor of political science. 1934-38, deputy member of Vorstand; 1938-45, full member of Vorstand; 1933-38, member of Working Committee; 1937-45, member of Commercial Committee; 1926-45, chief of Farben's Berlin NW 7 office; chairman of Southeast Committee; manager of Schkopau buna works, deputy manager of Ammoniakwerk Merseburg; officer or member of control groups of 14 concerns in 7 countries, including American I. G. Chemical Corporation, New York.

1937, member of Nazi Party; member of German Labor Front, NSKK, National Socialist Reich Soldiers' Bund; Military Economy Leader; chairman or member of 7 advisory committees to the government; officer or member of 41 chambers of commerce and economic associations and of 21 societies and clubs in Germany and abroad; holder of a half-dozen decorations from World War I, including the Iron Cross and Hesse Medal for Bravery, and of orders of distinction from various other governments.

Detained in prison from 7 April 1945 to date.

JAEHNE, FRIEDRICH—Born 24 October 1879, Neuss, Germany. Dipl. engineer. 1934–38, deputy member of Vorstand; 1938–45, full member of Vorstand and member of Technical Committee (guest attendant since 1926); 1938–45, deputy chief of Works Combine Main Valley; chairman of the Farben Technical Commission; chief of engineering department of Hoechst plant; member of control boards of several Farben units.

Member of Nazi Party and German Labor Front; Military Economy Leader; member of Greater Advisory Council, Reich Group Industry; member of Praesidium of German Standardizing Committee; chief of Technical Committee, Trade Association of the Chemical Industry.

Detained in prison from 18 April 1947 to date.

VON KNIERIEM, AUGUST—Born 11 August 1887, Riga, Latvia. Lawyer. 1926–31, deputy member of Vorstand; 1931–45, full member of Vorstand and occasional guest attendant at meetings of Aufsichtsrat; 1931–38, member of Working Committee; 1938–45, member of Central Committee; 1931–45, guest attendant at meetings of Technical Committee; 1933–45, chairman of Legal Committee and Patent Commission; self-styled "principal attorney" of Farben; member of board in several Farben units and in two Dutch firms at The Hague.

Member of Nazi Party, German Labor Front, National Socialist Lawyers' Association; member of 4 committees and several subcommittees of Reich Group Industry dealing with law, patents, trademarks, market regulation, et cetera; member of a large number of professional associations.

Detained in prison from 7 April 1945 to date.

KRAUCH, CARL—Born 7 April 1887, Darmstadt, Germany. Doctor of natural science, professor of chemistry. Member of Vorstand and of its Central Committee; member and chairman of Aufsichtsrat, 1940–45; chief of Sparte I, 1929–38; chief of Berlin Liaison Office (Vermittlungsstelle W); member of the board in a number of major Farben subsidiaries and affiliates, including the Ford works at Cologne.

In April 1936, placed in charge of the Research and Development Department for Raw Materials and Foreign Currency on Goering's staff; October 1936, in charge of Research and Development Department in the Office of German Raw Materials and Synthetics, under the

Four Year Plan; July 1938-45, Plenipotentiary General for Special Questions of Chemical Production; December 1939, Commissioner for Economic Development under Four Year Plan; 1938-45, Military Economy Leader; member of Directorate, Reich Research Council.

1937, member of Nazi Party; member of NSFK; member of German Labor Front.

Detained in prison from 3 September 1946 to date.

KUEHNE, HANS—Born 3 June 1880, Magdeburg, Germany. Chemist. 1926-45, member of Vorstand and of Working Committee until 1938; 1925-45, member of Technical Committee; 1933-45, chief of Works Combine Lower Rhine; 1926-45, member of Chemicals Committee; plant leader of Leverkusen plant; officer or member of Aufsichtsrat in numerous Farben concerns within Germany and 8 in 5 other countries.

Became a member of the Nazi Party in 1933 but was expelled shortly thereafter and not reinstated until 1937; member of German Labor Front; member of groups in economic, commercial, and labor offices of the Reich and local governments.

Detained in prison from 29 April 1947 to date.

KUGLER, HANS—Born 4 December 1900, Frankfurt/Main. Doctor of political science. Not a member of the Vorstand; 1928-45, Prokurist (with title of "Director"); 1934-45, member of Commercial Committee; 1938-45, second vice-chairman of Dyestuffs Committee; 1937-45, member of Dyestuffs Steering Committee; 1943-45, member of Dyestuffs Application Committee; 1934-45, chief of Sales Department Dyestuffs for Hungary, Roumania, Yugoslavia, Czechoslovakia, Austria, Greece, Bulgaria, Turkey, the Near East, and Africa; 1939-45, member of Farben's Southeast Europe Committee; 1942-44, member of Commercial Committee of Francolor, Paris.

1939-45, member of Nazi Party; 1934-45, member of German Labor Front; 1938-39, Reich Economics Ministry commissioner for Aussig-Falkenau factories, Czechoslovakia, and manager of said plants and member of the Advisory Council of the Aufsichtsrat, 1939-45.

Detained in prison from 11 July to 6 October 1945 and from 18 April 1947 to date.

LAUTENSCHLAEGER, CARL—Born 27 February 1888, Karlsruhe, Baden. Doctor of medicine, doctor of chemical engineering, professor of pharmacy, honorary senator (regent) of the University of Marburg, formerly scientific assistant at the Physiological Institute of the University of Heidelberg and the Pharmacological Institute of the University of Freiburg im Breisgau. 1931-38, deputy member of Vorstand; 1938-45, full member of Vorstand, member of Technical Committee, and chief of Works Combine Main Valley; 1926-45, member of Pharmaceuticals Committee; plant leader of Hoechst plant;

participant in Pharmaceutical, Scientific, and Main Conferences of Farben.

1938-45, member of Nazi Party; 1934-45, member of German Labor Front; 1942-45, Military Economy Leader; member of various scientific and research organizations.

Detained in prison from 11 December 1946 to date.

MANN, WILHELM—Born 4 April 1894, Wuppertal-Elberfeld. Commercial school graduate. 1931-34, deputy member of Vorstand; 1934-45, full member of Vorstand; 1931-38, member of Working Committee; 1937-45, member of Commercial Committee; 1931-45, chief of Sales Combine Pharmaceuticals; 1926-45, member of Farben Pharmaceuticals Committee; chairman of East Asia Committee; official or member of numerous control groups in Farben concerns (including chairmanship in "DEGESCH").

Member of Nazi Party; member of SA with rank of lieutenant; member of German Labor Front; Reich Economic Judge; member of Greater Advisory Council, Reich Group Industry; member of many scientific organizations.

Detained in prison from 19 September to 16 October 1945 and from 26 March 1947 to date.

TER MEER, FRITZ—Born 4 July 1884, Uerdingen, Lower Rhine. Doctor of chemistry. 1926-45, member of Vorstand; 1926-38, member of Working Committee; 1933-45, member of Central Committee; 1925-45, member of Technical Committee (chairman, 1933-45); 1929-45, chief of Sparte II; 1936-45, technical representative on Dyestuffs Committee; officer or member of control groups of numerous Farben units, subsidiaries and affiliates, including Francolor, Paris, as well as concerns in Italy, Spain, Switzerland, and the United States.

Member of Nazi Party and German Labor Front; Military Economy Leader; member of National Socialist Bund of German Technicians; commissioner for Italy of the Reich Ministry for Armament and War Production; member of Economic Group Chemical Industry, holding several official positions and titles; member of numerous technical and scientific bodies.

Detained in prison from 7 June 1945 to date.

OSTER, HEINRICH—Born 9 May 1878, Strasbourg, Alsace-Lorraine. Doctor of philosophy (chemistry). 1928-31, deputy member of Vorstand; 1931-45 full member of Vorstand; 1929-38, member of Working Committee; 1937-45, member of Commercial Committee; 1930-45, manager of Nitrogen Syndicate; member of East Asia Committee and chief of Farben's sales organization for nitrogen and oil; member of several control groups in Germany, Austria, Norway, and Yugoslavia.

Member of Nazi Party; supporting member of SS Reitersturm (mounted unit); member of German Labor Front; chief or member of various sections of official or quasi-official bodies. During World War I, received the Iron Cross and several state decorations. During World War II, received the War Service Cross.

Detained in prison from 31 December 1946 to date.

SCHMITZ, HERMANN—Born 1 January 1881, Essen/Ruhr. Commercial college graduate, no degree. 1925–45, member of Vorstand; 1930–45, member of Central Committee; 1935–45, chairman of Vorstand and guest attendant at meetings of Aufsichtsrat; 1929–40, chairman of the board, I. G. Chemie, Basel, Switzerland; 1937–39, chairman of the board, American I. G. Chemical Corp., New York; chairman of Aufsichtsrat, DAG [Dynamit A. G.] (formerly Alfred Nobel & Co.); member of Aufsichtsrat, Friedrich Krupp A. G., Essen; chairman or member of control groups in several other subsidiary and affiliated Farben concerns.

1933, member of Reichstag; chairman of the Currency Committee of the Reichsbank; member of board of directors, Bank of International Settlements, Basel; member of Committee of Seven, German Gold Discount Bank, Berlin; member or chairman of control groups in several other financial institutions. Member of Committee of Experts on Raw Materials Questions; member of Select Advisory Council, Reich Group Industry; Military Economy Leader.

Detained in prison from 7 April 1945 to date.

SCHNEIDER, CHRISTIAN—Born 19 November 1887, Kulmbach, Bavaria. Chemist. 1928–37, deputy member of Vorstand; 1938–45, full member of Vorstand and of Central Committee; 1937–38, member of Working Committee; 1929–38, guest attendant at meetings of Technical Committee, full member 1938–45; 1938–45, chief of Sparte I; 1937–45, chief of plant leaders and chief counterintelligence agent of Vermittlungsstelle W; manager of Ammoniakwerk Merseburg; chief of Farben's Central Personnel Department; member of control bodies of several Farben units.

Member of Nazi Party; supporting member of SS; member of German Labor Front; member of Advisory Council, Economic Group Chemical Industry; member of Experts Committee, Reich Trustee of Labor.

Detained in prison from 6 February 1947 to date.

VON SCHNITZLER, GEORG—Born 28 October 1884, Cologne. Lawyer. 1926–45, member of Vorstand; 1926–38, member of Working Committee; 1930–45, member of Central Committee; 1929–45, guest attendant of Technical Committee; 1937–45, chairman of Commercial Committee; 1930–45, chief of Dyestuffs Sales Combine; various periods between 1926 and 1945, member of other Farben committees, etc.

Member of Nazi Party; Captain of SA ("Sturmabteilung" of the Nazi Party); member of German Labor Front; member of Nazi Automobile Association (part of the SA); Military Economy Leader; member of Greater Advisory Council, Reich Group Industry; deputy chairman, Economic Group Chemical Industry; vice-president, Court of Arbitration, International Chamber of Commerce; chairman, Council for Propaganda of German Economy; chairman of Aufsichtsrat, Chemische Werke Aussig-Falkenau, Aussig, Czechoslovakia; member of Aufsichtsrat, Francolor, Paris; officer or member of Aufsichtsrat of other Farben affiliates in Spain and Italy.

Detained in prison from 7 May 1945 to date.

WURSTER, CARL—Born 2 December 1900, Stuttgart. Doctor of chemistry. For a brief period assistant in the Institute for Inorganic Chemistry and Chemical Technology at Stuttgart Polytechnic. 1938–45, member of Vorstand, Technical Committee, and Chemicals Committee; 1940–45, chief of Works Combine Upper Rhine; chairman of Inorganics Committee and plant leader of the Oppau plant, Ludwigshafen; member of Aufsichtsrat in several Farben concerns.

Member of Nazi Party and German Labor Front; Military Economy Leader; collaborator of Krauch in the Four Year Plan, Office for German Raw Materials and Synthetics; acting vice-chairman of Praesidium, Economic Group Chemical Industry, and chief and chairman of its Technical Committee, Subgroup for Sulphur and Sulphur Compounds; holder of the Knight's Cross of the War Merit Cross.

Detained in prison from 25 April 1947 to date.

COUNTS ONE AND FIVE

Counts one and five of the indictment are predicated on the same facts and involve the same evidence. These two counts will, therefore, be considered together.

Count one consists of eighty-five paragraphs. The criminal charge is contained in paragraphs one, two, and eighty-five. The other paragraphs are in the nature of a bill of particulars. We quote the three charging paragraphs:

"1. All of the defendants, acting through the instrumentality of Farben and otherwise, with divers other persons during a period of years preceding 8 May 1945, participated in the planning, preparation, initiation, and waging of wars of aggression and invasions of other countries, which wars of aggression and invasions were also in violation of international laws and treaties. All of the defendants held high positions in the financial, industrial and economic life of Germany and committed these crimes against peace, as defined by Article II of Control Council Law No. 10, in that they were principals in, accessories to, ordered, abetted, took a consent-

ing part in, were connected with plans and enterprises involving, and were members of organizations or groups, including Farben, which were connected with the commission of said crimes.

"2. The invasions and wars of aggression referred to in the preceding paragraph were as follows: Against Austria, 12 March 1938; against Czechoslovakia, 1 October 1938 and 15 March 1939; against Poland, 1 September 1939; against the United Kingdom and France, 3 September 1939; against Denmark and Norway, 9 April 1940; against Belgium, the Netherlands and Luxembourg, 10 May 1940; against Yugoslavia and Greece, 6 April 1941; against the U. S. S. R., 22 June 1941; and against the United States of America, 11 December 1941.

"85. The acts and conduct set forth in this count were committed by the defendants unlawfully, wilfully, and knowingly, and constitute violations of international laws, treaties, agreements, and assurances, and of Article II of Control Council Law No. 10."

Count five is predicated on the acts set forth in counts one, two, and three, and charges that:

"146. All the defendants, acting through the instrumentality of Farben and otherwise, with divers other persons, during a period of years preceding 8 May 1945, participated as leaders, organizers, instigators, and accomplices in the formulation and execution of a common plan or conspiracy to commit, or which involved the commission of crimes against peace, (including the acts constituting war crimes and crimes against humanity, which were committed as an integral part of such crimes against peace) as defined by Control Council Law No. 10, and are individually responsible for their own acts and for all acts committed by any persons in the execution of such common plan or conspiracy.

"147. The acts and conduct of the defendants set forth in counts one, two, and three of this indictment formed a part of said common plan or conspiracy and all of the allegations made in said counts are incorporated in this count."

At the close of the prosecution's evidence the defendants moved for a finding of Not Guilty with respect to the charges and particulars under counts one and five. This motion questioned the sufficiency of the evidence with respect to each of the criminal acts charged in the challenged counts. The Tribunal decided to withhold ruling on the motion until final judgment. This judgment, although embracing a consideration of all the evidence for both prosecution and defense, will effectively and automatically dispose of that motion.

Control Council Law No. 10, as stated in its preamble, was promulgated "In order to give effect to the terms of the Moscow Declaration of 30 October 1943 and the London Agreement of 8 August 1945,

and the Charter issued pursuant thereto and in order to establish a uniform legal basis in Germany for the prosecution of war criminals and other similar offenders, other than those dealt with by the International Military Tribunal." In Article 1, the Moscow Declaration and the London Agreement are made integral parts of the law. In keeping with the purpose thus expressed, we have determined that Control Council Law No. 10 cannot be made the basis of a determination of guilt for acts or conduct that would not have been criminal under the law as it existed at the time of the rendition of the judgment by the IMT in the case of United States of America *vs* Hermann Wilhelm Goering, *et al.* That well-considered judgment is basic and persuasive precedent as to all matters determined therein. In the IMT case, count two bears a marked similarity to count one in this case. Count one of that case is similar to our count five. Regarding these counts the IMT said:

"Count one charges the common plan or conspiracy. Count two charges the planning and waging of war. The same evidence has been introduced to support both counts. We shall therefore discuss both counts together, as they are in substance the same.

"But in the opinion of the Tribunal the conspiracy must be clearly outlined in its criminal purpose. It must not be too far removed from the time of decision and of action. The planning, to be criminal, must not rest merely on the declarations of a party program, such as are found in the twenty-five points of the Nazi Party, announced in 1920, or the political affirmations expressed in 'Mein Kampf' in later years. The Tribunal must examine whether a concrete plan to wage war existed, and determine the participants in that concrete plan.

"It is immaterial to consider whether a single conspiracy to the extent and over the time set out in the indictment has been conclusively proved. Continued planning, with aggressive war as the objective, has been established beyond a doubt.

"The Tribunal will therefore disregard the charges in count one that the defendants conspired to commit war crimes and crimes against humanity, and will consider only the common plan to prepare, initiate, and wage aggressive war." *

In passing judgment upon the several defendants with respect to the common plan or conspiracy charged by count one and the charges of planning and waging aggressive war as charged by count two, the IMT made these observations concerning:

KALTENBRUNNER—Indicted and found not guilty under count one.

"The Anschluss, although it was an aggressive act, is not charged as an aggressive war, and the evidence against Kaltenbrunner under

**Trial of the Major War Criminals*, volume I, pp. 224-226.

count one does not, in the opinion of the Tribunal, show his direct participation in any plan to wage such a war.”¹

FRANK—Indicted and found not guilty under count one.

“The evidence has not satisfied the Tribunal that Frank was sufficiently connected with the common plan to wage aggressive war to allow the Tribunal to convict him on count one.”²

FRICK—Indicted under counts one and two. Found not guilty on count one, guilty on count two.

“Before the date of the Austrian aggression Frick was concerned only with domestic administration within the Reich. The evidence does not show that he participated in any of the conferences at which Hitler outlined his aggressive intentions. Consequently, the Tribunal takes the view that Frick was not a member of the common plan or conspiracy to wage aggressive war as defined in this Judgment * * * Performing his allotted duties, Frick devised an administrative organization in accordance with wartime standards. According to his own statement, this was actually put into operation after Germany decided to adopt a policy of war.”³

STREICHER—Indicted and found not guilty under count one.

“There is no evidence to show that he was ever within Hitler’s inner circle of advisers; nor during his career was he closely connected with the formulation of the policies which led to war. He was never present, for example, at any of the important conferences when Hitler explained his decisions to his leaders. Although he was a Gauleiter, there is no evidence to prove that he had knowledge of those policies. In the opinion of the Tribunal, the evidence fails to establish his connection with the conspiracy or common plan to wage aggressive war as that conspiracy has been elsewhere defined in this judgment.”⁴

FUNK—Indicted under counts one and two. Found not guilty on count one; guilty on count two.

“Funk was not one of the leading figures in originating the Nazi plans for aggressive war. His activity in the economic sphere was under the supervision of Goering as Plenipotentiary General of the Four Year Plan. He did, however, participate in the economic preparation for certain of the aggressive wars, notably those against Poland and the Soviet Union, but his guilt can be adequately dealt with under count two of the indictment. In spite of the fact that he occupied important official positions, Funk was never a dominant

¹ *Ibid.*, p. 291.

² *Ibid.*, p. 296.

³ *Ibid.*, p. 299.

⁴ *Ibid.*, p. 302.

figure in the various programs in which he participated. This is a mitigating fact of which the Tribunal takes notice.”¹

SCHACHT—Indicted and found not guilty under counts one and two.

“It is clear that Schacht was a central figure in Germany’s rearmament program, and the steps which he took, particularly in the early days of the Nazi regime, were responsible for Nazi Germany’s rapid rise as a military power. But rearmament of itself is not criminal under the Charter. To be a crime against peace under article 6 of the Charter, it must be shown that Schacht carried out this rearmament as part of the Nazi plans to wage aggressive war. * * * Schacht was not involved in the planning of any of the specific wars of aggression charged in count two. His participation in the occupation of Austria and the Sudetenland (neither of which are charged as aggressive wars) was on such a limited basis that it does not amount to participation in the common plan charged in count one. He was clearly not one of the inner circle around Hitler, which was most closely involved with this common plan.”²

DOENITZ—Indicted under counts one and two. Found not guilty on count one; guilty on count two.

“Although Doenitz built and trained the German U-boat arm, the evidence does not show he was privy to the conspiracy to wage aggressive wars or that he prepared and initiated such wars. He was a line officer performing strictly tactical duties. He was not present at the important conferences when plans for aggressive wars were announced, and there is no evidence he was informed about the decisions reached there * * *. In the view of the Tribunal, the evidence shows that Doenitz was active in waging aggressive war.”³

VON SCHIRACH—Indicted and found not guilty under count one.

“Despite the warlike nature of the activities of the Hitler Jugend, however, it does not appear that von Schirach was involved in the development of Hitler’s plan for territorial expansion by means of aggressive war, or that he participated in the planning or preparation of any of the wars of aggression.”⁴

SAUCKEL—Indicted and found not guilty under counts one and two.

“The evidence has not satisfied the Tribunal that Sauckel was sufficiently connected with the common plan to wage aggressive war or sufficiently involved in the planning or waging of the ag-

¹ *Ibid.*, pp. 305, 306.

² *Ibid.*, pp. 308-310.

³ *Ibid.*, pp. 310, 311.

⁴ *Ibid.*, p. 318.

gressive wars to allow the Tribunal to convict him on counts one or two.”¹

VON PAPAN—Indicted and found not guilty under counts one and two.

“There is no evidence that he was a party to the plans under which the occupation of Austria was a step in the direction of further aggressive action, or even that he participated in plans to occupy Austria by aggressive war if necessary. But it is not established beyond a reasonable doubt that this was the purpose of his activity, and therefore the Tribunal cannot hold that he was a party to the common plan charged in count one or participated in the planning of the aggressive wars charged under count two.”²

SPEER—Indicted and found not guilty under counts one and two.

“The Tribunal is of the opinion that Speer’s activities do not amount to initiating, planning, or preparing wars of aggression, or of conspiring to that end. He became the head of the armament industry well after all of the wars had been commenced and were under way. His activities in charge of German armament production were in aid of the war effort in the same way that other productive enterprises aid in the waging of war; but the Tribunal is not prepared to find that such activities involve engaging in the common plan to wage aggressive war as charged under count one or waging aggressive war as charged under count two.”³

FRITZSCHE—Indicted and found not guilty under count one.

“Never did he achieve sufficient stature to attend the planning conferences which led to aggressive war; indeed according to his own uncontradicted testimony he never even had a conversation with Hitler. Nor is there any showing that he was informed of the decisions taken at these conferences. His activities cannot be said to be those which fall within the definition of the common plan to wage aggressive war as already set forth in this judgment * * *. It appears that Fritzsche sometimes made strong statements of a propagandistic nature in his broadcasts. But the Tribunal is not prepared to hold that they were intended to incite the German people to commit atrocities on conquered peoples, and he cannot be held to have been a participant in the crimes charged. His aim was rather to arouse popular sentiment in support of Hitler and the German war effort.”⁴

¹ *Ibid.*, p. 320.

² *Ibid.*, p. 327.

³ *Ibid.*, pp. 330–331.

⁴ *Ibid.*, pp. 337 and 338.

BORMANN—Indicted and found not guilty under count one.

“The evidence does not show that Bormann knew of Hitler’s plans to prepare, initiate, or wage aggressive wars. He attended none of the important conferences when Hitler revealed piece by piece those plans for aggression. Nor can knowledge be conclusively inferred from the positions he held. It was only when he became head of the Party Chancellory in 1941, and later in 1943 secretary to the Fuehrer when he attended many of Hitler’s conferences, that his positions gave him the necessary access. Under the view stated elsewhere which the Tribunal has taken of the conspiracy to wage aggressive war, there is not sufficient evidence to bring Bormann within the scope of count one.”*

From the foregoing it appears that the IMT approached a finding of guilty of any defendant under the charges of participation in a common plan or conspiracy or planning and waging aggressive war with great caution. It made findings of guilty under counts one and two only where the evidence of both knowledge and active participation was conclusive. No defendant was convicted under the charge of participating in the common plan or conspiracy unless he was, as was the defendant Hess, in such close relationship with Hitler that he must have been informed of Hitler’s aggressive plans and took action to carry them out, or attended at least one of the four secret meetings at which Hitler disclosed his plans for aggressive war. The IMT judgment lists these meetings as having taken place on 5 November 1937, 23 May 1939, 22 August 1939, and 23 November 1939.

It is important to note here that Hitler’s public utterances differed widely from his secret disclosures made at these meetings.

Common Knowledge

During the early stages of the trial, the prosecution spent considerable time in attempting to establish that, for some time prior to the outbreak of war, there existed in Germany public or common knowledge of Hitler’s intention to wage aggressive war. It introduced in evidence excerpts from the program of the Nazi Party and from Hitler’s book *Mein Kampf*.

Prosecution’s Exhibit 4 is a summarization of the program of the NSDAP published in 1941 in the National Socialistic Year Book. This program was proclaimed on 25 February 1920 and remained unaltered down to 1941. The summarization consists of twenty-five points. We quote those dealing with military and foreign policy.

“1. We demand the unification of all Germans in the greater Germany on the basis of the right of self-determination of peoples.

**Ibid.*, p. 339.

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

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

"12. In consideration of the monstrous sacrifice in property and blood that each war demands of the people, personal enrichment through a war must be designated as a crime against the people. Therefore we demand the total confiscation of all war profits.

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

Much more belligerent in tone are the excerpts from *Mein Kampf*, the basic theme of which was that the frontiers of the Reich should embrace all Germans. On this book the IMT said:

"*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." *

This book had a circulation throughout Germany of over six million copies. We must bear in mind, however, that it was written by Hitler the politician, before his party came to power. It is consistent with statements that he made to his immediate circle of confidants and plotters, but it is entirely inconsistent with his many speeches and proclamations—made as head of the Reich—for public consumption. Some of these we will now consider.

Two thoughts permeated Hitler's public utterances from his seizure of power up until 1939. These were fear of communism and love of peace. On 17 May 1933, in addressing the German Reichstag, he stressed the futility of violence as a medium for improving the conditions of Germany and Europe and asserted that such violence would necessarily cause a collapse of the social and political order and would result in communism. He then said that Germany "is also entirely ready to renounce all offensive weapons of every sort if the armed nations, on their side, will destroy their offensive weapons within a specified period, and if their use is forbidden by an international convention * * * Germany is at all times prepared to renounce offensive weapons if the rest of the world does the same. Germany is prepared to agree to any solemn pact of non-aggression because she does not think of attacking but only of acquiring security."

On 14 October 1933, Hitler announced the withdrawal of Germany from the League of Nations in a radio speech filled with protestations of the friendly intentions of the Reich and his government's devotion to the cause of peace. Many similar passages are to be found in

**Ibid.*, p. 188.

his public utterances and proclamations down to and including the announcement of the Four Year Plan.

The Four Year Plan, according to the prosecution's version of the evidence, was designed to rearm and rebuild Germany, militarily and economically, for the purpose of waging aggressive war, and the part played by the defendants in the execution of that plan is relied upon as a strong circumstance tending to show their wilful participation in Hitler's plans for aggressive war. The Four Year Plan was announced to the German public and the world by Hitler's speech of 9 September 1936, delivered at a Nazi Party Rally at Nurnberg. He first reviewed in exaggerated fashion the accomplishments of Germany in the economic field since his rise to power. He then launched into an outline of an ambitious program to further rehabilitate and strengthen Germany in the ensuing four years. He reminded the people in demagogic style that he had already procured for them increased employment, better highways, more automobiles, stable currency, more constant food supply, and increased production in various fields through German skill and through the development of chemical, mining, and other industries. He justified the increase in Germany's armed forces upon the ground that this was necessary and in proportion to the increasing dangers surrounding Germany. He then said: "The German people, however, has no other wish than to live in peace and friendship with all those who want the peace and who do not interfere with us in our own country."

On 30 January 1937, Hitler made a speech in Berlin at the Kroll Opera House, in which he again discussed the Four Year Plan and announced a city-planning program of construction for Berlin, concerning which he said: "For the execution of that plan, a period of 20 years is provided. May the Almighty grant us peace, during which the gigantic task may be completed."

On 12 March 1938, Hitler issued a proclamation in extravagant terms attempting to justify the Austrian Anschluss. He attacked the Austrian Government under Chancellor Schuschnigg as an oppressor of the people that had proposed a fraudulent election which could only lead to civil war. This, Hitler sought to prevent.

On 18 March 1938, Cardinal Innitzer and the bishops of Austria issued, from Vienna, a solemn declaration in which they said: "We recognize with joy that the National Socialist movement has produced outstanding achievements in the spheres of national and economic reconstruction as well as in their welfare policy for the German Reich and people, and in particular for the poorest strata of the people. We are also convinced that through the activities of the National Socialist movement the danger of all-destroying godless bolshevism was averted." Thus it appears that even high ecclesiastical leaders were misled as to Hitler's ultimate purpose.

After securing Austria for the Reich, Hitler turned his attention to Czechoslovakia and applied increasing pressure upon that country under the pretext of rescuing the Sudeten Germans from claimed oppression by the Czech Government. This aggressive attitude on the part of Hitler culminated in the Munich Agreement of 29 September 1938, in which Germany and the United Kingdom, France, and Italy agreed to the occupation of the Sudeten area by German troops and the determination of its frontiers by an international commission. The following day, 30 September, Adolf Hitler and Neville Chamberlain signed the following accord:

“We have had a further conversation today and we are agreed in recognizing that the question of German-English relations is of the highest importance for both countries and for Europe. We regard the Agreement which was signed last evening and the German-English Naval Agreement as symbolic of the wish of our two peoples never again to wage war against each other. We are determined to treat other questions which concern our two countries also through the method of consultation and further to endeavor to remove possible causes of difference of opinion in order thus to contribute towards assuring the peace of Europe.”

On 6 December 1938, Georges Bonnet and Joachim von Ribbentrop signed, as foreign ministers for their respective countries, a Franco-German Declaration of pacific and neighborly relations. In making this Declaration public, von Ribbentrop emphasized its contribution to the peaceful relationship of the two countries.

In the light of history we now know that Hitler had no intention of stopping with the gains he had made through the Munich Agreement. He turned his attention to the liquidation of the remainder of Czechoslovakia. On 14 March 1939, the President and the Foreign Minister of the Czech Republic met with von Ribbentrop, Goering, and Keitel and other officials of the Reich. Under threat of invasion and destruction of their country the Czech officials signed an agreement for the incorporation of the remainder of Czechoslovakia into the German Reich, and on 16 March 1939 a decree was issued creating Bohemia and Moravia a Reich protectorate. In order to justify this move in the minds of the German people, Hitler carried on for some time systematic propaganda against the Czechs, the foundation of which was, as usual, the fear of Russia. The Czechs were accused of negotiating with Russia for the construction and use of airfields and bases on Czech soil. Even in the presence of these activities, Hitler continued to emphasize his love of peace and the necessity of providing for the defense of Germany.

In 1939, Hitler entered into nonaggression pacts with other European states, purporting to be in furtherance of the maintenance of peace. There followed the German-Italian mutual friendship and al-

liance pact of 22 May 1939; the German-Danish nonaggression pact of 31 May 1939; a nonaggression pact between the German Reich and the Republic of Estonia of 7 June 1939; and a similar pact with the Republic of Latvia on the same date. On 23 August 1939, Germany and the Union of Socialist Soviet Republics likewise entered into a nonaggression pact. These agreements were all made public and are of such a nature as to tend to conceal rather than expose an intention on the part of Hitler and his immediate circle to start an aggressive war.

But what of Poland? In April 1939, Hitler issued strict directives to the High Command to prepare for war against Poland. But, in a speech to the Reichstag, on 28 April 1939, he said:

“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 * * *.”

Thus he continued to mislead the public with reference to his true purpose. He led the public to believe that he still maintained the view that Poland and Germany could work together in harmony—a view which he had expressed to the Reichstag on 20 February 1938, in these words:

“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.”

While it is true that those with an insight into the evil machinations of power politics might have suspected Hitler was playing a cunning game of soothing restless Europe, the average citizen of Germany, be he professional man, farmer, or industrialist, could scarcely be charged by these events with knowledge that the rulers of the Reich were planning to plunge Germany into a war of aggression.

During this period, Hitler's subordinates occasionally gave expression to belligerent utterances. But, even these can only by remote inference, formed in retrospect, be connected with a plan for aggressive war. The point here is the common or general knowledge of Hitler's plans and purpose to wage aggressive war. He was the dictator.

It was natural that the people of Germany listened to and read his utterances in the belief that he spoke the truth.

It is argued that after the events in Austria and Czechoslovakia, men of reasonable minds must have known that Hitler intended to wage aggressive war, although they may not have known the country to be attacked or the time of initiation. This argument is not sound. Hitler's moves in Austria and Czechoslovakia were for the avowed purpose of reuniting the German people under one Reich. The purpose met general public approval. By a show of force but without war, Hitler had succeeded. In the eyes of his people he had scored great and just diplomatic successes without endangering the peace. This was affirmed in the common mind by the Munich Agreement and the various nonaggressive pacts and accords which followed. The statesmen of other nations, conceding Hitler's successes by the agreements they made with him, affirmed their belief in his word. Can we say the common man of Germany believed less?

We reach the conclusion that common knowledge of Hitler's plans did not prevail in Germany, either with respect to a general plan to wage aggressive war, or with respect to specific plans to attack individual countries, beginning with the invasion of Poland on 1 September 1939.

Personal Knowledge

It is a basic fact that a plan or conspiracy to wage wars of aggression did exist. It was primarily the plan of Hitler and was participated in, as to both its formation and execution, by a group of men having a particularly close and confidential relationship with the Dictator. It was a secret plan. At first, it was general in scope and, later, became more specific and detailed. This is established by unquestioned events. Its purpose was to make Germany the dominant military and economic power of Europe by militant diplomacy, and finally by conquest. It started more as an objective than as a plan complete in detail. From time to time it bore offsprings—the specific plans for conquest.

It is not clear when Hitler first conceived his general plan of aggression, or with whom he first discussed it. He made a definite disclosure at a secret meeting on 15 November 1937. The persons present were Lieutenant Colonel Hossbach, Hitler's personal adjutant; Goering, Commander in Chief of the Luftwaffe; von Neurath, Reich Foreign Minister; Raeder, Commander in Chief of the Navy; General von Blomberg, Minister of War; and General von Fritsch, Commander in Chief of the Army. This meeting was followed by other secret meetings of special significance on 23 May 1939, 22 August 1939, and 23 November 1939. Thus three of the meetings preceded the invasion of Poland. None of the defendants attended any of these meetings.

If the defendants, or any of them, are to be held guilty under either count one or five or both on the ground that they participated in the planning, preparation, and initiation of wars of aggression or invasions, it must be shown that they were parties to the plan or conspiracy, or, knowing of the plan, furthered its purpose and objective by participating in the preparation for aggressive war. The solution of this problem requires a consideration of basic facts disclosed by the record. These facts include the positions, if any, held by the defendants with the state and their authority, responsibility, and activities thereunder, as well as their positions and activities with or in behalf of Farben.

In weighing the evidence and in determining the ultimate facts of guilt or innocence with respect to each defendant, we have sought to apply these fundamental principles of Anglo-American criminal law:

1. There can be no conviction without proof of personal guilt.
2. Guilt must be proved beyond a reasonable doubt.
3. Each defendant is presumed to be innocent, and that presumption abides with him throughout the trial.
4. The burden of proof is, at all times, upon the prosecution.
5. If from credible evidence two reasonable inferences may be drawn, one of guilt and the other of innocence, the latter must prevail. (United States *vs.* Friedrich Flick, *et al.*, Case 5, American Military Tribunal IV, Nurnberg, Germany.)

In considering the many conflicts in the evidence and the multitude of circumstances from which inferences may be drawn, as disclosed by the voluminous record before us, we have endeavored to avoid the danger of viewing the conduct of the defendants wholly in retrospect. On the contrary, we have sought to determine their knowledge, their state of mind, and their motives from the situation as it appeared, or should have appeared, to them at the time.

The prosecution has designated as the number one defendant in this case Carl Krauch, who held positions of importance with both the government and Farben.

While the Farben organization, as a corporation, is not charged under the indictment with committing a crime and is not the subject of prosecution in this case, it is the theory of the prosecution that the defendants individually and collectively used the Farben organization as an instrument by and through which they committed the crimes enumerated in the indictment. All of the members of the Vorstand or governing body of Farben who were such at the time of the collapse of Germany were indicted and brought to trial. This Tribunal found that Max Brueggemann was not in a physical condition to warrant continuing him as a defendant in the case, and by an appropriate order separated him from this trial. All of the other Vorstand members are defendants in this case. The defend-

ants Duerrfeld, Gattineau, von der Heyde, and Kugler, were not members of the Vorstand but held places of importance with Farben.

If we emphasize the defendant Krauch in the discussion which follows, it is because the prosecution has done so throughout the trial and has apparently regarded him as the connecting link between Farben and the Reich on account of his official connections with both.

Krauch became a member of the Vorstand in 1933 and continued in that position until 1940, when he became a member of the Aufsichtsrat. From 1929 to 1938 he was Chief of Sparte I.

In 1934, Hitler turned his attention to the rearmament of Germany and sought to impress industry with the necessity of participating therein. It was then sought to encourage rearmament through an industrial organization of which Farben was a member, known as the Reich Group Industry. At that time the industries were asked to work out detailed plans for protecting their plants from the results of air raids. Krauch was later given duties in connection with the planning of air-raid protection, which resulted in a reprimand from Goering in Hitler's presence in 1944. He was accused by Goering with failure to properly plan and supervise air-raid protection for plants that were being severely bombed by Allied air forces. It may be noted that this is the only instance in which the defendant Krauch talked to Hitler. In 1934, it was decided to create a "War Economic Central Office of Farben for all matters of military economy and questions of military policy." Krauch was instrumental in organizing this agency, known as Vermittlungsstelle W, the purpose of which we have concluded to be to act as a clearing house for information concerning rearmament between the various plants and agencies of Farben and the Reich authorities in charge of the rearmament of Germany. It received and distributed information, but it was not an agency for determining policy or for the giving of orders regarding a policy that had already been determined. It did facilitate the cooperation of Farben with the rearmament program, but it was not a planning organization. It was a part of the program for rearmament, but neither its organization nor its operation gives any hint of plans for aggressive war.

In 1936, Krauch joined Goering's staff for Raw Materials and Foreign Currency which had just been set up, and was put in charge of the Research and Development Department. When this staff was absorbed into the Office of the Four Year Plan, headed by Goering, Krauch retained the same position in the Office for German Raw Materials and Synthetics. This office was later renamed the Reich Office for Economic Development when it was placed under the Reich Ministry of Economics.

Shortly after the announcement of the Four Year Plan, in September 1936, Hitler appointed Goering as commissioner to carry out the

plan. Goering appointed seven men to assist him and placed each in charge of a separate department, such as Labor Allocation, Agricultural Production, Price Control, et cetera. Colonel Loeb was placed in charge of the Office for German Raw Materials and Synthetics. Under Loeb were five departments, over four of which Loeb appointed subordinate executives. The fifth was retained under Loeb's direct control. The Defendant Krauch, being one of these four subordinates, was placed in charge of Research and Development. A visual picture of the structure of the Four Year Plan thus created may be obtained from a chart, Prosecution's Exhibit 425, which is reproduced herewith:

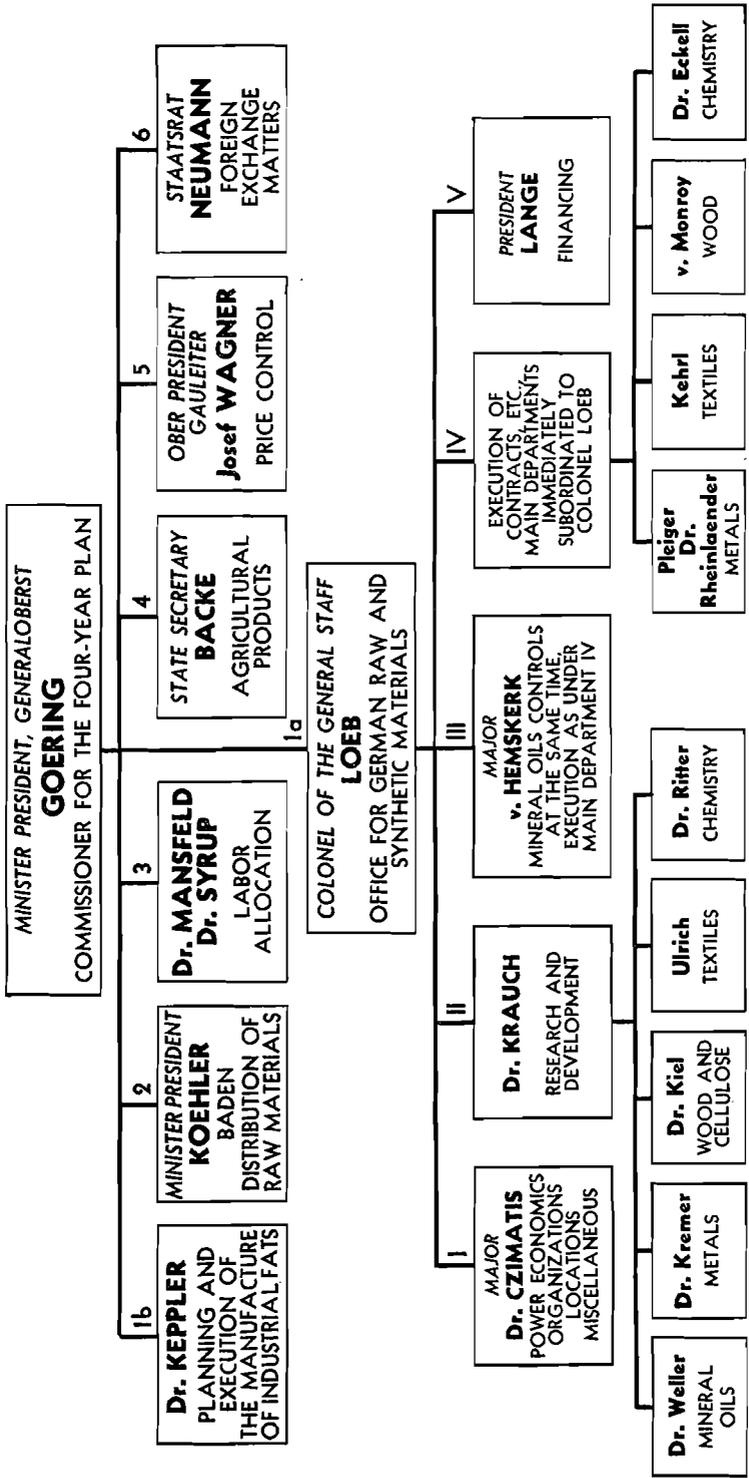
**TRANSLATION OF DOCUMENT NI-4706
PROSECUTION EXHIBIT 425**

**CHART OF FOUR YEAR PLAN AND ITS MAIN DEPARTMENTS,
18 DECEMBER 1936**

In 1938, Hitler and Goering decided to step up production under the Four Year Plan and, to accomplish this, appointed from time to time at least nine special plenipotentiaries with limited duties and authority. In July 1938, Krauch was appointed Plenipotentiary General for Special Questions of Chemical Production. Under this appointment it became his task to supervise as an expert the development of the chemical industry in furtherance of the Four Year Plan. However, the Army Ordnance Office and the Reich Ministry of Economics determined the requirements for individual chemical production. Later the Ministry of Armament assumed this authority. Plans for the expansion of existing plants or the setting up of new plants came within the province of Krauch. But even such plans could not be executed without first having been approved by the Plenipotentiary General for the Building Industry and the Plenipotentiary [General] for Labor [Allocation]. Krauch was not authorized to decide questions relating to current chemical production. Neither could he issue production orders or interfere with the allocation of production. Thus it appears his authority was limited largely to giving expert opinions on technical development, recommending plans for the expansion or erection of plants, and general technical advice in the chemical field.

Judge Morris will continue with the reading of the judgment.

JUDGE MORRIS: The evidence is clear that Krauch did not participate in the planning of aggressive wars. The plans were made by and within a closely guarded circle. The meetings were secret. The information exchanged was confidential. Krauch was far beneath membership in that circle. No opportunity was afforded to him to participate in the *planning*, either in a general way or with regard to any of the specific wars charged in count one.



The record is also clear that Krauch had no connection with the *initiation* of any of the specific wars of aggression or invasions in which Germany engaged. He was informed of neither the time nor method of initiation. The evidence that most nearly approaches Krauch is that pertaining to the *preparation* for aggressive war. After World War I, Germany was totally disarmed. She was stripped of war material and the means of producing it. Immediately upon the acquisition of power by the Nazis, they proceeded to rearm Germany, secretly and inconspicuously at first. As the rearmament program grew, so also did the boldness of Hitler with reference to rearmament. Rearmament took the course, not only of creating an army, a navy, and an air force, but also of coordinating and developing the industrial power of Germany so that its strength might be utilized in support of the military in event of war. The Four Year Plan, initiated in 1936, was a plan to strengthen Germany as both a military and an economic power, although, in its introduction to the German people, the military aspect was kept in the background.

In order to conceal Germany's growing military power, strict measures were undertaken to impose secrecy, not only regarding military matters, but also regarding Germany's growing industrial strength. This served two purposes: it tended to conceal the true facts from the world and from the German public; it also kept the people who were actually participating in rearmament from learning of the progress being made outside of their own specific fields of endeavor, and kept them in ignorance of the actual state of Germany's military strength. The dictatorial system was in full control. Even people in high places were kept in ignorance and were not permitted to disclose to each other the extent of their individual activities in behalf of the Reich. A striking example of this is Keitel's objection to Krauch's appointment as Plenipotentiary General for Special Questions of Chemical Production, on the ground that Krauch, as a man of industry and not of the military, should not obtain insight into the armament fields. He pointed out that anyone in that position might learn how many divisions were being set up in the army and what plans were being made for bomber squadrons. The evidence shows that, although Krauch was appointed over the objection of Keitel, he was never fully trusted by the military. His functions and authority were limited to fields bordering on military affairs. He could not act without the cooperation of the Army Ordnance Office. The evidence does not show that anyone told Krauch that Hitler had a plan or plans to plunge Germany into aggressive war. Moreover, the positions that Krauch held with reference to the government did not, necessarily, result in the acquisition by him of such knowledge.

The IMT stated that "Rearmament of itself is not criminal under the Charter." It is equally obvious that participation in the rearma-

ment of Germany was not a crime on the part of any of the defendants in this case, unless that rearmament was carried out, or participated in, with knowledge that it was a part of a plan or was intended to be used in waging aggressive war. Thus we come to the question which is decisive of the guilt or innocence of the defendants under counts one and five—the question of knowledge.

We have already discussed common knowledge. There was no such common knowledge in Germany that would apprise any of the defendants of the existence of Hitler's plans or ultimate purpose.

It is contended that the defendants must have known from events transpiring within the Reich that what they did in aid of rearmament was preparing for aggressive war. It is asserted that the magnitude of the rearmament effort was such as to convey that knowledge. Germany was rearming so rapidly and to such an extent that, when viewed in retrospect in the light of subsequent events, armament production might be said to impute knowledge that it was in excess of the requirements of defense. If we were trying military experts, and it was shown that they had knowledge of the extent of rearmament, such a conclusion might be justified. None of the defendants, however, were military experts. They were not military men at all. The field of their life work had been entirely within industry, and mostly within the narrower field of the chemical industry with its attendant sales branches. The evidence does not show that any of them knew the extent to which general rearmament had been planned, or how far it had progressed at any given time. There is likewise no proof of their knowledge as to the armament strength of neighboring nations. Effective armament is relative. Its efficacy depends upon the relative strength with respect to the armament of other nations against whom it may be used either offensively or defensively.

The fields in which Farben was active were those of synthetic rubber, gasoline, nitrogen, light metals, and, to some extent, through an affiliated company, explosives. The defendants contend that in the first three fields their primary purpose was to serve civilian needs. Hitler was building Autobahns and was encouraging the assembly-line production of small automobiles. A large increase in the demand for tires was taking place. The German Army was, of course, interested in more and better tires. It collaborated with Farben in expanding rubber production and in testing tires made from buna rubber. The production of gasoline likewise received military encouragement. Experimentation and production in the high-octane processes was particularly for the benefit of the Air Force.

Nitrogen is a product in great demand for agriculture in peacetime. The impoverished German soil required much fertilization in order to make it produce needed food for a country that was dependent to a substantial degree upon imports for the nourishment of its people.

Nitrogen also is a basic and indispensable element in the making of most explosives. Its production can readily be turned from the needs of peace to those of war. The Reich, therefore, encouraged Farben to greatly expand its facilities for producing nitrogen. Light metals had their peacetime uses. They were also war necessities, particularly in the production of airplanes. The defense, however, points out that the airplane itself is not always an instrument of war but is used as a medium of peacetime transportation.

The Luftwaffe, however, was not a peacetime organization. It utilized the coming war arm of modern nations. The defendants who participated in the expansion of light metal production capacity, in cooperation with Luftwaffe officials, of course knew that thereby they were strengthening Germany's war potential. Similar knowledge must be attributed to those who participated in the expansion of Farben's capacity to produce buna rubber, gasoline, and nitrogen. It was all a part of an over-all plan or program to strengthen Germany in the fields of economy and rearmament. To the extent that the activities of the defendants through the mediums just described contributed materially to the rearmament of Germany, the defendants must be charged with knowledge of the immediate result. The evidence is not so clear as to Farben's responsibility for the increase in production of explosives. The initiative in this field clearly lay with the Reich, but Farben aided the production by furnishing both experts and capital for the expansion of explosive enterprises, and, to that extent at least, participated in rearmament. The prosecution, however, is confronted with the difficulty of establishing knowledge on the part of the defendants not only of the rearmament of Germany, but also that the purpose of rearmament was to wage aggressive war. In this sphere the evidence degenerates from proof to mere conjecture. The defendants may have been, as some of them undoubtedly were, alarmed at the accelerated pace that armament was taking. Yet even Krauch, who participated in the Four Year Plan within the chemical field, undoubtedly did not realize that, in addition to strengthening Germany, he was participating in making the nation ready for a planned attack of an aggressive nature. Krauch did not figure in the planning of the production of any of the items that we have discussed until about the middle of the year 1938. Production planning was carried on by the planning department of the Reich Office for Economic Development, which was not subordinated to Krauch's supervision. Upon being informed by Loeb as to statistics with respect to production and the time required for accomplishment, Krauch reached the conclusion that the figures were to a large extent erroneous and misleading and so informed Goering, who asked for Krauch's comment. Krauch then produced what is known as the Karinhall Plan, which provided for an expansion of facilities and the

acceleration of production of mineral oils, buna rubber, and light metals. In the meantime, Keitel had furnished Goering with figures concerning powder, explosives, and certain raw products used in their production. The correctness of these figures, too, was questioned by Krauch, whereupon Goering called upon Krauch to collaborate with the Army Ordnance Office in preparing an accelerated and corrected plan for the production of powder, explosives, and pertinent raw products. The plan thus produced is known as the Schnell or Rush Plan. The evidence is conflicting as to whether Krauch or the Army Armament Office was dominant in determining the questions involved in preparing this plan.

We now reach the neat question of whether, from Krauch's activities in connection with the Four Year Plan, the Karinhall Plan, and the Schnell Plan, he may be said to have known that the ultimate objective of Hitler, Goering, and the other Nazi chiefs was to wage a war or wars of aggression. On 29 April 1939, Krauch rendered a report to his superior, Goering, and to the General Council [EC-282, Pros. Ex. 455], setting forth at length the goals to be reached in the spheres of mineral oil, rubber, light metals, as well as gunpowder, explosives, and chemical warfare agents under the Karinhall and Schnell plans. With respect to mineral oil, which he breaks down into gasoline, Diesel fuel, heating and lubricating oil, the final target is set for 1943. In his analysis he gives the peacetime requirements for 1943, which is scarcely an indication that he was aware of Hitler's already existing plan to attack Poland in the fall of 1939. The plans for buna rubber also include the year 1943. In the field of light metals, the temporary goal for aluminum would be reached in 1942, according to the plan, while a similar goal was set for magnesium. In justifying his production objectives, Krauch says:

"The German expansion target figures for mineral oils are about 13.8 million tons as compared with the French mobilization requirements of about 13 million tons, and the British mobilization requirements of about 30 million tons.

"The requirements for fuel oil for the British Navy alone amount to about 12 million tons, i. e., nearly as much as the entire German mobilization requirements.

"The rubber requirements of 120,000 tons per year are directly connected with the German motorization and thereby, again, with the mineral oil project. The consumption of crude rubber for England was, in 1938, already about 105,000 tons; for France about 60,000 tons.

"The light metals are of the greatest importance, not only for the mobilization of the Air Force, but also for peacetime requirements for the replacement of scarce metals. After completion, target figures for aluminum will reach 250,000 tons; this is half

of the present world production, and ten times the present British output. The output of magnesium will, after its completion, amount to thrice the present world production."

The production goal for powder and explosives was expected to be reached by the end of 1940; that of chemical warfare agents by mid-1942. He points out that the present production capacity of France and Great Britain already exceeds the final target of the Rush Plan. At the end of this report is a conclusion from which the prosecution has, with emphasis, quoted several passages as strong evidence of Krauch's knowledge of Hitler's intention to wage aggressive war. This conclusion is in the nature of a commentary on Germany's position of disadvantage with respect to her economic and military situation. The thoughts expressed are none too coherent and are, at times, somewhat inconsistent. It stresses the necessity and importance of strengthening Germany in the military and economic fields. There are some expressions that are consistent with a warlike intention, but to say that these statements impute to the maker a knowledge of impending aggressive war on the part of Germany, is to draw from them inferences that are not justified. He recommends the formation of a uniform major economic bloc consisting of the

"four European anticomintern partners, which Yugoslavia and Bulgaria will soon have to join. Within this bloc there must be a building up and direction of the military economic system from the point of view of defensive warfare by the coalition."

Further on he makes this statement, that is emphasized by the prosecution:

"It is essential for Germany to strengthen its own war potential as well as that of its allies to such an extent that the coalition is equal to the efforts of practically the rest of the world. This can be achieved only by new, strong, and combined efforts by all of the allies, and by expanding and improving the greater economic domain corresponding to the improved raw material basis of the coalition, peaceably at first, to the Balkans and Spain."

Considering the whole report, it seems that Krauch was recommending plans for the strengthening of Germany which, to his mind, was being encircled and threatened by strong foreign powers, and that this situation might and probably would at some time result in war. But it falls far short of being evidence of his knowledge of the existence of a plan on the part of the leaders of the German Reich to start an aggressive war against either a definite or a probable enemy.

Krauch testified at length in behalf of himself and his codefendants. He emphatically denied all knowledge of Hitler's purpose to wage aggressive war in general or to attack specific victims. He introduced

a large volume of evidence tending to support his position of lack of knowledge, to minimize the importance of his official connections with the Reich, and to relieve his codefendants of responsibility for his acts. To attempt to summarize all the evidence for and against Krauch under counts one and five would lengthen this judgment to unjustifiable proportions. We have examined the many exhibits in great detail and attempted to give to each proper weight and probative value. This labor has led to the definite conclusion that Krauch did not knowingly participate in the planning, preparation or initiation of an aggressive war.

After the attack on Poland, Krauch stayed at his post and continued to function within those spheres of activity in which he was already engaged. It is contended that these activities amounted to participation in the waging of aggressive war. There is no doubt but that he contributed his efforts in much the same manner and measure as thousands of other Germans who occupied positions of importance below the level of the Nazi civil and military leaders who were tried and condemned by the IMT. We will treat the participation of all of the defendants, including Krauch, in the waging of aggressive war later on in this judgment.

With respect to the other defendants, all were further removed from the scene of Nazi governmental activity than was Krauch. Although he was a member of the Vorstand of Farben throughout the entire period of German rearmament and until 1940, he attended no meetings of the Vorstand after 1936 and made no reports either to that body or its subordinate sections or committees concerning his governmental activities. It is unnecessary and would be inappropriate to carry into this judgment a discussion in detail of the evidence for and against each defendant. But it is proper to comment, to a limited extent, with respect to Farben and some of the defendants who appear to have been dominant members of the Vorstand.

The defendant Schmitz was Chairman of the Vorstand from 1935 to 1945. He became Chairman of the Central Committee in 1935. He was actively in attendance at many of the meetings of the Technical Committee and the Commercial Committee. These subdivisions of the Vorstand dealt respectively with technical questions and commercial questions arising out of the over-all administration of the vast Farben organization. As Chairman of the Vorstand he had no special powers. He is frequently described in this record as *primus inter pares*, or, first among equals. His field as an expert was finance, and his opinion with respect to such matters carried great weight with his associates.

In 1933, after Hitler's seizure of power, the heads of many leading enterprises paid formal calls on Hitler. Among them was Bosch, the then chairman of the Vorstand, whom Schmitz later succeeded.

The position of industry at that time is described in the interrogation of Goering (Prosecution Exhibit 58) :

“Q. Would Germany have ever entertained this large program of aggression if they had not had full support of the industrialists all the way through?

“A. The industrialists are Germans. They had to support their country.

“Q. Were they forced to do so, or did they do so voluntarily?

“A. They did it voluntarily, but if they would have refused the state would have stepped in.

“Q. Do you think the state would have been strong enough to have forced the big industry into war if it did not want war?

“A. When the call came for war, every industry followed without any difficulty from inner convictions.”

On 17 December 1936, at a meeting attended by representatives of various firms, including Farben, Goering threatened industry with seizure by the state if it did not show better cooperation with the Four Year Plan [NI-051, Pros. Ex. 421].

There is a notable dearth of evidence as to important activities engaged in by Schmitz, particularly during the later years covered by the record. In an attempt to show an early alliance between Farben and Hitler, the prosecution points out that Farben made substantial donations to the Nazi Party. In February 1933, representatives of most of the leading industrial firms of Germany met in Goering's house in Berlin. Hitler was present. He had already been nominated Chancellor of the Reich. The purpose of the meeting was to secure the support of the industrialists in the coming Reichstag election. Both Hitler and Goering made speeches outlining Hitler's policies insofar as he disclosed them at that time. At the close of the speeches, Goering sought contributions. Von Schnitzler was the only representative of Farben present at this meeting. Most, if not all, of the firms there represented made substantial contributions to a campaign fund to be used in behalf of parties supporting Hitler. The parties that were to participate in the fund were the National Socialist, the Deutsch-Nationale Volkspartei, and the Deutsche Volkspartei. Farben's share was RM 400,000—one of the largest contributions made to the fund.

This contribution was made to a movement that had its basic origin in the unemployment and general financial chaos of a world-wide depression. This condition was at its worst in Germany. The masses had flocked to Hitler's standard, misled by his promises of more work, food, and shelter. Industry followed and contributed to the new movement. To say that this contribution indicates a sinister alliance, is to misread the facts as they then existed and to draw from

them inferences based upon Hitler's subsequent career. Schmitz, at the time of this meeting and up until 3 March 1933, was in Switzerland, and it does not appear that he had any personal connection with this contribution.

During the period of rearmament, Farben continued to contribute substantial sums to the Nazi Party and to its various allied philanthropic and charitable organizations. In the beginning, these contributions were, no doubt, voluntary. As Hitler's power grew and the Nazi Party became more arrogant, their complexion changed from contributions to exactions. Schmitz, as chairman of the Vorstand, did not display strong resistance to the demands of the Nazi leaders. Neither did he show enthusiasm for cooperation. He apparently heeded the requests and demands of the Reich when that seemed the politic thing to do, even to the extent of honoring suggestions for contributions to various Nazi programs in substantial amounts.

These circumstances, when applied to the defendant Schmitz individually, or to Farben in general, do not justify an inference of knowledge of Hitler's intention to wage aggressive war.

The defendant von Schnitzler was a leading personality in the commercial group of Vorstand members. In 1937, he became chairman of the Commercial Committee. One of the chief responsibilities of this committee was the general supervision of sales of Farben's commodities. This embraced not only matters of domestic sales and finance, but also exports, foreign exchange, and sales agencies in many countries. After German conquests were under way, the Commercial Committee in general and the defendant von Schnitzler in particular were active in expanding the Farben interests into conquered countries. He was the salesman and diplomat of Farben. Von Schnitzler has been in confinement since he was arrested on 7 May 1945. He was interrogated many times during the course of his imprisonment. His utterances, some of great length, appear in forty-five written statements, affidavits and interrogations, a number of which have been introduced in evidence. His counsel sought to have all of these statements stricken upon the ground that they were given under threats, duress, and coercion. He claimed that his client had been mistreated, insulted, and humiliated while in prison, and that this treatment resulted in his mental confusion to the extent that he eagerly cooperated with the interrogators in the hope of better treatment and with considerable disregard in many instances for actual facts. We do not think that the showing discloses such duress as would warrant us in excluding this evidence upon the ground that the statements were involuntary, although the circumstances under which they were given undoubtedly greatly depreciate their probative value. The statements themselves disclose that von Schnitzler was seriously disturbed

and no doubt somewhat mentally confused by the calamities that had befallen Germany, his firm of Farben, and himself personally. He was extremely voluble. He talked and gave statements in writing to his interrogators with seeming eagerness and in such detail as to both facts and conclusions that we regard selected passages that contain seemingly damaging recitals as having questionable evidentiary value. Some of his later statements change and purport to correct former ones. His eagerness to tell his interrogators what he thought they wanted to know and hear is apparent throughout; as, for instance, this statement which has been emphasized by the prosecution: "In June or July 1939, I. G. Farben and all heavy industries well knew that Hitler had decided to invade Poland if Poland would not accept his demands."

Von Schnitzler did not take the witness stand. Pursuant to a ruling of this Tribunal during the course of the trial, his statements are evidence only as to the maker and are excluded from consideration in determining the guilt or innocence of other defendants. Aside from these statements, the evidence against von Schnitzler does not approach that required to establish guilty knowledge. He, like other members of the Vorstand, played a part in Farben's cooperation along with other industries in connection with the Four Year Plan, although, being a specialist in the commercial field, he did not directly participate in the expansion of Farben production. He was particularly concerned with foreign currency and markets. After the outbreak of the war, he approved measures of cooperation between the Intelligence Department of the Army Ordnance Office and Farben agents abroad. We are unable to conclude that either his activities or those of the agents were of particular value in the waging of war. When we sum up all of von Schnitzler's activities, it appears that he was not even remotely connected with the planning, preparation, and initiation of any of Hitler's aggressive wars, and that his support of the war after it broke out did not exceed that of the normal, substantial German citizen and businessman.

Ter Meer was one of the dominant leaders of the Vorstand. His activities were chiefly in the technical field. He was chairman of the Technical Committee (TEA) from 1933 to 1945. He was chief of Sparte II from 1929 to 1945. His was probably the greatest influence of all the Vorstand members in the growth and expansion of Farben production during the 15 years that preceded the collapse of Germany in 1945. Most of Farben's cooperation with the Four Year Plan was technical and, therefore, came within the sphere of ter Meer's activities and influence.

In view of the emphasis that is laid upon participation in the rearmament program as being evidence tending to show knowledge of Hitler's aggressive war intentions, it is remarkable how few contacts

ter Meer had with the Nazi leaders. It would seem that if any member of the Farben Vorstand was permitted to learn of Hitler's intentions, ter Meer should have had access to the circle of power. Not only is there lack of proof that ter Meer had access to knowledge of Hitler's intentions with respect to aggressive war, but certain conduct of Farben in fields in which ter Meer was active are inconsistent with such knowledge. On 1 April 1938, Farben and the Imperial Chemical Industries, the dominant chemical firm of Great Britain, jointly founded a dyestuffs plant in Trafford Park, England. These two firms cooperated in the construction work of this plant until the last days of August 1939. Prior to the outbreak of the war, Farben had begun to build a plant of its own near Rouen, France, for the manufacture of textile auxiliary products. In July 1939, Farben decided to begin pharmaceutical production in France. The war intervened before active steps could be taken to carry out this decision. In 1938 and 1939 substantial amounts of nitrogen were delivered to a British firm in England.

It is asserted that the development of synthetic rubber, a product used by the Wehrmacht to facilitate its movement, was an important step in rearmament and an indication of the defendants' knowledge of Hitler's intentions to wage aggressive war. The value of synthetic rubber as a war potential may not be overlooked. But its value as evidence of criminal knowledge is brought into serious question when the failure of Farben to closely guard the secret of its process is considered. Buna products were exhibited at the Paris World's Fair in 1937. Scientific lectures on this product were given to the International Chemical Congress in Rome in 1938, before a Chemical Industrial Society in Paris in 1939, and also in the same year before the American Chemical Society in Baltimore, Maryland.

Farben arranged with an American firm for testing tires made of synthetic rubber. These tests were continued up until the outbreak of war. Ter Meer planned a trip to America in the fall of 1939 in connection with these tests. He was to be accompanied by the defendants von Knieriem and Ambros, as well as another Farben official. The outbreak of the war interfered with this trip.

In 1938 and subsequent years, Farben concluded sixteen license agreements with American firms. One of these agreements covered a product of war importance, namely, phosphorus. On 1 August 1939, representatives of a Canadian chemical firm were permitted to visit the Ludwigshafen plant of Farben in connection with negotiations for licenses and information concerning the production of ethylene from acetylene. In August 1939, two chemists of the American firm, Carbide & Carbon Chemical Company, were permitted to visit the Farben plant at Hoechst, the Metallgesellschaft, and the Degussa plant in Frankfurt/Main. This conduct on the part of ter Meer and

his associates is inconsistent with knowledge of approaching aggressive war on the part of men who are charged with participating in the preparation for such war.

The indictment charges that Farben, through its foreign economic policy, participated in weakening Germany's potential enemies and that Farben carried on propaganda intelligence and espionage activities for the benefit of the Reich. It is particularly emphasized that Farben entered into many contracts with major industrial concerns throughout the world dealing with various phases of experimentation, production, and markets in fields in which Farben found competition. All of these contracts are lumped under the much-abused term "cartels." Many of these agreements were essential licenses by which Farben permitted foreign firms to manufacture products that were protected by Farben patents. This appears to be a common practice among large business concerns throughout the world, and the fault, if any, would seem to lie with national and international patent law rather than with the firms that avail themselves of the protection which the law affords. Furthermore, we are unable to find the counterpart of the Sherman Anti-Trust Act either in international law or the national statutes of major European powers. It has not been pointed out that any contract made by Farben in and of itself constituted a crime. It is, nevertheless, argued that by virtue of these contracts Farben stifled the industrial development of foreign countries. Agreements between the Standard Oil Company of New Jersey and Farben regarding the development and production of buna rubber in the United States are pointed to as a specific example. The two companies agreed to exchange information regarding the results of their experiments in this field. Farben outstripped its competitors in experimentation and in methods of production. The Reich had financed Farben to a material extent in the development of buna and criticized the contracts which Farben had made. In reply to this criticism, Farben, through the defendant ter Meer, advised the Reich, in substance, that Farben was not complying with its contract in that it was not furnishing to the American concerns the results of its most recent and up-to-date experiments. Ter Meer testified that this communication to the Reich was false and was made for the purpose of avoiding criticism and interference by government officials, and that Farben did, in fact, carry out its contract in good faith. He is supported in the latter statement by the affidavits of two Standard Oil officials who testified as to the great value of the information given by Farben. The record shows no information that was not divulged. It is true that the development of the manufacture of synthetic rubber in the United States did not keep pace with that in Germany. Natural rubber was then available in the United States at a cost

below that of the production of synthetic rubber. We cannot assume, in the absence of more specific evidence, that the failure of the United States to develop the production of synthetic rubber was due to the withholding of information by Farben.

In the field of propaganda, intelligence, and espionage, we find that there was activity on the part of Farben's agents with reference to industrial and commercial matters. German industry and the superiority of German goods were advertised and extolled. Some praise of the German Government appeared from time to time, but we cannot reach the conclusion that the advertising campaigns of Farben were essentially for the purpose of emphasizing Nazi ideology. Neither do we give great significance to the fact that the agents were instructed to avoid advertising in journals hostile to Germany. Such advertising policy would seem compatible with business judgment and would be without political significance. The so-called espionage activities of the Farben agents were confined to commercial matters. These agents from time to time reported to Farben information obtained with regard to industrial and commercial development in fields of Farben business interests, particularly with regard to competitors. There is no evidence of reports concerning military or armament matters. Some of the information received by Farben from its agents was turned over to the Reich officials. The evidence clearly shows that Farben was constantly under pressure to gather and furnish to the Reich information concerning industrial developments and production in foreign countries. Farben's reluctance to comply, even to the full extent of information actually received, indicates a lack of cooperation which negatives participation in a conspiracy or knowledge of plans on the part of Hitler to wage aggressive war.

We have discussed the defendant Krauch, who held certain official positions with both Farben and the Reich; the defendant Schmitz, who was chairman of the Vorstand; the defendant von Schnitzler, who was the leading man in the commercial group of Farben; and the defendant ter Meer, who was the foremost technical expert and who also exerted considerable influence in the administration of affairs of the organization. In each instance we find that they, in more or less important degrees, participated in the rearmament of Germany by contributing to her economic strength and the production of certain basic materials of great importance in the waging of war. The evidence falls far short of establishing beyond a reasonable doubt that their endeavors and activities were undertaken and carried out with the knowledge that they were thereby preparing Germany for participation in an aggressive war or wars that had already been planned either generally or specifically by Adolf Hitler and his immediate circle of Nazi civil and military fanatics.

The remaining defendants, consisting of fifteen former members and four nonmembers of the Vorstand, occupied positions of lesser importance than the defendants we have mentioned. Their respective fields of operation were less extensive and their authority of a more subordinate nature. The evidence against them with respect to aggressive war is weaker than that against those of the defendants to whom we have given special consideration. No good purpose would be served by undertaking a discussion in this judgment of each specific defendant with respect to his knowledge of Hitler's aggressive aims.

Waging Wars of Aggression

There remains the question as to whether the evidence establishes that any of the defendants are guilty of "waging a war of aggression" within the meaning of Article II, 1, (a) of Control Council Law No. 10. This calls for an interpretation of the quoted clause. Is it an offense under international law for a citizen of a state that has launched an aggressive attack on another country to support and aid such war efforts of his government, or is liability to be limited to those who are responsible for the formulation and execution of the policies that result in the carrying on of such a war?

It is to be noted in this connection that the express purpose of Control Council Law No. 10, as declared in its preamble, was to "give effect to the terms of the Moscow Declaration of 30 October 1943, and the London Agreement of 8 August 1945, and the charter issued pursuant thereto." The Moscow Declaration gave warning that the "German officers and men and members of the Nazi Party" who were responsible for "atrocities, massacres and cold-blooded mass executions" would be prosecuted for such offenses. Nothing was said in that declaration about criminal liability for waging a war of aggression. The London Agreement is entitled an agreement "for the Prosecution and Punishment of the Major War Criminals of the European Axis." There is nothing in that agreement or in the attached Charter to indicate that the words "waging a war of aggression," as used in Article II (a) of the latter, were intended to apply to any and all persons who aided, supported, or contributed to the carrying on of an aggressive war; and it may be added that the persons indicted and tried before the IMT may fairly be classified as "major war criminals" insofar as their activities were concerned. Consistent with the express purpose of the London Agreement to reach the "major war criminals," the judgment of the IMT declared that "mass punishments should be avoided."

To depart from the concept that only major war criminals—that is, those persons in the political, military, and industrial fields, for example, who were responsible for the formulation and execution of policies—may be held liable for waging wars of aggression, would lead far afield. Under such circumstances there could be no practical

limitation on criminal responsibility that would not include, on principle, the private soldier on the battlefield, the farmer who increased his production of foodstuffs to sustain the armed forces, or the housewife who conserved fats for the making of munitions. Under such a construction the entire manpower of Germany could, at the uncontrolled discretion of the indicting authorities, be held to answer for waging wars of aggression. That would, indeed, result in the possibility of mass punishments.

There is another aspect of this problem that may not be overlooked. It was urged before the IMT that international law had theretofore concerned itself with the actions of sovereign states and that to apply the Charter to individuals would amount to the application of *ex post facto* law. After observing that the offenses with which it was concerned had long been regarded as criminal by civilized peoples, the High Tribunal said: "Crimes against international law are committed by men, not by abstract entities, and only by punishing individuals who commit such crimes can the provisions of international law be enforced." The extension of punishment for crimes against peace by the IMT to the leaders of the Nazi military and government was, therefore, a logical step. The acts of a government and its military power are determined by the individuals who are in control and who fix the policies that result in those acts. To say that the government of Germany was guilty of waging aggressive war but not the men who were in fact the government and whose minds conceived the plan and perfected its execution would be an absurdity. The IMT, having accepted the principle that the individual could be punished, then proceeded to the more difficult task of deciding which of the defendants before it were responsible in fact.

In this case we are faced with the problem of determining the guilt or innocence with respect to the waging of aggressive war on the part of men of industry who were not makers of policy but who supported their government during its period of rearmament and who continued to serve that government in the waging of war, the initiation of which has been established as an act of aggression committed against a neighboring nation. Hitler launched his war against Poland on 1 September 1939. The following day France and Britain declared war on Germany. The IMT did not determine whether the latter were waged as aggressive wars on the part of Germany. Neither must we determine that question in this case. We seek only the answer to the ultimate question: Are the defendants guilty of crimes against peace by waging aggressive war or wars? Of necessity, the great majority of the population of Germany supported the waging of war in some degree. They contributed to Germany's power to resist, as well as to attack. Some reasonable standard must, therefore, be found by which to measure the degree of participation necessary to

constitute a crime against peace in the waging of aggressive war. The IMT fixed that standard of participation high among those who lead their country into war.

The defendants now before us were neither high public officials in the civil government nor high military officers. Their participation was that of followers and not leaders. If we lower the standard of participation to include them, it is difficult to find a logical place to draw the line between the guilty and the innocent among the great mass of German people. It is, of course, unthinkable that the majority of Germans should be condemned as guilty of committing crimes against peace. This would amount to a determination of collective guilt to which the corollary of mass punishment is the logical result for which there is no precedent in international law and no justification in human relations. We cannot say that a private citizen shall be placed in the position of being compelled to determine in the heat of war whether his government is right or wrong, or, if it starts right, when it turns wrong. We would not require the citizen, at the risk of becoming a criminal under the rules of international justice, to decide that his country has become an aggressor and that he must lay aside his patriotism, the loyalty to his homeland, and the defense of his own fireside at the risk of being adjudged guilty of crimes against peace on the one hand, or of becoming a traitor to his country on the other, if he makes an erroneous decision based upon facts of which he has but vague knowledge. To require this of him would be to assign to him a task of decision which the leading statesmen of the world and the learned men of international law have been unable to perform in their search for a precise definition of aggression.

Strive as we may, we are unable to find, once we have passed below those who have led a country into a war of aggression, a rational mark dividing the guilty from the innocent. Lest it be said that the difficulty of the task alone should not deter us from its performance, if justice should so require, here let it be said that the mark has already been set by that Honorable Tribunal in the trial of the international criminals. It was set below the planners and leaders, such as Goering, Hess, von Ribbentrop, Rosenberg, Keitel, Frick, Funk, Doenitz, Raeder, Jodl, Seyss-Inquart, and von Neurath, who were found guilty of waging aggressive war, and above those whose participation was less and whose activity took the form of neither planning nor guiding the nation in its aggressive ambitions. To find the defendants guilty of waging aggressive war would require us to move the mark without finding a firm place in which to reset it. We leave the mark where we find it, well satisfied that individuals who plan and lead a nation into and in an aggressive war should be held guilty of crimes against peace, but not those who merely follow the leaders and whose participations, like those of Speer, "were in aid of the war

effort in the same way that other productive enterprises aid in the waging of war.” (IMT judgment, vol. 1, p. 330.)

Conspiracy

We will now give brief consideration to count five, which charges participation by the defendants in the common plan or conspiracy. We have accepted as a basic fact that a conspiracy did exist. The question here is whether the defendants or any of them became parties thereto.

It is appropriate here to quote from the IMT judgment :

“The prosecution says, in effect, that any significant participation in the affairs of the Nazi Party or Government is evidence of a participation in a conspiracy that is in itself criminal. Conspiracy is not defined in the Charter. But in the opinion of the Tribunal the conspiracy must be clearly outlined in its criminal purpose. It must not be too far removed from the time of decision and of action. The planning, to be criminal, must not rest merely on the declarations of a party program, such as are found in the 25 points of the Nazi Party, announced in 1920, or the political affirmations expressed in ‘*Mein Kampf*’ in later years. The Tribunal must examine whether a concrete plan to wage war existed, and determine the participants in that concrete plan.” *

In order to be participants in a common plan or conspiracy, it is elementary that the accused must know of the plan or conspiracy. In this connection we quote from a case cited by both the prosecution and defense, *Direct Sales Company vs. United States*, 319 U. S. 703, 63 S. Ct. 1265. In discussing *United States vs. Falcone*, 311 U. S. 205, 61 S. Ct. 204, 85 L. ed. 128, the Supreme Court of the United States said :

“That decision comes down merely to this, that one does not become a party to a conspiracy by aiding and abetting it, through sales of supplies or otherwise, unless he knows of the conspiracy; and the inference of such knowledge cannot be drawn merely from knowledge the buyer will use the goods illegally.”

Further along in the opinion it is said with regard to the intent of a seller to promote and cooperate in the intended illegal use of goods by a buyer :

“This intent, when given effect by overt act, is the gist of conspiracy. While it is not identical with mere knowledge that another purposes unlawful action, it is not unrelated to such knowledge. Without the knowledge, the intent cannot exist. (*United States vs. Falcone, supra.*) Furthermore, to establish the intent, the evidence of knowledge must be clear, not equivocal. (*Ibid.*)

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This, because charges of conspiracy are not to be made out by piling inference upon inference, thus fashioning what, in that case, was called a dragnet to draw in all substantive crimes."

Count five charges that the acts and conduct of the defendants set forth in count one and all of the allegations made in count one are incorporated in count five. Since we have already reached the conclusion that none of the defendants participated in the planning or knowingly participated in the preparation and initiation or waging of a war or wars of aggression or invasions of other countries, it follows that they are not guilty of the charge of being parties to a common plan or conspiracy to do these same things.

We find that none of the defendants is guilty of the crimes set forth in counts one and five. They are, therefore, acquitted under said counts.

THE PRESIDENT: Judge Hebert will continue reading of the judgment.

COUNT TWO

JUDGE HEBERT: *Substance of the Charge*

Under count two of the indictment all of the defendants are charged with the commission of war crimes and crimes against humanity. It is alleged that war crimes and crimes against humanity, as defined by Control Council Law No. 10, were committed in that the defendants, during the period from 12 March 1938 to 8 May 1945, acting through the instrumentality of Farben, participated in the "plunder of public and private property, exploitation, spoliation, and other offenses against property, in countries and territories which came under the belligerent occupation of Germany in the course of its invasions and aggressive wars." The charge recites that the particulars set forth constitute "violations of the laws and customs of war, of international treaties and conventions, including Articles 46-56, inclusive, of the Hague Regulations of 1907, of the general principles of criminal law as derived from the criminal laws of all civilized nations, of the internal penal laws of the countries in which such crimes were committed, and of Article II of Control Council Law No. 10."

The indictment charges that the acts were committed unlawfully, wilfully, and knowingly, and that the defendants are criminally responsible "in that they were principals in, accessories to, ordered, abetted, took a consenting part in, were connected with plans and enterprises involving, and were members of organizations or groups, including Farben, which were connected with the commission of said crimes."

Proceeding from the general findings of the IMT on the subject of plunder and pillage, the indictment further charges:

“Farben marched with the Wehrmacht and played a major role in Germany’s program for acquisition by conquest. It used its expert technical knowledge and resources to plunder and exploit the chemical and related industries of Europe, to enrich itself from unlawful acquisitions, to strengthen the German war machine and to assure the subjugation of the conquered countries to the German economy. To that end, it conceived, initiated, and prepared detailed plans for the acquisition by it, with the aid of German military force, of the chemical industries of Austria, Czechoslovakia, Poland, Norway, France, Russia, and other countries.”

The particulars of the alleged acts of plunder and spoliation are enumerated in subparagraphs A through F of count two, and need not be repeated here.

The offenses alleged in count two are charged, not only as war crimes, but also as crimes against humanity. By a ruling entered on 22 April 1948, the Tribunal sustained a motion filed by the defense challenging the legal sufficiency of count two, subparagraphs A and B, of the indictment (pars. 90 to 96 inclusive), as applied to the charges of plunder and spoliation of properties located in Austria and in the Sudetenland of Czechoslovakia. The Tribunal ruled that the particulars referred to, even if fully established by the proof, would not constitute crimes against humanity, as the acts alleged related wholly to offenses against property. The immediate ruling of the Tribunal was limited to the Skoda-Wetzler and Aussig-Falkenau acquisitions then under consideration, but the reasoning upon which this portion of the ruling was based is equally applicable to count two of the indictment in its entirety insofar as crimes against humanity are charged.

The Control Council Law recognizes crimes against humanity as constituting criminal acts under the following definition:

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

We adopt the interpretation expressed by Military Tribunal IV in its judgment in the case of the United States of America *vs.* Friedrich Flick, *et al.*, concerning the scope and application of the quoted provision in relation to offenses against property. That Tribunal said:

“* * * The ‘atrocities and offenses’ listed therein, ‘murder, extermination,’ et cetera, are all offenses against the person. Property is not mentioned. Under the doctrine of *ejusdem generis* the

catch-all words 'other persecutions' must be deemed to include only such as affect the life and liberty of the oppressed peoples. Compulsory taking of industrial property, however reprehensible, is not in that category. It may be added that the presence in this section of the words 'against any civilian population,' recently led Tribunal III to 'hold that crimes against humanity as defined in Control Council Law No. 10 must be strictly construed to exclude isolated cases of atrocity or persecution whether committed by private individuals or by governmental authority.' (U. S. A. *vs.* Altstoetter *et al.*, decided 4 December 1947.) The transactions before us, if otherwise within the contemplation of Law 10 as crimes against humanity, would be excluded by this holding." (*Tr. p. 11013*)*

In accordance with this view, the other particulars of plunder, exploitation, and spoliation, as charged in paragraphs C, D, E, and F of count two of the indictment, will be considered only as charges alleging the commission of war crimes.

It is to be also observed that this Tribunal, in the above-mentioned ruling of 22 April 1948, further held that the particulars set forth in sections A and B of count two, as to property in Austria and the Sudetenland, would not constitute war crimes, as the incidents occurred in territory not under the belligerent occupation of Germany.

We held that, as a state of actual warfare had not been shown to exist as to Austria, incorporated into Germany by the Anschluss, or as to the Sudetenland, covered by the Munich Pact, the Hague Regulations never became applicable. In so ruling, we do not ignore the force of the argument that property situated in a weak nation which falls a victim to the aggressor because of incapacity to resist should receive a degree of protection equal to that in cases of belligerent occupation when actual warfare has existed. The Tribunal is required, however, to apply international law as we find it in the light of the jurisdiction which we have under Control Council Law No. 10. We may not reach out to assume jurisdiction. Unless the action may be said to constitute a war crime as a violation of the laws and customs of war, we are powerless to consider the charges under our interpretation of Control Council Law No. 10, regardless of how reprehensible conduct in regard to these property acquisitions may have been. The situation is not the same here in view of the limited jurisdiction of this Tribunal, as it would be if, for example, the criminal aspects of these transactions were being examined by an Austrian or other court with a broader jurisdiction.

In harmony with this ruling, the charges remaining to be disposed under count two involve a determination of whether or not the proof sustains the allegations of the commission of war crimes by any de-

*See volume VI, this series, pages 1215 and 1216.

fendant with reference to property located in Poland, France, Alsace-Lorraine, Norway, and Russia.

The Law Applicable to Plunder and Spoliation

The pertinent part of Control Council Law No. 10, binding upon this Tribunal as the express law applicable to the case, is Article II, paragraph (1), subsection (b), which reads as follows:

“Each of the following acts is recognized as a crime:

* * * * *

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

This quoted provision corresponds to Article 6, section (b) of the Charter of the IMT, concerning which that Tribunal held that the criminal offenses so defined were recognized as war crimes under international law even prior to the IMT Charter. There is consequently no violation of the legal maxim *nullum crimen sine lege* involved here. The offense of plunder of public and private property must be considered a well-recognized crime under international law. It is clear from the quoted provision of the Control Council Law that if this offense against property has been committed, or if the proof establishes beyond reasonable doubt the commission of other offenses against property constituting violations of the laws and customs of war, any defendant participating therein with the degree of criminal connection specified in the Control Council Law must be held guilty under this charge of the indictment.

Insofar as offenses against property are concerned, a principal codification of the laws and customs of war is to be found in the Hague Convention of 1907 and the annex thereto, known as the Hague Regulations.

The following provisions of the Hague Regulations are particularly pertinent to the charges being considered:

“Art. 46. Family honor and rights, individual lives and private property, as well as religious convictions and practice, must be respected. Private property cannot be confiscated.

“Art. 47. Pillage is formally prohibited.

* * * * *

“Art. 52. Neither requisition in kind nor services can be demanded from communes or inhabitants except for the necessities of the

army of occupation. They must be in proportion to the resources of the country, and of such a nature as not to involve the population in the obligation of taking part in military operations against their own country.

“These requisitions and services shall only be demanded on the authority of the Commander in the locality occupied.

“The requisitions in kind shall, as far as possible, be paid for in ready money; if not, a receipt shall be given and the payment of the amount due shall be made as soon as possible.

“Art. 53. An army of occupation can only take possession of the cash, funds, and property liable to requisition belonging strictly to the State, depots of arms, means of transport, stores and supplies, and, generally, all movable property of the State which may be used for military operations.

“All appliances, whether on land, at sea, or in the air, adapted for the transmission of news, or for the transport of persons or things, apart from cases governed by maritime law, as well as depots of arms and, generally, all kinds of war material, even though belonging to Companies or to private persons, are likewise material which may serve for military individuals, but they must be restored at the conclusion of peace, and indemnities paid for them.

* * * * *

“Art. 55. The occupying State shall be regarded only as administrator and usufructuary of the public buildings, real estate, forests, and agricultural works belonging to the hostile State, and situated in the occupied country. It must protect the capital of these properties, and administer it according to the rules of usufruct.”

The foregoing provisions of the Hague Regulations are broadly aimed at preserving the inviolability of property rights to both public and private property during military occupancy. They admit of exceptions of expropriation, use, and requisition, all of which are subject to well-defined limitations set forth in the Articles. Where private individuals, including juristic persons, proceed to exploit the military occupancy by acquiring private property against the will and consent of the former owner, such action, not being expressly justified by any applicable provision of the Hague Regulations, is in violation of international law. The payment of a price or other adequate consideration does not, under such circumstances, relieve the act of its unlawful character. Similarly where a private individual or a juristic person becomes a party to unlawful confiscation of public or private property by planning and executing a well-defined design to acquire such property permanently, acquisition under

such circumstances subsequent to the confiscation constitutes conduct in violation of the Hague Regulations.

These broad principles deduced from the Hague Regulations will, in general, suffice for a proper consideration of the acts charged as offenses against property under count two. But the following additional observations are also pertinent to an understanding of our application of the law to the facts established by the evidence.

Regarding terminology, the Hague Regulations do not specifically employ the term "spoliation," but we do not consider this matter to be one of any legal significance. As employed in the indictment, the term is used interchangeably with the words "plunder" and "exploitation." It may therefore be properly considered that the term "spoliation," which has been admittedly adopted as a term of convenience by the prosecution, applies to the widespread and systematized acts of dispossession and acquisition of property in violation of the rights of the owners, which took place in territories under the belligerent occupation or control of Nazi Germany during World War II. We consider that "spoliation" is synonymous with the word "plunder" as employed in Control Council Law No. 10, and that it embraces offenses against property in violation of the laws and customs of war of the general type charged in the indictment. In that sense we will adopt and employ the term spoliation in this opinion as descriptive of the offenses referred to.

It is a matter of history of which we may take judicial notice that the action of the Axis Powers, in carrying out looting and removal of property of all types from countries under their occupation, became so widespread and so varied in form and method, ranging from deliberate plunder to its equivalent in cleverly disguised transactions having the appearance of legality, that the Allies, on 5 January 1943, found it necessary to join in a declaration denouncing such acts. The Inter-Allied Declaration [*NI-11378, Pros. Ex. 1057*] was subscribed to by seventeen governments of the United Nations and the French National Committee. It expressed the determination of the signatory nations "to combat and defeat the plundering by the enemy powers of the territories which have been overrun or brought under enemy control." It pointed out that "systematic spoliation of occupied or controlled territory has followed immediately upon each fresh aggression." It recited that such spoliation:

"* * * has taken every sort of form, from open looting to the most cunningly camouflaged financial penetration, and it has extended to every sort of property—from works of art to stocks of commodities, from bullion and bank-notes to stocks and shares in business and financial undertakings. But the object is always the same—to seize everything of value that can be put to the aggressors'

profit and then to bring the whole economy of the subjugated countries under control so that they must enslave to enrich and strengthen their oppressors."

The signatory governments deemed it important, as stated in the Declaration, "to leave no doubt whatsoever of their resolution not to accept or tolerate the misdeeds of their enemies in the field of property, however these may be cloaked, just as they have recently emphasized their determination to exact retribution from war criminals for their outrages against persons in the occupied territories." The Declaration significantly concluded that the nations making the declaration reserve all their rights:

"* * * to declare invalid any transfers of, or dealings with, property, rights and interests of any description whatsoever which are, or have been, situated in the territories which have come under the occupation or control, direct or indirect, of the governments with which they are at war, or which belong, or have belonged, to persons (including juridical persons) resident in such territories. This warning applies whether such transfers or dealings have taken the form of open looting or plunder, or of transactions apparently legal in form, even when they purport to be voluntarily effected."

While the Inter-Allied Declaration does not constitute law and could not be given retroactive effect, even if it had attempted to include and express criminal sanctions for the acts referred to, it is illustrative of the view that offenses against property of the character described in the Declaration were considered by the signatory powers to constitute action in violation of existing international law.

In our view, the offenses against property defined in the Hague Regulations are broad in their phraseology and do not admit of any distinction between "plunder" in the restricted sense of acquisition of physical properties, which are the subject matter of the crime, and the plunder or spoliation resulting from acquisition of intangible property such as is involved in the acquisition of stock ownership, or of acquisition of ownership or control through any other means, even though apparently legal in form.

We deem it to be of the essence of the crime of plunder or spoliation that the owner be deprived of his property involuntarily and against his will. From the provisions of the Declaration which we have quoted, it becomes apparent that the invalidity or illegality of the transaction does not attach, even for purposes of rescission in a civil action, unless the transaction can be said to be involuntary in fact. It would be anomalous to attach criminal responsibility to an act of acquisition during belligerent occupancy when the transaction could not be set aside in an action for rescission and restitution.

It is the contention of the prosecution, however, that the offenses of plunder and spoliation alleged in the indictment have a double aspect. It is broadly asserted that the crime of spoliation is a "crime against the country concerned in that it disrupts the economy, alienates its industry from its inherent purpose, makes it subservient to the interest of the occupying power, and interferes with the natural connection between the spoliated industry and the local economy. As far as this aspect is concerned, the consent of the owner or owners, or their representatives, even if genuine, does not affect the criminal character of the act." In its other aspect it is asserted that the crime of spoliation is an offense "against the rightful owner or owners by taking away their property without regard to their will, 'confiscation,' or by obtaining their 'consent' by threats or pressure."

We cannot deduce from Articles 46 through 55 of the Hague Regulations any principle of the breadth of application such as is embraced in the first asserted aspect of the crime of plunder and spoliation. Under the Hague Regulations, "Private property must be respected" (Art. 46, Par. 1); "Pillage is formally prohibited" (Art. 47); and, "Private property cannot be confiscated" (Art. 46, Par. 2). The right of requisition is limited to "the necessities of the army of occupation," must not be out of proportion to the resources of the country, and may not be of such a nature as to involve the inhabitants in the obligation to take part in military operations against their country. But with respect to private property, these provisions relate to plunder, confiscation, and requisition which, in turn, imply action in relation to property committed against the will and without the consent of the owner. We look in vain for any provision in the Hague Regulations which would justify the broad assertion that private citizens of the nation of the military occupant may not enter into agreements respecting property in occupied territories when consent of the owner is, in fact, freely given. This becomes important to the evaluation of the evidence as applied to individual action under the concept that guilt is personal and individual. If, in fact, there is no coercion present in an agreement relating to the purchase of industrial enterprises or interests equivalent thereto, even during time of military occupancy, and if, in fact, the owner's consent is voluntarily given, we do not find such action to be violation of the Hague Regulations. The contrary interpretation would make it difficult, if not impossible, for the occupying power in time of war to carry out other aspects of its obligations under international law, including restoration of order to the local economy in the interests of the local inhabitants. (Art. 43, Hague Regulations.) On the other hand, when action by the owner is not voluntary because his consent is obtained by threats, intimidation, pressure, or by exploiting the position and power of the military occupant under circumstances indicating that the owner is being

induced to part with his property against his will, it is clearly a violation of the Hague Regulations. The mere presence of the military occupant is not the exclusive indication of the assertion of pressure. Certainly where the action of private individuals, including juristic persons, is involved, the evidence must go further and must establish that a transaction, otherwise apparently legal in form, was not voluntarily entered into because of the employment of pressure. Furthermore, there must be a causal connection between the illegal means employed and the result brought about by employing such intimidation.

Under this view of the Hague Regulations, a crucial issue of fact to be determined in most of the alleged acts of spoliation charged in count two of the indictment is the determination of whether owners of property in occupied territory were induced to part with their property permanently under circumstances in which it can be said that consent was not voluntary. Commercial transactions entered into by private individuals which might be entirely permissible and legal in time of peace or nonbelligerent occupation may assume an entirely different aspect during belligerent occupation and should be closely scrutinized where acquisitions of property are involved, to determine whether or not the rights of property, protected by the Hague Regulations, have been adhered to. Application of these principles will become important in considering the responsibility of members of the Vorstand of Farben, who are sought to be charged under the indictment, and who did not personally participate in the negotiations or other action leading to the alleged act of spoliation except by virtue of such Vorstand membership.

It can no longer be questioned that the criminal sanctions of international law are applicable to private individuals. The judgment of Military Tribunal IV, United States *vs.* Flick (Case 5) held:

“The question of the responsibility of individuals for such breaches of international law as constitute crimes has been widely discussed and is settled in part by the Judgment of IMT. It can no longer be successfully maintained that international law is concerned only with the actions of sovereign states and provides no punishment for individuals” (*Tr. p. 10980*).¹

We quote further:

“Acts adjudged criminal when done by an officer of the government are criminal also when done by a private individual. The guilt differs only in magnitude, not in quality. The offender in either case is charged with personal wrong and punishment falls on the offender in *propria persona*. The application of international law to individuals is no novelty” (*Tr. p. 10981*).²

¹ Volume VI, this series, page 1191.

² *Ibid.*, page 1192.

Similar views were expressed in the case of the United States *vs.* Ohlendorf (Case 9), decided by Military Tribunal II. (Cf. transcript of that judgment, pp. 6714-16.)

The IMT, in its judgment, found it unnecessary to decide whether, as a matter of law, the doctrine of "subjugation" by military conquest has application to subjugation resulting from the crime of aggressive war. The doctrine was held to be inapplicable where there are armies in the field still seeking to restore the occupied country to its rightful owners. The Hague Regulations do not become inapplicable because the German Reich "annexed" or "incorporated" parts of the occupied territory into Germany, as there were, within the holding of the IMT which we follow here, armies in the field attempting to restore the occupied countries to their true owners. We adopt this view. It will therefore become unnecessary, in considering the alleged acts of spoliation in Poland and Alsace-Lorraine, to consider this distinction which has been urged by the defense.

To the foregoing observations interpreting the applicable law, added mention should be made of the basic principle that no individual defendant may be held guilty of the war crimes, or any aspect thereof, charged under count two, unless the competent proof establishes beyond reasonable doubt that he knowingly participated in an act of plunder or spoliation because he was either (a) a principal, or (b) an accessory to the commission of any such crime, or ordered, or abetted the same, or (c) took a consenting part therein, or (d) was connected with plans or enterprises involving its commission, or (e) was a member of an organization or group connected with the commission of any such crime. (Art. II, par. 2, of Control Council Law No. 10.)

One of the general defenses advanced is the contention that private industrialists cannot be held criminally responsible for economic measures which they carry out in occupied territories at the direction of, or with the approval of, their government. As a corollary to this line of argument it is asserted that the principles of international law in existence at the time of the commission of the acts here charged do not clearly define the limits of permissible action. It is further said that the Hague Regulations are outmoded by the concept of total warfare; that literal application of the laws and customs of war as codified in the Hague Regulations is no longer possible; that the necessities of economic warfare qualify and extinguish the old rules and must be held to justify the acts charged in keeping with the new concept of total warfare. These contentions are unsound. It is obvious that acceptance of these arguments would set at naught any rule of international law and would place it within the power of each nation to be the exclusive judge of the applicability of international law. It is beyond the authority of any nation to authorize its citizens

to commit acts in contravention of international penal law. As custom is a source of international law, customs and practices may change and find such general acceptance in the community of civilized nations as to alter the substantive content of certain of its principles. But we are unable to find that there has been a change in the basic concept of respect for property rights during belligerent occupation of a character to give any legal protection to the widespread acts of plunder and spoliation committed by Nazi Germany during the course of World War II. It must be admitted that there exist many areas of grave uncertainty concerning the laws and customs of war, but these uncertainties have little application to the basic principles relating to the law of belligerent occupation set forth in the Hague Regulations. Technical advancement in the weapons and tactics used in the actual waging of war may have made obsolete, in some respects, or may have rendered inapplicable, some of the provisions of the Hague Regulations having to do with the actual conduct of hostilities and what is considered legitimate warfare. But these uncertainties relate principally to military and naval operations proper and the manner in which they shall be conducted. We cannot read obliterating uncertainty into those provisions and phases of international law having to do with the conduct of the military occupant toward inhabitants of occupied territory in time of war, regardless of how difficult may be the legal questions of interpretation and application to particular facts. That grave uncertainties may exist as to the status of the law dealing with such problems as bombings and reprisals and the like, does not lead to the conclusion that provisions of the Hague Regulations, protecting rights of public and private property, may be ignored. As a leading authority on international law has put it:

“Moreover, it does not appear that the difficulties arising out of any uncertainty as to the existing law have a direct bearing upon those violations of the rules of war which have provided the impetus for the almost universal insistence on the punishment of war crimes. Acts with regard to which prosecution of individuals for war crimes may appear improper owing to the disputed nature of the rules in question arise largely in connection with military, naval and air operations proper. No such reasonable degree of uncertainty exists as a rule in the matter of misdeeds committed in the course of military occupation of enemy territory. Here the unchallenged authority of a ruthless invader offers opportunities for crimes the heinousness of which is not attenuated by any possible appeal to military necessity, to the uncertainty of the law, or to the operation of reprisals.” (Lauterpacht, “The Law of Nations and The Punishment of War Crimes,” *British Year Book of International Law*,

1944 [Oxford University Press: London, New York, Toronto], p. 75.)

We find sufficient definiteness and meaning in the provision of the Hague Regulations and find that the provisions which we have considered are applicable and operate as prohibitory law establishing the limits beyond which the military occupant may not go.

The General Facts

The judgment of the International Military Tribunal clearly established that the Reich adopted and pursued a general policy of plunder of occupied territories in contravention of the provisions of the Hague Regulations with respect to both public and private property. The IMT found that there was a systematic plunder of public and private property. It found that territories occupied by Germany "were exploited for the German war effort in the most ruthless way, without consideration of the local economy, and in consequence of a deliberate design and policy." Such action was held to be criminal under Article 6 (b) of the Charter which, as we have already indicated, corresponds to Article II (1b) of Control Council Law No. 10.

Concerning the methods employed, the IMT stated:

"The methods employed to exploit the resources of the occupied territories to the full varied from country to country. In some of the occupied countries in the East and the West, this exploitation was carried out within the framework of the existing economic structure. The local industries were put under German supervision, and the distribution of war materials was rigidly controlled. The industries thought to be of value to the German war effort were compelled to continue, and most of the rest were closed down altogether. Raw materials and the finished products alike were confiscated for the needs of the German industry. As early as 19 October 1939 the Defendant Goering had issued a directive giving detailed instructions for the administration of the occupied territories * * *"

The Goering order, which we find unnecessary to quote, was carried out, according to the IMT, so that the resources were requisitioned in a manner out of all proportion to the economic resources of the occupied countries, and resulted in famine, inflation, and an active black market. The IMT further pointed out:

"In many of the occupied countries of the East and the West, the authorities maintained the pretense of paying for all the property which they seized. This elaborate pretense of payment merely disguised the fact that the goods sent to Germany from these occupied countries were paid for by the occupied countries them-

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selves, either by the device of excessive occupation costs or by forced loans in return for a credit balance on a 'clearing account' which was an account merely in name." *

With reference to the charges in the present indictment concerning Farben's activities in Poland, Norway, Alsace-Lorraine, and France, we find that the proof establishes beyond a reasonable doubt that offenses against property as defined in Control Council Law No. 10 were committed by Farben, and that these offenses were connected with, and an inextricable part of the German policy for occupied countries as above described. In some instances, following confiscation by Reich authorities, Farben proceeded to acquire permanent title to the properties thus confiscated. In other instances involving "negotiations" with private owners, Farben proceeded permanently to acquire substantial or controlling interests in property contrary to the wishes of the owners. These activities were concluded by entering territory that had been overrun and occupied by the Wehrmacht, or was under its effective control. The action of Farben and its representatives, under these circumstances, cannot be differentiated from acts of plunder or pillage committed by officers, soldiers, or public officials of the German Reich. In these property acquisitions which followed confiscation by the Reich, the course of action of Farben clearly indicates a studied design to acquire such property. In most instances the initiative was Farben's. In those instances in which Farben dealt directly with the private owners, there was the ever-present threat of forceful seizure of the property by the Reich or other similar measures, such, for example, as withholding licenses, raw materials, the threat of uncertain drastic treatment in peace treaty negotiations, or other effective means of bending the will of the owners. The power of the military occupant was the ever-present threat in these transactions, and was clearly an important, if not a decisive, factor. The result was enrichment of Farben and the building of its greater chemical empire through the medium of the military occupancy at the expense of the former owners. Such action on the part of Farben constituted a violation of the Hague Regulations. It was in violation of rights of private property, protected by the laws and customs of war and, in the instance involving public property, the permanent acquisition was in violation of that provision of the Hague Regulations which limits the occupying power to a mere usufruct of real estate. The form of the transactions were varied and intricate, and were reflected in corporate agreements well calculated to create the illusion of legality. But the objective of pillage, plunder, and spoliation stands out, and there can be no uncertainty as to the actual result.

*Ibid., page 240.

As a general defense, it has been urged on behalf of Farben that its action in acquiring a controlling interest in the plants, factories, and other interests in occupied territories was designed to, and did, contribute to the maintenance of the economy of those territories, and thus assisted in maintaining one of the objective aims envisaged by the Hague Regulations. In this regard it is said that the action was in conformity with the obligation of the occupying power to restore an orderly economy in the occupied territory. We are unable to accept this defense. The facts indicate that the acquisitions were not primarily for the purpose of restoring or maintaining the local economy, but were rather to enrich Farben as part of a general plan to dominate the industries involved, all as a part of Farben's asserted "claim to leadership." If management had taken over in a manner that indicated a mere temporary control or operation for the duration of the hostilities, there might be some merit to the defense. The evidence, however, shows that the interests which Farben proceeded to acquire, contrary to the wishes of the owners, were intended to be permanent. The evidence further establishes that the action of the owners was involuntary, and that the transfer was not necessary to the maintenance of the German army of occupation. As the action of Farben in proceeding to acquire permanently property interests in the manner generally outlined is in violation of the Hague Regulations, any individual who knowingly participated in any such act of plunder or spoliation with the degree of connection outlined in Article II, paragraph 2 of Control Council Law No. 10, is criminally responsible therefor.

We will now proceed briefly to record our conclusions as to the major aspects of individual acts of spoliation as established by the proof.

A. Spoliation of Public and Private Property in Poland

We find that the proof establishes beyond reasonable doubt that acts of spoliation and plunder, constituting offenses against property as defined in Control Council Law No. 10, were committed through Farben with respect to three properties located in Poland.

On 7 September 1939, following the invasion of Poland, the defendant von Schnitzler wired Director Krueger of Farben's Directorate in Berlin, requesting that the Reich Ministry of Economics be informed of the ownership status and other facts concerning four important Polish dyestuffs factories which, it was assumed, would fall into the hands of the Germans within a few days thereafter [NI-8457, Pros. Ex. 1138]. The plant facilities involved were those of Przemysl Chemiczny Boruta, S. A. Zgierz (Boruta), Chemiczna Fabryka Wola Krzysztoporska (Wola), and Zakłady Chemiczne Winnicy (Winnica). Boruta was the property of, and controlled by, the Polish State; Wola

was owned by a Jewish family by the name of Szpilfogel; and Winnica was ostensibly owned by French interests, but in reality there was a secret 50 percent ownership in IG Chemie of Basel. In actual effect, Farben controlled the latter half interest because of its relationship with the record owner and because it had option rights of purchase with IG Chemie. Farben's interest had been so cloaked at the time of the establishment of Winnica because of Polish restrictions on German capital investments. Farben's half ownership meant it had a legitimate interest to protect but gave no color of right to the dismantling of parts of the Winnica installations.

These three plants, with a fourth plant, Pabjanica (owned by Swiss interests and not here involved), accounted for more than one-half of the Polish dyestuff needs. Von Schnitzler pointed out that the Boruta and Wola were wholly owned by Polish interests and were members of the dyestuffs cartel. He called attention to the considerable and valuable stocks of preliminary, intermediate, and final products in the plants and stated: "Although not wanting to take a position on further operation, we consider it of primary importance that the above-mentioned stocks be used by experts in the interest of German national economy. Only IG is in a position to make experts available." A Farben representative was suggested as the appropriate person for the task.

Shortly thereafter, on 14 September 1939, von Schnitzler and Krueger addressed a letter to the Ministry of Economics confirming a conference of that same date [*NI-2749, Pros. Ex. 1139*]. The letter proposed that Farben be named as trustee to administer Boruta, Wola, and Winnica, to continue operating them, or to close them down, to utilize their supplies, intermediates, and final products. Two Farben employees were recommended as executives for the undertaking. Von Schnitzler affirmatively recommended that Wola be closed down permanently and that Boruta be declared to be of special value to the German war economy as most of the German dyestuffs plants were located in the Western Zone, so that Boruta had a "double value." Replying to von Schnitzler's letter, the Reich Ministry of Economics advised that it had decided to comply with Farben's suggestion and would place Boruta, Wola, and Winnica, located in former Polish territories, now occupied by German forces, under provisional management. The Reich Ministry of Economics was apparently under no illusions as to Farben's acquisitive desires in provoking the provisional administration. It agreed to name the Farben-recommended employees as provisional managers, but specified that such action created no priority rights of purchase for Farben. This exhibit indicates that the action of the Reich authorities in relation to these properties was directly instigated by Farben. Farben's nominees swung into action and took possession of the plants in early October of 1939.

Von Schnitzler next proposed to the Reich authorities by letter on 10 November 1939 that Boruta, on the verge of bankruptcy and without funds for adequate plant equipment, should be leased for 20 years to a Farben subsidiary to be created for that purpose. Wola was to be closed down and its equipment brought to Boruta. Von Schnitzler referred to the necessity for "a certain permanency of conditions," and added that, "if it should be in the interest of the Reich to re-privatize the plant during the 20-year term, Farben should be given priority rights as to purchase." [NI-8380, Pros. Ex. 1141.] This letter makes it plain that the purpose and interest of Farben from the outset was permanent acquisition and not temporary operation. Dismantling of certain Winnica equipment and its transfer to Boruta was also recommended. At the end of November 1939, von Schnitzler, by letter, submitted Farben's proposals again to Goering, in his capacity as Plenipotentiary for the Four Year Plan, requesting approval by the Main Trustee Office East of the earlier Farben recommendations. The recommended lease was not executed, and in June 1940 a decision was reached whereby Farben was allowed to purchase Boruta instead of executing a lease. Competition developed for the purchase of the property, and price negotiations were protracted. At the meeting of 4 December 1940, the Farben representatives, who were acting pursuant to von Schnitzler's directions, made it plain that the plant should be acquired by Farben in the interest of the German dyes producers, that the plant must continue operation, and that it must "because of the leadership claim recognized by all official agencies * * * be integrated into the sphere of IG dyestuffs production," an objective which could be achieved only through purchase. In April 1941, von Schnitzler was advised that the Reichsfuehrer SS had decided to allocate Boruta to Farben. The sales contract, signed by von Schnitzler, was finally concluded on 27 November 1941, with Farben acquiring the land, buildings, machinery, equipment, tools, furniture, and fixtures. It is significant that the sale was made operative as of 1 October 1939, the approximate date of the original seizure and operation by the Farben nominees.

The acquisition of the French interests, consisting of 1,006 shares of the stock of Winnica, was arrived at by agreement with the French coincident with the Francolor negotiations, to which reference will be later made. But we cannot find that the French interests were deprived of their ownership against their will and consent on the basis of the meager evidence before us concerning the Winnica stock transfer to Farben. The evidence on the basis of which the transfer of shares was declared invalid by the French court has not been introduced. It would be mere surmise on our part to conclude that the French did not agree to the Farben acquisition, particularly in view of the fact that Farben was already, in practical effect, half owner of the

total shares of Winnica. However, the evidence does establish that, on the recommendation of Farben, equipment from both Wola and Winnica was dismantled and shipped to Farben plants in Germany, which constitutes participation in spoliative activities in Poland.

The foregoing findings make it clear that the permanent acquisition by Farben of productive facilities or interest therein, and the dismantling of plant equipment, was exploitation of territories under belligerent occupation in violation of the Hague Regulations.

B. The Charge of Spoliation With Reference to Norway

We find that offenses against property within the meaning of Control Council Law No. 10 were committed in the acquisition by Farben of property interests in occupied Norway intended to be permanent and against the will and without the free consent of the owners. This finding relates to the Nordisk-Lettmetall project for expansion of the production of light metals in Norway, as a part of which the French shareholders were deprived of their majority stock interest in that company in favor of a German group, including Farben. The initiative in the Nordisk-Lettmetall project was in the Reich authorities, but it is clearly established that Farben joined in the project and that its representatives knew that the power of the Nazi government then occupying Norway was the dominant consideration forcing the French owners of Norsk-Hydro into the project.

The facts, briefly, are these: Following the aggression against and military occupation of Norway, Hitler decided that the Norwegian aluminum capacity should be reserved for the requirements of the Luftwaffe. Goering issued appropriate orders, pursuant to which special powers were entrusted to Dr. Koppenberg, who, in his capacity as trustee for aluminum, was given the task of expanding production of light metals in Norway. The plan was an ambitious one, calling for plant expansions and capital investments on a grandiose scale so as eventually to treble the Norwegian production of light metals. Norsk-Hydro Elektrisk Kvaestofaktieselskabet (referred to simply as Norsk-Hydro) was one of Norway's most important industrial concerns operating in the chemical and related fields. Its facilities were required for the project, and certain of its plants were to be expanded and properties transferred to accomplish the German objectives. It is plain from the evidence that the immediate German objective was to harness the resources of Norway, including its water power and raw materials, to the ever-increasing demands of the German war machine, particularly for military aircraft. The decision to carry out this project was made at the highest governmental levels, and the entire power of the military occupant was clearly available to carry it out, as the properties of Norsk-Hydro were located in territory under military occupation.

Farben immediately entered into this large-scale planning and fought for as large a capital participation as possible. It may have accepted the Reich nominees as partners reluctantly, but its consenting participation in the project cannot be doubted.

In addition to the immediate purpose of obtaining light metals for the Luftwaffe, Farben's long-term objective was the establishment of permanent German domination of the light-metals industry of Norway, looking to the time when peace would be achieved through Nazi victory.

The controlling stock interest in Norsk-Hydro, amounting to approximately 64 percent of the capitalization, was owned by a group of French shareholders represented by the Banque de Paris et des Pays Bas (referred to as Banque de Paris). The plan finally evolved by the Reich Air Ministry, after numerous conferences in which Farben representatives participated, resulted in creation of a new corporation, Nordisk-Lettmetall, with one-third interest in the Reich Government and its designated agencies, one-third interest in Farben, and one-third interest in Norsk-Hydro. The French owners of Norsk-Hydro did not voluntarily enter the Nordisk-Lettmetall project, but its plant facilities were located in occupied Norway, and the evidence, although conflicting on this point, convinces us that pressure from the Nazi government and fear of compulsory measures affecting its Norwegian holdings were the dominating considerations. In this manner Norsk-Hydro was forced to join in the project, and its properties were heavily damaged in subsequent allied bombings. Norsk-Hydro sustained severe financial losses as a result of the entire project. After joining in the project, Farben was a major participant in its execution. Nordisk-Lettmetall used Norsk-Hydro's facilities in the project, and some of its valuable properties were utilized for plant expansions.

As a part of the over-all plan, the evidence establishes that the Reich authorities deliberately planned to execute the project in such a manner as to deprive Norsk-Hydro's French shareholders of their majority interest in that company. Farben joined too in this aspect of the plan. In order to carry out the wishes of the Nazi government that Norsk-Hydro participate in the Nordisk-Lettmetall project, it became necessary to increase the capitalization of Norsk-Hydro by 50,000,000 Norwegian Kroners. The French shareholders were not represented at the meeting of 30 June 1941, at which the increase in the capital stock and participation in Nordisk-Lettmetall was voted. They were not authorized by the occupying powers to attend. In carrying out the increase in capitalization pursuant to the decision reached at the meeting, the Banque de Paris had no means of effectively protecting the preemptive rights of the French shareholders, because licenses for the clearing of the foreign exchange necessary for participation in the increased capital stock could not be obtained from the Nazi government, France then being under military occupa-

tion. Under the compulsion of these circumstances, the representatives of the French majority of Norsk-Hydro were forced to permit purchase of the preemptive rights in the new Norsk-Hydro stock by the German interests, including Farben and the other nominees of the Reich. In this manner the French majority was converted into a minority interest. We have carefully weighed the conflicting evidence and the defenses of fact urged with respect to this matter. It is our conclusion that the French shareholders were deprived of their majority interest in Norsk-Hydro under compulsion resulting from the ever-present threat of seizure of the physical properties of Norsk-Hydro in occupied Norway and that their participation in Nordisk-Lettmetall was not voluntary. The action was in violation of the Hague Regulations, and those who knowingly became parties to the entire transaction must be held guilty under count two.

C. Plunder and Spoliation in France

1. *Alsace-Lorraine.* Paragraph 111 of the indictment recites:

“The German Government annexed Alsace-Lorraine, and confiscated the plants located there which belonged to French nationals. Among the plants located in this area were the dyestuffs plant of Kuhlmann’s Société des Matières Colorantes et Produits Chimiques de Mulhouse, the oxygen plants, the Oxygene Liquide Strassbourg-Schiltigheim (Alsace), and the factory of the Oxhydrique Francaise in Diedenhofen (Lorraine). Farben acquired these plants from the German Government without payment to or consent of the French owners.”

Farben’s action in occupied Alsace-Lorraine followed the pattern developed in Poland. The Mulhausen plant of the Société des Produits Chimiques et Matières Colorantes de Mulhouse, located in Alsace, was leased by the German chief of civil administration to Farben on 8 May 1941. The plant had been taken possession of pursuant to the general authorization by the Reich for the confiscation of French property. Farben went into possession even prior to the execution of a lease in its favor for the purpose of starting production again. It is clear from the terms of the lease agreement that temporary operation in the interest of the local economy was not contemplated, and that the lease was purely transitional to permanent acquisition by Farben. It contained express provisions obligating the lessor, the chief of the civil administration in Alsace, representing the Nazi government, to sell the plant and its facilities to Farben as soon as the general regulations and official decrees allowed it. Pursuant to this clause a formal governmental decree of seizure and confiscation, transferring the property to the German Reich, was entered on 23 June 1943. This was followed by the sale on 14 July 1943 to

Farben. It is unnecessary to comment upon the flagrant disregard of property rights established by these facts. The violation of the Hague Regulations is clear and Farben's participation therein amply proven.

In the case of the oxygen and acetylene plants, referred to as Strassbourg-Schiltigheim, similar action was taken by Farben. After first taking a lease, Farben proceeded to, and did, acquire permanent title to the plants following the governmental confiscation which was without any legal justification under international law. In none of these transactions were the rights of the owners considered.

In the case of the Diedenhofen plant, located in Lorraine, the plant was leased to Farben but permanent title was never acquired. Farben urged its claims to purchase upon the occupying authorities, but the German chief of civil administration refused to incorporate a provision for purchase in the lease agreement. For some reason not clear from the evidence, Farben met with difficulty here. The evidence indicates that the plant had been evacuated prior to the Farben operation. This fact, coupled with the attitude of the German authorities and the short term of the lease, leads us to the conclusion that, despite the intention to acquire permanently that was manifested by Farben, the proof does not adequately establish that the owner was deprived of the property permanently, or that its use was withheld contrary to the owner's wishes. We find the evidence insufficient upon which to predicate any criminal guilt with reference to the Diedenhofen plant.

2. *The Francolor Agreement.* Paragraphs 103 through 110 of the indictment charge the defendants with the plunder and spoliation of the principal dyestuffs industries of France by means of the so-called Francolor Agreement. The proof fully sustains the charges outlined in this portion of the indictment. In utter disregard of the rights of the French, Farben, acting principally through the defendants von Schnitzler, ter Meer, and Kugler, proceeded with methods of intimidation and coercion to acquire permanently for Farben a majority interest in a new corporation, "Francolor," which was organized to take over the assets of the French concerns. The facts may be briefly summarized as follows: Three of the major dyestuffs firms of France, prior to the war, were Compagnie Nationale de Matières Colorantes et Manufactures de Produits Chimiques du Nord Reunies Établissements Kuhlmann, Paris (referred to hereinafter as Kuhlmann); Société Anonyme des Matières Colorantes et Produits Chimiques de Saint Denis, Paris (referred to as Saint Denis); and Compagnie Française de Produits Chimiques et Matières Colorantes de Saint-Clair-du-Rhône, Paris (referred to as Saint-Clair-du-Rhône). These three firms had cartel agreements with Farben, including the so-called Franco-German Cartel Agreement, entered into

in 1927; the so-called Tri-Partite Agreement, or the Franco-German-Swiss Cartel, concluded in 1929; and the so-called Four-Party Agreement, to which German, French, Swiss, and English groups were parties, entered into in 1932. Under these agreements, a basis of cooperation between the more important producers of dyestuffs on the European Continent had been laid. But in planning for the New Order of the industry, Farben had contemplated and recommended complete reorganization of the industry under its leadership.

Immediately after the French armistice in 1940, Farben conferred with representatives of the occupying authorities and other governmental agencies and deliberately delayed negotiations with the French to make them more receptive to negotiations. In the meantime, Farben's influence with the German occupation authorities was used to prevent the issuance of licenses and to stop the flow of raw materials which would have permitted the French factories to resume their normal prewar production in keeping with the needs of the French economy. When the French plants were unable to resume production and their plight became sufficiently acute, they were forced to request the opening of negotiations. Farben indicated its willingness to confer. A conference was held on 21 November 1940 in Wiesbaden, at which representatives of Farben, the French industry, and the French and German Governments were in attendance. The meeting was under the official auspices of the Armistice Commission. Patently the French knew that they were forced to ascertain in the so-called negotiations what the future fate of the French dyestuffs industry, then at the mercy of the occupying Germans, might be. The meeting of 21 November 1940 was held in this atmosphere [*NI-6727, Pros. Ex. 1246*]. The defendants von Schnitzler, ter Meer, and Kugler were in attendance as principal representatives of Farben. At the outset of the conference the French industrialists were frankly informed that the prewar agreements between Farben and the French producers, which the French wished to use as a basis in the negotiations, must be considered as abrogated owing to the course of the war. Farben's historical claim to leadership, founded upon alleged wrongs traced back to World War I, was asserted as additional reason. In a most high-handed fashion, the German representatives informed the French that the course of events during the preceding year had put matters in an entirely different light, and that there must be an adjustment to the new conditions. A memorandum read by von Schnitzler was presented to the French representatives, in which Farben demanded a controlling interest in the French dyestuffs industry. The German demands, set forth in the Farben memorandum, were vigorously supported by Ambassador Hemmen, who pointed out the grave danger to the French dyestuffs industry if its future should be relegated to settlement by the peace treaty rather than through the medium of the

“negotiations.” It is clear that this conference was in no real sense the opening of negotiations between parties free to deal with each other without compulsion. It was rather the perfect setting for the issuance of the German ultimatum to the French dyestuffs industry, which was to be subjected to Farben’s control.

The French industry was faced with an unenviable alternative: It could pursue the path of collaboration and surrender, recognizing the plight created by the situation in the light of Farben’s demands, or, if it chose to resist, it entailed the risk of perhaps more severe treatment at the hands of the occupying authorities or of future governmental commissions appointed for handling the matter in connection with the negotiation of a treaty of peace. The French feared the exercise of the power of German occupation either to take over the plants completely or to dismantle and cart them away to Germany, in keeping with the pattern that had been established for military occupation by policies of the Third Reich. Notwithstanding these dread alternatives, the French were outspoken and vigorous in their resistance to the German demands. They were, however, astute enough not to break off negotiations completely.

On the following day, 22 November 1940, a second conference was held between representatives of Farben—including von Schnitzler, ter Meer, Waibel and Kugler—and representatives of the French group, with no government officials in attendance. Farben’s demands for majority participation and absorption of the French dyestuffs industry were forcefully made at this conference. The French continued their protests. They refused to accept the proposals, but still without breaking off negotiations. In view of the situation, they stated that they would report the matter to the French Government for counsel and advice. They were advised by their government not to break off negotiations because such a step might have serious repercussions. Postponement and delay in the negotiations was in complete harmony with Farben’s plan to force the French group into submission. Subsequently a French counterproposal was presented to Farben representatives on 20 January 1941 at a meeting in Paris. This proposal represented the limits beyond which the French hoped not to be compelled to go. It was proposed that there be created a sales combine with a minority interest in Farben, the French holding the majority of the shares. This proposal was rejected by Farben. It did not satisfy the claim to leadership. It became increasingly clear, as the negotiations progressed, that this was a matter which would be settled entirely on Farben’s terms. Farben’s demand was for outright control of the French dyestuffs industry by 51 percent participation in the stock of a new corporation, Francolor, which was to be formed to take over all of the assets of Kuhlmann, Saint-Clair, and Saint-Denis. Reluctantly the French accepted in principle the German demand for consolidation

of French dyestuffs production in a new company with German participation, but they still protested against, and held out against, Farben's demand for the majority interest. The evidence establishes that, in this regard, they even received support from French governmental authorities. But the French industry's plight was too desperate.

Finally, on 10 March 1941, the Vichy government gave its approval to the plan for the creation of the Franco-German dyestuffs company, Francolor, in which Farben was to be permitted to acquire a controlling 51 percent stock interest. This decision of the Vichy government was announced by the defendant von Schnitzler to the French representatives at a conference on that date. After confirmation of the fact that the officials in charge of economic questions for the French Government supported the position taken by Farben, the French industry was forced to give in. Final agreement was reached at a subsequent conference on 12 March 1941, attended by representatives from the French and German industries involved and by representatives of Military Government in Occupied France.

The Francolor Convention was formally executed on 18 November 1941. It was signed by the defendants von Schnitzler and ter Meer on behalf of Farben. By this convention Farben permanently acquired the controlling interest in the French dyestuffs industry, and paid therefor in shares of IG's stock, which could not be realized upon by the French as they were prohibited by terms of the convention from transferring the shares except among themselves. A decree entered by a French court on 3 November 1945 declared the legal nullity of the transfer of the shares of stock in Francolor to Farben. The transaction, although apparently legal in form, was annulled by virtue of the Inter-Allied Declaration of 5 January 1943 and French decrees based thereon.

The defendants have contended that the Francolor Agreement was the product of free negotiations and that it proved beneficial in practice to the French interests. We have already indicated that overwhelming proof establishes the pressure and coercion employed to obtain the consent of the French to the Francolor Agreement. As consent was not freely given, it is of no legal significance that the agreement may have contained obligations on the part of Farben, the performance of which may have assisted in the rehabilitation of the French industries. Nor is the adequacy of consideration furnished for the French properties in the new corporation a valid defense. The essence of the offense is the use of the power resulting from the military occupation of France as the means of acquiring private property in utter disregard of the rights and wishes of the owner. We find the element of compulsion and coercion present in an aggravated degree in the Francolor transaction, and the violation of the Hague Regulations is clearly established.

Judge Morris will continue with the reading of the judgment.

3. *Rhône-Poulenc.*

JUDGE MORRIS :

There are two aspects of the charges of spoliation in the matter of Rhône-Poulenc. Prior to the war this firm was an important French producer of pharmaceuticals and related products. The first aspect relates to a licensing agreement entered into between Farben and Société des Usines Chimiques Rhône-Poulenc, Paris (referred to as Rhône-Poulenc), and the second aspect relates to the so-called Theraplix Agreement. Under the first agreement substantial sums of money were paid to Farben during the war years on products covered by the licensing agreement and manufactured by the French firm. Under the second agreement Farben eventually acquired a majority interest in a joint sales company operated in the joint interest of IG Bayer and Rhône-Poulenc. It is the contention of the prosecution that both agreements constitute spoliation in that they were entered into unwillingly by the French as a result of pressure applied by Farben during the military occupation of France and as part of Farben's plan to subject the French pharmaceutical industry to its claim to leadership.

The main physical properties involved in the Rhône-Poulenc transactions were situated in the unoccupied zone of France. We need not concern ourselves with the strict nature of these agreements with reference to the acquisition of an interest in physical property. The agreements, in any event, involved the proceeds arising from the production of physical plants located in unoccupied territory. Thus the productive facilities so located were the source of the valuable interests involved in the contracts.

The location of the physical property and plants are of decisive importance in determining whether a case of spoliation might arise from the transactions involved. It is clear that the location of these properties was not in territory under the occupation or immediate control of the Wehrmacht. Farben was not in a position to enlist the Wehrmacht in seizure of the plants, or to assert pressure upon the French under threat of seizure or confiscation by the military. This is disclosed by a report of discussions held in Wiesbaden between the defendant Mann as representative of Farben and officials of the Reich, wherein it is said: "Considerable difficulties will certainly arise from the fact that Rhône-Poulenc is situated in the unoccupied zone, as our chances of gaining control there are very slight. For this reason, Dr. Kolb suggests that we should endeavor to acquire direct influence both in the occupied and unoccupied zones by the exercise of control over the allocations of raw materials." Thus it appears that the pressure sought to be exercised in inducing the French to enter into the agreements involved in these transactions could not have been carried out by military seizure of physical properties. The pres-

sure consisted of a possible threat to strangle the enterprise by exercising control over necessary raw materials. It further appears that Farben asserted a claim for indemnity for alleged infringements of Farben's patents, well knowing that the products were not protected under the French patent law at the time of the infringement. This conduct of Farben's seems to have been wholly unconnected with seizure or threats of seizure, expressed or implied, and while it may be subject to condemnation from a moral point of view, it falls far short of being proof of plunder either in its ordinary concept or as set forth in the Hague Regulations, either directly or by implication.

D. Russia

There can be no doubt that the occupied territories of Russia were systematically plundered in consequence of the deliberate design and policy of the Nazi government. Farben made far-reaching plans to participate in this plunder and spoliation, but the plans laid by Farben did not reach the stage of completion, and we are unable to say from the record before us that any individual defendant has been sufficiently connected with completed acts of plunder in Russia within the meaning of the Control Council Law. Farben, acting through the defendant Ambros, did select and appoint experts to go to Russia to operate the buna rubber plants expected to fall into German hands and urged its priority rights to exploit the Russian processes in the Reich, but these plans did not materialize in any completed act of spoliation established by the proof. The proof leaves no doubt that Farben did not desire to be left out of the exploitation in the East. With this in mind, it participated in plans for the organization of the so-called eastern corporations which were to have an important part in reprivatizing Russian industry. Some of these companies came into existence, but the evidence of their activities is not sufficient to support any finding of guilt in connection therewith. Farben expected to acquire properties in Russia, but it is not shown that there was ever any such acquisition.

Special stress is placed by the prosecution on the activities of the Continental Oil Company,* which was founded prior to the invasion of Russia and in which Farben held a small stock interest. We are not satisfied that Farben ever directed or influenced the activities of the Continental Oil Company in any effective manner and cannot conclude that the mere membership of Krauch and Buetefisch on the Aufsichtsrat, which was not the managing board, in the absence of more complete proof of direct and active participation on their part, constitutes a sufficient degree of participation in the spoliative activities carried out by Continental Oil Company for a finding of guilt under Control Council Law No. 10.

*Kontinentale Oel A. G.

Individual Responsibility

We will now turn to the consideration of the individual responsibility of the defendants for the acts of spoliation which we have described in the above findings. It is appropriate here to mention that the corporate defendant, Farben, is not before the bar of this Tribunal and cannot be subjected to criminal penalties in these proceedings. We have used the term "Farben" as descriptive of the instrumentality of cohesion in the name of which the enumerated acts of spoliation were committed. But corporations act through individuals and, under the conception of personal individual guilt to which previous reference has been made, the prosecution, to discharge the burden imposed upon it in this case, must establish by competent proof beyond a reasonable doubt that an individual defendant was either a participant in the illegal act or that, being aware thereof, he authorized or approved it. Responsibility does not automatically attach to an act proved to be criminal merely by virtue of a defendant's membership in the Vorstand. Conversely, one may not utilize the corporate structure to achieve an immunity from criminal responsibility for illegal acts which he directs, counsels, aids, orders, or abets. But the evidence must establish action of the character we have indicated, with knowledge of the essential elements of the crime. In some instances, individuals performing these acts are not before this Tribunal. In other instances, the record has large gaps as to where or when the policy was set. In some instances, a policy is set without clear indication that essential factual elements required to make it criminal were disclosed. Difficulties of establishing such proof due to the destruction of records or other causes does not relieve the prosecution of its burden in this respect.

One cannot condone the activities of Farben in the field of spoliation. If not actually marching with the Wehrmacht, Farben at least was not far behind. But translating the criminal responsibility to personal and individual criminal acts is another matter. With these preliminary observations our findings as to individual defendants are as follows:

Krauch The evidence does not establish that Krauch was criminally connected with Farben's spoliative acts in Poland. Owing to his position with the government, he was not active in the administrative affairs of Farben after 1936, and he became further removed from the routine management with his appointment to the chairmanship of the Aufsichtsrat in 1940. There is no showing that he had any part in the establishment of the policy pursuant to which Farben acquired the properties in Poland.

With reference to the alleged removal of machine installations from the Simon Pit in Lorraine, it appears that Krauch wrote a letter to the

Military Economy and Armament Office requesting release of machine installations of the Simon Pit in Lorraine to be transferred to Gersthofen. The purpose of the recommendation was to expand electric power needed for the aluminum program, for which Krauch was responsible. This recommendation received Keitel's approval after consideration of the question of whether there was any violation of international law involved. Keitel's decision was communicated to Krauch in favor of the recommendation, and a subordinate of Krauch's was placed in charge of the work. But the evidence does not establish that the dismantling was actually carried out. Under these circumstances, Krauch must be found Not Guilty likewise on this aspect of count two.

In the case of spoliation in Norway, it appears that Krauch acted as a technical advisor after the plans for expansion of light metals production in Norway were under way. Prior to the initiation of the project he had a conference with the defendant Buerger, in which he merely requested that Farben indicate the extent of its desired participation in the project. It does not appear that he took a prominent part in the negotiations, with reference either to the establishment of Nordisk-Lettmetall or the increase in the capital stock of Norsk-Hydro. His connection with the Norway project, in the capacity of a technical expert and adviser to Koppenberg on the type of installations to be established, does not, in our opinion, constitute sufficient participation in the exploitation of the resources of Norway to warrant a finding of guilt.

The evidence is also insufficient to convict Krauch insofar as alleged spoliation in Russia is concerned. It does not appear that any plans to which he may have been a party were carried out at all, nor that he was active in the plunder and spoliation of Eastern Occupied Territory. His activity in connection with the Continental Oil Company is not shown in detail. It must have been on a limited basis, as he was only a member of the Aufsichtsrat, appointed to represent Farben's relatively small capital investment in that company. Under German law, membership on the Aufsichtsrat does not carry with it responsibility for the actual management of the affairs of the corporation.

We find also that the evidence establishes no connection between the charges of spoliation in France and the defendant Krauch. Krauch is acquitted of all charges under count two of the indictment.

Schmitz. The defendant Schmitz was chairman of the Vorstand, was *primus inter pares* of its members, and was the chief financial officer of Farben. His position necessitated that he be consulted on major matters of Farben policy in the interim between meetings of the Vorstand. It is certain that his responsibilities and his opportunities for knowledge went far beyond those of an ordinary Vor-

stand member. Notwithstanding the position which he held, however, the evidence does not conclusively connect him by any individual personal action on his part with the acts of spoliation in Poland, Alsace-Lorraine, or Russia. It is true that he presided at meetings of the Vorstand and frequently attended other Farben meetings, including those of the Commercial Committee, at which discussions were held, reports were made, action was planned and approved. But examination of the minutes and reports of the meetings fails to disclose anything incriminating as against Schmitz with regard to the mentioned transactions. The evidence, in general, is similar to that relied upon with reference to the other members of the Vorstand. In this respect the evidence is equally consistent with inferences that the acquisitions might have been effected in a legal manner. We are not convinced beyond reasonable doubt of the guilt of the defendant Schmitz in connection with Farben's spoliative activities in Poland or Alsace-Lorraine.

In the matter of the Francolor acquisition, the evidence has been presented on a different basis. Schmitz received minutes of the Wiesbaden meetings, and the evidence further establishes that he was continuously advised of the course of negotiations throughout the various conferences. The information coming to his attention in this manner was sufficient to apprise him of the pressure tactics being employed to force the French to consent to Farben's majority participation in the French dyestuffs industry. He was in a position to influence policy and effectively to alter the course of events. We, therefore, find that Schmitz bore a responsibility for, and knew of, Farben's program to take part in the spoliation of the French dyestuffs industry and, with this knowledge, expressly and impliedly authorized and approved it. Schmitz must be held Guilty on this aspect of count two of the indictment.

In the case of spoliation in Norway, the evidence establishes that Schmitz, in his capacity as chairman of the Vorstand, had special knowledge of the entire project. He received a letter from the defendant Buergin recommending Farben's participation in the project, and such participation was later actually carried out. This could not have been done without his knowledge and approval. Possessing special knowledge of the project, he attended the meeting of the Vorstand on 5 February 1941, at which participation in the Nordisk-Lettmetall project was approved in principle. Reports of conferences with Reich authorities were made to Schmitz. He participated in at least one of these conferences at which there was discussion regarding the steps to be taken in the acquisition of the Norsk-Hydro shares by the German group. He served as a member of the Styre, or governing board, of Norsk-Hydro, both prior to and subsequent to the increase in capitalization. We conclude that Schmitz was fully

informed of the ramifications of the Nordisk-Lettmetall plan, and that his action in expressly or impliedly approving Farben's participation connects him criminally within the meaning of Control Council Law No. 10. Schmitz is found Guilty under count two of the indictment.

Von Schnitzler. Von Schnitzler bears a major responsibility for Farben's spoliative activities in Poland and in France. He was the leading figure responsible for the formulation of Farben's general policy designed to achieve domination of the dyestuffs and chemical industries of Europe. He took the initiative in developing plans for the acquisition of the Polish property. Only 6 days after the invasion of Poland, he recommended that the Reich authorities be approached concerning Farben's operation of Polish dyestuffs factories expected soon to fall into German hands. He urged the appointment of Farben or Farben nominees, as trustees for the Polish factories. He conducted or supervised all negotiations transitional to the final acquisition of Boruta, including transmitting personally the proposals for a long-term lease in favor of a Farben subsidiary to be created for this purpose. He personally signed the contract for the permanent acquisition of Boruta. He recommended that the Wola plant be closed down permanently, and recommended transferring equipment from both Wola and Winnica to Farben plants in Germany. In all these matters he aggressively incited the government to action. These facts are sufficient to demonstrate his guilt in regard to the Polish acquisitions.

The evidence does not establish von Schnitzler's criminal complicity in the acquisition by Farben of properties in Norway, nor is it sufficient to warrant conviction in connection with the charges of spoliation in Alsace-Lorraine.

In the Francolor acquisition, von Schnitzler also played the leading role. He was Farben's chief representative at the meeting with representatives of the French and German Governments and representatives of the French dyestuffs industry. At these meetings methods of intimidation were used as part of a plan to force the French to meet Farben's demands. Von Schnitzler was fully aware of the fact that competent governmental authorities in occupied France had been requested to withhold raw material from the French dyestuff factories, to prevent shipment of goods into the unoccupied zone, and to make things generally difficult for the French in order that they would be willing to negotiate. Von Schnitzler was a party to the plan to delay the opening of negotiations with the purpose of making the plight of the French more desperate in order that they would be receptive to Farben's demands. When negotiations were finally opened at Wiesbaden he was fully aware of the atmosphere of intimidation created by holding the meeting under the auspices of the Armistice Commission.

Thus, von Schnitzler and Kugler, in a letter to Farben representative Kramer, in Paris, said :

“It is quite obvious that our tactical position towards the French is by far stronger if the first fundamental discussion takes place in Germany and, more particularly, at the site of the Armistice Delegation; and if our program, as outlined, will be presented, so to say, from official quarters.” [*NI-15228, Pros. Ex. 2112.*]

He personally served the ultimatum containing Farben's demands, described by the French as a “dictate,” on the representatives of the French dyestuffs industry. He subsequently supervised and was appraised of the conference and negotiations conducted by subordinate Farben employees. He personally signed the Francolor Convention, whereby the French dyestuffs industry, in opposition to its wishes, was forced to cede a 51 percent interest in the French industry to Farben. It is clear from this recital of the evidence that von Schnitzler was a party to the illegal acquisition by Farben of permanent property interests in France during belligerent occupation. This constitutes violation of the rights of private property protected by provisions of the Hague Regulations. Von Schnitzler is found Guilty under count two of the indictment.

Gajewski. The defendant Gajewski was not personally active in any of the specific acts of spoliation charged in the indictment. The prosecution's case against him under this count, therefore, depends entirely upon Gajewski's alleged participation in Farben's plunder and spoliation activities predicated upon his regular presence at meetings of the Vorstand, TEA, or other committee groups at which the various acquisitions in occupied countries came up for discussion, planning, information, or approval. It is contended that he knew of and approved such acquisitions constituting spoliative transactions. As we have heretofore indicated, a defendant can be held guilty only if the evidence clearly establishes some positive conduct on his part which constitutes ordering, approving, authorizing, or joining in the execution of a policy or act which is criminal in character. It is essential, in keeping with the concept of personal and individual criminal responsibility, that, when seeking to attach criminality to acts not personally carried out, the action of a corporate officer in authorizing illegal action be done with adequate knowledge of those essential elements of the authorized act which give it its criminal character. With regard to transactions apparently legal in form, this means positive knowledge that the owner is being deprived of his property against his will during military occupancy. We have carefully examined the minutes of the Vorstand and other Farben groups relied upon by the prosecution to establish Gajewski's criminal complicity in the crimes charged under count two, and we cannot find

that his action in approving these transactions constitutes sufficient conduct to warrant a finding of Guilty. The minutes of the Farben groups to which reference has been made are abbreviated in form and, in most instances, merely indicate that a report was made by the responsible Farben official charged with the execution of the project. The extent of the report is not shown. The reports made and distributed and the minutes reflecting discussion and action do not contain sufficient evidence from which it may be conclusively inferred that illegal methods would be used in the negotiations. Nor does it appear from the reports that the transactions were to be concluded without the full consent of the owners. With reference to acquisitions in Poland and Alsace-Lorraine which are connected with unlawful confiscations, the evidence of required knowledge of the facts is not found in the record. One may, in reviewing all this evidence, strongly suspect that much more of the details of the negotiations were actually reported and may have fully apprised Vorstand members that property was being illegally acquired in occupied territories, but suspicion alone does not amount to the requisite proof, as the minutes themselves would be equally consistent with action that would not import criminality. We cannot conclude that Gajewski's conduct in expressly or impliedly approving action reported at Vorstand or other meetings where the property acquisitions here considered were reported upon establishes his guilt under count two beyond a reasonable doubt.

It does not appear from the evidence that Gajewski's activity in the Kodak-P ath e matter resulted in any completed act of spoliation. His action here may have been laying the foundation for such an act, but it was not consummated.

He is acquitted of the charges under this count, as we do not consider that it is proved that he took a part in any criminal action charged in count two.

Hoerlein. There is no substantial evidence connecting the defendant Hoerlein with any of the acts of spoliation charged in the indictment, other than his activity as a member of the Vorstand and the Technical Committee. In this respect, what we have said in general terms in our consideration of the evidence relied upon in the case of the defendant Gajewski is applicable to this defendant. His principal connection under the evidence was in the Rh one-Poulenc transaction, in which it does appear that he had a degree of participation and knowledge which went beyond that of an ordinary Vorstand member. Under the view which we have expressed in our general findings of the facts, the Rh one-Poulenc transaction is not considered by the Tribunal as involving a war crime within its jurisdiction, regardless of how much the transaction might be condemned based on other considerations. We cannot impute criminal guilt to the defendant Hoerlein

from his membership in the Vorstand, and he is acquitted of all of the charges under count two of the indictment.

Von Knieriem. Von Knieriem was not only a member of Farben's Vorstand, he was also the first lawyer in Farben. But the evidence does not establish that he ever acted on any of the matters charged as spoliation in count two. Nowhere does it appear that he was consulted for legal advice in connection with these transactions or that he counselled or aided in their consummation. The one instance of evidence establishing that von Knieriem considered legal problems in occupied territories dealt with corporate problems of an entirely different character from the immediate acquisitions of property with which we are here concerned under the evidence. It is not established that von Knieriem knew of the methods being pursued by Farben in acquiring property against the will and consent of the owners in occupied territories, or that he was in any way a party to the acquisitions in Poland and Alsace-Lorraine. His action in a legal capacity in the establishment of the eastern corporations for possible operations in Russia is not connected with any completed act of spoliation. Von Knieriem is found Not Guilty under count two of the indictment.

Ter Meer. We find that the proof establishes the guilt of the defendant ter Meer under count two of the indictment beyond reasonable doubt. He was prominently connected with the activities of Farben in the acquisition of the Polish property and in the Francolor acquisition. The evidence establishes that ter Meer acted for Farben in the selection of the personnel to operate the plants. There can be no doubt that the initiative in acquiring the Polish property came from Farben, and that ter Meer, as chairman of the Technical Committee, was fully advised in regard to Farben's contemplated action and the course of the negotiations. He issued instructions in connection with the negotiations. He acted with the defendant von Schnitzler in applying for the license to purchase the Boruta plant. We have found no criminality in the Winnica stock acquisition, but the fact that this contract was signed by the defendant ter Meer is indicative of the extent to which he was apprised of, and connected with, the course of action of Farben in Poland. It is clear that ter Meer took a consenting part in Farben's acts of spoliation in Poland, and participated with von Schnitzler throughout this matter.

Ter Meer took a prominent part in the planning for contemplated spoliation in Soviet Russia, but, as we have heretofore indicated, this did not result in any completed spoliative act. Nor is the evidence sufficient in any way to connect the defendant ter Meer with spoliation in the case of Norsk-Hydro.

Ter Meer was a guilty participant in Farben's acquisition of the confiscated Mulhouse plant, as he knew of and tacitly approved the acquisition. He approved the Rhône-Poulenc license agreement,

but, as we have indicated, criminality cannot be predicated on that transaction.

Ter Meer was a leading participant in the Francolor negotiations. He attended the important Wiesbaden meetings at which the Farben demands were served on the French, and at which pressure was used to obtain the consent of the French. He received reports from Farben representatives that were sufficiently in detail fully to apprise him of the course of the negotiations and the tactics being employed. He signed the Francolor Convention. Ter Meer had intimate personal knowledge of the plight of the French industry and was fully aware of Farben's action in gaining the support of the Nazi authorities in making it difficult for the French industry to resume production. We cannot accept the defense that this was a normal business transaction between parties free to negotiate, regardless of mutual clauses contained in the Francolor Convention. Ter Meer's participation in this entire transaction was at the important level of policy-making. He was dictating the terms and acting, along with von Schnitzler, as the responsible Vorstand member handling the matter. He is criminally connected with the Francolor transaction.

We find the defendant ter Meer Guilty under count two of the indictment.

Schneider, Kuehne and Lautenschlaeger. The evidence to support the charges of participation in the spoliation alleged in count two of the indictment is substantially the same in the individual cases of the defendants Schneider, Kuehne, and Lautenschlaeger. It is the contention of the prosecution that these defendants are responsible for, knew of, and approved the program of Farben to acquire, with the aid of force and compulsion, property in occupied territories. It is contended that these defendants, as members of the Vorstand, attended Vorstand meetings, meetings of the Farben committees, and other policy-making groups, at which such action was authorized or approved. It is further contended that they received reports of a character to advise them of the contemplated action. We have carefully examined this evidence. What we have said with reference to the individual responsibility of the defendant Gajewski is applicable here. We do not consider that the evidence has sufficiently established the degree of affirmative action with knowledge of the details importing criminality to warrant a finding of guilt in the case of these three defendants. Each is, therefore, acquitted of the charges under count two of the indictment.

Ambros. The defendant Ambros was a member of Farben's Vorstand during the entire period of World War II. It is the contention of the prosecution that, in that capacity and as a member of the TEA, Ambros participated in planning the spoliation and plunder, and that he affirmatively approved and ratified all of the spolia-

tive acts committed by Farben. The proof as to the action of Ambros is not convincing, even though he was frequently present at the meetings referred to. We cannot find that the evidence connects him with the illegal acquisition of property by Farben. It is true that he was pressing the matter of the operation of the Russian buna plants by Farben experts and demanded that Farben be given exclusive rights with regard to the Russian plants and processes. However, as we have heretofore indicated, the evidence does not establish any completed act of spoliation in Russia in which these defendants were participants. The contemplated spoliation was prevented by the defeat of the German Army in Russia. He was willing to exploit and acquire the Russian plants for Farben, but these plans were not realized. We do not consider that his activities in furthering production in the Francolor plants, following their acquisition by Farben, warrant a finding of guilt.

Ambros is acquitted under count two of the indictment.

Buergin. The evidence establishes that the defendant Buergin was specifically informed concerning plans to have the Boruta plant in Poland taken over by a German corporation organized for that purpose, but he was not personally a participant in the acquisition by Farben of this plant. It is not clearly established that his trip to Poland was directly connected with any of the acts of Farben in acquiring Polish property. The evidence of his report to the Vorstand on the economic conditions and technical efficiency of the plants is not directly linked with subsequent action by Farben. We likewise find that the evidence is insufficient for a finding of guilty against Buergin on the particulars of the indictment charging spoliation in Russia, France, and Alsace-Lorraine.

In the case of Norway, however, Buergin bears special responsibility. He initiated the recommendation for Farben's participation in the aluminum project in Norway and has admitted that permanent participation and acquisition of interests in the Norwegian production of light metals was contemplated. Buergin wrote to Schmitz and ter Meer recommending participation on a large scale in the plan to exploit the Norwegian resources in the interest of light metals production for the Luftwaffe. The recited evidence establishes his guilt under count two. But it does not appear that he was in any way connected with the activities whereby the French shareholders were deprived of their majority interest in Norsk-Hydro. For his participation in the first aspect of spoliation in Norway we find that he is Guilty under count two of the indictment.

Buetefsch. The defendant Buetefsch was a member of Farben's Vorstand, and as such is charged in the indictment with participation in spoliation of the German-occupied territories of Poland, France, Norway, and Soviet Russia. The evidence to support these allega-

tions has been carefully examined. We deem it insufficient to establish that the defendant Buete fish was directly connected with these spoliative activities, or that he was personally involved therein, within the meaning of Control Council Law No. 10.

Special stress is placed by the prosecution on Buete fish's connection with the Continental Oil Company which, according to findings of the IMT, was engaged in spoliation activities in occupied territories in the East. Buete fish was a member of the Aufsichtsrat of Continental Oil Company, but it does not appear from the evidence that he was particularly active in the management of the concern. Nor does it appear that he ordered, authorized, or directed the activities of Continental Oil Company which amounted to spoliation. The evidence does not establish beyond reasonable doubt that Buete fish is guilty under count two by virtue of his activities in the Continental Oil Company, and he is, accordingly, acquitted of all the charges under this count.

Haefliger. It has been proved that Haefliger, a member of the Vorstand, knew of Farben's proposal that Farben be appointed as trustee for the Polish plants and that, at the suggestion of von Schnitzler, he approached the Ministry of Economics in a preliminary conference on the subject of the Polish plants. The conference was limited, however, to a discussion of the appointment of experts necessary for commercial and technical operations, and the preliminary reaction of the Ministry was unfavorable. Haefliger is not connected by the evidence with any subsequent action of Farben's for acquisition of the Polish plants. Haefliger has testified that he did not know at the time that the plan was to acquire these plants permanently for Farben. We cannot say that it has been proved beyond reasonable doubt that Haefliger was a party to the spoliation and plunder by Farben of the Polish factories. His subsequent action as a member of the Vorstand must be considered on the same basis as the evidence with reference to the other defendants, and would not warrant a finding of guilt.

Haefliger was, however, criminally connected with the plans for the spoliation of Norway. Haefliger reported to the Vorstand on the participation of Farben in the proposed exploitation of the Norwegian resources in the interest of the German war economy. He attended meetings at the Reich Air Ministry at which details of the project and participation therein were planned and discussed. He was fully aware of the nature of the project as an armament expansion program. He knew that the plan contemplated, as a subsidiary detail, the acquisition of the majority shares of the French shareholders. We are convinced beyond reasonable doubt that his activity in relation to this whole matter was on such a comprehensive basis that he knew that Norsk-Hydro was being forced to enter the project involving

use of its facilities during military occupancy in the interest of enemy armament against the will and consent of the owners, and that the French shareholders were not voluntarily parting with their majority interest in Norsk-Hydro. He approved and participated in this course of action.

For his connection with, and participation in the Norwegian enterprise, Haefliger is Guilty under count two of the indictment.

Ilgner. The defendant Ilgner was an active participant in the case of spoliation of Norway and must be held Guilty under count two of the indictment. He was the leading participant in arranging and supervising the various negotiations leading to the Norsk-Hydro agreement, whereby the French shareholders were deprived of their majority interest in favor of a German majority including Farben. He was fully informed concerning the scope of the planned exploitation of the Norwegian economy in the light metals program for the Luftwaffe and joined energetically in the plan. The plan contemplated permanent acquisition by Farben of a substantial interest in the light metals field in Norway. He was thus a participant and party to the plan to force the use of Norsk-Hydro's facilities in the expansion program for German needs, without regard to the needs of Norwegian economy. He was similarly a party to the scheme to utilize the opportunity to establish a German majority in the share ownership of Norsk-Hydro. Ilgner admits that the French were not represented at the meeting of 30 June 1941 at which Norsk-Hydro's participation in Nordisk-Lettmetall and the increase in Norsk-Hydro's capitalization was voted. The evidence establishes that Ilgner took the position that the presence of all the shareholders was not essential for the safeguarding of their rights. Although much conflicting evidence has been introduced on this point, we are convinced that the French shareholders in Norsk-Hydro were not fully advised of the full scope of the Nordisk-Lettmetall project; they never intended to lose the majority interest in Norsk-Hydro, and went along after the full plan developed solely because they feared confiscation of their plants in Norway during the military occupancy. Ilgner himself stated in an affidavit:

"I do not know in detail the motives which guided the French bank when it agreed to the increase of the capital stock of Norsk-Hydro, by which procedure the French majority interest was reduced to a minority interest. I should say they chose this alternative as the lesser evil, * * * in the last analysis, I. G. Farben participated and advised the bank to agree * * *." [NI-6348, Pros. Ex. 1209.]

In our view the evidence establishes beyond reasonable doubt the defendant Ilgner's criminal complicity in the spoliation of Norsk-Hydro, and the defendant Ilgner is Guilty under count two.

We do not find that the evidence establishes beyond reasonable doubt any connection of the defendant Ilgner with the other particulars alleging acts of spoliation under count two.

Jaehne. It is the contention of the prosecution that Jaehne, as leader of Farben's Offenbach plant, participated in the acquisition of the dismantled equipment which was shipped from Wola to that plant. The evidence on this point is conflicting. Subordinate employees testified that Jaehne was not, in fact, informed of the purchase. We have concluded that there is doubt concerning his knowledge of this matter and, as this is the only connection of the defendant Jaehne with Farben's spoliative activities in Poland, he is acquitted on this particular of count two.

But the evidence does establish Jaehne's participation in certain of the negotiations with governmental authorities prior to the acquisition by Farben of the confiscated Alsace-Lorraine oxygen and acetylene plants, in which he obtained agreement in accordance with Farben's wishes. Jaehne was fully informed of, and took a consenting part in, Farben's acts of spoliation in the acquisition of these plants. That it was Farben's purpose from the outset to acquire the plants permanently is fully established by the evidence. The disruption of industry in Alsace-Lorraine may have made it necessary for the occupying authorities to reactivate the plants, but this defense is not available when it is shown clearly that Farben's purpose was the permanent acquisition of the plants and not their mere reactivation in the interest of the local economy. As the matter was stated by Mayer-Wegelin, an employee of Farben's who handled the major part of the negotiations with the Nazi governmental authorities:

"No negotiations were conducted with these former owners, nor were their interests considered by us. We rather negotiated with the sequestrators appointed by the German Reich. We were indeed aware that the purchase of the real property and of the plants as far as they still existed might be attacked under international agreement. We, therefore, recognized the possibility that at a later time we might have to return the real property * * * In other words; in order to maintain our oxygen position we reached the result that we should assume the risk of having to return the property." [NI-8581, *Pros. Ev.* 1238.]

Jaehne's connection with this matter was such that he must be held criminally responsible under this aspect of count two of the indictment.

There is not sufficient evidence to warrant his conviction under any of the other particulars set forth in count two.

Mann. Mann's activities in relation to the spoliation of Norway and Russia have not been proven in sufficient detail to warrant a finding of criminal guilt on those particulars of count two. He was not

active in the Francolor matter, though the evidence does indicate that Farben's plans to acquire a majority interest in the French dyestuffs industry came to his attention during the course of his preliminary negotiations with the Nazi authorities in France prior to the Rhône-Poulenc transaction. It appears that his connection with the Francolor matter was only incidental to his major interest and activity in the Rhône-Poulenc matter. His other knowledge and his activity as a member of Farben's Commercial Committee and as a member of the Vorstand are likewise insufficient for a finding of guilt. What we have said in the case of the defendant Gajewski in this regard is equally applicable to the case of Mann. As the Rhône-Poulenc transactions, in which he was the leading actor, do not constitute a crime within the jurisdiction of this Tribunal, and as the evidence does not otherwise connect him with other acts declared to be criminal, Mann is acquitted under count two of the indictment.

Oster. The actions of Oster, with reference to the charges under this count as to Poland, Alsace-Lorraine, and France, cannot be differentiated from those of other members of the Vorstand, who, for lack of sufficient knowledge of the complete facts, cannot be considered as participating in ordering or authorizing a course of action known to be criminal. The prosecution, however, charges Oster with special responsibility for his activities in connection with the case of spoliation in Norway. It appears that Oster served as a member of the Aufsichtsrat of Norsk-Hydro after the Nordisk-Lettmetall project was inaugurated, and that from meetings of the Vorstand and other reports which he received he was informed of the general nature and purpose of the program for the expansion of light metals in Norway by the use of the facilities of Norsk-Hydro in the interest of production for the Luftwaffe. The evidence does not bear out the theory of the prosecution that the defendant Oster was personally a party to putting pressure on Norsk-Hydro, or even that he dealt with its officials with duplicity. In fact, Dr. Ericksen has given a testimonial of Oster's friendly attitude in the entire matter. However, the proof establishes that Oster knew that the project was being carried out against the wishes of Norsk-Hydro, and that Farben was acquiring permanent interests in properties of Norsk-Hydro through the Nordisk-Lettmetall project and as a result of the compulsion of the military occupancy. With his knowledge he approved Farben's participation in the project. He is guilty, therefore, under count two of the indictment.

Wurster. Immediately after the collapse of Poland, Wurster made a trip to Poland accompanied by an official of the Reich Office for Economic Development, for the purpose of inspecting Polish chemical plants. He submitted a memorandum report in a letter to the defendant Buergin, analyzing conclusions reached during the inspection trip.

The report expressed conclusions as to the future value of these plants to the German economy and for military purposes, recommending in some instances continued operation and in other cases dismantling of certain plant facilities. But it is not established that this report was the basis of official action taken either by the Reich authorities in the East or by Farben with respect to these properties. We are unable to say that this action, standing alone, supports a finding of guilty under count two in regard to the Polish properties.

With reference to Alsace-Lorraine, the evidence does establish that Wurster had conferences with various persons concerning the utilization of plant facilities in Alsace-Lorraine. Some of these plants were closed down and abandoned. The evidence is by no means clear that any activities of Wurster resulted in effecting the transfer of property to IG control or ownership. The evidence fails to prove that Wurster himself ever dealt with any of the authorities to promote Farben's acquisition of these plants. Here a reasonable doubt enters, and we cannot find that Wurster's approach to the authorities was with a view to purchasing those plants for Farben.

We find that Wurster is not substantially involved in any of the acts charged in this count.

The defendant Wurster is, therefore, Not Guilty under count two of the indictment.

Duerrfeld, Gattineau and von der Heyde. Four of the defendants—namely, Duerrfeld, Gattineau, von der Heyde, and Kugler—were not members of the Vorstand of I. G. Farben.

The evidence does not establish any connection between the activities of the defendant Duerrfeld and the offenses against property charged in this count. We, therefore, find that the defendant Duerrfeld is Not Guilty under count two of the indictment.

The defendant Gattineau is likewise Not Guilty. The acts of alleged spoliation with which he was intimately connected all related to his activities in the Austrian and Czechoslovakian acquisitions which, under the ruling of the Tribunal above referred to, were held not to constitute crimes against humanity or war crimes within the jurisdiction of this Tribunal. Gattineau's mere presence at Commercial Committee meetings, at which reports were made concerning the Rhône-Poulenc negotiations, and his other general activities in the commercial field as an employee of Farben's, are insufficient participation upon which to predicate a finding that he is guilty under the spoliation count.

In its final brief, the prosecution concedes that the evidence has not established beyond a reasonable doubt the guilt of the defendant von der Heyde under the charges in count two. We fail to find any substantial evidence of connecting von der Heyde with the charges. He is acquitted under count two.

Kugler. Although not a member of Farben's Vorstand, Kugler was a member of the Commercial Committee and was an active Farben leader in the dyestuffs field. We find that the proof does not establish beyond a reasonable doubt sufficient connection of the acts of the defendant Kugler with Farben's acts of spoliation in Poland and Alsace-Lorraine to justify a finding of guilt based on those particulars of the indictment. But Kugler was an active participant, as one of the representatives of Farben, in the negotiations and other steps leading to the Francolor Agreement. It is true that he did not act independently in this matter and was under the direction of two Vorstand members, von Schnitzler and ter Meer, both of whom had authority and policy-making functions far superior to those of Kugler. He participated in the preliminary discussions with the Armistice Commission and in the meetings at Wiesbaden in November 1940, at which the Farben demands were served on the French dyestuffs representatives and pressure was exerted to force the French to agree to Farben's desire for a 51 percent interest in the French industry. It was Kugler who arranged with the authorities during the military occupation that pressure should be applied, and who obtained support for the suggestion "that no alleviations are offered to production which might weaken the opponent's will to negotiate." Kugler was fully advised of all of the steps taken and knew that the Francolor Agreement was being imposed on the French against their will and without their free consent. He participated in the meeting at which the Francolor Agreement was reached and subsequently served on one of the important committees of Francolor. While he was not the dominant figure initiating the policies leading to the unlawful acquisitions, he was criminally connected with the execution of the entire enterprise and must be held Guilty under count two.

COUNT THREE

THE PRESIDENT: Count three charges the defendants, individually, collectively, and acting through the instrumentality of Farben, with the commission of war crimes and crimes against humanity as defined by Article II of Control Council Law No. 10. It is alleged that they participated in the enslavement and deportation to slave labor of the civilian population of territory under the belligerent occupation or otherwise controlled by Germany; the enslavement of concentration-camp inmates, including Germans; and the use of prisoners of war in war operations and work having a direct relation to war operations. It is further alleged that enslaved persons were mistreated, terrorized, tortured, and murdered.

The general charge is followed by a statement of particulars, consisting of twenty-two numbered paragraphs. From these it appears that, to sustain this count of the indictment, the prosecution relies

upon four groups of alleged facts characterized as follows: (a) the role of Farben in the slave-labor program of the Third Reich; (b) the use of poison gas, supplied by Farben, in the extermination of inmates of concentration camps; (c) the supplying of Farben drugs for criminal medical experimentation upon enslaved persons, and (d) the unlawful and inhumane practices of the defendants in connection with Farben's plant at Auschwitz. These aspects of the case will be given due consideration in the course of this subdivision of the judgment, but not in the order stated.

Poison Gas

The indictment charges in paragraph 131 that "Poison gases * * * manufactured by Farben and supplied by Farben to officials of the SS, were used in * * * the extermination of enslaved persons in concentration camps throughout Europe." In substantiation of this charge the prosecution established that Cyclon-B gas was supplied to concentration camps in large quantities for extermination purposes by Deutsche Gesellschaft fuer Schaedlingsbekaempfung, commonly called Degesch, in which Farben had a 42.5 percent interest, and that said firm had an administrative committee or supervisory board consisting of 11 members, including the defendants Mann, Hoerlein, and Wurster. The connection of the defendants with these transactions will, therefore, bear more careful scrutiny.

Cyclon-B, which had wide use as an insecticide long before the war, was invented by Dr. Walter Heerdt, who appeared before the Tribunal as a witness. The proprietary rights to Cyclon-B belonged to the firm of Deutsche Gold- und-Silberscheideanstalt, commonly called Degussa, but actual manufacture was performed for it by two independent concerns. Degussa was a competitor of Farben's and of the Th. Goldschmidt A. G. in the production and sale of insecticides. Degussa had, for a long time, sold Cyclon-B through the instrumentality of Degesch, which it dominated and controlled. Degussa, Goldschmidt and Farben, therefore, entered into an arrangement with Degesch whereby it became the sales outlet for insecticides and related products for all three concerns. As already pointed out, Farben took a 42.5 percent interest in Degesch. The remaining shares in the concern were divided, 42.5 percent to Degussa and 15 percent to Goldschmidt. The management of Degesch was the direct responsibility of Dr. Gerhard Peters, but the firm had an executive board of 11 members—5 from the Farben Vorstand (the defendants Mann, Hoerlein, and Wurster, together with Brueggemann, who was severed from this trial, and Weber-Andrae, deceased), 4 from Degussa, 1 from Goldschmidt, and Dr. Heerdt, who was connected with a Degesch subsidiary. The defendant Mann was the chairman of the board. Degesch had originally been organized as an outlet for Degussa prod-

ucts exclusively. Even after Farben and Goldschmidt acquired participating interests in the firm it continued to maintain its headquarters in the Degussa building. Its office staff was recruited from and compensated on the same basis as Degussa personnel.

The evidence does not warrant the conclusion that the executive board or the defendants Mann, Hoerlein, or Wurster, as members thereof, had any persuasive influence on the management policies of Degesch or any significant knowledge as to the uses to which its production was being put. Meetings of the board were infrequent and the reports submitted to the members thereof were not very enlightening. It seems fair to conclude that the board's principal function was to recognize the financial investments of the participating stockholders and that operational policies were largely left to Dr. Peters, subject only to the general supervision of Degussa's executives with whom he was in close contact.

The proof is quite convincing that large quantities of Cyclon-B were supplied to the SS by Degesch and that it was used in the mass extermination of inmates of concentration camps, including Auschwitz. But neither the volume of production nor the fact that large shipments were destined to concentration camps would alone be sufficient to lead us to conclude that those who knew of such facts must also have had knowledge of the criminal purposes to which this substance was being put. Any such conclusion is refuted by the well-known need for insecticides wherever large numbers of displaced persons, brought in from widely scattered regions, are confined in congested quarters lacking adequate sanitary facilities.

The testimony of Dr. Peters is highly important on the issue of the defendants' guilty knowledge. He related the details of a conference that he had in the summer of 1943 with one Gerstein, introduced by Professor Mrugowsky, director of the health institute of the notorious Waffen SS. After swearing Dr. Peters to absolute secrecy under penalty of death, Gerstein revealed the Nazi extermination program which he said emanated from Hitler through Himmler. There followed a long conference concerning the efficacy of different methods of extermination, including the use of Cyclon-B for that purpose. Dr. Peters stated emphatically that he was thereafter extremely careful to observe the admonition to treat this conference as Top Secret, and he negatived the assumption that any of the defendants had any knowledge whatever that an improper use was being made of Cyclon-B.

We are of the opinion that the evidence falls short of establishing the guilt of any of the defendants on this aspect of count three.

Medical Experiments

It is further charged under count three (subsec. B of par. 131) of the indictment that “* * * various deadly pharmaceuticals manu-

factured by Farben and supplied by Farben to officials of the SS were used in experimentations upon * * * enslaved persons in concentration camps throughout Europe. Experiments on human beings (including concentration-camp inmates) without their consent were conducted by Farben to determine the effect of * * * vaccines and related products.”

The prosecution asserts, and it asks us to find, that the defendants Lautenschlaeger, Mann, and Hoerlein each participated in supplying Farben pharmaceuticals and vaccines to the SS for the purpose of having them tested, knowing that the tests would be conducted by medical experimentations upon concentration-camp inmates without their consent; that each of said defendants took the initiative in getting Farben products tested by the SS through the means of criminal medical experiments; and that these criminal medical experiments resulted in bodily harm and death to a number of persons.

We may say, without further elaboration, that the evidence has convinced us that healthy inmates of concentration camps were deliberately infected with typhus against their will and that drugs produced by Farben, which were thought to have curative value in combating said disease, were administered to such persons by way of medical experimentation, as a result of which many of such persons died. That such practices are criminal and a violation of international law was conclusively determined by United States Military Tribunal I in the case of the United States *vs.* Brandt, *et al.* Our problem is, therefore, that of saying whether the evidence establishes beyond a reasonable doubt that the defendants, or any of them, “were principals in, accessories to, ordered, abetted, took a consenting part in, were connected with plans and enterprises involving, (or) were members of organizations or groups, including Farben, which were connected with, the commission of said crimes,” as charged in the indictment.

We deduce from the evidence that typhus or spotted fever is communicated to a human being by the bite of a louse. There is always danger of an epidemic of this disease where a large number of persons are thrown together amid unsanitary conditions, such as are frequently found on army fronts and in concentration camps. Typhus first made its appearance on the Eastern Front during the war, and the responsible officials of Germany were very apprehensive that it would spread to the civilian population. Desperate efforts were made, therefore, to find a remedy that would cure the disease or at least immunize against it. At the time this problem became acute, the generally recognized method of producing an efficient typhus immunization vaccine was the so-called Weigl process. This vaccine was developed from the intestines of infected lice, and a skilled scientist could only produce in 1 day enough of it to treat ten persons.

There was, consequently, an urgent need for finding a way to greatly expand the production of this substance.

For several years previously Farben's Behring-Werke, among others, had been experimenting with the possibility of breeding typhus baccilli in chicken eggs, and a process based on that idea had been developed, whereby a trained technician could in a single day produce enough vaccine to treat 15,000 persons. This vaccine lacked scientific verification and acceptance by the medical profession, however, and Farben was extremely anxious to win this recognition for its product. To that end it participated in conferences with governmental health agencies and urged that its product be tested and accepted.

Through the years Farben had developed a more or less routine method for testing the efficacy of its pharmaceutical discoveries after these had passed the research stage. If it was believed that a new drug had probable medicinal value and that it could be used without harmful results, samples were sent to recognized physicians for testing on patients afflicted with the particular disease with which the remedy was designed to cope. These physicians, in turn, submitted detailed reports covering their experiences with the drug, after which Farben scientists assembled and studied this data and concluded therefrom whether the firm would sponsor the product and place it on the market. The prosecution does not deny that this was the procedure generally followed by Farben. It asserts, however, that the circumstances surrounding the testing of Farben's vaccine, as well as with respect to its acridine, rutenol, and methylene blue, in combating typhus discloses that the defendants Hoerlein, Lautenschlaeger, and Mann, in particular, well knew that concentration-camp inmates were being criminally infected with the typhus virus by SS doctors for the deliberate purpose of conducting experiments with these Farben products.

The facts and circumstances principally relied upon by the prosecution to establish guilty knowledge on the part of said defendants may be summarized as follows: (1) criminal experiments were admittedly conducted by SS physicians on concentration-camp inmates; (2) said experiments were performed for the specific purpose of testing Farben products; (3) some of said experiments were conducted by physicians to whom Farben had entrusted the responsibility of testing the efficacy of its drugs; (4) the reports made by said physicians were calculated to indicate that illegal experiments had been conducted; and (5) drugs were shipped by Farben directly to concentration camps in such quantities as to indicate that these were to be used for illegitimate purposes.

Without going into detail to justify a negative factual conclusion, we may say that the evidence falls short of establishing the guilt of said defendants on this issue beyond a reasonable doubt. The infer-

ence that the defendants connived with SS doctors in their criminal practices is dispelled by the fact that Farben discontinued forwarding drugs to these physicians as soon as their improper conduct was suspected. We find nothing culpable in the circumstances under which quantities of vaccines were shipped by Farben to concentration camps, since it was reasonable to suppose that there was a legitimate need for such drugs in these institutions. The question as to whether the reports submitted to Farben by its testing physicians disclosed that illegal uses were being made of such drugs revolves around a controversy as to the proper translation of the German word "Versuch" found in such reports and in the documents pertaining thereto. The prosecution says that "Versuch" means "experiment" and that the use of this word in said reports was notice to the defendants that testing physicians were indulging in unlawful practices with such drugs. The defendants contend, however, that "Versuch," as used in the context, means "test" and that the testing of new drugs on sick persons under the reasonable precautions that Farben exercised was not only permissible but proper. Applying the rule that where from credible evidence two reasonable inferences may be drawn, one of guilt and the other of innocence, the latter must prevail, we must conclude that the prosecution has failed to establish that part of the charge here under consideration.

Farben and the Slave-Labor Program

The prosecution does not contend that Farben instituted a slave-labor program of its own. On the contrary, it is the theory of the prosecution that the defendants, through the instrumentality of Farben and otherwise, embraced, adopted, and executed the forced-labor policies of the Third Reich, thereby becoming accessories to and taking a consenting part in the commission of war crimes and crimes against humanity in violation of Article II of Control Council Law No. 10. This, therefore, calls for a brief resumé of the slave-labor program of the Reich Government during the war years. For this purpose we may rely upon the judgment of the IMT, since Article X of Military Government Ordinance No. 7 provides that, before these Tribunals, the "statements by the International Military Tribunal in the judgment in Case No. 1 constitute proof of the facts stated, in the absence of substantial new evidence to the contrary." The findings of the IMT with respect to the criminal character of the slave-labor program of the Third Reich were not challenged in this trial.

From the judgment of the IMT, we may deduce that by the end of 1941 Germany had achieved effective dominion over territories with an aggregate population of 350,000,000 people. In the early stages of the war an effort was made to obtain, on a voluntary basis, sufficient foreign workers for German industry and agriculture to replace those who were drafted into military service, but by 1940

this system had failed to produce enough workers to maintain the volume of production deemed necessary for the prosecution of the war. The compulsory deportation of laborers to Germany was then begun and, on 21 March 1942, Fritz Sauckel was appointed Plenipotentiary General for the Utilization [Allocation] of Labor, with authority over "all available manpower, including that of workers recruited abroad, and of prisoners of war." From that time on, the Nazi slave-labor program was prosecuted with unrelenting cruelty and persistence. The IMT said that "Manhunts took place in the streets, at motion picture houses, even at churches and at night in private houses"¹ of occupied countries, to meet the ever-increasing demands of the Reich for human labor. At least 5,000,000 persons were forcibly deported from the occupied territories to Germany to support its war efforts.

The vast reservoir of slave laborers utilized by the Nazis included involuntary foreign workers, concentration-camp inmates, and prisoners of war. Many of these were used in activities connected with military operations against their own countries, in direct violation of express international law, as well as in general industry and in agricultural pursuits. The plan under which this comprehensive scheme was implemented and administered is disclosed by the following quotation from the IMT judgment:

"A Sauckel decree dated 6 April 1942, appointed the Gauleiters as Plenipotentiaries for Labor Mobilization for their Gaue [districts] with authority to coordinate all agencies dealing with labor questions in their Gaue, with specific authority over the employment of foreign workers, including their conditions of work, feeding, and housing. Under this authority the Gauleiters assumed control over the allocation of labor in their Gaue, including the forced laborers from foreign countries. In carrying out this task the Gauleiters used many party offices within their Gaue, including subordinate political leaders."²

On 20 April 1942 Sauckel issued the following instructions concerning the treatment of laborers:

"All the men must be fed, sheltered and treated in such a way as to exploit them to the highest possible extent at the lowest conceivable degree of expenditure."³

During the course of the war the main Farben plants, in common with German industry generally, suffered a serious labor depletion, on account of demands of the military for men to serve in the armed forces. Charged with the responsibility of meeting fixed production quotas, Farben yielded to the pressure of the Reich Labor Office and

¹ *Trial of the Major War Criminals*, volume I, page 259.

² *Ibid.*

³ *Ibid.*, page 245.

utilized involuntary foreign workers in many of its plants. It is enough to say here that the utilization of forced labor, unless done under such circumstances as to relieve the employer of responsibility, constitutes a violation of that part of Article II of Control Council Law No. 10 which recognizes as war crimes and crimes against humanity the enslavement, deportation, or imprisonment of the civilian population of other countries. What we have said about the employment of involuntary foreign laborers is equally applicable to prisoners of war and inmates of concentration camps.

The Defense of Necessity

The defendants here on trial have invoked what has been termed the defense of necessity. They say that the utilization of slave labor in Farben plants was the necessary result of compulsory production quotas imposed upon them by the government agencies, on the one hand, and the equally obligatory measures requiring them to use slave labor to achieve such production, on the other. Numerous decrees, orders, and directives of the Labor Office have been brought to our attention, from which it appears that said agency assumed dictatorial control over the commitment, allotment, and supervision of all available labor within the Reich. Strict regulations prescribed almost every aspect of the relationship between employers and employees. Industries were prohibited from employing or discharging laborers without the approval of the agency. Heavy penalties, including commitment to concentration camps and even death, were set forth for violation of these regulations. The defendants who were involved in the utilization of slave labor have testified that they were under such oppressive coercion and compulsion that they cannot be said to have acted with that intent which is a necessary ingredient of every criminal offense.

The existence of the stringent regulations of the Reich labor authorities must be conceded; and this requires us to inquire what opportunity, if any, the defendants had of evading them and what the consequences would have been if they should have attempted to do so. Again, we turn to the judgment of the IMT for the facts. A few of the ultimate conclusions stated therein will serve our purpose. We quote the following brief excerpts from that judgment:

“According to the principle (the leadership principle of the NSDAP), 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.” *

* * * * *

**Ibid.*, page 176.

(The Reichstag fire of 28 February 1933) "was used by Hitler and his Cabinet as a pretext for * * * suspending the constitutional guarantees of freedom."¹

* * * * *

"* * * 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."²

* * * * *

"* * * the judiciary was subjected to control * * * Persons were arrested by the SS for political reasons, and detained in prisons and concentration camps * * * the judges were without power to intervene in any way."³

* * * * *

"Independent judgment, based on freedom of thought, was * * * quite impossible."⁴

* * * * *

"Germany had accepted the dictatorship with all its methods of terror, and its cynical and open denial of the rule of law."⁵

* * * * *

"Hostile criticism, indeed criticism of any kind, was forbidden, and the severest penalties were imposed on those who indulged in it."⁶

* * * * *

"The opportunity was taken to murder a large number of people who at one time or another had opposed Hitler."⁷

In view of these indisputable facts, established by the highest authority, this Tribunal is not prepared to say that these defendants did not speak the truth when they asserted that in conforming to the slave-labor program they had no other choice than to comply with the mandates of the Hitler government. There can be but little doubt that the defiant refusal of a Farben executive to carry out the Reich production schedule or to use slave labor to achieve that end would have been treated as treasonous sabotage and would have resulted in prompt and drastic retaliation. Indeed, there was credible evidence that Hitler would have welcomed the opportunity to make an example of a Farben leader.

¹ *Ibid.*, page 178.

² *Id.*

³ *Ibid.*, page 179.

⁴ *Ibid.*, page 182.

⁵ *Ibid.*, page 181.

⁶ *Ibid.*, page 182.

⁷ *Ibid.*, page 181.

The question remains as to the availability of the defense of necessity in a case of this kind. The IMT dealt with an aspect of that subject when it considered the effect of Article 8 of its Charter, which provides:

“The fact that the defendant acted pursuant to order of his government or of a superior shall not free him from responsibility, but may be considered in mitigation of punishment * * *”

Concerning the above provision the IMT said:

“That a soldier was ordered to kill or torture in violation of the international law of war has never been recognized as a defense to such acts of brutality, though, as the Charter here provides, the order may be urged in mitigation of the punishment. *The true test, which is found in varying degrees in the criminal law of most nations, is not the existence of the order, but whether moral choice was in fact possible.*”* [Emphasis supplied.]

Thus the IMT recognized that while an order emanating from a superior officer or from the government is not, of itself, a justification for the violation of an international law (though it may be considered in mitigation), nevertheless, such an order is a complete defense where it is given under such circumstances as to afford the one receiving it of no other moral choice than to comply therewith. As applied to the facts here, we do not think there can be much uncertainty as to what the words “moral choice” mean. The quoted passages from the IMT judgment as to the conditions that prevailed in Germany during the Nazi era would seem to suggest a sufficient answer insofar as this case is concerned. Nor are we without persuasive precedents as to the proper application of the rule of necessity in the field of the law with which we are here concerned.

The case of the United States *vs. Flick, et al.* (Case 5), tried before Tribunal IV, involved the dominant figure in the German steel and coal industry and five of his business associates. They were charged, among other things, with having been active participants in the slave-labor program of the Third Reich. The judgment of the Tribunal reviewed the facts and concluded that four of these defendants were entitled to the benefit of the defense of necessity. We quote from that judgment because the facts therein disclosed are strikingly similar to those developed in the trial of this case:

“The evidence with respect to this count clearly establishes that laborers procured under Reich regulations, including voluntary and involuntary foreign civilian workers, prisoners of war and concentration-camp inmates, were employed in some of the plants of the Flick Konzern * * * It further appears that in some

**Ibid.*, page 224.

of the Flick enterprises prisoners of war were engaged in work bearing a direct relation to war operations.

"The evidence indicates that the defendants had no actual control of the administration of such program even where it affected their own plants. On the contrary, the evidence shows that the program thus created by the state was rigorously detailed and supervised by the state, its supervision even extending into prisoner-of-war labor camps and concentration-camp inmate labor camps established and maintained near the plants to which such prisoners of war and concentration-camp inmates had been allocated. Such prisoner-of-war camps were in charge of the Wehrmacht (Army), and the concentration-camp inmates labor camps were under the control and supervision of the SS. Foreign civilian labor camps were under camp guards appointed by the plant management subject to the approval of state police officials. The evidence shows that the managers of the plants here involved did not have free access to the prisoner-of-war labor camps or the concentration labor camps connected with their plants, but were allowed to visit them only at the pleasure of those in charge."¹

* * * * *

"Workers were allocated to the plants needing labor through the governmental labor offices. No plant management could effectively object to such allocation. Quotas for production were set for industry by the Reich authorities. Without labor, quotas could not be filled. Penalties were provided for those who failed to meet such quotas. Notification by the plant management to the effect that labor was needed resulted in the allocation of workers to such plants by the governmental authorities. This was the only way workers could be procured."²

* * * * *

"Under such compulsion, despite the misgivings which it appears were entertained by some of the defendants with respect to the matter, they submitted to the program and, as a result, foreign workers, prisoners of war, or concentration-camp inmates became employed in some of the plants of the Flick Konzern and in Siemag. Such written reports and other documents as from time to time may have been signed or initialed by the defendants in connection with the employment of foreign slave labor and prisoners of war in their plants were for the most part obligatory and necessary to a compliance with the rigid and harsh Reich regulations relative to the administration of its program."³

* * * * *

¹ U. S. v. Friedrich Flick, *et al.*, volume VI, this series, pages 1196 and 1197.

² *Ibid.*, page 1197.

³ *Ibid.*, page 1198.

“The defendants lived within the Reich. The Reich, through its hordes of enforcement officials and secret police, was always ‘present,’ ready to go into instant action and to mete out savage and immediate punishment against anyone doing anything that could be construed as obstructing or hindering the carrying out of governmental regulations or decrees.”¹

* * * * *

“In this case, in our opinion, the testimony establishes a factual situation which makes clearly applicable the defense of necessity as urged on behalf of the defendants Steinbrinck, Burkart, Kaletsch, and Terberger.”²

Tribunal IV convicted two defendants (Weiss and Flick), however, under the slave-labor count. The basis for these convictions was the active solicitation of Weiss, with the knowledge and approval of Flick, of an increase in their firm’s freight-car production, beyond the requirements of the government’s quota, and the initiative of Weiss in securing an allocation of Russian prisoners of war for use in the work of manufacturing such increased quotas. With respect to these activities the Tribunal concluded that Weiss and Flick had deprived themselves of the defense of necessity, saying :

“The war effort required all persons involved to use all facilities to bring the war production to its fullest capacity. The steps taken in this instance, however, were initiated not in governmental circles but in the plant management. They were not taken as a result of compulsion or fear, but admittedly for the purpose of keeping the plant as near capacity production as possible.”

We have also reviewed the judgment of the General Tribunal of the Military Government of the French Zone of Occupation in Germany, dated 30 June 1948, in which Hermann Roechling was convicted of participation in the slave-labor program. That judgment³ recites that said Roechling was “present at several secret conferences with Goering in 1936 and 1937;” that in 1940 he “accepted the positions of plenipotentiary general for the steel plants of the departments of the Moselle and of Meurthe-et-Moselle Sud;” that, “stepping out of his role of industrialist, after having demanded high administrative and leading positions concerning the steel exploitation of the Reich,” he became “dictator for iron and steel in Germany and the occupied countries;” that in 1943 said Roechling also “lavished advice on the Nazi government in order to utilize the inhabitants of occupied countries for the war effort of the Reich;” that he “sent to the Nazi leaders

¹ *Ibid.*, page 1201.

² *Ibid.*, page 1202.

³ See U. S. v. Ernst von Weizsaecker, *et al.*, volume XIV, this series (Appendix B—“The Roechling Case”), pages 1061–1097.

in Berlin a memorandum requesting that he obtain the utilization of Belgian labor in order to develop German industry; that he suggested in this connection that youths of 18 to 25 should be drafted to obligatory work under German command—which would mean the utilization of approximately 200,000 persons;” that he also “requested that negotiations be started immediately in order to obtain a considerable number of Russian youths of about 16 years of age for labor in the iron industry;” that he “requested the taking of a general census of French, Belgian, and Dutch youths in order to force them to work in war plants or to draft them into the Wehrmacht, together with the promulgation of a law which would make work obligatory in the occupied countries;” and that he also “incited the Reich authorities in the most insidious manner to employ inhabitants of occupied countries and POW’s in armament work, with complete disregard of human dignity and the terms of the Hague Convention.” Two defendants were acquitted and two others convicted by the French Tribunal. The latter—von Gemmingen and Rodenhauser—were found guilty as co-authors and accomplices to the above-described illegal employment of prisoners of war and deportees by Hermann Roechling, and to his encouragement of illegal punishments meted out to said involuntary laborers. Said illegal punishments were imposed by a summary court organized, in agreement with the Gestapo, by von Gemmingen and Rodenhauser in the Roechling plant, of which they were both directors. It is thus made clear that the defense of necessity could not have been successfully invoked on behalf of either of said named defendants. Concerning the acquitted defendants, Ernst Roechling and Albert Maier, the high Tribunal expressly said that the evidence did not establish that either of them exercised *initiative* in connection with the slave-labor program.

It is plain, therefore, that Hermann Roechling, von Gemmingen, and Rodenhauser, like Weiss and Flick, were not moved by a lack of moral choice, but, on the contrary, embraced the opportunity to take full advantage of the slave-labor program. Indeed, it might be said that they were, to a very substantial degree, responsible for broadening the scope of that reprehensible system.

From a consideration of the IMT, Flick, and Roechling judgments, we deduce that an order of a superior officer or a law or governmental decree will not justify the defense of necessity unless, in its operation, it is of a character to deprive the one to whom it is directed of a moral choice as to his course of action. It follows that the defense of necessity is not available where the party seeking to invoke it was, himself, responsible for the existence or execution of such order or decree, or where his participation went beyond the requirements thereof, or was the result of his own initiative.

Auschwitz and Fuerstengrube

As early as 1938, the erection of a plant for the production of buna rubber in the eastern part of Germany was discussed between ter Meer and the Reich Economics Ministry. A site was considered in Upper Silesia and another in the northern part of Sudetenland. Later, at the time the site at Auschwitz was selected, Norway was also considered.

At a conference in the Reich Ministry of Economics on 6 February 1941 [NI-11112, *Pros. Ex. 1413*], the planning of the expansion of buna production was discussed. Ambros and ter Meer were present. It was reported that at a previous meeting held on 2 November 1940, the Reich Ministry of Economics had approved such expansion and Farben was instructed to choose an appropriate site in Silesia for a fourth buna plant. It appears that, pursuant to this instruction and upon the recommendation of the defendant Ambros, the site at Auschwitz was chosen.

It was estimated that the new buna plant would have a production capacity of 30,000 tons per year. It was planned to combine the buna factory with a new fuel-producing plant on the same site, but buna was to be given preference. A number of considerations entered into the selection of Auschwitz: they included an ideal topographical location which was not vulnerable to air attacks from the west, the proximity to important raw materials, an abundant supply of coal and water, and the availability of labor. The labor situation embraced two factors: the comparatively dense population of the area and the nearby concentration camp Auschwitz, from which forced labor could be obtained. The evidence is sharply conflicting as to the importance of the concentration camp in deciding upon the location of the plant. We are satisfied after a thorough consideration of the evidence, that while the camp may not have been the determining factor in selecting the location, it was an important one and, from the beginning, it was planned to use concentration-camp labor to supplement the supply of workers.

The three Farben officials most directly responsible for construction at Auschwitz were Ambros, Buete fish, and Duerrfeld.

Ambros was the technical expert with respect to buna. He was a member of the planning committee, whose meetings he attended regularly. Buete fish was the expert in regard to fuels and dealt with the planning and erection of the fuel-producing plant. His headquarters were at Leuna, a Farben plant devoted mainly to important fuel production. According to his own testimony, he went to Auschwitz about twice a year and informed himself about the progress of the construction project. He visited the site and the various workshops and saw the concentration-camp inmates at work. He visited the main concentration camp at Auschwitz in the winter of 1941-1942 in company with

some thirty important visitors, among whom was Dr. Ambros. On this visit he saw no abuse of inmates and thought that the camp was well conducted. He never visited the labor camp of Monowitz. The defendant Duerrfeld, as chief engineer and later as manager of the construction work at Auschwitz, had general supervision over the work. Numerous witnesses have testified as to his presence on the site on different occasions. He made frequent inspection trips during which he observed the laborers at work. He also visited the adjoining labor camp of Monowitz, over which the SS had supervision.

Duerrfeld reported that Hoess, the camp commander of the concentration camp, was very willing to support the construction management to the best of his ability and that he would furnish for 1941 about 1,000 unskilled laborers. In 1942 this number could be raised to 3,000 or 4,000. Farben was to assist in erecting barracks by supplying wood and also some iron. The prisoners were to be utilized in groups of about twenty, supervised by kapos.

On 4 March 1941, a circular was issued from the office of the Plenipotentiary for the Four Year Plan in Berlin [*NI-11086, Pros. Ex. 1422*], directed to Ambros and containing certain information regarding Auschwitz. This letter advised that the Inspector of Concentration Camps and the Chief of the Main Economic and Administration Office had been ordered to get in touch with the construction manager of the buna works and to aid the construction project by means of concentration-camp prisoners. The chief of Himmler's personal staff, Gruppenfuehrer Wolff, was to be appointed liaison officer between the SS and the Auschwitz works. Copies of this letter were distributed to ter Meer, Bueteffisch, and Duerrfeld. Shortly thereafter, Duerrfeld and Bueteffisch had a conference with Wolff in Berlin, at which the utilization of concentration-camp workers was discussed. The parties were in general accord on the assistance to be rendered by the concentration camp. Wolff made no definite promises and left matters of detail to be arranged by negotiations between Duerrfeld and Hoess, who was the camp commander at Auschwitz.

The first building conference with respect to Auschwitz construction was held on 24 March 1941 in Ludwigshafen [*NI-11115, Pros. Ex. 1426*]. Nine persons were present. They were officials and engineers of Farben. The only two who have been made defendants in this case are Ambros and Duerrfeld. At this meeting it was decided to hold building conferences at weekly intervals for the present. The purpose of the conferences was to allot fields of work to the individual conference members with a view to avoid overlapping of activities. The members of the conference made reports on performance of their respective duties. Ambros reported that the general planning of the Auschwitz plant lay at present in the hands of engineers Santo, Duerrfeld, and Mach. Duerrfeld reported on a discussion with Wolff of

the head office of the Reichsfuehrung SS, and stated that it had been promised that 700 prisoners of the Auschwitz concentration camp would be assigned to the building site for labor and that an attempt would be made by the head office to procure an exchange with other concentration camps so that skilled workers might be transferred to Auschwitz. All available free labor in Auschwitz was also to be utilized.

On 7 April 1941, a founders' meeting was held at Kattowitz [Katowice] to commemorate the founding of the plant at Auschwitz [NI-11117, *Pros. Ex. 1430*]. Reich officials of the Office of Industrial Planning and the Office of Economic Planning were apparently in charge of the meeting. They called for plans and reports regarding Auschwitz. Ambros was present with information concerning the buna plant. Bueteffisch, whose functions in connection with Auschwitz dealt with fuels, including gasoline, reported that the Fuerstengrube mines would furnish coal supplies for Auschwitz. The report also states:

“By order of the Reichsfuehrer SS extensive assistance from the Auschwitz concentration camp had been promised for the building period. The camp commandant, Sturmbannfuehrer Hoess, had already made arrangements for the employment of his men. The concentration camp would supply prisoners for preliminary work and craftsmen for carpentry and fitting; it would also assist the plant in the feeding of the building workers and would supply the building site with gravel and other materials.”

The construction of the Auschwitz plant began in 1941. The Jewish population of the area was evacuated, as were many of the resident Poles [NI-1240, *Pros. Ex. 1417*]. Their houses were utilized as quarters for construction workers. Farben did not handle the construction work directly but made contracts with construction firms. These firms, however, called upon Farben to assist in procuring labor. Labor procurement was a Farben responsibility. Free workers were not available in sufficient numbers to cover the requirements of the construction firms.

On 23 October 1941, at a meeting of the Plastics and Rubber Committee attended by ter Meer and Ambros, the recorder of the committee reported on the state of construction work at Auschwitz. With respect to labor he said:

“At present 2,700 men are working on the building site. The support given by the concentration camp Auschwitz is very valuable. This camp made available 1,300 men and all of its workshops.”

By the end of 1941, the construction at Auschwitz was not proceeding satisfactorily. At the fourteenth building conference, held on 16 December 1941 [NI-11130, *Pros. Ex. 1445*], bottlenecks at the con-

struction site were discussed. Among other things, it was reported that the concentration camp could not give the expected help since it was under orders to set up accommodations for 120,000 captured Russians as fast as possible. Other possible sources of labor were considered. These do not appear to include either forced foreign labor or prisoners of war.

In the report of the 19th construction conference, on 30 June 1942 [NI-11137, *Pros. Ex. 1447*], reference is made for the first time to the employment of forced labor other than that from the concentration camp. It appears that 680 Polish forced laborers had been employed recently and therefore no evaluation was as yet possible as to whether or not they were satisfactory. The report also stated that women from the Ukraine were well fitted for excavation work, but the voluntary status of these women workers is not disclosed. At the 20th construction conference, on 8 September 1942, Duerrfeld, Ambros, and Bueteffisch were present [NI-11138, *Pros. Ex. 1448*]. Duerrfeld reported that the intended sharp increase of labor requirements would continue to strain the provisions for workers and that certain auxiliary supply sources for labor were available, among them being recruitments of Poles, which would provide 1,000 workers. Two thousand Russian workers were to be sent to Auschwitz by order of Sauckel, but no definite promises were at hand. This statement would imply that the Auschwitz construction management was seeking these workers. This report also states that Sauckel promised 5,000 prisoners of war for the building sites in Upper Silesia and that 2,000 of these were intended for Auschwitz while the remainder went to other firms.

Reports of subsequent construction conferences show that forced workers and prisoners of war continued to be employed at Auschwitz in construction work. Auschwitz was financed and owned by Farben. While its purpose was the production of buna and motor fuels which would be of immediate use to the Armed Forces of Germany, the plant was being built on a permanent basis with the ultimate object of operating it in peacetime private industry. The use of prisoners of war in the type of construction disclosed by this record does not appear to be in contravention of the prohibition of the Geneva Convention, and unless their treatment was such as to violate international law it does not appear that a crime was committed in their utilization. The prisoners of war were treated better than other types of workers in every respect. The housing, the food, and the type of work they were required to perform would indicate that they were the favored laborers of the plant site. There may have been isolated instances of ill-treatment, but they cannot be attributed to any over-all policy of Farben or to acts with which any of the defendants may be charged directly or indirectly. It therefore appears that we need

give no further consideration to the employment of prisoners of war at Auschwitz.

The construction workers obtained from the Auschwitz concentration camp were prisoners of the SS. They were housed, fed, guarded, and otherwise supervised by the SS. In the summer of 1942, a fence was built around the plant site. SS guards were thereafter not permitted within the enclosure, but they still had charge of the prisoners at all times except when they were actually in the enclosed area. The Auschwitz concentration camp was located about 7 kilometers from the plant site. The prisoners were marched to and from that site under SS guard.

The plight of the camp workers in the winter of 1941-1942 was that of extreme hardship and suffering. With inadequate food and clothing, large numbers of them were unable to stand the heavy labor incident to construction work. Many of those who became too ill or weak to work were transferred by the SS to Birkenau and exterminated in the gas chambers.

In 1942, at the instigation of Farben, a separate labor camp known as Monowitz was built adjacent to and across the road from the plant site [*NI-14524, Pros. Ex. 2126*]. This camp was some improvement as to its physical aspects over the Auschwitz concentration camp. The workers, however, were still under the control and supervision of the SS at all times when they were not on the construction site. Those who became unable to work or who were not amenable to discipline were sent back to the Auschwitz concentration camp or, as was more often the case, to Birkenau for extermination in the gas chambers. Even at Monowitz, the housing was at times insufficient to reasonably accommodate the large number of workers crowded into the barrack-like facilities. The food was inadequate, as was also the clothing, especially in the winter.

The plant site was not entirely without inhumane incidents. Occasionally beatings occurred by the plant police and supervisors who were in charge of the prisoners while they were at work. Sometimes workers collapsed. No doubt a condition of undernourishment and exhaustion from long hours of heavy labor was the primary cause of these incidents. Rumors of the selections made for gassing from among those who were unable to work were prevalent. Fear of this fate no doubt prompted many of the workers, especially Jews, to continue working until they collapsed. In camp Monowitz, the SS maintained a hospital and medical service. The adequacy of this service is a point of sharp conflict in the evidence. Regardless of the merits of the opposing contentions on this point, it is clear that many of the workers were deterred from seeking medical assistance by the fear that if they did so they would be selected by the SS for transfer to Birkenau. The Auschwitz construction workers furnished by the concentration camp lived and labored under the shadow of extermination.

The defense has stressed, not wholly without merit, that the concentration-camp workers lived under the control of the SS and worked under the immediate employment and direction of the construction contractors (some 200 or more) who were engaged in preparing the site and building the plant. It is clear that Farben did not deliberately pursue or encourage an inhumane policy with respect to the workers. In fact, some steps were taken by Farben to alleviate the situation. It voluntarily and at its own expense provided hot soup for the workers on the site at noon. This was in addition to the regular rations. Clothing was also supplemented by special issues from Farben. Despite this, however, it is evident that the defendants most closely connected with the Auschwitz construction project bear great responsibility with respect to the workers. They applied to the Reich Labor Office for labor. They received and accepted concentration-camp workers, who were placed at the disposal of the construction contractors working for Farben. The chief engineer, Duerrfeld, with the advice of other defendants, had a definite responsibility regarding the project in the over-all supervision of and authority over the construction work. Responsibility for taking the initiative in the unlawful employment was theirs and, to some extent at least, they must share the responsibility for mistreatment of the workers with the SS and the construction contractors.

Concentration-camp workers by no means constituted all of the laborers on the plant site. Free workers were employed in large numbers. Foreign workers made their appearance there in 1941. Many, if not all, of these were at first voluntary workers, that is, foreigners who had contracted to come to Germany for a stated amount of pay. They consisted chiefly of Poles, Ukrainians, Italians, Slavs, French, and Belgians. Some experts and technicians were also recruited on a similar basis. After Sauckel's program of forced labor became effective, workers of this type began to appear at Auschwitz in increasing numbers. The defendants contend that, the recruitment of labor being under direct control of the Reich, they did not know the conditions under which the recruitment took place and, since the foreign workers at first were procured on a voluntary basis, the defendants were unaware later that the method had been changed and that many of the subsequent workers had been procured through a system of forced-labor recruitment. This contention cannot be successfully maintained. The labor for Auschwitz was procured through the Reich Labor Office at Farben's request. Forced labor was used for a period of approximately 3 years, from 1942 until the end of the war. It is clear that Farben did not prefer either the employment of concentration-camp workers or those foreign nationals who had been compelled against their will to enter German labor

service. On the other hand, it is equally evident that Farben accepted the situation that was presented to it through the Labor Office of the Reich and that when free workers, either German or foreigners, were unobtainable they sought the employment and utilization of people who came to them through the services of the concentration camp Auschwitz and Sauckel's forced-labor program.

THE PRESIDENT: Judge Morris will continue with the reading of the judgment.

JUDGE MORRIS: Closely associated with Auschwitz was a project for the control by Farben of the output of certain coal mines. At the Founders' Day meeting [*NI-11117, Pros. Ex. 1430*], the defendant Buetefisch reported that a new company had been founded for the purpose of securing, from the Fuerstengrube Mine, coal supplies for the Auschwitz plant. In this new company Farben controlled 51 percent of the stock and was, therefore, in a position to determine the destination of the output of the mine. Later, through this same company, Farben acquired the controlling interest in another mine known as Janina. Buetefisch became the chairman of the Aufsichtsrat of the new company, Fuerstengrube G. m. b. H. In this capacity he fitted into the general program of Auschwitz as an expert on fuels. He and the defendant Ambros were important factors in the acquisition of the control of the Janina mine in 1942. These mines were important in the plans of Farben, for it was intended that their production would be utilized in connection with the manufacture of gasoline from coal in the fuels plant at Auschwitz.

It seems clear from this record that Polish laborers were used by Fuerstengrube in mining operations in 1943. This was long after the conquest of Poland and the impressment of the Poles into the ranks of German labor. British prisoners of war were also employed by Fuerstengrube, particularly in the Janina mine. These prisoners offered considerable resistance to their employers, with the result that they were withdrawn from labor in the mines in the latter part of 1943. They were replaced by concentration-camp workers. A file note discloses that Hoess and Duerrfeld inspected the Janina and Fuerstengrube mines on 16 July 1943 [*NI-12019, Pros. Ex. 1544*]. It was then agreed that British prisoners of war should be replaced by concentration-camp inmates. It was estimated by the SS that 300 camp inmates could be accommodated at Janina where 150 British prisoners of war were housed. At the Fuerstengrube mine, 600 inmates could be accommodated, and the fencing-in of the camp would be started at once. Another camp was also to be taken over, and it was estimated that altogether it would be possible to use 1,200 or 1,300 inmates at Fuerstengrube.

As we recapitulate the record of Auschwitz and Fuerstengrube, we find that these were wholly private projects operated by Farben,

with considerable freedom and opportunity for initiative on the part of Farben officials connected therewith. The evidence does not show that the choice of the Auschwitz site and the erection of a buna and fuels plant thereon were matters of compulsion, although favored by the Reich authorities, who were anxious that a fourth buna plant be put into operation. The site was chosen after a survey of many factors, including the availability of concentration-camp labor for construction work. As an adjunct of Auschwitz, the controlling interest in the Fuerstengrube and Janina mines was acquired under circumstances that impute knowledge of the fact that they could not be operated successfully by voluntary labor. Involuntary labor was used: first, Poles and prisoners of war and, later, concentration-camp inmates. The use of prisoners of war in coal mines in the manner and under the conditions disclosed by this record, we find to be a violation of the regulations of the Geneva Convention and, therefore, a war crime. The use of concentration-camp labor and forced foreign workers at Auschwitz with the initiative displayed by the officials of Farben in the procurement and utilization of such labor, is a crime against humanity and, to the extent that non-German nationals were involved, also a war crime, to which the slave-labor program of the Reich will not warrant the defense of necessity. It also appears that the employment of concentration-camp labor was had with knowledge of the abuse and inhumane treatment meted out to the inmates by the SS, and that the employment of these inmates on the Auschwitz site aggravated the misery of these unfortunates and contributed to their distress.

Our consideration of Auschwitz and Fuerstengrube has impressed upon us the direct responsibility of the defendants Duerrfeld, Ambros, and Bueteffisch. It will be unnecessary to discuss these defendants further in this connection, as the events for which they are responsible establish their guilt under count three beyond a reasonable doubt. These defendants are not the only ones connected with the Auschwitz project. The connection of others will be considered when we approach their respective cases.

Krauch: As we further appraise the responsibility of the respective defendants, we find that Krauch, as Plenipotentiary General for Special Questions of Chemical Production, dealt with the distribution of labor that had been allocated to the chemical sector by Sauckel. It was Krauch's responsibility to pass upon the applications for workers made by the individual plants of the chemical industry and, in so doing, he took into account the demands that military service had made upon the plants as well as the labor requirements that resulted from expansion. It seems that Krauch is inextricably involved in the allocation of labor to Auschwitz in a manner that negatives his lack of knowledge of the employment of concentration-camp inmates and

forced foreign labor on the Auschwitz construction project. On 25 February 1941, Krauch wrote a letter to Ambros in which he referred to Goering's order emphasizing the urgency of the project and advising Ambros of the priority of Auschwitz in the procurement of labor [NI-11938, *Pros. Ex. 2199*]. Later Krauch himself visited the construction site.

On 7 January 1943, Krauch addressed a letter to Duerrfeld in which he complimented Duerrfeld, as Krauch's commissary, in setting up the Poelitz installation [NI-11085, *Pros. Ex. 1500*]. He then ordered Duerrfeld to continue as commissary for the setting up of the whole Auschwitz plant, and states: "I wish to assure you of my personal support in every way in your carrying out of this task."

The minutes of a meeting of the Central Planning Board on 2 July 1943, with Krauch present as one of the board members, discloses that Ambros gave a review of damage, apparently from Allied bombing, at the Huels plant of Farben, in which he discussed the labor requirements for reconstruction which involved the procurement of men from the compulsory service of the Reich. The Planning Board promised the fulfillment of Ambros' requests in this respect. It also discussed the labor situation at Auschwitz and the need for more workers, including additional inmates from the Auschwitz concentration camp. With respect to the latter request, it is stated that Reichsfuehrer Himmler should be contacted immediately.

On 13 January 1944, Krauch addressed a letter to President Kehrl of the Central Planning Board, in which he discussed the allocation of labor. It appears that there had been in the past some misunderstanding between Krauch's office and the Armaments Office. Krauch maintained his position by saying:

"May I be allowed to point out, however, that the efforts of my office in such matters as the procurement of foreign labor within the restrictions set out on the initiative of the individual employer by the Plenipotentiary General for the Provision of Manpower [Allocation of Labor], and the employment of certain classes of manpower (prisoners of war, inmates of concentration camps, prisoners, units of the Military Pioneer Corps, etc.) have had an effect upon the speed of progress of chemical production, and upon that production itself, which must not be underestimated. I consider that the initiative displayed by my staff in the procurement of labor, a virtue which has proved its worth in the past, must not be repressed in the future." [NI-7569, *Pros. Ex. 477*.]

Krauch vigorously challenges the charges that he participated in the recruitment of slave labor. His agents were active in voluntary recruitment prior to the initiation of the Sauckel program. Some of these agents continued to seek skilled workers for some time thereafter. To what extent, if any, these skilled workers were forced to emigrate

to Germany does not appear. The evidence does not convince us that Krauch was either a moving party or an important participant in the initial enslavement of workers in foreign countries. Nevertheless, he did, and we think knowingly, participate in the allocation of forced labor to Auschwitz and other places where such labor was utilized within the chemical field. The evidence does not show that he had knowledge of, or participated in, mistreatment of workers at their points of employment. In view of what he clearly must have known about the procurement of forced labor and the part he voluntarily played in its distribution and allocation, his activities were such that they impel us to hold that he was a willing participant in the crime of enslavement.

The use of prisoners of war in war operations and in work having a direct relation to such operations was prohibited by the Geneva Convention. Under count three the defendants are charged with violations of this prohibition. To attempt a general statement in definition or clarification of the term "direct relation to war operations" would be to enter a field that the writers and students of international law have found highly controversial. We therefore limit our observations to the particular facts presented by this record.

On 31 October 1941, Keitel, who was then Chief of the High Command of the Armed Forces of Germany, issued a secret order [*EC-194, Pros. Ex. 1287*], the subject of which was "Use of Prisoners of War in the War Industry," wherein he stated that the Fuehrer had ordered that the working power of Russian prisoners of war should be utilized to a large extent to meet requirements of the war industry. He listed examples of the type of work for which these prisoners might be suitable, which included construction work for both the Armed Forces and the Armament industry. Other important activities so listed were armament factories, mining, railroad construction, agriculture, and forestry. The distribution list of this order does not include Krauch or his immediate superior, Colonel Loeb. The fact that Krauch had given favorable consideration to the use of Russian prisoners of war in the armament industry is disclosed by a letter of Kirschner, a subordinate of Krauch, who wrote to General Thomas, Chief of the Office of Military Economy and Armament, on 20 October 1941, that he had discussed the matter with Krauch [*EC-489, Pros. Ex. 473*]. Kirschner reports that Krauch had developed an idea concerning the employment of Russian prisoners of war and enclosed a note of Krauch's intentions with his letter. We do not have the benefit of the contents of this note, but we are, nevertheless, satisfied that Krauch was in accord with the use of prisoners of war in the war industry. But that, in itself, is not sufficient to warrant a finding of Guilty for the commission of war crimes under count three. Keitel's order gives no authority to the Plenipotentiary General for Special

Questions of Chemical Production in the allocation of prisoners of war to the various plants and industries. This authority is left with the Reich Ministry for Armament and Munitions in agreement with the Reich Ministry for Labor and Supreme Commander of the Armed Forces. The deputies of the Reich Ministry for Armament and Munitions were given authority to enter prisoner-of-war camps to assist in the selection of skilled workers. We are unable to find in the record any instance of the allocation of prisoners of war by Krauch for purposes prohibited by the Geneva Convention. We reach the ultimate conclusion that Krauch, by his activities in connection with the allocation of concentration-camp inmates and forced foreign laborers, is Guilty under count three.

Ter Meer. The defendant ter Meer, as the technical leader of Farben as well as head of Sparte II and chairman of the Technical Committee, had general supervision of matters pertaining to production and new construction. He discussed the expansion of buna production with the Reich Ministry of Economics on several occasions. On 2 November 1940, that Ministry approved the expansion and advised Farben through ter Meer and Ambros to choose an appropriate site in Silesia on which to erect a plant. Ter Meer was Ambros' immediate superior, and to that superior Ambros reported on numerous occasions. Ter Meer states,

"I believe that most of the information I had on the building of the Auschwitz plant came either through correspondence or through conversations with Ambros, and Ambros has in very long conversations shown me all the things which I call good industrial conditions. I know that he brought me a map and that he showed me everything, but according to the best of my recollection he did not draw special attention to the existence of the concentration camp. Ambros himself, in the TEA, developed, with the help of a map of the site of Auschwitz, the general conditions, the size, and also the way the factory should be built. I do not recall that he at that time discussed that some of the labor would be drawn from the nearby concentration camp, but I would say that Ambros, who in his reports of this kind was very exact, probably mentioned it, but I am not positive."

That the concentration camp figured in the early plans with respect to Auschwitz is disclosed in the documents referred to in our general discussion of that project. There are other documents and reports of a similar nature. For instance, on 16 January 1941, at a discussion in Ludwigshafen between representatives of Farben and Schlesien-Benzin [NI-11784, Pros. Ex. 1411], at which Ambros was present, a report was given by a director of the latter firm regarding the desirability of the Auschwitz site. It was reported that the inhabitants

of Auschwitz consisted of 2,000 Germans, 4,000 Jews, and 7,000 Poles. The Jews and Poles were to be turned out so that the town would be available for the staff of the factory. The report then states: "A concentration camp will be built in the immediate neighborhood of Auschwitz for the Jews and Poles."

At a regional planning meeting on 31 January 1941 [NI-11785, *Pros. Ex. 1412*], attended by Chief Engineer Santo of the Ludwigshafen plant, who later became a member of the Auschwitz Planning Committee, the labor problems of Auschwitz were again discussed, and it is stated in the report that "The concentration camp already existing with approximately 7,000 prisoners is to be expanded. Employment of prisoners for the building project possible after negotiations with the Reichsfuehrer SS."

We have already referred to the meeting of the Plastics and Rubber Committee attended by ter Meer and Ambros on 23 October 1941, at which reference was made to the valuable support given by the Auschwitz concentration camp.

Ter Meer personally visited the Auschwitz site in October 1941. He was accompanied on this inspection by Hoess, the camp commandant. He says: "Hoess was in no way favorable to sending concentration-camp inmates to the Auschwitz works. He wanted them to work for the factory in the camp itself."

Ter Meer again visited the Auschwitz site in November 1942 and also the Monowitz labor camp, in which the concentration-camp inmates who were working on the building site were housed.

The evidence clearly establishes that one of the chief problems of Farben in connection with the building of the Auschwitz plant was the procurement of labor for the construction work. Thousands of unskilled laborers were required, whose work was of course only temporary and who would not become permanent employees. It was the type of labor that could be procured through the concentration camp and the Sauckel program. The captured documents to which we have referred established beyond question that the availability of concentration-camp labor figured in the planning of the Auschwitz construction. Ambros played a major role in this planning. His immediate superior with whom he had frequent contact and to whom he made detailed reports was ter Meer. The over-all field of new construction was one in which ter Meer was both active and dominant. It is indeed unreasonable to conclude that, when Ambros sought the advice of and reported in detail to ter Meer, the conferences were confined to such matters as transportation, water supply, and the availability of construction materials and excluded that important construction factor, labor, in which the concentration camp played so prominent a part. Ter Meer's visits to Auschwitz were no doubt as revealing to him as they are to this Tribunal. Hoess was reluctant

to have his inmates work on the plant site. He preferred to keep them within the camp. These workers were not forced upon Farben. The inference is strong that Farben officials subordinate to ter Meer took the initiative in securing the services of these inmates on the plant site. This inference is further supported by the fact that Farben at its own expense and with its own funds appropriated by the TEA, of which ter Meer was chairman, built Camp Monowitz for the specific purpose of housing its concentration-camp workers. We are convinced beyond a reasonable doubt that the officials in charge of Farben construction went beyond the necessity created by the pressure of governmental officials and may be justly charged with taking the initiative in planning for and availing themselves of the use of concentration-camp labor. Of these officials ter Meer had greatest authority. We cannot say that he countenanced or participated in abuse of the workers. But that alone does not excuse his otherwise well-established Guilt under count three.

Other Members of the TEA and the Plant Leaders. In addition to the defendants ter Meer and Ambros, the defendants Gajewski, Hoerlein, Buergin, Jaehne, Kuehne, Lautenschlaeger, Schneider, and Wurster were also members of the Technical Committee. These defendants were plant leaders or managers of one or more of the important plants of Farben. These plants were integrated into the war economy of the Reich by order of governmental authority. In a Hitler decree regarding the protection of armament economy, dated 21 March 1942 [*PS-1666, Pros. Ex. 1290*], war-essential requirements were given absolute priority in the allocation of available manpower. Plant leaders were ordered to consider the necessities of the Reich in war economy as if they were their own. "All considerations, arising from personal interests or from the desire for peace, must be discarded * * * Whoever disregards this trust and offends against the conduct expected of a plant leader, will be subjected to unrelenting, most severe punishment * * *"

This decree was supplemented by others issued by Hitler and by proclamations of his subordinate officials, dealing with production quotas, allocations of labor, priorities for raw materials, and other measures looking toward coordination within the field of armament economy. These were further supplemented by orders prescribing in still more detail measures to be taken and restrictions to be imposed. For instance, in the matter of labor, these orders covered hours of work, food, clothing, and housing, and made distinctions in the treatment of various kinds of workers. The eastern workers generally were to be treated with greater severity than the other classes.

A system of armament inspectorates was set up which covered plants connected with the armament industry. The inspectors learned every detail about the factories within their respective districts and the con-

ditions therein with regard to production orders and manpower. They were directed to supervise the allocation of labor and the proper consumption of raw materials on quota, plant maintenance, coal, et cetera, in the plants of which they were in charge. Thus it appears that the plant leaders were given little opportunity to exercise initiative in matters pertaining to production. They were all well informed of and knew that compulsory foreign workers, prisoners of war, and concentration-camp inmates were being employed in the Farben plants and they acquiesced in this practice under the pressure of conditions as they then existed in the Reich. We are not convinced from the proof that any of these defendants exercised initiative in obtaining forced labor under such circumstances as would deprive them of the defense of necessity. Ambros made a report at a meeting of the TEA on 21 April 1941 in which he specifically mentioned that concentration-camp inmates were being utilized in construction work at the buna plant Auschwitz, but the extent of his disclosures is not revealed by the evidence. It is not established that the members of the TEA were informed of or that they knew of the initiative being exercised by the defendants Ambros, Bueteffisch, and Duerrfeld in obtaining workers for the Auschwitz project, or that the availability of such labor was one of the determining factors in the location of the Auschwitz site. The affiant Struss, Director of the Office of the Technical Committee testified :

“The members of the TEA certainly knew that IG employed concentration-camp inmates and forced laborers. That was common knowledge in Germany but the TEA never discussed these things. TEA approved credits for barracks for 160,000 foreign workers for IG.”

The members of the TEA, with the exception of the chairman ter Meer, were plant leaders. Under the decentralized system of the Farben enterprise each leader was primarily responsible for his own plant and was generally uninformed as to the details of operations at other plants and projects. Membership in the TEA does not import knowledge of these details. As plant leader, each was subject to the orders and supervision of the Reich authorities with respect to the operation of his own plant. He was not required to assume that governmental orders and decrees were being exceeded or that other members were taking criminal initiative in the field of employment. There is a dearth of evidence regarding information made available to the members of the TEA, other than Ambros, about conditions at Auschwitz. We cannot assume that the general membership of the committee knew of the initiative displayed by Ambros in planning for or obtaining the use of concentration-camp workers or forced laborers on the construction project. On this state of the record we are not prepared to

find that the members of the TEA, by voting appropriations for construction and housing at Auschwitz and other Farben plants, can be considered as knowingly authorizing and approving the course of criminal conduct which we have found to be present in the cases of the individual defendants whose guilt we have already found to be established.

Concerning the charges of mistreatment of forced foreign workers and prisoners of war in the Farben plants of the various works combines, much conflicting evidence has been presented. Its evaluation impels us to find that as a general policy Farben attempted to carry out humane practices in the treatment of its workers and that these individual defendants did what was possible under then existing conditions to alleviate the miseries inherent in the system of slave labor. Huge sums were expended for housing and a variety of welfare purposes. There were many isolated abuses of individual workers but it has not been shown that such acts were countenanced by any of these defendants nor can it be said that they went beyond what the regulations required in the treatment or discipline of the workers. Here again it must be recalled that the Gestapo was ever on hand to enforce compliance by an employer with what the system demanded. At the Landsberg plant, one of the units under the jurisdiction of the defendant Gajewski, a number of prisoners of war died during the course of their work. We do not consider that the proof establishes that this resulted from mistreatment by Farben officials. The military authorities were largely responsible for the food, treatment and allocation to duties of prisoners of war. The proof presented on this matter is consistent with the inference that the prisoners of war were in a poor state of health when they arrived and that this was the cause of their deaths rather than work or ill-treatment. Nor may we, in justice, hold the defendant Buerger responsible for the two criminal atrocities occurring at the Bitterfeld plant. On one occasion a Russian prisoner was shot attempting to escape confinement. There is no showing that Buerger had any connection with the incident or that he countenanced or approved any such action. Buerger was not at the Bitterfeld plant on the occasion when the Gestapo publicly hanged five Russians at one of the camps to intimidate the other workers. The record shows that the plant management protested the contemplated action of the Gestapo and withheld, at no little risk, its cooperation. The evidence relied upon by the prosecution to establish initiative on the part of individual plant leaders in obtaining and using compulsory labor has been carefully considered by the Tribunal. Without reviewing each item of evidence in detail it is our conclusion that the action of the defendants in this regard has not been established beyond reasonable doubt.

It is contended that Schneider, as the Chief Plant Leader of Farben, bears special responsibility in the field of labor within Farben and that he may be held criminally liable for the employment and mistreatment of workers. As we analyze the position of Schneider it is our conclusion that his functions did not supersede the authority of the local plant leaders. He was a general coordinator in the field of housing and welfare matters affecting more than one plant, but there is not sufficient evidence to establish that he exercised initiative in the procurement or allocation of labor within Farben. We have considered evidence as to the Leuna plant, of which Schneider was also the leader, and cannot conclude that it proves initiative of a character to deprive him of the defense of necessity which has otherwise been established.

It is our conclusion and we hereby find and adjudge that the defendants Gajewski, Hoerlein, Buergin, Jaehne, Kuehne, Lautenschlaeger, Schneider, and Wurster are Not Guilty under count three of the indictment.

Remaining Defendants. There can be no doubt that the defendant Schmitz, Chairman of the Vorstand, and the other Vorstand members not previously mentioned, namely, the defendants von Schnitzler, von Knieriem, Haefliger, Ilgner, Mann, and Oster, all knew that slave labor was being employed on an extensive scale under the forced labor program of the Third Reich. Schmitz twice reported to the Aufsichtsrat on the manpower problems of Farben pointing out that it had become necessary to make up for the shortage of workers by employment of foreigners and prisoners of war. This evidence does not establish that Farben was taking the initiative in the illegal employment of prisoners of war. Neither Schmitz nor any of the members of the Vorstand here under discussion were shown to have ever exercised functions in the allocation or recruitment of compulsory labor. We cannot say that it has been proved that initiative in the procurement of concentration-camp inmates was ever exercised by these defendants. The proof does not establish to our satisfaction that, in approving the Auschwitz project, the Vorstand considered the employment of concentration-camp inmates to be one of the factors entering into the decision for the location of the Auschwitz plant. It is not even clearly established that they knew inmates would be so used at the time of giving such approval. Their knowledge was necessarily less than that of members of TEA as to whom we have likewise indicated, we consider the proof to be insufficient. What we have said in general on the subject of mistreatment of workers in the Farben plants applies equally to these defendants. We cannot hold that they are responsible criminally for the occasional acts of mistreatment of labor employed in the various Farben plants nor do we

consider these defendants to be responsible for the occurrences at the Auschwitz construction site.

On the record before us we find and adjudge that the defendants Schmitz, von Schnitzler, von Knieriem, Haefliger, Ilgner, Mann, and Oster are Not Guilty under count three.

The defendants Gattineau, von der Heyde, and Kugler were not members of Farben's Vorstand, nor were they members of the Technical Committee. No substantial evidence of an incriminating character connects them with any of the charges in count three in a manner sufficient to establish their guilt. Each of these three defendants is, therefore, acquitted of all charges under this count.

COUNT FOUR

THE PRESIDENT: Count Four. This count charges that:

"The defendants Schneider, Buetefisch, and von der Heyde are charged with membership, subsequent to 1 September 1939, in Die Schutzstaffeln der Nationalsozialistischen Deutschen Arbeiterpartei (commonly known as the 'SS'), declared to be criminal by the International Military Tribunal, and Paragraph 1 (d) of Article II of Control Council Law No. 10."

It is a matter of history that the organization referred to in the indictment as the "SS" was established by Hitler in 1925 and that membership therein was entirely voluntary until 1940, when conscription was also inaugurated. The SS was composed of several units, many of which were utilized in the perpetuation of some of the most reprehensible atrocities committed during the Nazi regime.

Article II 1 (d) of Control Council Law No. 10 provides that:

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

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

Article 10 of the Charter of the IMT provides:

"In cases where a group or organization is declared criminal by the Tribunal, the competent national authority of any Signatory shall have the right to bring individuals to trial for membership therein before national military or occupation courts. In any such case, the criminal nature of the group or organization is considered proved and shall not be questioned."

In dealing with the SS the IMT treated as included therein all persons who had been officially accepted as members of any of the branches of said organization, except its so-called riding units. The Tribunal declared to be criminal those groups of said organizations which were composed of members who had become or remained such with knowledge that such groups were being used for the commission

of war crimes or crimes against humanity connected with the war, or who had been personally implicated as members of said organization in the commission of such crimes. Specifically excluded from the classes of members to which the Tribunal imputed criminality, however, were those persons who were drafted into membership by the state in such a way as to give them no choice in the matter and who had committed no such crimes, and those persons who had ceased to belong to any of said organizations prior to 1 September 1939.

The IMT said :

“A criminal organization is analogous to a criminal conspiracy in that the essence of both is cooperation for criminal purposes. There must be a group bound together and organized for a common purpose. The group must be formed or used in connection with the commission of crimes denounced by the Charter. Since the declaration with respect to the organizations and groups will, as has been pointed out, fix the criminality of its members, that definition should exclude persons who had no knowledge of the criminal purposes or acts of the organization and those who were drafted by the State for membership, unless they were personally implicated in the commission of acts declared criminal by Article 6 of the Charter as members of the organization. Membership alone is not enough to come within the scope of these declarations.”¹

Finally, the IMT made certain recommendations, from which we quote :

“Since declarations of criminality which the Tribunal makes will be used by other courts in the trial of persons on account of their membership in the organizations found to be criminal, the Tribunal feels it appropriate to make the following recommendations :

* * * * *

“2. Law No. 10, to which reference has already been made, leaves punishment entirely in the discretion of the trial court even to the extent of inflicting the death penalty.

“The de-Nazification Law of 5 March 1946, however, passed for Bavaria, Greater-Hesse, and Wurttemberg-Baden, provides definite sentences for punishment in each type of offense. The Tribunal recommends that in no case should punishment imposed under Law No. 10 upon any members of an organization or group declared by the Tribunal to be criminal exceed the punishment fixed by the de-Nazification Law. No person should be punished under both laws.”²

For having actively engaged in the National Socialistic tyranny in the SS, the de-Nazification Law of 5 March 1946, for Bavaria, Greater-

¹ *Trial of the Major War Criminals*, volume I, page 256.

² *Ibid.*, pages 256 and 257.

Hesse and Wurttemberg-Baden, fixes a maximum penalty of internment in a labor camp for a period of not less than 2 nor more than 10 years in order to perform reparations and reconstruction work, against which political internment after 8 May 1945 may be taken into account. There are also provisions for confiscation of property and deprivation of civil rights.

In its Preliminary Brief the prosecution says that "it seems totally unnecessary to anticipate any contention that intelligent Germans, and in particular persons who were SS members for a long period of years, did not know that the SS was being used for the commission of acts 'amounting to war crimes and crimes against humanity * * *'" This assumption is not, in our judgment, a sound basis for shifting the burden of proof to a defendant or for relieving the prosecution from the obligation of establishing all of the essential ingredients of the crime. Proof of the requisite knowledge need not, of course, be direct, but may be inferred from circumstances duly established.

Tribunal II in passing upon the question of the guilt of the defendant Scheide on a charge of membership in the SS in the case of the United States *v. Pohl, et al* (Case 4), said:

"The defendant admits membership in the SS, an organization declared to be criminal by the judgment of the International Military Tribunal, but the prosecution has offered no evidence that the defendant had knowledge of the criminal activities of the SS, or that he remained in the organization after September 1939 with such knowledge, or that he engaged in criminal activities while a member of such organization.

"Therefore, the Tribunal finds and adjudges that the defendant Rudolf Scheide is not guilty as charged in count four of the indictment."¹

The defendant Schneider was a sponsoring member of the SS from 1933 until 1945. As such member his only direct contact with said organization arose out of the payment of dues.

After quoting from that part of the IMT judgment in which the matter of criminal responsibility for membership in the SS was discussed, Tribunal III in the case of the United States *v. Altstoetter, et al.*, (Case 3), transcript page 10906, in the course of its opinion said: "It is not believed by this Tribunal that a sponsoring membership is included in this definition."² We are not disposed to disagree with that conclusion.

The membership records of the SS show that the defendant Buete-fisch became an Ehrenfuhrer (honorary leader) of that organization

¹ U. S. *vs. Pohl, et al.*, volume V, this series, page 1018.

² Cf. volume III, this series, page 1158.

on 20 April 1939; that contemporaneously therewith he was promoted to the rank of Hauptsturmfuehrer (Captain); that on 30 January 1941 he was made a Sturmbannfuehrer (Major); and that he became an Obersturmbannfuehrer (Lt. Colonel) on 5 March 1943. The same records disclose that said defendant was assigned initially to the Upper Sector Elbe, from 1 May to 1 November 1941 to the Personnel Branch of the Main Office, and after the last mentioned date to the SS Main Office proper.

In explanation of his connections with the SS, the defendant detailed the following:

Soon after he became deputy manager of the Leuna plant of Farben in 1934 he came into contact with one Kranefuss, the executive secretary of the Himmler Circle of Friends and the chairman of the Vorstand of BRABAG (the abbreviation for a corporation producing gasoline from lignite), whom the defendant had first come to know when they were schoolmates. During the years following the renewal of their contacts, the defendant made frequent use of his personal relationship to Kranefuss and the latter's good offices in connection with business matters and, particularly, for the protection of certain Jews and other oppressed persons in the welfare of whom the defendant had become interested. Early in 1939 Kranefuss suggested to the defendant that intervention on behalf of politically oppressed persons would be much easier if the defendant should affiliate himself with the SS. To this the defendant replied that on account of his professional and personal convictions he could not subscribe to the membership oath, submit to the SS authority of command, attend its functions, or wear its uniform. The defendant says that he believed that this would put an end to the suggestion that he should affiliate himself with the organization but that, much to his surprise, Kranefuss advised him soon thereafter that he might be made an honorary member, with the reservations enumerated above. The defendant says that he thereby found himself confronted with an alternative which he did not anticipate, namely, that of losing the friendship of Kranefuss, which he had found most helpful in aiding the oppressed persons who were the direct objects of SS intolerance, or of accepting honorary membership, conditioned as aforesaid. He chose the latter course, and says that to the end he never took the SS oath, submitted to its authority of command, attended any of its functions, or owned or wore a uniform. When, after he became an honorary member, it was suggested to the defendant that he should procure a uniform for use on special occasions, Buetevisch pointed to the conditions that he had attached to his acceptance of membership and stood adamant. This resulted in a controversy with Kranefuss, in the course of which the defendant asked that his name be deleted from the list of SS rank holders. The defendant says, also, that his

promotions and assignments were perfunctory and automatic and made without instigation on his part. The record contains corroboration of the defendant's statements, and none of these are directly refuted by the prosecution.

In the appraisal of the defendant's status in the SS, the prosecution attaches much significance to his intimate relationship to Kranefuss and the latter's close affiliation with Himmler and his Circle of Friends. It appears that the defendant became a member of this Circle about the same time that he was made an honorary leader of the SS and that he was a regular attendant at the meetings of the Circle, including one occasion when the entire membership was the guest of Himmler at his field headquarters in East Prussia. Concerning these meetings of the Himmler Circle, Tribunal IV in Case 5 (*U. S. v. Flick, et al.*), after fully considering the character and activities of that group, including the part played by Kranefuss therein, said:

"We do not find in the meetings themselves the sinister purposes ascribed to them by the prosecution * * *. So far we see nothing criminal or immoral in the defendant's attendance at these meetings. As a group (it could hardly be called an organization) it played no part in formulating any of the policies of the Third Reich."*

The prosecution calls attention to the fact, however, that the Circle of Friends contributed more than a million reichsmarks annually to the SS during each of the years 1941, 1942, and 1943, and that 100,000 of each of these gifts came from Farben, through the defendants Schmitz and Bueteufisch. These facts, if established, would only be material to the charge here under consideration as tending to show, in connection with other facts, that Bueteufisch had knowledge of the criminal purposes or acts of the SS at the time he became or during the period that he remained a member—if he was, in fact, a member. In other words, it is first necessary for us to determine whether the defendant was a member of the SS in the sense contemplated by the IMT when it held such membership to be criminal. Unless and until it is first ascertained that the defendant was a member in the accepted sense, we are unconcerned with the question as to whether he had knowledge of the criminal activities of the organization.

The exhaustive opinion of the Supreme Spruchkammer Court of Hamm, rendered in affirming the case in which Baron von Schroeder was convicted for honorary membership in the SS, has been cited and relied upon by the prosecution. The factual distinction between the case with which we are presently concerned and that of von Schroeder is clearly disclosed by the opinion above referred to. In noticing the

*See volume VI, this series, page 1218.

character of von Schroeder's relationship to the SS, the Supreme Spruchkammer Court said:

"At the Reich Party meeting in 1936 he (von Schroeder) was told orally by Himmler that he had been accepted as an honorary member with the rank of Standartenfuehrer by the Allgemeine (General) SS.

* * * * *

"The defendant after his acceptance into the Allgemeine SS as an honorary member received, as is admitted by the appellant, a membership number, paid regularly his membership dues, was promoted to SS Oberfuehrer in 1939 and SS Brigadefuehrer in 1941, showed up at special occasions wearing the uniform of his rank, although he never participated in any SS duties and was not assigned to any definite SS unit, but was registered with the Staff as an assigned leader."

As distinguished from von Schroeder, who appeared at special occasions in the uniform of his rank, the defendant Buete fish consistently refused to procure a uniform in the face of positive demands that he do so. This circumstance, when coupled with the other significant reservations which the defendant imposed and consistently maintained when and after he accepted honorary membership, would seem to place him in an entirely different category from that of von Schroeder.

We do not attach any special significance to the fact that the defendant was classified as an "honorary member," but we are of the opinion that the defendant's status in the organization must be determined by a consideration of his actual relationship to it and its relationship to him. Membership in an organization ordinarily involves, reciprocally, rights, privileges, and benefits accruing to the member from the organization and corresponding duties, obligations, and responsibilities flowing to the organization from the member. One of the advantages to be gained by an organization from having so-called honorary members is the added prestige accruing to it from having prominent personages identified with it. This point was emphasized by the Supreme Spruchkammer in dealing with von Schroeder, but even that benefit is negatived here by the showing of the refusal of Buete fish to attend the organization's functions or wear its insignia.

We are constrained to hold that the evidence does not establish beyond a reasonable doubt that the defendant Buete fish was a member of an organization declared to be criminal by the judgment of the IMT.

The defendant von der Heyde is the last person named in count four of the indictment. He became a member of the Reitersturm (Riding Unit) of the SS in Mannheim in 1933, his serial number

being 200,180. This is the group within the SS that the IMT declared not to be a criminal organization.

In 1936 the defendant moved to Berlin to become a member of the Economic Policy Department (WIPO) of Farben's NW-7 Office. The prosecution contends that while he was in Berlin the defendant was an active member of the Allgemeine (General) SS, and it sought to establish that fact by documentary proof as follows:

1. An SS personnel file, indicating the defendant's number in that organization as 200,180 and entries to the effect that he was promoted to 2d Lieutenant on 30 January 1938, to 1st Lieutenant on 10 September 1939, and to Captain on 30 January 1941. Opposite the entry of the defendant's promotion to 2d Lieutenant in 1938 is a notation to the effect that he was a "Fuehrer in the SD."

2. An SS Racial and Settlement questionnaire, filled out by the defendant, likewise giving his SS number as 200,180, his rank as a 2d Lieutenant, his unit as "SD—Main Office," and his activity as "Honorary Collaborator of SD—Main Office."

3. The defendant's written application for permission to marry (required of all members of the SS and also of the Wehrmacht) addressed to the Reich Chief of the SS on 6 May 1939. On this printed form were listed four classes of SS memberships (not including the Riding Unit), and that of the General SS had been underscored, indicating, so the prosecution says, that the defendant at the time regarded himself as a member of that group. This document also gave the defendant's membership number as 200,180, his unit as "SD—Main Office," and his superior as Colonel Six, a Department Chief in that office.

The defendant testified that when he left Mannheim for Berlin in 1936, he was placed on a leave status by the SS Riding Unit. He further said that he never thereafter paid dues to the Riding Unit, although he did pay Party dues at Berlin, a part of which may have been diverted to the SS by party officials without his knowledge. He emphatically denied that he had ever affiliated, either directly or indirectly, with any SS group, other than said Riding Unit.

No responsibility is assumed by the defendant for the data shown on his SS personnel file produced by the prosecution. He testified specifically that there was no basis in fact for the memoranda thereon showing that on 30 January 1938 he was a "Fuehrer in the SD," and he ascribes this entry to an error or a false assumption on the part of the clerk who made or kept said record.

The defendant said that his progressive promotions from 2d Lieutenant to Captain were automatic and customary in all branches of the SS, including the Riding Units, and that no inference of membership in a criminal organization can be drawn therefrom. Significance is attached to the circumstance that in all the documents relating to

the defendant's SS affiliation his membership number is given as 200,-180, that being the number originally assigned to him on his first Riding Unit membership card, issued at Mannheim early in 1934.

The defendant further stated on the witness stand that when, in the middle of the year 1939, he decided to marry, he made application for permission so to do through the Berlin office of the SS, rather than that at Mannheim, for two reasons, first, because he was then residing in Berlin and, secondly, because he believed that the granting of such permission would be delayed if he went through Mannheim. His counsel points out that this conclusion was justified, as is shown by the fact that it required approximately 6 months for him to obtain clearance through Berlin, even though he resided there and personally made application through that office.

By way of explaining how he came to give the SD—Main Office as his organization unit, Honorary Collaborator of SD—Main Office as his SS activity, and Colonel Six as his superior, on his R and S questionnaire and in his formal application for permission to marry, the defendant has said that these constituted the SS offices, agencies, and persons with which he came in contact through his NW 7 activities at Berlin, and that he made use of this data in the hope that it would expedite approval of his marriage application. In any event, the defendant asserts that this memoranda is not inconsistent with his Riding Unit membership; nor does it support an inference that he was a member of the SD, since it has been made to appear that a Riding Unit could well have been accredited to and an honorary assistant of an SD—Main Office. This was corroborated by the testimony of the witness Ohlendorf, Chief of the SD, who, though he was convicted by it, was complimented by Tribunal II for his truthfulness on the witness stand.

In dealing with the SD, the IMT included "all local representatives and agents, honorary or otherwise, whether they were technically members of the SS or not," and concluded that said organization was criminal. In this case, however, von der Heyde is charged, specifically, with membership in the SS, not the SD, and the burden is on the prosecution to establish that fact. There was no showing that membership in the SS was a necessary prerequisite to membership in the SD. The judgment of the IMT indicates otherwise and treats these groups as separate, though related, organizations.

Taking into account that the only definitely established affiliation of the defendant was with the nonculpable Riding Unit of the SS and that the evidence tending to show that he subsequently became a member of the General SS arises wholly out of the innocuous incidents connected with his efforts to obtain a marriage license, we must conclude that the guilt of the defendant von der Heyde under count four has not been satisfactorily established.

The defendants Schneider, Bueteffisch, and von der Heyde are acquitted of the charges contained in count four of the indictment.

By numerous objections and formal motions made during the course of the trial and in their final arguments and closing briefs, several of the attorneys for defendants have questioned the validity of the laws, orders, and directives by virtue of which this Tribunal was created and under which it has functioned. We have again given careful consideration to these matters and have satisfied ourselves that this Tribunal was lawfully organized and constituted, that it has jurisdiction over the subject matter of this proceeding and over the persons of the defendants before it, and that it is fully authorized and competent to render this judgment.

The President now recognizes Judge Hebert who wishes to make a statement for the record.

STATEMENT OF JUDGE HEBERT

JUDGE HEBERT: I concur in the result reached by the majority under counts one and five of the indictment acquitting all of the defendants of crimes against peace, but I wish to indicate the following: The judgment contains many statements with which I do not agree and in a number of respects is at variance with my reasons for reaching the result of acquittal. I reserve the right, therefore, to file a separate concurring opinion on counts one and five.

As to count three of the indictment, I respectfully dissent from that portion of the judgment which recognizes the defense of necessity as applicable to the facts proven in this case. It is my opinion, based on the evidence, that the defendants have not established the defense of necessity. I conclude from the record that Farben, as a matter of policy, with the approval of the TEA and the members of the Vorstand, willingly cooperated in the slave-labor program, including utilization of forced foreign workers, prisoners of war, and concentration-camp inmates, because there was no other solution to the manpower problems. As one of the defendants put it in his testimony, Farben did not object because "we simply did not have enough workers any longer." It was generally known by the defendants that slave labor was being used on a large scale in the Farben plants, and the policy was tacitly approved. It was known that concentration-camp inmates were being used in construction at the Auschwitz buna plant, and no objection was raised. Admittedly, Farben would have preferred German workers rather than to pursue the policy of utilization of slave labor. Despite this fact, and despite the existence of a reign of terror in the Reich, I am, nevertheless, convinced that compulsion to the degree of depriving the defendants of moral choice did not in fact operate as the conclusive cause of the defendants' actions, because their will coincided with the governmental solution of the situation,

and the labor was accepted out of desire for, and the only means of, maintaining war production.

Having accepted large-scale participation in the program and, in many instances, having exercised initiative in obtaining workers, Farben became inevitably connected with its operation, with all the discriminations and human misery which the system of detaining workers in a state of servitude entailed. The cruel and inhuman regulations of the system had to be enforced and applied in the working of slave labor. The system demanded it. Efforts to ameliorate the condition of the workers may properly be considered in mitigation, but I cannot accept the view that persons in the positions of power and influence of these defendants should have gone along with the slave-labor program.

Those who knowingly participated in and approved the utilization of slave labor within the Farben organization should bear a serious responsibility as being connected with and taking a consenting part in war crimes and crimes against humanity, as recognized in Control Council Law No. 10.

I concur in the conviction of those defendants who have been found guilty under count three, but the responsibility for the utilization of slave labor and all incidental toleration of mistreatment of the workers should go much further and should, in my opinion, lead to the conclusion that all of the defendants in this case are guilty under count three, with the exception of the defendants von der Heyde, Gattineau, and Kugler, who were not members of the Vorstand. I, therefore, dissent as to this aspect of count three, and reserve the right to file a dissenting opinion with respect to that part of the judgment devoted to count three.

I have signed the judgment with these reservations, and I hand a copy of this express to the Secretary General for the record.*

PRESIDING JUDGE SHAKE: The Tribunal is about to render its formal judgment and impose its sentences. Before doing so, may I ask that the defendants who are convicted each arise as his name is called, face the Tribunal, and remain standing in the dock until the sentence has been imposed. The defendants who have been acquitted need not arise when their names are called.

FORMAL JUDGMENT AND SENTENCES

United States Military Tribunal VI having heard the evidence, the arguments of counsel, and the statements of the defendants, and having considered the briefs submitted by the parties, now renders judgment and imposes sentences in Case No. 6, the United States of

*The concurring opinion of Judge Hebert on crimes against peace (counts one and five) and his dissenting opinion on slave labor (count three) are reproduced below in the next following sections.

America vs. Carl Krauch, et al. It is accordingly considered, adjudged, and decreed as follows, to wit:

DEFENDANT KRAUCH

The defendant **CARL KRAUCH** is found Guilty under count three and Not Guilty under counts one, two, and five of the indictment. For the offense of which he has been found Guilty, the Tribunal sentences said defendant to imprisonment for 6 years. He shall, however, be allowed credit on said sentence for the period of time that he has already been in custody, to wit: from 3 September 1946 to the date of this judgment, inclusive.

DEFENDANT SCHMITZ

The defendant **HERMANN SCHMITZ** is found Guilty under count two, and Not Guilty under counts one, three, and five of the indictment. For the offense of which he has been found Guilty, the Tribunal sentences said defendant to imprisonment for 4 years. He shall, however, be allowed credit on said sentence for the period of time that he has already been in custody, to wit: from 7 April 1945 to the date of this judgment, inclusive.

DEFENDANT VON SCHNITZLER

The defendant **GEORG VON SCHNITZLER** is found Guilty under count two, and Not Guilty under counts one, three, and five of the indictment. For the offense of which he has been found Guilty, the Tribunal sentences said defendant to imprisonment for 5 years. He shall, however, be allowed credit on said sentence for the period of time that he has already been in custody, to wit: from 7 May 1945 to the date of this judgment, inclusive.

DEFENDANT TER MEER

The defendant **FRITZ TER MEER** is found Guilty under counts two and three, and Not Guilty under counts one and five of the indictment. For the offenses of which he has been found Guilty, the Tribunal sentences said defendant to imprisonment for 7 years. He shall, however, be allowed credit on said sentence for the period of time that he has already been in custody, to wit: from 7 June 1945 to the date of this judgment, inclusive.

DEFENDANT AMBROS

The defendant **OTTO AMBROS** is found Guilty under count three, and Not Guilty under counts one, two, and five of the indictment. For the offense of which he has been found Guilty, the Tribunal sentences

said defendant to imprisonment for 8 years. He shall, however, be allowed credit on said sentence for the period of time that he has already been in custody, to wit: from 17 January 1946 to 1 May 1946, and from 13 December 1946 to the date of this judgment, both inclusive.

DEFENDANT BUERGIN

The defendant ERNST BUERGIN is found Guilty under count two, and Not Guilty under counts one, three, and five of the indictment. For the offense of which he has been found Guilty, the Tribunal sentences said defendant to imprisonment for 2 years. He shall, however, be allowed credit on said sentence for the period of time that he has already been in custody, to wit: from 23 June 1947 to the date of this judgment, inclusive.

DEFENDANT BUETEFISCH

The defendant HEINRICH BUETEFISCH is found Guilty under count three, and Not Guilty under counts one, two, four, and five of the indictment. For the offenses of which he has been found Guilty, the Tribunal sentences said defendant to imprisonment for 6 years. He shall, however, be allowed credit on said sentence for the period of time that he has already been in custody, to wit: from 11 May 1945 to the date of this judgment, inclusive.

DEFENDANT HAEFLIGER

The defendant PAUL HAEFLIGER is found Guilty under count two, and Not Guilty under counts one, three, and five of the indictment. For the offense of which he has been found Guilty, the Tribunal sentences said defendant to imprisonment for 2 years. He shall, however, be allowed credit on said sentence for the period of time that he has already spent in custody, to wit: from 11 May 1945 to 30 September 1945 and from 3 May 1947 to the date of this judgment, both inclusive.

DEFENDANT ILGNER

The defendant MAX ILGNER is found Guilty under count two, and Not Guilty under counts one, three, and five of the indictment. For the offense of which he has been found Guilty, the Tribunal sentences said defendant to imprisonment for 3 years. He shall, however, be allowed credit on said sentence for the period of time that he has already been in custody, to wit: from 7 April 1945 to the date of this judgment, inclusive. Since said defendant has already been in prison for a period of time in excess of the penalty herein imposed, it is ordered that he be discharged upon the final adjournment of the Tribunal.

DEFENDANT JAEHNE

The defendant FRIEDRICH JAEHNE is found Guilty under count two, and Not Guilty under counts one, three, and five of the indictment. For the offense of which he has been found Guilty, the Tribunal sentences said defendant to imprisonment for 1½ years. He shall, however, be allowed credit on said sentence for the period of time that he has already been in custody, to wit: from 18 April 1947 to the date of this judgment, inclusive.

DEFENDANT OSTER

The defendant HEINRICH OSTER is found Guilty under count two, and Not Guilty under counts one, three, and five of the indictment. For the offense of which he has been found Guilty, the Tribunal sentences said defendant to imprisonment for 2 years. He shall, however, be allowed credit on said sentence for the period of time that he has already been in custody, to wit: from 31 December 1946 to the date of this judgment, inclusive.

DEFENDANT DUERRFELD

The defendant WALTER DUERRFELD is found Guilty under count three, and Not Guilty under counts one, two and five of the indictment. For the offense of which he has been found Guilty, the Tribunal sentences said defendant to imprisonment for 8 years. He shall, however, be allowed credit on said sentence for the period of time that he has already been in custody, to wit: from 9 June 1945 to 17 June 1945, and from 5 November 1945 to the date of this judgment, both inclusive.

DEFENDANT KUGLER

The defendant HANS KUGLER is found Guilty under count two, and Not Guilty under counts one, three, and five of the indictment. For the offense of which he has been found Guilty, the Tribunal sentences said defendant to imprisonment for 1½ years. He shall, however, be allowed credit on said sentence for the period of time that he has already been in custody, to wit: from 11 July 1945 to 6 October 1945, and from 18 April 1947 to the date of this judgment, both inclusive. Since said defendant has already been in prison for a period of time in excess of the penalty herein imposed, it is ordered that he be discharged upon the final adjournment of the Tribunal.

The sentences imposed by virtue of this judgment shall be served at such prison or prisons, or other appropriate place or places of confinement, as shall be determined by competent authority.

The defendants Fritz Gajewski, Heinrich Hoerlein, August von Knieriem, Christian Schneider, Hans Kuehne, Carl Lautenschlaeger,

Wilhelm Mann, Karl Wurster, Heinrich Gattineau, and Erich von der Heyde are each acquitted of all the charges in the indictment. They will each be discharged from custody upon the final adjournment of the Tribunal.

The Tribunal now recognizes Dr. Dix, who desires to present something to the Tribunal.

DR. DIX (counsel for defendant Schmitz) : May it please the Tribunal, on behalf of the defendants Krauch, Schmitz, von Schnitzler, ter Meer, Ambros, Buergin, Bueteufisch, Haefliger, Ilgner, Jaehne, Oster, Duerrfeld and Kugler, I should like to ask for permission, speaking also on behalf of the defense counsel of the gentlemen mentioned, to read a motion into the record which I am now handing to the Secretary General in the number of copies prescribed. At the same time I should like to state that in the written text the name Ambros had been stricken out by me because I have only now been able to make contact with his defense counsel Dr. Hoffmann. I should like to state now that this motion is also made on behalf of Ambros.

I shall now read it. I shall read the motion in the language in which it was drafted, the English language.

The defendants Krauch, Schmitz, von Schnitzler, ter Meer, Ambros, Buergin, Bueteufisch, Haefliger, Ilgner, Jaehne, Oster, Duerrfeld, Kugler, and their defense counsel, each for himself, through me as speaker, move to set aside the decision and judgment of conviction, on the ground that the said decision and judgment is contrary to the facts, contrary to law, and against the weight of the evidence; on the ground that this Court had no jurisdiction to hear and determine the alleged charges; and on the further ground that the facts alleged and the facts found do not constitute an offense against the law of nations or against the laws of the sovereign power of the United States.

And the said defendants and their defense counsel, each for himself, move to set aside the decision and judgment of this Court, on the ground that the rulings made and the procedure followed throughout the course of this trial denied to the said defendant due process of law and was violative of the Constitution and laws of the United States, international law, and the rules of law generally applicable to the trial of criminal cases in all civilized nations.

And the defendants and their defense counsel, each for himself, move to set aside and vacate the decision and judgment of this Court, on the ground that the individual justices thereof were without power to act and the Tribunal, as a whole, was never legally established and its said decision and judgment constitute an arbitrary exercise of military power over each of the said defendants, in violation of the laws of nations and agreements made by the belligerent powers and other countries appertaining thereto; and each of the defendants and their

defense counsel move for such other further and equitable relief as the circumstances warrant and as may be just and proper.

THE PRESIDENT: May I say to you and your associate counsel, and to the defendants for whom you speak, that the matters set forth in the motion have been considered by the Tribunal, as is reflected by the concluding paragraph of the judgment of the Tribunal proper. The Tribunal now overrules said motion, and the record may so show.

And now I officially declare United States Military Tribunal VI finally adjourned.

XIV. CONCURRING OPINION OF JUDGE HEBERT ON THE CHARGES OF CRIMES AGAINST PEACE

CONCURRING OPINION ON COUNTS ONE AND FIVE OF THE INDICTMENT*

Filed
28 December 1948
Secretary General
for Military Tribunals
Nuernberg, Germany

At the rendition of final judgment in this case on 29 and 30 July 1948, I expressed concurrence in the result reached by the Tribunal in acquitting all defendants under count one and five of the indictment (the aggressive war counts) but reserved the right to file a separate opinion because the judgment on these counts contains conclusions of fact and statements with which I do not agree and, in numerous respects, is at variance with my own approach in reaching the result of acquittal. This opinion is filed pursuant to such reservation.

In this proceeding involving the trial of twenty-three individuals indicted as major war criminals, it is important not only to pass judgment upon the guilt or innocence of the accused, but also to set forth an accurate record of the more essential facts established by the proof. The size of the record makes the latter difficult of achievement. As applied to the aggressive war counts, while concurring in the acquittals, I cannot express agreement with factual conclusions of the Tribunal which, in my opinion, misread the record in the direction of a too complete exoneration and an exculpation even of moral guilt to a degree which I consider unwarranted. The record of I. G. Farbenindustrie, A. G., during the period under examination in this lengthy trial, has been shown to have been an ugly record which went, in its sympathy and identity with the Nazi regime, far beyond the activities of the normal business the defendants assert such action to have been. Action of the character in which most of the defendants, the responsible leadership of Farben, were engaged during the period of preparation for and during the subsequent waging of the aggressive wars of Nazi Germany cannot be condoned nor should its relationship to the crimes against peace committed by the Nazi regime be mini-

*Pursuant to reservations made by Judge Hebert at the time of the Tribunal's decision and judgment (section XIII above), this concurring opinion was filed in writing with the Secretary General of the Tribunals on 28 December 1948, nearly 5 months after the judgment of the Tribunal.

mized. I reach the conclusion, however, that the individual defendants, under proof, are not guilty of the crime against peace denounced by Control Council Law No. 10, regardless of how strongly the support and encouragement given by Farben and its influential leaders of the Nazi regime contributed, first, to making the war possible from the viewpoint of production and, secondly, to prolonging the war after it had been launched by Hitler's aggression against Poland.

An important factor in my concurrence in the result reached is that I feel the necessity for bowing to such weighty precedents as the acquittal by the International Military Tribunal of Schacht and Speer of the charges of crimes against peace; of the acquittal by Military Tribunal III of the leading officials of the Krupp firm on similar charges; and, the more recent precedent established by an International Military Tribunal in the French occupied zone in acquitting officials of the Roechling concern of the charges of participation in the planning and preparation of aggressive war. Such precedents, coupled with a most liberal application of the rule of "reasonable doubt" in favor of the defendants and added to a reluctance, because of the novelty of the crime against peace, to draw inferences unfavorable to a defendant in the all-important area of knowledge of the aim of aggressive war and specific intent to further such aim, lead to the result of acquittal. I am concurring though realizing that on the vast volume of credible evidence presented to the Tribunal, if the issues here involved were truly questions of first impression, a contrary result might as easily be reached by other triers of the facts more inclined to draw inferences of the character usually warranted in ordinary criminal cases. I do not agree with the majority's conclusion that the evidence presented in this case falls so far short of sufficiency as the Tribunal's opinion would seem to indicate. The issues of fact are truly so close as to cause genuine concern as to whether or not justice has actually been done because of the enormous and indispensable role these defendants were shown to have played in the building of the war machine which made Hitler's aggressions possible. The destruction of important Farben records at the direction of certain of the defendants has probably deprived the prosecution of essential links in its chain of incriminating evidence and leaves one with the feeling that a different result might possibly be called for if the complete Farben files were now available to the war crimes prosecutors.

On the all-important element of criminal intent or state of mind accompanying the acts and actions of the defendants, I have felt constrained to agree upon acquittal predicated upon the doubt as to whether the defendants actually knew and believed that their contributions to the armament of Germany constituted the crime of participating in the planning and preparation for initiation of a

war which was to be aggressive in character. Beyond that I follow the implications of the acquittal of Speer as a precedent for the acquittal of the defendants of the charge of "waging aggressive war." That the defendants knew they were preparing for a possible war is certain. That their actions in this regard were not the normal activities of businessmen is equally clear. Farben participated in a complete transformation of the economic structure into one of military economy. The possibility of war was ever before them. But clear unequivocal proof of exact knowledge of the decision of the regime to initiate and wage wars of aggression is not established beyond reasonable doubt. Farben, under the leadership of these defendants, pursued a course of action which was proved to be in fact adverse to the cause of international peace in numerous respects; a course evidencing cavalier disregard of possible and probable consequences of their acts. Such conduct, carried out in a warlike atmosphere for a dictator who had manifested his warlike intentions in many ways, despite contradictory protestations of peace, is sufficiently reprehensible in its relation to the resulting holocaust of war as to cause me to feel that international law should be broadened so as to devise standards defining the criminality of action of the character carried out by these defendants. However, I conclude that what has been proved is sympathy and support of the Nazi regime and participation in armament on a gigantic scale with reckless disregard of the consequences, under circumstances strongly suspicious of individual knowledge of Hitler's ultimate aim to wage aggressive war, but the proof does not meet the extraordinary standard exacted by the mentioned precedents, including the judgment of the International Military Tribunal.

Count five charges the defendants with participation in a common plan or conspiracy to commit crimes against peace. In my view it has not been established beyond reasonable doubt that there existed a well-defined conspiracy on the part of these defendants to commit crimes against peace as here alleged. The proof rather shows individual action by the defendants who utilized the instrumentality of Farben in the performance of acts and actions in their individual spheres within Farben, but the character of the proof is such as to make it impossible to determine when, if ever, the defendants agreed on a common decision for concerted action to join an enterprise constituting crimes against peace, or when the defendants may be said to have joined such an alleged conspiracy. While there are broader concepts of the law of conspiracy that might be utilized to cover the action of certain of the defendants, we are met here with the fact that in this new field of international law the judgment of the International Military Tribunal dealt most conservatively with the concept of conspiracy in relation to the crimes against peace. While its view in this regard

has been subjected to some criticism, it would seem to be applicable to the facts proven in this case as to the existence of any separate Farben conspiracy to commit crimes against peace. In my view, the proof likewise does not establish participation in the common plan for the initiation of wars of aggression as defined and limited in the judgment of the International Military Tribunal. This concurring opinion will, therefore, disregard the allegations of count five except to the extent that such allegations are necessarily included as a part of the allegations in count one of the indictment.

Count one charges that the defendants, acting through the instrumentality of Farben, participated in the planning, preparation, initiation and waging of wars of aggression. Under the proof, the acts of these defendants could only fall in the sphere of preparation for and waging of aggressive war. The preparation for aggressive war with which these defendants are charged necessarily constituted part of Hitler's master planning for aggressive war. It has not been shown that any defendant was in any way a party to the decision for the initiation of any war of aggression. If any defendant is to be held criminally responsible it must, therefore, be because his acts constituted participation in the preparation or waging of aggressive war. It may be noted in passing that the term "aggressive war," as used in this concurring opinion, includes wars in violation of international treaties, agreements and assurances in accordance with the definition of Control Council Law No. 10; and, further, that the determination by the IMT that aggressive acts and aggressive wars were planned, and did occur, are binding on this Tribunal. (U. S. Military Government Ordinance No. 7, 18 October 1946, Article X.)

The record abundantly establishes a substantial participation by certain of the individual defendants who were members of the Vorstand of Farben, in the action of Farben in furthering the armament activities which constituted preparation for the aggressive wars launched by Hitler. The corporate defendant is not under indictment before this Tribunal. If a single individual had combined the knowledge attributable to the corporate entity and had engaged in the course of action under the same circumstances as that attributable to the corporate entity, it is extremely doubtful that a judgment of acquittal could properly be entered. Recognizing this central fact there is considerable logic in the argument that, as Farben did not run itself, someone should be held responsible for what Farben did.

Farben was not an enterprise dominated by a single influential leader. Its responsible managers were the members of its Vorstand. Farben was the instrumentality through which they acted in achieving a major part of the rearmament of Germany. Farben's contributions to the German war effort can hardly be overstated. After the advent and rise of Hitler and the consolidation of the National Socialist

power, a vast reorganization in the economic life of Germany took place. With the cooperation of industry, the economic structure rapidly moved into a program of autarchy which by 1936 began to be almost completely ruled by considerations of military economy. The world sat by in fear as Germany, in disregard of the Treaty of Versailles which Hitler repudiated publicly, amassed the greatest striking military power ever assembled by an aggressor nation during time of peace. I. G. Farbenindustrie, A. G., a great chemical combine, with tremendous resources, staffed with skilled scientists and technicians of superlative ability, during the period from 1933 to 1939, underwent an ominous transition from a giant institution serving the cause of peace to an even more powerful instrumentality to serve the rapidly developing cause of war. As will be shown in more detail, Farben was integrated in the governmental planning and preparation for war and became one of Hitler's greatest assets in the carrying out of his plan of aggressive war. The accomplishments of Farben were a substantial prerequisite for Hitler to proceed with his notorious policies of force and aggression.

The substantial acts of participation by Farben in the preparation of Nazi Germany for war cannot be successfully denied. All armament is preparedness for war, and Farben was preeminent in the program of armament. Rearmament, of itself, is not a crime and whether this preparation or planning was known to have been for aggressive war is the main issue. The proof establishes that, with initiative and great efficiency, Farben participated in the planning and preparation of Germany's armament program in the all important chemical sector and in related fields of indispensable raw materials. It furthermore engaged systematically in numerous activities showing sympathy with and furthering the objectives and ideology of the Nazi regime.

The aims of conquest and suppression of other nations which animated the Hitler regime have been established by the IMT judgment, as have been the inhumane and criminal policies carried out by that regime in many victimized countries during the war and the determination of the regime to perpetuate the domination and suppression of other nations after the war. Farben's substantial role in creating Germany's tremendous war potential was a decisive factor in making possible the tactical and policy decisions of aggression whereby Hitler plunged the world into war; Farben actively and substantially participated in reaping the fruits of aggression by illegal participation in the spoliation of occupied countries; and Farben, owing to its special position, exercised its own initiative in making as early as June 1940, concrete plans for the permanent economic exploitation of countries to be placed under Nazi domination after the anticipated victorious conclusion of the wars of aggression.

Farben knowingly participated in the secret armament program which was designed to achieve a degree of military might which would make Germany invincible. Farben largely created the broad raw material basis without which the policy makers could not have even seriously considered waging aggressive war. Farben developed, planned, and operated huge plant expansions, stand-by plants and facilities for the synthetic production of strategic and critical war materials, including such all important products as synthetic gasoline, oil, buna rubber, nitrogen and light metals, predominantly as part of the military economy and as definite preparation for the possibility or "case of war." All this was done in closest cooperation with the top governmental and military agencies immediately charged with carrying out the program of preparation for aggression as established by the judgment of the IMT.

Farben's importance to the German war effort is perhaps best summed up in a statement attributed to Funk, Minister of Economics and Plenipotentiary General for War Economy and Schacht's successor in office. Funk was convicted of crimes against peace by the IMT. The defendant Kuehne reported to the defendant Schmitz concerning a meeting held in October of 1941 in the presence of a number of military and government dignitaries [*NI-15027, Pros. Ex. 2064*]. According to Kuehne:

"At the conclusion of his long lengthy statement, regarding which I hope I will once more be able to report to you in person, Herr Funk said the following: He felt compelled yet to refer to the remarks made by Herr Pleiger* and by me. Naturally, coal, iron, guns and procurement of materials were necessary for waging war and the importance of the industries must not be underestimated. However, one thing he must establish, *without the German IG and its achievements, it would not have been possible to wage this war. You can imagine I was overjoyed and expressed to Herr Funk my thanks in the name of the whole IG.*"

The fact that the defendants knew that the program they were undertaking was part of Hitler's armament program, including many of its secret aspects, is too well established to admit of any controversy. The universal defense is advanced, however, that, as rearmament may be **for defensive purposes, or for other legitimate aims in harmony with international law, as well as for purposes of aggression, the actions of the defendants do not constitute crimes against peace as defined in Control Council Law No. 10 and in the London Charter.** Each defendant contends that, for lack of knowledge of Hitler's aggressive aims and intentions, he cannot be held responsible for his conduct because the *state of mind* required to accompany his action was not present.

*Reich Coal Commissioner and member of Vorstand of Hermann Goering Works.

The defendants affirmatively assert that they thought they were expanding the military might of Germany on this vast scale for defensive purposes; that they did not actually believe that Hitler would make war, though they feared it; that they thought Hitler was only "bluffing" and would find peaceful solutions for the territorial demands he so loudly proclaimed prior to the initial acts of aggression. They assert that they were misled by the contradictory nature of the Nazi propaganda.

We are thus brought to the central issue of the charges insofar as the aggressive war charges are concerned. Acts of substantial participation by certain defendants are established by overwhelming proof. The only real issue of fact is whether it was accompanied by the state of mind requisite in law to establish individual and personal guilt. Does the evidence in this case establish beyond reasonable doubt that the acts of the defendants in preparing Germany for war were done with knowledge of Hitler's aggressive aims and with the criminal purpose of furthering such aims.

In every criminal case the presence or absence of criminal knowledge or intent can only be established by weighing the sum total of the evidence: on this basis it may be found to have existed although the defendant denies it, or it may be found not to have existed although the defendant asserts it. Knowledge, hence, must be proven by direct evidence or by circumstances warranting the conclusion that the defendant was informed or had knowledge that the authorities with whom he was cooperating were planning aggressive war. It is fundamental that knowledge may be imputed from acts, from positions held, from opportunities and channels of information available to individuals. But the sum total of the evidence must be convincing to the trier of fact to warrant the conclusion that proof beyond reasonable doubt is present. Furthermore, the knowledge required in crimes against peace is analogous to specific intent and great care must be exercised before finding that it exists beyond reasonable doubt with respect to any defendant.

After these preliminary statements, it will be of value to review, in summary first, some of the more significant items in the evidence relied upon by the prosecution bearing upon the question of the state of mind, and later to review in more detail the comprehensive course of action in which the defendants, through the instrumentality of Farben, were engaged during the period under consideration.

The Criminal Intent or State of Mind

The extent of Farben's complete integration into a system of governmental planning and preparation for war, as will be later shown, and the extent of participation by certain defendants in formulating and executing policies on these matters with the Nazi regime, present a picture of coordinated and sustained activity. From this general

evidence alone, the prosecution contends, it could be properly concluded that the defendants, leading officials of Farben, were fully apprised of, and believed that Germany would ultimately wage aggressive war, if necessary, and that their activities were directed toward that end. However, in addition to a volume of evidence bearing upon the nature, scope, character and timing of Farben's activities, the evidence provides a number of particularly significant specific indications relied upon by the prosecution to show the state of mind of Farben's leadership. This specific evidence includes admissions, statements, letters, reports of conferences and other action which, taken together and joined with the general evidence, it is contended, should serve to dispel any reasonable doubt concerning the existence of a guilty state of mind or criminal intent.

The following matters are deemed worthy of note. They by no means constitute a complete review of the evidence on the subject of knowledge.

a. On 26 May 1936, after he had been appointed coordinator for raw materials and foreign exchange by Hitler, Goering held a top secret meeting with his advisory committee of experts. Defendant Schmitz attended as representative of Farben. It was a meeting at the highest level, composed of selected representatives of industry and of such top ranking officials as Keitel, Chief of Staff to the Minister of War; Under State Secretary Koerner of the Four Year Plan and Keppler, Hitler's economic advisor.

In opening the meeting, Goering emphasized the confidential and secret nature of the data to be discussed. He expressly declared that the figures about to be disclosed were to be treated as a state secret. He warned the participants that they were to see that notes did not fall into the wrong hands. A lengthy discussion of ways and means of improving the raw material situation ensued. It was frankly stated that the increased consumption of materials was due to the requirements of the Wehrmacht, including demands of the Navy. The importance of having an adequate supply of oil on hand for the case of war (A-Fall) was emphasized as was the necessity of developing synthetic production of oils. The report of the meeting states [NI-5380, Pros. Ex. 400]:

"Min. Pres. Goering: Emphasizes that in the A-case (A-Fall) we would not, under certain circumstances, get a drop of oil from abroad. With the thorough motorization of army and navy the whole problem of conducting a war depends on this. All preparations must be made for the A-case so that the supply of the wartime army is safeguarded."

The discussion moved to factories under construction and to the use of American processes. The report states:

"*Gen. Dir. Dr. Schmitz*: Agrees to this, method adopted after thorough discussion in order to utilize experience in enlarging factories."

"*Min. Pres. Goering*: Indicates serious import reductions in the A-case (A-Fall) through which price probably unimportant. Rubber is our weakest point."

The serious tone of the meeting further appears :

"*Min. Pres. Goering*: After everybody has been given this survey the gentlemen are asked to cooperate in the work of * * *

"The situation is not to be regarded as something fixed and unchangeable, but as a starting point for new measures to be taken, at the head of which is export. Proposals in all branches are expected from those present. Questions concerning domestic raw materials and substitute materials are emphasized again. *It is emphasized that at any moment we might be confronted with a situation of unparalleled seriousness, which we must be in position to deal with.*

"*Everything has to be regarded from these points of view. The speed of armament must under no circumstances be impaired, on the contrary, even the interests of the factories themselves should be relegated to the background. An appeal is made to the idealism of industry. If perhaps great risks have to be taken now, nevertheless there is reason to expect that they will also some day have correspondingly great results. The establishment of Germany's liberty to rearm comes before all else. The fate of the individual plant is immaterial just now. After overcoming the present difficulties, ways and means will also be found to save the individual plants from collapse. In conclusion, those present are asked if anybody still wished to make a statement.*" (Emphasis supplied)

The repeated reference to the case of war could hardly have failed to impress the hearers with the fact that the program under discussion was in deadly earnest, with war a distinct possibility. The report states further with reference to ores :

"*Min. Pres. Goering*: Agrees with this. The important thing is to make it possible to convert to domestic production and smelting in the event of 'Case-A' (Fall-A) * * **"

"*Min. Pres. Goering*: A program lasting several years is of no use for the Case 'A'. The fall in the currency of our ore suppliers has made the prices about 30 percent cheaper as against peace. What is necessary in connection with our ores is not to confine ourselves to small experiments but to pass over to large-scale operations, *otherwise we will not have any production reserves in the event of 'Case A' (A-Fall).*" (Emphasis supplied).

That Farben was being called upon to continue its participation in preparation of Germany for possible war under this program has been overwhelmingly proved. The defense rightly asserts that, at that time, Farben still devoted a large part of its activity to the normal peacetime production and that considerations of autarchy were also present in their raw materials planning. However, the demands of armament and military economy were even now being given a major emphasis. Farben, through Bosch, chairman of the Aufsichtsrat at that time, made the defendant Krauch available to Goering to assist in the performance of these tasks as outlined by Goering. The defense contends that this evidence covering this and other similar conferences and meetings is consistent with preparation for a possible defensive or legal war and that there was, in fact, no disclosure of any firm decision to launch or wage aggressive war.

b. On 17 December 1936, Goering delivered a speech on the execution of the Four Year Plan before a group of leading industrialists [NI-051, Pros. Ex. 42.] Goering had received and was in the course of executing Hitler's order that the German Army must be ready for combat in 4 years. Among those present there were no fewer than three top Farben leaders, Dr. Bosch, and the defendants Krauch and von Schnitzler. The importance of complete mobilization for armament in disregard of "the old laws of economics" was the theme. The necessity of becoming self-sufficient in food supplies and raw materials was stressed. A warlike tone persisted throughout the address. Among other things, Goering said:

"* * * *The struggle which we are approaching demands a colossal measure of productive ability. No end of the re-armament can be in sight.* The only deciding point in this case is: victory or destruction. If we win, then the economy will be sufficiently compensated. Profits cannot be considered here according to book-keepers' accounts, but only according to the necessities of policy. Calculations must not be made as to the cost. I demand that you do all to prove that part of the national wealth is entrusted to you. It is entirely immaterial whether in every case new investments can be written off. *We are now playing for the highest stake. What would pay better than the orders for re-armament?*" (Emphasis supplied).

In closing, Goering stated:

"* * * Our whole nation is at stake. We live in a time when the final dispute is in sight. We are already on the threshold of mobilization and are at war, only the guns are not yet being fired."

Krauch denies that he saw any indication of aggressive war in this speech. The prosecution, on the other hand, contends that this evidence indicates the intention of the regime, when its strength would

permit, to wage war if this should become necessary to achieve the policies of conquest and territorial aggrandizement being advocated by Hitler. A circumstance of no little importance in relation to this evidence is that, immediately after Goering's address, Hitler spoke, but his remarks on this occasion are not in evidence. The extent to which he may have revealed his ultimate aims to this group of industrialists on this occasion is thus not proven.

c. On 22 December 1936, 5 days later, the defendant von Schnitzler at a meeting of Farben's Enlarged Dyestuff Committee, made a "highly confidential" report [NI-4192, Pros. Ex. 423] concerning the statements made by the Fuehrer and Goering of the tasks of German economy in the execution of the Four Year Plan. The defendant ter Meer was present. The defense attempted to minimize the significance of this evidence, and argues that no significant disclosures were made by von Schnitzler to those in attendance. It is, however, indicative of the manner in which information relating to governmental policy was quickly disseminated within Farben, even below the level of Vorstand members.

In appraising the statements of Goering to outstanding German industrialists, the political events and governmental conduct as outlined by the IMT should be borne in mind. Military conscription had been in effect more than a year; over a year previously the Nazi government had openly repudiated the disarmament clauses of the Versailles Treaty; "on 7 March 1936, in defiance of that Treaty, the demilitarized zone of the Rhineland was entered by German troops." In the light of those events, these statements by Goering must have been considered more than bombastic utterances not to be taken seriously. Intelligent and well-informed industrialists, including the Farben representatives, must have considered the import of those words to be serious in view of the prevailing atmosphere in Germany, but it cannot be positively asserted the documentary evidence covering this meeting proves conclusively that plans for a war of an aggressive character were disclosed and discussed. Armament activities in such a political setting raise the highest suspicion of knowledge of the ultimate aim of aggressive war but under a most rigid standard of proof the benefit of doubt as to the inference to be drawn may be accorded to the defendants.

d. Emphasis on speed appears to have been ever-present. On 15 June 1937, the defendant Krauch was present at a conference in Goering's office. He heard Goering state: "The Four Year Plan will do its share to create a foundation upon which preparation for war may be accelerated."

In the course of discussion, mention was made of the undesirability of shipping iron "* * * to so-called enemy countries like England, France, Belgium, Russia and Czechoslovakia."

The naming of these five countries is significant. France and Russia had aid pacts with Czechoslovakia. The classical German invasion road into France is through Belgium, and England's help to France was to be assumed.

Important events occurred during 1938 bearing upon the state of mind of the defendants.

e. The IMT characterized the action against Austria by holding that Austria "was occupied pursuant to a common plan of aggression" and "* * * 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."* The march into Austria on 12 March 1938 meant that Farben was now openly apprised that threats of aggression were being translated into deeds. The evidence goes beyond this to show that certain defendants were under no illusion but that a "short thrust" into Czechoslovakia was a distinct possibility on the agenda of Nazi aggression. The day before the thrust into Austria, on 11 March 1938, Farben's Commercial Committee met with the defendants Schmitz, von Schnitzler, Haefliger, Ilgner and Mann in attendance. As was usual before Farben's committee in those days, the mobilization question (M-question) was discussed. The defendant Haefliger reported on this meeting as follows:

"First item on the agenda of the meeting of the Commercial Committee of 11 March of this year was the 'M-question.'

"Let us call to mind for a moment the atmosphere in which this meeting took place. Already at 0930 the first alarming messages had reached us. Dr. Fischer returned excited from a telephone conversation and reported that the Gasolin had received instruction to supply all gas stations (Benzinstellen) in Bavaria and in other parts of Southern Germany towards the Czech border. A quarter of an hour later there came a telephone call from Burg-hausen according to which quite a number of workers had already been called to arms and the mobilization in Bavaria was in full swing. *In the absence of official information, which was made known only in the evening, we were uncertain, whether simultaneously with the march into Austria which to us was already an established fact, there would not also take place the 'short thrust' into Czechoslovakia with all the international complications which would be kindled by it.* The first thing I did was to ask at once for a connection with Paris to cancel my trip to Cannes (Molybdenum negotiations). At the same time, I suggested to Mr. Meyer-Kuester, who was already in Paris and to whom I talked by telephone, to watch developments closely, and to depart too early

**Trial of the Major War Criminals*, volume I, page 194.

rather than too late. Furthermore, I requested him to induce Mr. Mayer-Wegelin, who also had already arrived in Paris to return the same evening.

“Under these circumstances of course the conference on M-matters took on highly significant features. We realized suddenly that—like a stroke of lightning from a clear sky—a matter which one had once treated more or less theoretically could become deadly serious, and furthermore, it became clear to us that the preparations which we had made up to now for the Grueneburg had to be considered rather defective after all. As I had up to now not sworn an oath on the M-matter, I heard only later, after I had sworn such an oath on 12 March in the Reich Economic Ministry, in greater detail about steps we had taken, which of course I cannot discuss here in detail.” (Emphasis supplied.)

The Haefliger report states that a certain building construction project in Frankfurt had to be revised recognizing:

“* * * That the location Frankfurt, of course, would be from the beginning in the utmost danger does not need to be emphasized here. All present were aware of the seriousness of the situation, and also of the fact that if the event happened Frankfurt could not be held in an organizational respect” [NI-5621, *Pros. Ex.* 893.]

Farben’s other acts during this period show that Farben not only considered that the “short thrust” into Czechoslovakia might possibly occur, but that Farben based significant preparations of its own upon this possibility. The proof establishes that Farben planned to participate in plant operations in Czechoslovakia in the event of its absorption after the pattern of Austria.

f. In April 1938, 5 months prior to the Munich Pact and immediately after the invasion of Austria, defendant Haefliger, during a visit to the aforementioned Keppler, one of Hitler’s close economic advisors, took occasion “to sound him on the attitude of German authorities as to exerting influence on enterprises in Sudeten-Czechoslovakia.” At that time, the Nazi-directed agitation over the Sudetenland was being heightened. Haefliger significantly notes:

“We also heard in Vienna from different sources that Czech enterprises are already beginning to dispose of some of their holdings in Sudeten-Czechoslovakia.” [NI-3981, *Pros. Ex.* 1072.]

The prospective victims saw the next move rather clearly. Farben was willing to participate in subjecting Czechoslovakian enterprises to Nazi pressure.

g. During the summer of 1938, when the world became increasingly fearful lest Germany would start war, Farben was extremely active in preparing its own program for the Sudetenland—a program predi-

cated on their assumption that this territory would soon be annexed. On 16 September 1938, there was a discussion at the Vorstand meeting concerning acquisition of plants in the Sudetenland. A letter from the office of Farben's Commercial Committee to all Vorstand members, dated 21 September 1938 [NI-10725, Pros. Ex. 1043], transmitted a preliminary statement [NI-10408, Pros. Ex. 1042] on the "Location of the Major Chemical Plants in Czechoslovakia." This report had been prepared by Farben's Political Economy Department and was furnished by Krueger of Farben to the Vorstand members because it related to discussions held at the meeting of the Vorstand of 16 September 1938.

h. That these plans had been laid for some time is further shown by the fact that as early as May 1938 Farben developed plans for the training of personnel for future use in Czechoslovakia. On 17 May 1938 a conference of Farben officials made plans for the Nazification of the Sudetenland in case of its possible "Anschluss" or of its becoming "autonomous" and for preparing "a gradual financial strengthening of the Sudeten-German newspapers by advertising." The minutes and a summarizing report of this conference were submitted to the Commercial Committee at a meeting in which the defendants Gattineau, Haefliger, Ilgner, Kugler, Schmitz, and von Schnitzler participated. [NI-6221, Pros. Ex. 833.]

i. On 23 September 1938, still before the Munich Pact, the defendant Kuehne wrote a letter to the defendants ter Meer and von Schnitzler acknowledging the "pleasant news" that the addressees (ter Meer and von Schnitzler) had succeeded in making the authorities appreciate the interest of Farben in the Aussig Plant, situated in the Sudetenland of Czechoslovakia, and noting that "you have already suggested commissars to the authorities." [NI-3721, Pros. Ex. 1044.] The Commissars were the defendants Wurster and Kugler.

j. On 29 September 1938, the defendant von Schnitzler addressed a memorandum to the defendants ter Meer, Kuehne, Ilgner, and Wurster. He referred to successful negotiations with Keppler with reference to the Sudetenland. Von Schnitzler states that "* * * all parties acknowledged that as soon as the German Sudetenland comes under German jurisdiction all the works situated in this zone and belonging to the Aussig-Union" must be managed by commissars for the account of whom it may concern. The Aussig-Union was an important Czechoslovakian enterprise. The reference is to conferences which had taken place in the preceding week. Von Schnitzler also refers to proposing Wurster and Kugler as Commissars. This exhibit makes it clear that certain defendants were contemplating a participation in the fruits of the absorption of Czechoslovakia.

k. On 11 October 1938, after the Sudetenland had been taken over, the defendant ter Meer, in a letter to the Reich Economics Ministry

concerning the location of Buna Plant No. 3, stated that the location should not be predominantly influenced by military considerations "now that immediate danger of war has been removed." He then refers to the possible location of Buna Plant No. 3 in Upper Silesia which "*could not be considered until now* because this area was considered as a troop concentration area against Czechoslovakia." [NI-4717, Pros. Ex. 563.] (Emphasis supplied.) That Farben was apprised of the possibility of the use of force thus is certain.

The defense has placed considerable emphasis upon the importance of attendance at one of these-called planning conferences referred to by the IMT, at which Hitler announced his intentions to a group of his closest collaborators. Raeder, who attended Hitler's conference on 5 November 1937, contended before the IMT that he did not believe Hitler actually meant war. The IMT dismissed this contention based upon its ultimate conclusion of fact:

"The Tribunal is satisfied that Lieutenant Colonel Hossbach'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." *

From the fact that Farben was making such detailed plans, even to the point of selection of the specific personnel to run the Czechoslovakian chemical factories, it might be inferred that the Farben representatives participating in such plans knew of Hitler's decision to wage aggressive war against Czechoslovakia if it would not yield to Nazi threats of force. However, such conclusion cannot be said to be clearly established by the proof. Moreover, the defense strenuously maintains that Farben was preparing for the possibility of a successful diplomatic coup to be achieved by Hitler under conditions falling short of aggressive war and that, as in the case of Austria, war did not in fact result from the Czechoslovakian crisis which ended in the Munich pact. According the benefit of a liberal construction of reasonable doubt to the defendants, it must be concluded that it is not proved that they, in fact, knew of Hitler's decision to wage aggressive war against Czechoslovakia as those present at the Hossbach Conference referred to by the IMT had been so specifically informed.

l. In June of 1938, defendant Krauch, who had been loaned by Farben for a key position in Goering's office, went to Koerner of the Four Year Plan and to Goering and warned them both that the production figures and planning of Colonel Loeb, who was then Krauch's superior in Goering's Four Year Plan organization, were based upon wrong data [NI-6768, Pros. Ex. 437]. To give such a warning may merely show Krauch's solicitude. But he further warned

**Ibid.*, page 192.

that it would be dangerous to plan for war on that basis. How impressed Goering was can be seen from the subsequent developments. An interrogation of Krauch, which is in evidence [NI-10386, *Pros. Ex. 402*], is as follows:

“Q. Didn't it become apparent to you first in 1935, when the Wehrmacht exhibited great interest in your buna, and later after you assumed your job with the Four Year Plan in 1936, to increase the chemical capacity of Germany, that the Nazi government was on the road to war?

“A. I had the feeling that they were going to war, as Dr. Bosch told me in June 1938, and that was when I went with the wrong figures of Loeb to Goering and said to him we can't go to war because the figures are all wrong. We will lose the war on this basis.

“Q. When the wrong figures which you submitted to Goering were corrected to the extent where they reached the level that Keitel earlier believed they were, then you must have believed that they were going to war?

“A. I must say today, yes.”

Krauch, however, in his testimony before the Tribunal strenuously denied any actual knowledge or belief of plans for the waging of an aggressive war.

m. Krauch's visit to Goering resulted in his views being accepted by Goering. Thereafter Krauch submitted to Goering his proposals concerning the authority that he (Krauch) should have to carry out his plans to expand facilities for production. On the basis of Krauch's recommendations he was eventually appointed General Plenipotentiary for Special Problems of Chemical Production. Field Marshal Keitel objected to Krauch's taking charge of expanding production of gunpowder and explosives, one ground being that the holder of the position would have accurate knowledge of Germany's military strength, as planned strength was a simple calculation from information such person would receive. This difficulty was smoothed out in conferences with representatives of the Wehrmacht following Krauch's assurances of industry's cooperation. Facility expansion for the entire field of gunpowder, explosives, intermediary and preliminary products was entrusted to Krauch. He drew up the "Military Economic New Production Plan" of 12 July 1938 [NI-8800, *Pros. Ex. 442*] and the subsequent Rush Plan of 13 August 1938 [NI-8797, *Pros. Ex. 449*]. He participated in their execution thereafter during the period of preparation and throughout the war. I cannot agree with the implications of the majority view that the position held by Krauch was relatively unimportant and at a low level. He was a top scientist of Farben. One who could challenge the correct-

ness of production achievements upon which Keitel relied and have his view sustained by Goering did not hold an unimportant position. The entire record of Krauch's activities leads me to the conclusion that the action of Farben in making him available to Goering was one of Farben's greatest contributions to the Nazi armament effort, to the mutual advantage of the Reich and Farben. One may participate in the preparation for aggressive war in collaboration with a Goering as well as with a Hitler. From Krauch's position and close association with Goering, it may be strongly suspected that he may have received much detailed information concerning the plans that were under way, but it cannot be said that Krauch's knowledge of positive decisions of the regime to wage aggressive war has been shown by convincing proof beyond reasonable doubt though the contrary inferences from the evidence are exceptionally strong.

n. Shortly after the acquisition of the Sudetenland, when the regime found it politic to make public utterances of peace, Krauch, on 14 October 1938, attended a conference in the Reich Air Ministry at which Goering addressed his collaborators in the armament program. The report states:

"General Field Marshal Goering opened the session by declaring that he intended to give directives about the work for the next months. Everybody knows from the press what the world situation looks like and therefore the Fuehrer has issued an order to him *to carry out a gigantic program compared to which previous achievements are insignificant*. There are difficulties in the way which he will overcome with utmost energy and ruthlessness.

"The amount of foreign exchange has completely dwindled *on account of the preparation for the Czech Enterprise* and this makes it necessary that it should be strongly increased immediately. Furthermore, the foreign credits have been greatly overdrawn and thus the strongest export activity—stronger than up to now—is in the foreground. For the next weeks an increased export was first priority in order to improve the foreign exchange situation. The Reich Ministry for Economy should make a plan raising the export activity by pushing aside the current difficulties which prevent export.

"These gains made through the export are to be used for *increased armament*. The armament should not be curtailed by the export activity. He received the order from the Fuehrer *to increase the armament to an abnormal extent, the air force having first priority. Within the shortest time the air force is to be increased five fold, also the navy should get armed more rapidly and the army should procure large amounts of offensive weapons at a faster rate, particularly heavy artillery pieces and heavy tanks. Along with this manufactured armaments must go; especially*

fuel, rubber, powder and explosives are moved to the foreground. It should be coupled with the accelerated construction of highways, canals, and particularly of the railroads.

“To this comes the Four Year Plan which is to be reorganized according to 2 points of view.

“In the Four Year Plan in first place *all the construction which are in the service of armament are to be promoted* and in second place all the installations are to be created which really spare foreign exchange.

* * * * *

“The Sudetenland has to be exploited with all the means. General Field Marshal Goering counts upon a complete industrial assimilation of Slovakia. Czech and Slovakia would become German dominions.” (Emphasis supplied.) [PS-1301, Pros. Ex. 401.]

Such unequivocal evidence of a vastly increased armament program tended to belie the public utterances of peace made by Hitler after Munich, but again it cannot be said that the extent of the armament here involved shows actual knowledge of plans for aggressive war.

o. While strong inferences unfavorable to the defendants may also be drawn from the voluminous evidence showing knowledge of the great intensification of the armament program during 1939, again, the standard of proof beyond reasonable doubt is not met. Out of this evidence two examples may be quoted. There is in evidence an official report covering an inspection trip by Army Ordnance in February of 1939 [NI-8790, Pros. Ex. 609], which was found among Krauch's office files and could not have escaped his attention at the time, for it deals with the goal of his own Rush Plan in relation to the requirements of the Wehrmacht. Those requirements are estimated in great detail, including gunpowder needs of the Army; gunpowder requirements for machine guns and other guns on the West Wall; requirements for the Armored Corps or Panzer Units; requirements for the fighter and bomber aircraft of the Luftwaffe, requirements for the Navy. The whole tone of this report is consistent only with continuance of the objective of preparation for the eventuality of Hitler's policies leading to war. The report indicates that the requirements were for twenty to thirty corps of fighting troops, or an army of between 1,200,000 and 1,800,000 men.

On 31 January 1939 a report was submitted to Goering from the High Command of the Army with copies to defendants Krauch and Schneider, outlining the necessity of “*obtaining of an immediate decision by the highest authority to give the mineral oil expansion top priority in the rearmament program as regards materials and financing.*” [NI-7471, Pros. Ex. 538.]

The mineral oil expansion plan referred to had also been drawn up by Krauch and provided for expansion in the total increase of mineral oil from 2,800,000 tons per year to 11,300,000 tons per year.

p. Unrestricted collaboration between Farben and the Reich in the most detailed matters has been shown, and there are many instances supporting inferences unfavorable to the defense. For instance, a letter of May 1939, from Farben's Vermittlungsstelle W to the Military Economic Staff, gives information concerning the location and production capacity of English stand-by plants for the production of nitrogen. The accompanying report gives the production capacity of the English plants and the letter significantly states that they should "if the above estimate of capacity is correct, probably be able to cover the entire requirements of primary nitrogen of the British plants for the production of highly concentrated nitric acid, *even should the Billingham Plant be put out of action.*" (Emphasis supplied.)

This was in May of 1939, after the invasion of Bohemia and Moravia and during sped-up preparation preceding the invasion of Poland. A copy of the letter went to the defendant Krauch.

q. The defendant von Schnitzler's pretrial affidavits and interrogations, contain some of the most damaging evidence on the subject of state of mind of the defendants.

Under a ruling of the Tribunal, in which the undersigned did not concur, the effect of von Schnitzler's pretrial statements is limited to von Schnitzler himself as he did not take the stand to testify. Von Schnitzler said:

"Q. When was the order putting the plans into action issued?

"A. All the German industries were mobilized in summer 1939, and in summer 1939 the Wirtschaftsgruppe Chemie issued an order that the plans for war were in action. In June or July 1939 IG and all heavy industries all well knew that Hitler had decided to invade Poland if Poland would not accept his demand. Of this we were absolutely certain and in June or July 1939 German industry was completely mobilized for the invasion of Poland."

The defendant von Schnitzler has also testified in an early affidavit that in about July 1939 the competent Reich authorities had directed that the Ludwigshafen/Oppau Plant would have to be closed down because of its proximity to the French border. This direction by Dr. Ungewitter, of the Economic Group Chemical Industry, by itself was ample indication of the imminence of war in July of 1939. Among the defenses is the contention that aggression from the East was feared, yet here is evidence of directions issued in July of 1939 (following Hitler's decision on specific plans against Poland) to move an important part of production from the west danger zone. The prosecution argues, not without reason, that plans for a "defensive war" stressed by the defendants must have contemplated the situation

which would result if western nations should take the field to stop Hitler's aggression. Von Schnitzler further stated in one of his early affidavits that Ungewitter had actually informed him of Hitler's determination to attack Poland. However, in a later affidavit, von Schnitzler (who was subjected to unmerciful pressure to the point of ostracism by his colleagues following his earlier statements) said:

"* * * I am now doubtful if Dr. Ungewitter actually said that Hitler was determined to attack Poland. He could not have known this then. However, since he was the link between the government and the chemical industry, I knew he was speaking on behalf of the Four Year Plan concerning the closing down of Ludwigshafen/Oppau Plant, and I was very impressed by the manner in which he spoke. When he additionally expressed himself to the effect that the international situation was grave and that it was quite possible there could be a war with Poland, which would involve France and England, I probably read into his statement that he said Hitler was determined to attack Poland." [NI-5196, *Pros. Ex. 40.*]

One may surmise that much knowledge was acquired by persons in the positions of these defendants without their being specifically told. Certainly the defendant von Schnitzler, if his statements are to be believed, in July 1939 thought that Hitler would possibly attack Poland. His attempted explanation is based upon his expectation that a threat of force would be effective against Poland as it had been against Austria and Czechoslovakia. According to von Schnitzler's own words:

"* * * Moreover, I thought Hitler's foreign policy of bluff backed by the strong fist would probably cause Poland to give in to his demands. However, I was a very worried man, particularly after the invasion of Prague [March 1939], since I felt that England, France and America were bound to take a stiffer attitude to Hitler's words and actions, and that ultimately Hitler's policy would bring Europe to war and ruin." [NI-5106, *Pros. Ex. 40.*] (Date added for identification.)

Concerning the manner in which mobilization was carried out in the summer of 1939, von Schnitzler has stated:

"Since the peaceful invasion into Austria the whole German country practically was on the verge of mobilization.

"This state of things became even more accentuated, when Hitler had entered into Prague and preparations for a campaign against Poland were started. Since July 1939 many of our employees and particularly the officers of the reserve of the so-called new army, were called to their regiments and lined up on the Polish frontier.

“Simultaneously the industry was mobilized. Mobilization plans, what in the case of war was allowed or ordered to be produced, had a long time ago been prepared.

“These plans—which beginning with 1934, had been made up by individual firms in close team-work with Wirtschaftsgruppe Chemie and the competent ministries—became effective in such a way that Wigru returned them to the individual firm with his [its] approval stamped on them.” [NI-5106, Pros. Ex. 40.]

In a subsequent statement he supplements this merely as follows:

“* * * The mobilization (in the German ‘Mobilmachung’) had been prepared, both personnel and war materials being mobilized in a certain sense, but the order placing the mobilization plans in final effect was not given until war broke out, *as I have been informed* since 1945 * * *” (Emphasis supplied)

The affidavit of the witness Ehrmann states:

“The main topic in the conversation of the responsible persons of the Economic Group Chemistry used to be, in the course of the summer 1939, the tension in the international situation * * *

“I remember that during these conferences several meetings took place between Dr. Ungewitter and Herr von Schnitzler. In connection with the discussions about the imminent war, Dr. Ungewitter also made the remark that the war with Poland will most probably not begin before the harvest has been collected i. e. not till September 1939.” [NI-4954, Pros. Ex. 500.]

At another point von Schnitzler stated:

“Even without being directly informed that the government intended to wage war, it was impossible for officials of IG or any other industrialists to believe that the enormous production of armaments and preparation for war—starting from the coming into power of Hitler accelerated in 1936 and reaching unbelievable proportions in 1938—could have any other meaning but that Hitler and the Nazi government intended to wage war come what may. In view of the enormous concentration on military production and of the intensive military preparation, no person of IG or any other industrial leader could believe that this was being done for defensive purposes. We of IG were well aware of this fact as were all German industrialists, and on a commercial side, shortly after the Anschluss in 1938, IG took measures to protect its foreign assets in France and the British Empire.” [NI-5196, Pros. Ex. 40.]

The majority opinion concludes that von Schnitzler’s affidavits are not entitled to great weight because he was mentally upset and after numerous interrogations, in the view of the majority, was saying what his interrogators obviously wanted to hear. The case was tried on the

theory that von Schnitzler's affidavits would be evidence only against him if he should refuse to testify in his own behalf. The ruling of the Tribunal in this regard was tantamount to an open invitation to him to exercise his privilege of not testifying in the interest of his co-defendants. Its result was to deprive the Tribunal of the opportunity through the examination of von Schnitzler in open court to determine his credibility and to judge more intelligently what weight should be attached to these pretrial statements. I disagree with this erroneous procedural ruling of the Tribunal and have previously expressed my dissent therefrom based on the provisions of Military Government Ordinance No. 7. But the ruling was made early in the presentation of the evidence for the defense, and the defendants, relying on the ruling, may possibly have been led into not presenting additional counterevidence. Justice requires, therefore, that the ruling be respected for the purposes of final judgment, as the strategy of the case was fashioned on that theory. There remains the question of the weight to be attached to von Schnitzler's statements as evidence against von Schnitzler himself. Being deprived of the benefit of any examination of this defendant in open court and faced with his attempts at correction and retraction, I conclude that the incriminating statements made by von Schnitzler should not be accorded weight sufficient for a conviction in his case. I reach this conclusion not without misgivings. In all pretrial interrogations von Schnitzler apparently talked so willingly, and his statements, obviously not under duress, were so complete as to raise question as to the extent to which he would retract or repudiate them upon final exhaustive examination by counsel before the Tribunal. But in the present state of the record, I do not feel warranted in expressing dissent as to the acquittal of von Schnitzler on the basis of his affidavits and interrogations.

r. Following the invasion of the remainder of Czechoslovakia in March 1939, Hitler's premeditated policy of aggression had become a proven reality. The defendant *ter Meer* has stated :

"The first time I really had the feeling that our foreign policy was in no way in order was when German military forces were used to occupy Czechoslovakia in March 1939. This shocked me deeply, the more so as the question of the Sudetenland had been solved at Munich. I felt the NSDAP had now started Germany on a very dangerous road. I felt this was a breach of an international agreement, the Munich Pact, and an aggressive act against a country in whose affairs we had no right to interfere. This shocked me, especially since the story brought out in the German newspapers concerning the visit of the Czechoslovak President Hacha with Hitler did not look altogether natural to me." [*Ter Meer 2, Ter Meer Def. Ex. 9.*]

Ter Meer has further stated :

“I considered at that time the foreign policy of the Nazis from this time on to be gambling and a clear course of criminal speculation * * *” [*Ibid.*]

But ter Meer maintains that he was nevertheless relieved at information coming to him from other sources that Hitler would not go to war and would accept a reasonable solution of the Polish Corridor question. When considered in the light of the sum total of the evidence, it seems clear that ter Meer believed Hitler would be able to dictate a solution without the necessity of fighting for it. But Farben did not slacken its activities in preparing the military might which would make such aggression possible. The defendants cast their lots with Hitler no doubt fearing that the continuation of Hitler's policies of conquest again manifested in the seizure of Bohemia and Moravia might eventually lead to war. There was no unwillingness to gamble on the outcome though the probability of war was becoming clearer with each aggressive act.

s. Krauch has given indication of his state of mind. In a report of the General Council of the Four Year Plan, dated 28 April 1939, Krauch concluded :

“When on 30 June 1938 the objectives or the increased production in the spheres of work discussed here were given by the Field Marshal [Goering], it seemed as if the political leadership could determine independently the timing and extent of the political revolution in Europe and could avoid a rupture with a group of powers under the leadership of Great Britain. Since March of this year there is no longer any doubt that this hypothesis does not exist any more * * *

“It is essential for Germany to strengthen its own war potential as well as that of its allies to such an extent that the coalition is equal to the efforts of practically the rest of the world. *This can be achieved only by new, strong and combined efforts by all of the allies, and by expanding and improving the greater economic domain corresponding to the improved raw material basis of the coalition, peaceably at first, to the Balkans and Spain.*

“*If action does not follow upon these thoughts with the greatest possible speed, all sacrifices of blood in the next war will not spare us the bitter end which already once before we have brought upon ourselves owing to lack of foresight and fixed purposes.*” [EC-282, Pros. Ex. 455.]

By 1939 Hitler's aggression and Hitler's obvious preparations for further aggression, which Krauch calls “political revolution,” had lead to an increasing realization by various countries of the imminent

danger in which they were, and at last to a growing movement to stop the aggressor. Krauch, in keeping with the Hitler propaganda line, referred to this as Germany's being encircled. Such distortion of the historical truth cannot be accepted but the cited evidence does not clearly establish a positive knowledge of plans to wage aggressive war.

Krauch testified that in the summer of 1939, following the invasion of Bohemia and Moravia, he was invited to visit Goering on the Island of Sylt.¹ He states that he told Goering that he was under the impression that the Munich Pact was not being kept since Germany had invaded Czechoslovakia and that from foreign sources Krauch had gained the impression that foreign countries would not countenance any "further political entanglements" and that "they would make war on us." Krauch further stated that the motto "stop the aggressor" could be seen in all the newspapers. Krauch told Goering that if Germany had a war with Poland and Russia, France and England would fight on the side of those countries. Krauch testified that Goering said, "you don't have to worry about a war; there won't be any war." This testimony is further revealing in that it indicates the defense's conception of a "defensive war." What is referred to as defensive war, are "the political entanglements" which would result from further German acts of aggression; but it is not positively shown that it was known that such additional acts of aggression would be pushed to the point of aggressive war if resistance were encountered.

t. Of no little significance is the fact, as the evidence conclusively shows, that Farben in the summer of 1939, took careful steps on its own initiative to cloak its assets abroad in anticipation of war.² It also prepared a list of the most important chemical plants in Poland.³ It is possible, as the defense argues, that the cloaking of assets abroad was a business precaution not based upon definite knowledge that the decision had been made to wage aggressive war. It is also possible that the listing of the chemical plants in Poland was without such specific knowledge of plans for aggressive war. The doubt on these matters, despite the inferences of knowledge of further possible acts of aggression which the evidence, is resolved in favor of the defendants.

u. A credible witness, Hans Wagner, employed in Farben's Military Liaison Office (Vermittlungsstelle W) summarizes the knowledge which he, a subordinate employee, had, as follows:

"Owing to these preparations I was in no doubt in the middle of 1939 that Germany would wage an aggressive war. I believe I

¹ Mimeographed transcript, pages 5141 and 5142. See also extracts from Krauch's testimony, reproduced earlier in subsection VII G 7a, volume VII, this series.

² See Document NI-2796, Prosecution Exhibit 1020, "Protection of IG assets abroad." and Document NI-6121, Prosecution Exhibit 1026, "Camouflage of German private assets abroad."

³ Extracts from the VOWI Report No. 3609, "The Most Important Chemical Firms in Poland," are contained in Documents NI-9151, NI-9154, NI-9155, Prosecution Exhibits 1135, 1136, 1137.

can say that all my colleagues at the Vermittlungsstelle W were of the same opinion. Several facts caused me to reach this conclusion :

"The fact that several of my acquaintances were suddenly inducted ; the fact that other acquaintances were not discharged after the usual period of service, but remained with their units, putting into operation the mobilization plans of the individual plants, especially, as already mentioned before, of Ludwigshafen, the commencement of operation of the stabilizer plant in Wolfen at the end of 1938/begining of 1939 ; increase in the production of diglycol which was being used for explosives, the interest which was being shown by the Wehrmacht in direct mustard gas (Direkt-Lost), to be produced in Gendorf.

"Judging by the over-all political situation, I could not assume that war would be declared on us by other countries in the year 1939. I received that impression through occasional discussions with officers, and officials of the German Wehrmacht on the subject of patent and license questions ; I was given various intimations on the armaments situation in non-German countries. This always occurred when we had an opportunity of discussing the possibility of German patents being released for publication. One could conclude from this that no special preparations for war were being made in foreign countries.

"Furthermore, in the Vermittlungsstelle W, I was able to read foreign newspapers which were banned in Germany, and which were made available to the Counterintelligence Officer of the Vermittlungsstelle W, Dr. Diekmann, by the Gestapo and the Security Service of the SS, and which had to be returned to them. From these newspapers I gathered that foreign countries did not consider waging war at that time.

"Through my acquaintanceship with various officers of the Wehrmacht, which was not based on personal friendship, but rather on purely professional collaboration, I learned about troop movements to the East and the West before the outbreak of war. I also considered this an indication for aggressive war, as well as the experiments and development work of the IG with the Wehrmacht." [NI-8925, Pros. Ex. 247.]

In his testimony before the Tribunal Wagner explained the existence of the circumstances causing him to reach that conclusion :

"I would like to give you some more detailed information as to what led me to this assumption. Because of my activities in the Vermittlungsstelle W in the field of development work, which was carried on by the Wehrmacht in collaboration with the IG, and also in connection with my work on patent questions, I had repeated occasion to discuss matters with officials and officers of the Wehr-

macht. These discussions generally took place in the offices of the Wehrmacht, not in my offices. It frequently happened that in addition to the actual subject of the discussion other matters were talked about which did not directly belong to my professional activities. This was done confidentially. Very often I could not avoid being a witness in the conversations carried on by numbers of officers or that I was present during telephone conversations, which these gentlemen carried on on these occasions. In the course of a number of weeks I learned that certain troop movements were going on, but I could not clearly learn their exact plan. I could not learn what their exact aim was. Furthermore, I learned about more of these troop movements on the basis of certain development work which was carried on by the Wehrmacht in collaboration with IG. Certain tests were to be carried out with IG products, but they had to be postponed because the formations which were necessary for the carrying out of these tests had changed their home station for unexplained reasons.

“Beyond that, I also recall that tests of smoke buoys for the Navy had to be postponed because of the fact that the units were transferred. I think it is necessary for me to add that to my affidavit.” [*Tr. p. 572.*]

No substantial qualification was made on cross-examination. From testimony of this character, there is the strong suspicion that the sources of confidential knowledge and information available to and relied upon by persons holding the elevated positions of Vorstand members gave them at the very least the same amount of knowledge as could be acquired by the witness Wagner. Farben—and that means in the first place the members of the Farben Vorstand—had at their disposal their own far-flung intelligence system, employed for and capable of judging the course of events in many sections of the globe; it is difficult to believe that such smoothly operating intelligence work could have failed to detect the meaning of events within Germany in the summer of 1939.

However, the proof does not positively establish that members of the Vorstand of Farben actually knew that aggressive war would be waged, though its possibility must have been a constant consideration with them.

The prosecution has never advanced the contention in this case that there existed common knowledge throughout Germany of Hitler's plans for the waging of aggressive war. On the contrary, the prosecution has explicitly denied any such contention relying rather upon allegations to the effect that these defendants, by virtue of their positions within Farben and by virtue of the special knowledge which they possessed arising out of the tasks with which they were charged,

were in a far better position than the ordinary German citizen to appraise and determine the significance of the course of action in which they were engaged. Political events which were matters of common knowledge in Germany, including the promulgation of the program of the Nazi Party, and successive aggressive acts, were relied upon, not for the purpose of showing that this evidence of itself established the necessary criminal intent, but rather as the basis for proper evaluation of the significance of the special knowledge which the defendants are alleged to have had. Affidavits, statements, and testimony from several defendants refute the assertions developed at length in the judgment of the Tribunal indicating that these defendants seriously believed in the public protestations made by Hitler expressing a love for peace. The defendants became increasingly skeptical concerning Hitler's ultimate aims. The evidence rather strongly indicates that all defendants feared the possibility of war, and important action of the corporate instrumentality, Farben, was based upon the possibility of war. The nonaggression pacts, emphasized in the Tribunal's judgment, constitute separate moves in the establishment of the European Axis, and rather than being indicative of an intention to maintain peace, intensified the prospect of war, and must have been so considered by the defendants. For example, the nonaggression pact of 23 August 1939 between Germany and Russia was widely accepted as increasing the possibility for further aggression leading to aggressive war. The position of these defendants in regard to political events in Germany prior to the invasion of Poland is in no sense the same as that of the average citizen of Germany, professional man, farmer, or industrialist, as referred to in the judgment of the Tribunal. But the evidence is sufficiently close that, despite the positions of the defendants which meant they were more able to appraise the true meaning of the events, the doubt is to be resolved in their favor.

II

The foregoing résumé of certain specific items of evidence bearing upon knowledge and criminal intent, selected from the vast amount of evidence presented to the Tribunal by the prosecution, by no means does justice to the voluminous record. It is important to review in more detail a variety of the activities of Farben showing its participation in and identity with the rearmament and war preparation of the Nazi regime. The indictment alleges that the individuals acted through the instrumentality of Farben in committing the crimes as alleged. The development and corporate characteristics of Farben as disclosed by the record are presented as the bases of better appraising the positions of the defendants within Farben.

Origin and Development of Farben

The history of Farben is virtually the developmental record of the chemical industry in Europe. In 1904, the first move toward combination of several German enterprises occurred with the formation of two "Interessen-Gemeinschaften" (communities of interests), one including Bayer, Aktiengesellschaft fuer Anilinfabrikation and Badische Anilin-und Sodafabrik, the other Casella and Meister, Lucius & Bruning.

On 9 December 1925, Badische changed its name to the present designation of "Interessen-Gemeinschaft Farbenindustrie Aktiengesellschaft," and, with five other leading chemical firms of Germany, merged into a new corporation (Farben) under that title. In September 1926, the consolidation emerged with a combined capital structure of 1.1 billion reichsmarks, more than three times the aggregate capital of all other chemical concerns of any consequence in Germany, and assumed a position of undisputed predominance in the field of German chemistry.

From these beginnings, Farben steadily expanded its plants, the scope of its production, and its economic influence. By 1940, it owned or held participating interests in more than four hundred firms in Germany and about five hundred abroad (of which forty-eight were located in the United States), and it controlled a great number of patents (twenty-eight thousand foreign registrations) in all important spheres of chemical production throughout the world.

At the peak of its activities, Farben and its subsidiaries, including Dynamit A. G., showed an annual turnover of four billion marks. Concerning the internal corporate structure and functioning of Farben, the following should be noted:

The Aktiengesellschaft—"A. G." similar to an American Stock Corporation—has two governing bodies, one charged with general supervision, the other with actual management. One is called the "Aufsichtsrat" (often translated as "Supervisory Board of Directors"), the other the "Vorstand" (often translated as "Managing Board of Directors"). Taken together, the two boards exercise the ordinary functions of a Board of Directors.

"*Interessen-Gemeinschaft*" (IG) means, in literal translation, a "community of interests," usually crystallized in a formal agreement between two or more business firms, providing for mutual adherence to its provisions governing such matters as pooling and sharing of profits, division of markets, control of prices, coordination of production and distribution, research, patent practices, et cetera, et cetera. An outstanding example was the combine, between 1916 and 1925, of eight major German chemical firms, often referred to as the "old IG," which eventuated in the formal merger of I. G. Farben A. G. on 9 December 1925.

Farben's Managerial Organization and Delegations

The Aufsichtsrat: The period of Farben's corporate existence with which this inquiry is concerned was characterized by (a) a decrease in the numerical composition of its governing boards, and (b) an increase in the number and variety of subordinate groups within those bodies, to which great measures of discretionary authority and executive duties were delegated.

All or a great number of the leading personalities of its predecessor firms were placed on one or the other of the boards, as a result whereof the first Aufsichtsrat comprised fifty-five members and the Vorstand eighty-two. As these bodies were too cumbersome for effective supervision and management of the new corporation, smaller select groups were constituted from each board to perform most of the duties with which each was charged.

The Vorstand

Original Vorstand Working Committee (Arbeitsausschuss). The Vorstand in 1926 comprised over eighty members. From its membership a "Working Committee" of twenty-six was selected, pursuant to the bylaws, to undertake the actual management of the corporation, and continued to function as its responsible management until 7 April 1938, when it was abolished in conformity with the statutory reform of 1937, which did not sanction such delegation of authority and function by the Vorstand.

The following defendants were members of the Working Committee, to wit: Krauch (1929-38); Schmitz (1926-38); von Schnitzler (1926-38); Gajewski (1929-38); Hoerlein (1931-38); von Knieriem (1931-38); ter Meer (1926-38); Schneider (1937-38); Buete fish (1933-38); Ilgner (1933-38); Kuehne (1926-38); Mann (1931-38); Oster (1929-38); Wurster (1938); Gattineau (1932-35).

The Reorganized Vorstand (1938). With the passing of the Working Committee, the position of deputy Vorstand member was abolished; the numerical composition of the Vorstand was reduced to less than thirty, and membership restricted to persons actively participating in the management and direction of Farben. The roster of the new Vorstand was made up largely of the old Working Committee, the fifteen defendants listed above, except Gattineau, and five other defendants, to wit: Ambros, Buergin, Haefliger, Jaehne and Lautenschlaeger, all of whom served until 1945. Schmitz was chairman from 1926 to 1945.

Vorstand Duties and Responsibilities. The revised articles of incorporation adopted by Farben in 1938 provided (Art. III, par. 11 (1)) that the Vorstand "shall conduct on its own responsibility the business of the Corporation in such manner as the welfare of the enterprise and of its employees as well as the general utility of the

people and of the nation demand it". Defendant Krauch summarized the managerial structure of Farben as follows:

"After 1937, the Aufsichtsrat played no part in the management of IG affairs. I know of no one instance in which the Aufsichtsrat disapproved of or disputed Vorstand activities. The Vorstand was in complete command of and entirely responsible for all IG business."

From the above, it appears that the Vorstand of Farben possessed plenary powers in its corporate management.

The mechanics of operating some four hundred business enterprises within Germany and five hundred foreign adjuncts required decentralization of the Vorstand functions. This was accomplished by the creation of a pyramid of Committees, Works Combines, "Sparten," Commissions and Conferences with the "Central Committee" at the apex. The latter occupied a position comparable to the executive committee of an American corporation.

Special Assignments of Vorstand Members. In addition to the over-all responsibility imposed upon all members of the Vorstand by German law, Farben's charter, and the Vorstand bylaws, each member in practice was assigned a specific field of major activity in which he was charged with special responsibilities on behalf of the entire body. These assignments, generally speaking, fell in either the "Technical" or "commercial" categories and qualified the member as a "leader" in his field. A brief summary of these specialized activities will aid in tracing the personal activities of each defendant in relation to the respective charges.

The "Central (Executive) Committee," from 1930 to 1935 was the active wheel within a wheel of the "Working Committee" in the Vorstand. With the death of Carl Duisberg in 1935, defendant Schmitz succeeded to the dual capacity of chairman of the Vorstand and the Central Committee. Thenceforth, the Central Committee dealt principally with personnel, particularly selection of "Prokuristen" and higher officials (persons possessing general power of attorney, a practice quite general in German business administration). This committee survived the abolition of the Working Committee in early 1938, until the collapse in 1945. The following defendants were members during the time indicated, to wit: Krauch (1933-40); Schmitz (1930-45); von Schnitzler (1930-45); Gajewski (1933-45); Hoerlein (1933-45); von Knieriem (1938-45); ter Meer (1933-45); Schneider (1938-45).

Technical Committee (TEA) and Subordinates. The principal delegations of authority and original responsibility reposed in the Technical Committee. As the name implies, it was comprised of the technical members of the Vorstand and other important technical

personnel (scientists, engineers, plant managers) who were not Vorstand members. Formed immediately after the 1926 merger, it dealt until 1945 with all technical questions of research and production, expansion of plant facilities and consolidation and recommendation of credit requests. It had a centralized administrative office, the TEA-Buero in Berlin, managed by one Dr. Ernst Struss. Twelve of the defendants were regular members during the period indicated, to wit: Krauch (1929-40); Gajewski (1929-45); Hoerlein (1931-45); ter Meer (1925-45); Schneider (1938-45); Ambros (1938-45); Buergin (1938-45); Buetefisch (1938-45); Jaehne (1938-45); Kuehne (1925-45); Lautenschlaeger (1938-45); Wurster (1938-45); and, the following defendants were frequent visitors or guests during the year indicated; to wit: Schmitz (1925-45); von Schnitzler (1929-45); von Knieriem (1931-45); Schneider (1929-38); Buergin (1937-38); Buetefisch (1932-38); Jaehne (1926-38). Defendant ter Meer was chairman from 1933 to 1945.

This TEA had subservient committees to originate, consider, and recommend plans for production and exchange of information on research, development and application, plus opinions on appropriations for new construction. These subcommittees numbered thirty-six in chemistry, five in engineering, the latter grouped under a "Technical Commission (TEKO)," with defendant Jaehne as chairman, 1932-45.

Commercial Committee (KA). As distinguished from the "Technical," the counterbalance of managerial power was represented by the "Commercial Committee" of the Vorstand.

The Commercial Committee was formed shortly after the 1926 merger to assist the Vorstand in directing and coordinating the commercial affairs of Farben, that is, sales, publicity, commercial personnel, both domestic and foreign, economic problems affecting Farben interests, et cetera. It gradually lapsed into inactivity by 1933, but was reconstituted in August 1937 under the leadership of defendant von Schnitzler, and thereafter until 1945 was a very active and important group in the Vorstand. Besides von Schnitzler, defendants Haefliger, Ilgner, Mann and Oster served from 1937, and defendant Kugler from 1940 until the collapse of Germany. The full membership numbered about twenty, comprising the heads of the Sales Combines and their immediate associates and the heads of the "central departments," financial, accounting, purchasing, economic-political. Defendant Schmitz was a regular guest and defendants Gajewski, von Knieriem and ter Meer occasional guests at meetings of this committee. Approval by the Vorstand was required for all KA resolutions.

"Mixed Committees." Coordination between the technical and commercial chiefs of Farben was established initially at the Vorstand level, where the preeminent leaders met to hear and discuss reports of the individual members on matters where they had special responsi-

bilities, and to pass upon general policy. However, preliminary screening of such matters was frequently accomplished by so-called "Mixed" Committees, the principal ones being the Chemicals Committee (chief, von Schnitzler after 1943), Dyestuffs Committee (chief, von Schnitzler) and Pharmaceuticals Main Conference (chief, Hoerlein). Each of these committees included important technical and commercial leaders. The committee chiefs reported directly to the Vorstand.

Farben's Industrial Chain of Command. The implementation of policies and plans formulated by the instrumentalities outlined above was accomplished by a system of "decentralized centralization" of production and distribution. After the consolidation, groups of plants were organized primarily according to geographical location in "Works Combines."

"Works Combines." The four original combines were called Upper Rhine, Main Valley, Lower Rhine, and Central Germany. In 1929, a fifth, called "Works Combine Berlin" was established, although its plants were widely scattered. The plants [Works] Combines coordinated such matters as over-all administration, research, transportation, storage, et cetera, in their respective areas, including major technical problems affecting their plants until 1929. Defendants who were in charge of these Combines were: Upper Rhine, Krauch (1938-40); Wurster (1940-45); Main Valley, Lautenschlaeger (1938-45); Jaehne, Deputy, same period; Lower Rhine, Kuehne (1933-45); Central Germany, Buergin (1938-45); Berlin, Gajewski (1929-45).

The "Sparten" (Main Groups). In 1929 three main directional groups, each known as a Sparte, were established in the interests of efficiency in research and production and improved coordination of the individual plants. Jurisdiction was determined by products rather than by plants or geographical location, hence some plants producing several products came under the supervision and direction of more than one Sparte.

Sparte I included nitrogen, synthetic fuels and lubricants, and coal. Krauch was its chief from 1929 until 1938; thereafter, Schneider was chief and Buetefish, deputy chief. Sparte II included dyestuffs and intermediate dyestuffs products; various chemicals, pharmaceuticals, buna; light metals, chemical warfare agents. Defendant ter Meer headed Sparte II from 1929 until 1945. The smallest, Sparte III, included photographic materials, synthetic fibres, cellulose products, explosives, cellophane, and ozalid. Gajewski was chief from 1929 to 1945.

The Plants. Under the complicated organizational superstructure outlined above, the ultimate development, manufacture, and distribution of Farben's many and diversified products were accomplished at the "Plant" levels. Each major plant was usually under the per-

sonal direction of a Vorstand member, with his main office in the plant. In some cases one member had direct supervision of more than one plant; in others a division of management prevailed according to production.

The following defendants were responsible for the direction, as plant leaders, of the plants listed in connection with the manufacture of the products indicated:

Gajewski was plant leader of Wolfen Film Plant and manager of "AGFA" Plants located at Wolfen Filmfabrik, Berlin-Lichtenberg, Premnitz, Landsberg, Munich-Camerawerk, Bobingen, Rottweil, 1931-45, which produced photographic materials, artificial silk, synthetic fibers, cellulose wool, cellulose, all kinds of cellulose products and ozalid.

Hoerlein was plant leader of the Elberfeld Plant, 1933-41 and manager of the Elberfeld Plant, 1931-41, which produced pharmaceuticals, organic intermediates, insecticides, biologicals, and research in pharmaceutical and chemicals for plant protection and pest destruction.

Schneider was plant leader of Ammoniakwerk, Merseburg (Leuna), 1936-38; full manager of Ammoniakwerk, Merseburg (Leuna), 1938-45; deputy manager, Ammoniakwerk, Merseburg, and manager of Leuna Plant, 1928-36; these plants produced inorganics and nitrogen, organic intermediates solvents, plasticisers, methanol, dyeing and printing auxiliaries, detergent raw materials, gasoline, and lubricating oils.

Ambros was manager of the following plants: Schkopau (buna I), 1935-45; Ludwigshafen-Oppau (organic, intermediates and dyestuffs plants and laboratories), 1938-45; Huels (buna II), 1938-45; Ludwigshafen (buna III), 1941-45; Auschwitz (buna IV), 1941-45; Gendorf (inorganic), 1941-45; Dyhernfurt, 1941-45; Falkenhagen, 1942-45; which produced synthetic rubber, inorganics and nitrogen, organic intermediates, solvents, plasticisers, methanol, plastics, accelerators, dyestuffs, dyeing and printing auxiliaries, detergent raw materials, poisonous gas and intermediates.

Buergin was plant leader of Bitterfeld-Wolfen Plants, 1938-45, which produced inorganics and nitrogen, organic intermediates, plastics, magnesium, and aluminum, dyestuffs, dyeing and printing auxiliaries, detergent raw materials, insecticides, light metals.

Bueteffish was technical chief of Leuna Works, Merseburg, 1931-45; deputy manager, Ammoniakwerk, Merseburg, 1934-45 and chief (syn. gasoline), Auschwitz, 1941-45, which produced nitrogen gasoline, lubricating oil, methanol, mersol, organic intermediates and suet acid.

Kuehne was plant leader of Leverkusen, 1933-43, which produced inorganics, organic intermediates, buna, plastics, pharmaceuticals, insecticides, acetylcellulose, synthetic fibres.

Lautenschlager was plant leader at Hoechst Plant, 1938-45, which produced inorganics, solvents, organic intermediates, plastics, pharmaceuticals, compressed gases, welding and cutting equipment and oxygen.

Wurster was plant leader at Ludwigshafen-Oppau "during World War II," and technical director of Ludwigshafen-Oppau, 1938-45, which produced inorganics, organics, organic intermediates, buna, plastics, solvents, synthetic rubber, tanning extracts, dyestuffs, detergent raw materials and ethylene oxide.

Where the local manager of a plant was not a Vorstand member, he received orders and information from his Sparte head, the head of his Works Combine, or some other means of coordination and supervision by the Vorstand existed. It is abundantly clear that all lines led to the Vorstand.

Administrative Coordination. In 1927 the first of a number of central administrative agencies was set up in Berlin, NW 7, in charge of defendant Ilgner. This was the *Central Finance Administration* (ZEFI). It was followed in 1929 by an *Economic Research Department* (VOWI) and a *Political-Economic Policy Department* in 1933. The function of the latter was to assure close cooperation between the commercial departments of Farben and government agencies. In 1935 a central office for liaison with Armed Forces called "*Vermittlungsstelle W*" was added, which eventually dealt with such matters as mobilization questions and plans, military security, counter-intelligence, secret patents, research for the Armed Forces, et cetera. Its activities were of sufficient importance to have each Sparte designate a chief and collaborators to its staff. Defendant von der Heyde was in charge of its counterintelligence activities, under the over-all supervision of defendant Schneider.

Sales Combines to handle the four principal categories of Farben products were established, each headed by a Vorstand member. Chief of the "Sales Combine Dyestuffs" was defendant von Schnitzler, who also became chief of "Sales Combine Chemicals" in 1943. Defendant Haefliger was one of his three deputies. Defendant Mann was chief of "Sales Combine Pharmaceuticals."

Nitrogen was sold exclusively through the *German Nitrogen Syndicate* (Stickstoff Syndikat G. m. b. H.) which was managed by defendant Oster.

Most of the plants and all of the Sales Combines of Farben had legal departments, and all of the larger plants had patent departments. The work of these departments was coordinated by two Vorstand committees, the "Legal Committee" and the "Patent Commission." Defendant von Knieriem was chairman of both bodies, and was also head of the legal and patents departments of the Ludwigshafen plant which

served as a central clearing office for all major legal and patent questions of general interests.

The foregoing constitutes a description of the instrumentality of Farben and a factual recital of the manner of its functioning. Farben, for decades, has been a pioneer in the world of chemical research. It was with pride that defense counsel pointed to these pioneer achievements: the discovery of "dyestuffs, the synthesis of nitrogen from the air, the methanol synthesis, artificial fibres, light metals, buna, the plastics, the processes of refining coal as a source of power by means of gasoline and lubricant synthesis, numerous chemiotherapeutic agents of vital importance." During that period Farben had achieved a dominant position not only in Germany but one of leadership in the world. Defendant von Schnitzler referred to a phrase most aptly characterizing Farben as "a state within a state." As to the important position of Farben in German industrial, commercial and political life, there can be no controversy.

Activities of Farben in the Rearmament of Germany

The indictment had divided the activities of Farben into particular categories: (a) support of Hitler and the Nazi Party; (b) cooperation with the Wehrmacht; (c) Four Year Plan and economic mobilization of Germany for war; (d) activities in creating and equipping the Nazi military machine; (e) procuring and stockpiling of critical war materials; (f) activities in the weakening of Germany's potential enemies; (g) the carrying on of propaganda, intelligence and espionage activities; (h) the cloaking of Farben's assets abroad for war purposes and in anticipation of hostilities; (i) the activities of Farben in acquiring control of the chemical industry in occupied countries. In its excellent preliminary brief the prosecution has marshalled the more significant evidence under similar headings. For reasons of convenience the same major categories will be utilized in discussing Farben's activities. The following facts have been proved beyond any possibility of doubt by competent evidence found in abundance in the record. Captured documents, official reports, statements, affidavits, interrogations, letters, and direct testimony of many witnesses all combine to make it certain that the following facts are true:

a. Support of Hitler and the Nazi Party. In the critical election of March 1933, Farben supported Hitler and his coalition with a financial contribution of 400,000 reichsmarks, being its share of a fund of more than 2,000,000 reichsmarks contributed by industries represented at the meeting in Goering's home on 20 February 1933 [D-203, *Pros. Ex. 37*], addressed by Hitler and Goering and attended by the defendant von Schnitzler. The action of Farben along with other industrialists in rallying to the support of Hitler at that time was undoubtedly a factor contributing to the seizure and consolidation of power by Hitler.

Thereafter Farben made numerous financial contributions to Hitler and the Nazi Party ranging over a period from 1933 to 1944 and reaching a total of 40,000,000 reichsmarks including those required contributions which were based on rates fixed for industrial organizations in German economy. As a matter of general procedure in Farben, all contributions had to be reported to and approved by the Central Committee which, prior to 1938, in turn reported to the Working Committee of the Vorstand and after 1938 reported direct to the Vorstand. It is clear that Farben was a generous and regular contributor to a wide variety of Nazi causes and to some of its leading personalities.

b. Cooperation with the Wehrmacht. It is stated in the International Military Tribunal Judgment:

“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.

“* * * 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.”¹

Farben was pre-eminent in chemical research and development and willingly cooperated with the Nazi regime in making its technique available. The evidence establishes a continuous record of collaboration and cooperation between Farben and the Wehrmacht in these important fields. Farben cooperated in the planning of stand-by plants or state-owned shadow factories; as early as 1933, Farben made preparations for air-raid protection of its plants [NI-8461, *Pros. Ex. 170*] and through the subsequent years conducted “map exercises” or “war games,” testing how important plants could be protected against bombing.² The chief and officials of the Military Economic Staff personally attended such exercises in March 1936. An extensive program of stockpiling of essential war materials was pursued by Farben. An official German governmental report on “The Program of Work for Economic Mobilization on 30 September 1934” showed that [EC-128, *Pros. Ex. 716*]: “It was possible to start in June of this year at Doeberitz,” a plant for making a sufficient quantity of highly concentrated nitric acid available for production of explosives and ammunition. (This was a Farben plant and required approximately 2.7 million reichsmarks for construction.) Of the ferrous alloys (ferrous chromium, ferrous wolfram, ferrous molybdenum, ferrous vanadium) necessary for the production of high grade steels, Farben, at

¹ *Trial of the Major War Criminals*, volume I, pages 182 and 183.

² See Document NI-4624, Prosecution Exhibit 185; NI-8637, Prosecution Exhibit 29; NI-5881, Prosecution Exhibit 183.

the requests of the government, transferred a "part of the production of ferrous wolfram, heretofore exclusively located in the danger zone near Aix-la-Chapelle, to central Germany," and built a "reserve plant of considerable size"; extended "its installation for the production of ferrous molybdenum"; and completed the stockpiling of an additional amount of pyrites, "the basic raw material of sulphuric acid, which is an indispensable chemical intermediate product" and which in Germany "can only be produced in the danger zone." In that report, after the following comment as to the importance of gasoline,

"The extraordinary significance of motor fuel supplies is a result of the increasing motorization of the Wehrmacht, the growing importance of the German Air Forces, almost unlimited in its future development, and finally of the ever-increasing motorization of the whole civilian transport system which would be endangered most seriously by a motor fuel shortage,"

it is pointed out that :

"Among all the raw materials under consideration, motor fuel furthermore holds a distinctive position, because it needs to be immediately available for the conduct of war."

"So far the increase in production at Leuna" (a Farben plant) "from hitherto 100,000 tons to a total of 300,000 tons in the future has actually been realized." [*EC-128, Pros. Ex. 716.*]

In 1933 Germany had withdrawn from the League of Nations, and in 1935, as stated by the International Military Tribunal, "the Nazi government decided to take the first open steps to free itself from its obligations under the Treaty of Versailles"; and on 10 March 1935, "Goering announced that Germany was building a military air force," and 6 days later compulsory military service was instituted.

While those significant political events occurred, Farben continued its energetic cooperation. That cooperation between Farben and the government in the rearmament of Germany became so extensive that in the latter part of 1935 Farben found it necessary to establish a Military Liaison Office in Berlin. The defendant Krauch was active in the establishment of this office, known as the Vermittlungsstelle W. Its purpose was to serve as an office of Farben for all questions of military economy, of military policy, and of military technical nature in connection with the planned development of the military economy. A Farben report prepared by Dr. Ritter, representative of Sparte I in Vermittlungsstelle W, dated 31 December 1935 [*NI-2638, Pros. Ex. 140*], states the aim to be "The building up of a tight organization for armament in the IG which could be inserted without difficulty in the existing organization of IG and the individual plants." The ex-

isting basis of cooperation between Farben and the Reich Ministries of War and Economy is reflected in the significant further statement in the report:

“In case of war, IG will be treated by the authorities concerned with armament questions as one big plant which in its tasks for the armament, as far as it is possible to do so from the technical point of view, will regulate itself without any organizational influence from the outside.”

Each of the three Farben Sparten established offices in the Vermittlungsstelle W, and these offices were responsible to the respective Sparte Head, to wit: to the defendants Krauch and Schneider (after 1938) for Sparte I; to the defendant ter Meer for Sparte II; and to the defendant Gajewski for Sparte III [*NI-8923, Pros. Ex. 142*]. Thereafter, during the entire period of mobilization and preparation for Germany's aggressive wars, the Vermittlungsstelle W functioned as an important liaison office on many major matters incident to the economic mobilization and rearmament. The significance of the office is not lessened by the fact that it was largely a liaison office. By the year 1939, of the military problems with which the Vermittlungsstelle W was occupied and which were discussed with the Wehrmacht, many projects originated with Farben itself as distinguished from matters resulting from the direct request of the Wehrmacht. The office retained considerable importance despite the fact that some of its original broad functions were taken over by Krauch when he was appointed to the Office of German Raw and Basic Materials, to which office he took several persons from the Farben office. It should be noted that Krauch remained nominally in charge of Vermittlungsstelle W. Under Krauch the Vermittlungsstelle W established a special security section and issued detailed directives for counterintelligence, in keeping with existing decrees and directives surrounding the matter of secrecy, with certain exceptions applicable only to Farben. In a communication to the directors of Farben plants, including several of the defendants, Vermittlungsstelle W stated that “in view of the future war economy, Section A” (being the special security section established within Vermittlungsstelle W) “is at the disposal of all IG plants and IG agencies for any information in counterintelligence and security matters, and will take care if necessary that information be exchanged.”

By 1936 the problems incident to mobilization and production for the case of war continuously engaged the attention of Farben personnel. [*NI-5880, Pros. Ex. 191; NI-7475, Pros. Ex. 192.*] These activities continued during 1937 and 1938. Mobilization plans were drafted in detail, including the production tasks to be assigned to the various Farben plants and subsidiaries. These plans were arrived at, based on comprehensive discussions with representatives of the

Reich War Ministry, the Reich Ministry of Economics and the Reichsstelle Chemistry. [NI-8883, Pros. Ex. 201; NI-8881, Pros. Ex. 203; NI-8504, Pros. Ex. 204; NI-8886, Pros. Ex. 206; NI-8890, Pros. Ex. 207; NI-8780, Pros. Ex. 208.]

These plans for mobilization within Farben were repeatedly discussed in such important Farben Committees as the Technical Committee and the Commercial Committee. They were known to the responsible "technical" members of Farben's Vorstand and to the leading "commercial" members of the Vorstand. [NI-8777, Pros. Ex. 198; NI-8776, Pros. Ex. 199; NI-9051, Pros. Ex. 200.]

Immediately prior to the invasion of Poland, Farben's Leverkusen plant was notified on 26 August 1939 by secret letter from the Military Economics Department, Duesseldorf [NI-4635, Pros. Ex. 260] that personnel in military important plants had to remain on the job and instructions were issued "for the duration of military measures." Vermittlungsstelle W issued notification and instructions to Farben's plants on 28 August 1939 that it could be reached on a 24-hour basis [NI-8778, Pros. Ex. 262]. The Hoechst plant of Farben received on 30 August 1939 the necessary shipment papers for the first 14 days of the mobilization from the Military Economics Department, Kassel. [NI-7382, Pros. Ex. 263.]

So complete was Farben's cooperation and planning that Farben's plants all had their assigned war production tasks which became operative when Germany attacked Poland in September of 1939. Vermittlungsstelle W merely had to advise the TEA office of Farben on 3 September 1939 [NI-2765, Pros. Ex. 264] that it was necessary for "* * * all IG plants to switch at once to the production outlined in the mobilization program." Subsequently on 6 September 1939, the Vermittlungsstelle W informed the various Farben plants that the war delivery contracts, some of which had been concluded in 1938, became effective immediately. [NI-8882, Pros. Ex. 266.]

c. The Four Year Plan and Economic Mobilization of Germany for War. Germany's planning of measures of rearmament and reorganization of the economic life of Germany "was done on a vast scale and with extreme thoroughness." The following facts found by the IMT are pertinent here:

"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 27 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 Four Year Plan and the appointment of Goering as the Plenipotentiary in charge. Goering was already engaged in building a strong air force and on 8 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 14 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 9 October 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 of 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 * * *."

There was an enormous program of planning and preparation behind these accomplishments and Farben was a major factor contributing to the results achieved. The record abundantly shows the integration of Farben with this program. The meeting of the Experts Committee on Raw Materials Questions on 26 May 1936, presided over by Goering and attended by defendant Schmitz [NI-5380, *Pros. Ex. 400*], has already been discussed in this opinion. In that same month Farben through Bosch, the chairman of the Vorstand at that time, placed the defendant Krauch at the disposal of Goering. Krauch, who was one of Farben's most capable scientists and administrators, was put in charge of the sector for Research and Development [NI-4703, *Pros. Ex. 426*]. Important personnel from the Ver-

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mittlungsstelle W (Dr. Ritter and Dr. Eckell) went over with Krauch to assist in the performance of the tasks assigned to Krauch [NI-5911, *Pros. Ex. 407*]. These tasks were to help in preparing for war with reference to raw materials essential to the waging of war. Hitler had already advised Goering in the summer of 1936:

"The German Army must be ready for combat within 4 years. The German economy must be mobilized for war within 4 years." and Hitler told Goering further:

"The German motor fuel production must now be developed with the utmost speed and brought to definitive completion within 18 months. This task must be handled and executed with the same determination as the waging of war. * * * The mass production of synthetic rubber must be also organized and secured with the same rapidity. The affirmation that the procedure might not be quite determined and similar excuses must not be heard from now on." [NI-4955, *Pros. Ex. 411.*]

The Office of Raw Materials and Foreign Exchange was rapidly succeeded by the Office of the Four Year Plan following the announcement of that plan by Hitler at the Nurnberg Party Rally in 1936. Krauch continued under Goering in the Four Year Plan in charge of facility expansions for strategic raw materials and synthetics. In a speech delivered to the Reich Chamber of Labor on 24 November 1936 [EC-373 *Pros. Ex. 416*], General Thomas, Chief of the Military Economic Staff of the Office of the Wehrmacht, described the Four Year Plan as "military economy at its purest." Krauch was Farben's main liaison with the over-all planning of the German armament, but other defendants were extremely active in their respective spheres of responsibility. On 6 and 7 August 1936, defendant Buete-fisch attended a conference on the government oil program in Berlin with members of the Raw Materials Staff in which the government oil program under the Four Year Plan was discussed [NI-4471, *Pros. Ex. 414*]. It was explained by Fischer, head of the Economic Group Motor Fuels, that "the total plan is not adjusted to meeting peacetime requirements, but to the requirements in case of mobilization." Buete-fisch stated that a second stage of development is planned regarding which there would be information 8 days later, "with a total of 24 months allowed for construction work." A few days later, on 12 October 1936, defendants Jaehne and Lautenschlaeger attended a meeting of the Technical Management at Frankfurt/a. M., Hoechst, in which the urgent requirements of Farben for the production of gasoline, rubber and artificial fibres under the Four Year Plan were discussed [NI-5909, *Pros. Ex. 529*]. Increase in artificial fibers to 85,000 tons per annum by the end of the year was noted as well as "significant increase" of "manufacture of metals." On 17 October

1936, defendant Schmitz reported to the Aufsichtsrat of Farben on "the great tasks which our firm has with regard to raw materials in the Four Year Plan as announced by the Fuehrer in Nurnberg." Only for the purpose of chronological presentation and logical consideration, the address by Goering delivered on 17 December 1936 to a group of about one hundred leading industrialists is referred to here [NI-051, Pros. Ex. 421]. Its significance on the question of knowledge by several of the defendants, including Krauch and von Schnitzler, has already been discussed in this opinion.

The year 1937 was an important period in the expansion program of Farben in preparing to meet the requirements of the Four Year Plan. A tremendous outlay of capital was involved, some of which was furnished by Farben but much of which was supplied by the government. On 6 January 1937, a conference was scheduled by Krauch's Office for Raw Materials and Synthetics with representatives of the Office of Military Economy, Reich Air Ministry and of the Navy for the discussion of a broad scope of subjects [NI-7823, Pros. Ex. 717] including: (1) plants to be set up for the production of gunpowder and explosives and stockpiling of these materials; (2) plants to be set up for the production of chemical warfare agents and stockpiling of such products; (3) decisions on production (stand-by) plants for calcium hypochlorite or losantin and stockpiling that product; (4) plan for stockpiling many important items including preliminary products and organic basic materials, such as nitration paper, diglycol, to meet requirements for 1 year; (5) sites for stock storage dumps or stockpiling of diglycol, ammonia and other chemical products vital for the making of explosives including thiodiglycol and dichloridethylsulphide. In March 1937, Hitler in a speech on the Four Year Plan said [NI-6627, Pros. Ex. 531; NI-7276, Pros. Ex. 21]: "In 2 or 3 years we will be free of requirements of fuel and rubber from abroad, * * *". On 27 May 1937, Goering approved "the plan of the Four Year Plan for those projects which will be carried out by the Office for German Raw and Industrial Materials, * * *" being a comprehensive survey in great detail covering plans for production, including chemicals, during the 4-year period. [EC-281, Pros. Ex. 427.]

The projects set out in the survey were checked by Krauch, especially the sectors coming within the Farben area, and Krauch discussed the planning in these specialized fields with Farben.

The significance of the Four Year Plan was explained by Krauch in a speech delivered by him and published in the Four Year Plan in August 1937. He said [NI-6628, Pros. Ex. 22]:

"The German people are forced to live in much too restricted a space. Exclusion from the possession of the world's sources of raw materials compels us to produce the materials necessary for her

national security by chemical means from her own resources—from coal, salts, lime, and other materials, as well as from air and water. That is the purport of the Four Year Plan, as described by the Fuehrer in the words: 'I present this today as the new Four Year Program. In 4 years, Germany must be completely independent, as far as concerns all those materials from abroad which it is in any way possible for German skill to produce through our chemical and engineering industries and through our mining industry itself.

* * * * *

"The economic progress achieved by the National Socialist leadership and rearmament has absorbed for practical ends all that was available in the field of technical and chemical training * * *

"The following measures seem important:

"I. The clarification of public opinion on the importance of science and engineering to our nation and particularly on the following points:

"1. The exploitation of valuable scientific and technical achievements is indispensable to the realization of our political aim."

There can be no doubt concerning Krauch's sympathy with the political aims and objectives of the National Socialist leadership and his eminent standing as industrial scientist meant that he fully understood and appreciated the tremendous contribution Farben could make in achieving independence for Germany in the important raw materials essential for the waging of war.

In explaining the military importance of chemical products including those of Farben, Dr. Elias, a witness, produced by the prosecution, testified:*

"German chemical industry was one built on coal, air and water. Supplies of petroleum in Germany are very meager. The maximum production of petroleum in all of Germany from its own oil wells has always represented only a small fraction of its total requirements. Coal, however, is plentifully available and brown coal, which is a sort of lignite, is available in huge quantities and easily accessible to large scale mining. With coal as a basic material and with the aid of air and water, indefinite numbers of organic compounds composed of carbon, nitrogen, hydrogen and oxygen can be made. 84½ percent of Germany's aviation fuel, 85 percent of her motor gasoline, all but a fraction of 1 percent of her rubber, 100 percent of the concentrated nitric acid, basic component of all explosives, and 99 percent of her equally important methanol, were synthesized from these three fundamental raw materials—coal, air, and water.

* * * * *

*See mimeographed transcript for 30 September and 1 October, pages 1342-1462.

“The military significance of oil is best explained by the fact that in the closing months of the war, after the British and American Air Forces had concentrated on German synthetic oil targets, Germany’s large reserve in military aircraft stayed on the ground with empty tanks: armored vehicles were moved to the front by oxen and every motor trip exceeding 60 miles had to be approved by the commanding general. Without nitrogen, not a single ton of military explosives or propellant powder could have been made. Certain military explosives were entirely dependent on synthetic methanol as well as ammonia. Without rubber, of course, the war machine could not have rolled.

* * * * *

“The element which is common to the synthesis of liquid fuels, ammonia (from which nitric acid is made), and methanol, is hydrogen. Pure hydrogen is needed to fix the nitrogen of the air: it is needed to reduce the coal tar or coal to liquid fuels: and it is needed to reduce the carbon monoxide made from coal to methanol. It is also needed in certain stages in the production of butadiene for the manufacture of synthetic rubber. Because of this fact several products were manufactured from hydrogen in the same unit in the various IG plants. In plants such as Leuna we find not only ammonia being produced but also gasoline, lubricating oil, methanol, and other products. At Ludwigshafen we find synthetic ammonia, menthol, organic intermediates and synthetic rubber. At Waldenburg and Hydebreck there is ammonia and methanol and ethylene. In other words, it was found to be more economical to build several operations which consumed hydrogen around the central hydrogen production so that as the demand for any of the individual products fluctuated, the hydrogen production could be shifted for use to one of the other products and thus kept going.

* * * * *

“Well, in summarizing I have indicated the sources of synthetic and by-product ammonia, synthetic methanol, synthetic liquid fuels, synthetic rubber, acetylene, ethylene, benzol and toluene. The actual structure of important intermediates and finished products is built on this skeleton of raw materials; so that starting with coal, air and water, Farben was able to supply Germany with most of its liquid fuels and lubricants, practically all of its rubber, all of its methanol, most of its ammonia, and therefore, its nitric acid and its raw materials for the production of dyestuffs, pharmaceuticals, explosives and poison gases.”*

**Ibid.*

In a letter to Goering dated 15 June 1937 [NI-4711, Pros. Ex. 557], defendant ter Meer, after referring to the contract concluded with the Reich about the establishment of a large scale buna plant in Schkopau, said :

“We are willing also to sign contracts of license, each for the period of 10 years, with further buna plants to be established within the Four Year Plan. * * *

“This consent to put our patents and ‘Know-how’ at the disposal of the new plants referred to, by renouncing profit, can only be justified from the point of view of the Four Year Plan, * * *”

In this plan for economic mobilization within the chemical field, excluding mineral oil, Farben was assigned a major proportion. In the mineral oil sector, including the plants which were Reich-owned but operated by Farben or its licensees, the allocation was 90 percent; for synthetic rubber the allocation was 100 percent; for preliminary products for explosives and chemical warfare agents, 100 percent; for the important preliminary products such as diglycol, and thiodiglycol, it was 100 percent; for methanol, ammonia (nitrogen), 100 percent. An analysis of the plan showed that of the total projected investments to be made under the Four Year Plan, 91.5 percent were for chemical production of which the Farben share of products amounted to 72.7 percent, and that of the total to be spent on the Four Year Plan for the entire German industry, 66.5 percent was to be used for projects making Farben products.

It was during the years 1936 and 1937 that Schacht gradually lost his influence and important standing in the German economy. As was stated by the IMT, Schacht opposed the greatly expanded program for the production of synthetic raw materials, as well as the announcement of the Four Year Plan with the task of putting “the entire economy in a state of readiness for war” within four years and Goering’s appointment to head it. The IMT stated: “It is clear that Hitler’s action represented a decision that Schacht’s economic policies were too conservative for the drastic rearmament policy which Hitler wanted to put into effect.” Schacht’s disagreement with Goering and the policy being pursued resulted in his “eventual dismissal from all power of economic significance in Germany.” Schacht contended, as stated by the IMT, “that when he discovered that the Nazis were rearming for aggressive purposes, he attempted to slow down the speed of rearmament; and that * * * he participated in plans to get rid of Hitler, first by deposing him and later by assassination * * *. Had the policies advocated by him been put into effect, Germany would not have been prepared for a general

European war. Insistence on his policies led to his eventual dismissal from all positions of economic significance in Germany.”*

While the activities of Schacht were diminished, those of the defendants Krauch and Farben were increased. During the years 1938 and 1939 their intensity can hardly be exaggerated. During that period of time, as found by the IMT, in March 1938 occurred the invasion of Austria—characterized by the IMT as “a premeditated aggressive step in furthering the plan to wage aggressive wars against other countries.”

Within a month after the invasion of Austria, Krauch’s office prepared a report entitled “Assuring of Mobilization Provisioning by Stockpiling” [NI-7848, *Pros. Ex. 718*], a copy of which Krauch personally received. Among other things, the report included:

“A. additional stockpiling for assuring the *1st mobilization year*, taking into account the stocks already on hand.

“B. additional stockpiling for assuring the *2d mobilization year*, (supplies on hand have already been used up in the first mobilization year, a possible increase of domestic production has been taken into account).”

Referring to the invasion of Austria, it said:

“The additional mobilization requirements because of the Anschluss of Austria have not been taken particularly into account * * *.

“The effects on domestic production because of the inclusion of the Austrian economic area have been taken into account in connection with the considerations.”

Concerning rubber, it said:

“5. *Rubber*. Here the latest mobilization requirement of 65,000 tons per year has been taken into account. The requirement of approximately 102,000 tons per year, which was mentioned recently, has now been abandoned. Starting with the second year of mobilization, calculated from today, the production of buna will come very much into the picture * * *”

By the summer of 1938 following the march into Austria and in the period of “crises” prior to the Munich Pact, there was considerable concern within Germany over the possibility of war. Bosch of Farben sought to obtain an interview with Goering to dissuade him, but did not succeed in having such interview. Krauch testified, by way of answer to interrogatories [NI-6768, *Pros. Ex. 437*], that in June 1938:

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“* * * Dr. Bosch was asking me in Berlin if he could see Goering. He said to me there is a great big talk about war. If they are going to war, Germany is lost.”

Krauch further said:

“* * * I told Koerner that I had knowledge now of the figures that are given to the government about building up of the production in the Four Year Plan. Figures about the production of gasoline, of buna, of artificial products, et cetera, which show what we are going to do in 1938 and 1939. I know that these figures are wrong. I was talking a week before with Major Loeb about these figures and I told him that there is great danger in giving at this time wrong figures to the government. It may be possible if one deciding man knows about those wrong figures and he is thinking about war, he would decide against it. If he knows we are not independent in the war he would decide against war. That is a great danger in the wrong figures question. Then Koerner told this to Goering. Goering said to me the next day: ‘You have given other figures than we have in hand?’ I told him the same thing I had told Koerner that it is a great danger to give out wrong figures, and I know quite well the production of all the plants of IG. The production is not so high as the Four Year Plan man has given to Goering. * * *

“Goering said: ‘I will talk with Keitel about the figures, and the next day, you will have to come over and we will talk again.’ The next day, he said: ‘I have talked with Keitel who said that our figures are right. Much work has been done in the building up of the plants.’ He said he was calling for production of explosives for 2 years so high, and now they had the production so high. I said to Goering that those figures are wrong. I know the production of nitrogen and other raw materials for the plants that make explosives. And I can say they can only make so much explosives. And then Goering said to me: ‘Now, I have confidence in your figures.’ Then maybe 3 or 4 days later, I had to come to Goering’s place and he said to me: ‘Now, you will have to make a survey of all the production for the future. If I want to know about the figures I will call on you. In order that you can have the figures from the industry or from OKW, I nominate you to General Bevollmaechtigter fuer Chemische Industrie.’”

At another time, while being interrogated, defendant Krauch said:

“Q. At that point, what steps were taken by IG similar to the one which Dr. Bosch attempted to take in June 1938, when he went to see Goering, to try to halt the Nazis from going to war?”

“A. I have answered this question before. We did nothing officially, but unofficially various people of the IG were talking to different men of the government. I was talking every month and saying that this is an impossible thing. * * *” [NI-6768, Pros. Ex. 437.]

There is in the evidence a comprehensive report dated 27 June 1938 concerning the “program for the manufacture of chemical warfare agents and explosives in Germany” [NI-5687, Pros. Ex. 438] and with particular reference to the Farben production, made in compliance with the request from Krauch. Krauch, on 30 June 1938, submitted to Goering an “accelerated plan for explosives, gunpowder, intermediates and chemical warfare agents.” This plan [NI-8839, Pros. Ex. 439] was adopted by Goering but was soon supplanted by a plan drafted by Krauch, dated 12 July 1938, called the Military Economic New Production Plan [NI-8800, Pros. Ex. 442], also called the Krauch Plan or the Karinhall Plan, according to the goal for the new production plan “set by the Generalfeldmarschall on 30 June 1938 in Karinhall.”

This plan covered mineral oil, rubber (Buna) and light metals in addition to gunpowder, explosives and chemical warfare agents. The utmost acceleration of building and production projects keyed to definite mobilization targets was provided in these plans. At a conference between Goering and OKW at Karinhall on 18 July 1938 [1436-PS, Pros. Ex. 445], Goering said that the Four Year Plan’s function consists in preparing the German economy for total war in four years; he also said that “In the event of ‘X-Fall’ and during the War, ‘FYP’ will be continued with special emphasis on projects essential to the War effort (production of buna, ore, fuels, explosives, etc.)”

A document bearing that same date, to wit, 18 July 1938, entitled “Measures in accordance with order dated 15 July 1938 for the execution of the new military economic production plan” lists nine different commissions given to Farben plants for the production of chemical warfare agents and diglycol. [NI-7424, Pros. Ex. 444.]

On 22 July 1938, defendant Krauch wrote a letter to State Secretary Koerner [NI-8840, Pros. Ex. 448] stressing that industry was willing to take upon itself greater responsibilities in the field of rearmament. In that letter, Krauch said:

“* * * the development of the processing and creation of these materials [intermediate products for gunpowder and explosives] is the concern of the industry * * * *The fertilizer nitrogen basis becomes at once, by its export decline in the case of mobilization, the backbone of the whole of the nitric acids and of ammonium nitrate* * * * This applies particularly to the whole of the ethylene chemistry which is inextricably bound up through

diglycol for gunpowder and the chemical warfare agents with the entire industry of the coking plants and mineral oil syntheses * * * as far back as the end of 1936, [I] repeatedly directed the attention of the Wehrmacht to the urgent necessity of stock-piling. Already at that time, for example, I requested that considerable quantities of toluene be stocked up for existing explosives factories * * *

"The firms concerned are willingly prepared to assume the responsibility themselves for the quickest possible rush execution. * * * *The industry has already undertaken to devote its best abilities to the carrying out of the task I should set them* * * * the production of gunpowder, explosives and chemical warfare agents are chemical processes. They cannot therefore be treated as distinct from the rest of the chemical industry. I should, of course act in the closest cooperation with the HWA [Army Ordnance]." (Emphasis supplied.)

Subsequently, on 13 August 1938, Krauch prepared the so-called "Rush Plan" [N1-8797, Pros. Ex. 449], and laid the basis for its expeditious execution in agreement with the High Command of Army Ordnance (General Becker) and the Office of Military Economy (General Thomas).

After Goering appointed Krauch as Plenipotentiary General for Special Problems of Chemical Production in the Four Year Plan on 22 August 1938, the supervision of the Rush Plan was entrusted to Krauch. A document dated 22 August 1938 entitled "Order for carrying into effect the New Military Economics Production Plan and the Rush Plan" [N1-8917, Pros. Ex. 453] states:

"1. The carrying into effect of the Military Economics new Production Plan and of the Rush Plan ordered for the expansion of the plants producing powder, explosives and K-agents (chemical warfare agents) and their primary products is entirely entrusted to Dr. Krauch. He, therefore, is fully responsible for the execution of the program within the time set, and for procuring the means required incidental thereto (money, steel, building materials, labor, etc.).

"2. * * *

a. Program and planning: Dr. Krauch

"In setting up the program and the planning, the military points of view for which the Wehrmacht is responsible are to serve as a basis, and its chemical and technical demands made by it are to be considered in largest measure. * * *

"3. To assure the closest possible cooperation between Dr. Krauch and the OKH (Wa A) the following measures are to be carried through:

"a. Creation by Dr. Krauch of a Building Staff for which OKH (Wa A) delegates a permanent representative.

"b. Assignment of a permanent representative of Dr. Krauch to OKH (Wa A).

"c. Creation by Dr. Krauch of control agents (authoritative specialists) who, together with Dr. Krauch, are also at the disposal of OKH (Wa A) for control purposes."

Leading Farben personnel were frequently called upon by Krauch as advisers in the execution of projects of the Four Year Plan. Farben and its subsidiaries supported the execution of the plan and a large percentage of the total expenditures under the plan was allocated for Farben projects. [NI-9656, Pros. Ex. 682; NI-9945, Pros. Ex. 700; NI-10036, Pros. Ex. 429; NI-10035, Pros. Ex. 428.]

Farben's plant investments rapidly rose as a result of the Four Year Plan. In the execution of the "new military economic plan," immediate instructions and commissions were issued to Farben to increase production facilities for chemical warfare agents and diglycol, an essential intermediate for explosive production. [NI-7424, Pros. Ex. 444.]

Krauch remained with the Four Year Plan throughout this period of intensive acceleration of rearmament.

After referring to an implementation survey in August of 1939 shortly before the outbreak of the war with particular emphasis upon the case of war in the fields of mineral oil, buna, chemistry, light metals, and the "rapid plan" for powder, explosives, and chemical warfare agents, Krauch, following the outbreak of the war, proposed further plans for increased production [NI-8796, Pros. Ex. 459] in September 1939.

Krauch during the war participated in meetings of the General Council of the Four Year Plan where he occupied a position of dominating importance in the planning for and supplying of the fighting forces with munitions and war materials. He remained in that position throughout the war.

Krauch continued as a member of the Farben Vorstand until 1940, although often his work in the Four Year Plan prevented his attending its meetings. In that year he was elevated to the position of Chairman of the Aufsichtsrat of I. G. Farben.

d. Creating and Equipping the Nazi Military Machine. The activities of the defendants through Farben as an instrumentality for the production of vital chemical war products included:

Explosives. Farben had large responsibilities and carried out a tremendous program of activities in the production of explosives.

A large planned expansion in military explosives began in 1934. Generally a Reich-owned corporation—Montan—built the plants and leased them to private explosives companies, which were predominantly Farben subsidiaries for the manufacture of explosives. By 1939, a large stockpile of powder had been built, totalling about 187,000 tons. Consumption of powder by the German forces averaged 3,000 tons per month in 1940 and 5,000 tons per month in 1941. Germany was dependent almost exclusively upon Farben for raw materials and intermediates necessary to make explosives and gunpowder. In the evidence is a chart from the records of the Reich Office for Economic Development entitled "Interlocking of Raw Materials of the Production of Powder, Explosives and Preliminary Products." Defendant Ambros testified concerning this chart, "This presentation is chemically correct." It shows that for the production of explosives and powder and chemical warfare agents those raw materials and intermediates are necessary which were produced predominantly by Farben.

The production outlined in that chart has been made possible by the development during the First World War of the Haber-Bosch process for the production of synthetic nitrogen by Farben. As a result of that development, Farben enabled Germany to produce explosives without relying upon the imports of Chilean nitrates. [NI-7743, *Pros. Ex. 592*; NI-8313, *Pros. Ex. 1325*; NI-11252, *Pros. Ex. 1051*.]

Farben planned facilities for production of nitric acid solely for the Wehrmacht in the event of war; Farben stockpiled pyrites, the basic raw material for sulphuric acid essential for the process of nitration [NI-9409, *Pros. Ex. 593*]; Farben increased Germany's production capabilities for nitric acid many times prior to the outbreak of the war in 1939 [NI-9409, *Pros. Ex. 593*].

Farben manufactured all of Germany's diglycol, an intermediate product for the manufacture of gunpowder. It was developed as a substitute for nitroglycerine. By the middle of 1937, Farben had planned an enormous expansion of diglycol production at Wolfen with the entire amount to go to the explosive manufacturers of Dynamit A. G. and Wasag [NI-5763, *Pros. Ex. 121*]. According to a report dated 9 February 1939 by the Army Ordnance Office [NI-8700, *Pros. Ex. 609*], at that time the production capacity for diglycol at the I. G. Farben plants in Ludwigshafen, Wolfen, Schkopau, Huels and Trostberg was sufficient to produce 50,000 tons of gunpowder per month.

Second only in importance in nitrogen was the production of methanol, which is an essential product in the making of the most effective explosives—hexogen and nitropenta [NI-10580, *Pros. Ex. 616*; NI-6239, *Pros. Ex. 591*]. Farben produced all of the methanol in Germany. The report of the Army Ordnance Office of February 1939 showed the planning of additional facilities for the production of hexogen by Farben at that time [NI-8790, *Pros. Ex. 609*]. As

early as 1935 Farben developed hexogen and an experimental factory to gain manufacturing experience [NI-6144, Pros. Ex. 110]. This was in close collaboration with Dynamit A. G. and Army Ordnance [NI-6498, Pros. Ex. 111]. Hexogen has no substantial peacetime use.

Farben produced all of the stabilizers in Germany [NI-10008, Pros. Ex. 612; NI-10010, Pros. Ex. 615]. These products are essential to preventing premature explosion of gunpowder. The construction of stand-by plants for stabilizers was planned by Farben in conjunction with the Army Ordnance department of the Wehrmacht as early as 1935 [NI-5762, Pros. Ex. 108; NI-4488, Pros. Ex. 115]. The production planned even at that early date has been estimated as sufficient to sustain production of 11,875 tons of gunpowder per month.

Much conflicting evidence has been presented as to whether Farben and its subsidiaries produced most of the high explosives and gunpowder used by the German forces. The evidence shows that Dynamit A. G., Wasagchemie, Verwertchemie and Deutsche Sprengchemie produced most of the high explosives and gunpowder from raw material and intermediate products of Farben. Heinrich Schindler, a defense witness who was chief engineer in the Dynamit A. G., testified that based upon detailed compilations made by him, subsidiaries of Farben produced 92 percent of all explosives used by Germany from 1930 to 1944 and 86.5 percent of all gunpowder during the same period. For the year 1938, they produced 82.5 percent of all explosives and 100 percent of gunpowder.

It was seriously contended, however, that Dynamit A. G., the largest producer of explosives, was an independent enterprise for which Farben was in no way responsible. I have carefully reviewed the evidence and concluded that the control of Dynamit A. G. rested with Farben [NI-8313, Pros. Ex. 325] and it cannot escape responsibility for the direct production of explosives in the war program. The elements of control of Dynamit A. G. by Farben included (1) financial, through its holding of 60.5 percent of total preferred and common stock and a contract dated 17 September 1926; (2) "organizationally," through being grouped in Sparte 3 under defendant Gajewski, who was a member of the Aufsichtsrat of the Dynamit A. G. (1936-1945), and through defendant Schmitz, who was a member of the Aufsichtsrat (1926-1945) and chairman of the Aufsichtsrat of Dynamit A. G. from 1938 on, and Paul Mueller, director General of Dynamit A. G. being a member of TEA of Farben; (3) economic through its dependence upon Farben plants for their intermediates for the production of explosives and gunpowder and the requirements that Dynamit A. G. had to get approval of Farben for expansion or construction of new plants and

replacement of machinery; and, (4) other devices of control.* As to the relationship of Farben and Dynamit A. G., the evidence compels the conclusion that for all practical purposes Dynamit A. G. was a subsidiary of Farben under its effective control. It should be noted that Dynamit A. G. controlled still other enterprises in the explosive field, including Verwertchemie, admitted by the defense to be "a 100 percent subsidiary company to DAG," and described by defense as "the center of the armament production of the DAG-Konzern."

Synthetic Gasoline. Farben had expended enormous sums of money on the development in the experimental stage of its process for the production of synthetic gasoline. Prior to Hitler's seizure of power, the synthetic oil program was under attack in the Nazi press. The defendants Bueteffisch and Gattineau in 1932 went to see Hitler and received assurances that the attacks would cease and that the program would receive his support [NI-8788, *Pros. Ex. 28*; NI-8637, *Pros. Ex. 29*; NI-6765, *Pros. Ex. 31*].

Following the accession of Hitler to power, an agreement was entered into on 14 December 1933 between Farben and the Reich Ministry of Economics under which Farben received a guarantee both as to price and volume of sales in connection with the production of synthetic gasoline [NI-881, *Pros. Ex. 92*; NI-319, *Pros. Ex. 93*]. The agreement was of such importance that it had to be submitted to the personal attention of Hitler [NI-320, *Pros. Ex. 94*]. Farben started large-scale expansion in the production of synthetic gasoline and the Leuna plant in the spring of 1933. The defendant Bueteffisch has stated:

"I do not forget the day of the year 1933" * * * "when I could accept from the Reich Government in Berlin the order now to proceed and expand with all possible energy the production of benzine, which for reasons inherent in political economy could not be fully developed prior to the taking-over of power. From that day on we find ourselves in this invariably great experience of expanding our industry, in a measure heretofore unknown." [NI-6530, *Pros. Ex. 514*.]

While it is undoubtedly true that considerable peacetime expansion in gasoline production was warranted in connection with increased motorization of Germany and the autobahn construction, it is also true that the military considerations were inextricably connected with the synthetic oil program and the military importance rapidly became the predominating consideration. As early as 11 October 1934 General Bockelberg, Chief of the Army Ordnance Office, conferred

*See affidavit of Dr. Struss, Document NI-8313, Prosecution Exhibit 325. Also Document NI-12740, Prosecution Exhibit 1316 (affidavit of Otto Hellbrunn).

with Farben representatives Krauch, Schneider, and Buete fish regarding measures to be taken in the fuels field in the event of war [NI-3975, Pros. Ex. 517]. To expand the basis of production Farben became a co-founder of the BRABAG and issued licenses to that company under its hydrogenation patents [NI-7669, Pros. Ex. 518]. Farben developed high-grade aviation gasoline for the Luftwaffe. Further Reich subsidies were obtained. The military significance of the synthetic oil program was stressed by Goering at the meeting of 26 May 1936, attended by the defendant Schmitz, already referred to above.

The Military Economic Staff of OKW in a report of January 1939 [NI-7471, Pros. Ex. 538] observed that “* * * *mineral oil is just as important for modern warfare as airplanes, armored vehicles, ships, weapons and munitions* * * *” An official report prepared by the Enemy Oil Committee for the Fuels and Lubricants Division Office of The Quartermaster General of the United States Army in March 1945 on Petroleum Facilities of Germany [NI-10507, Pros. Ex. 544] correctly summarizes Farben’s contribution in the field of synthetic gasoline and lubricating oils as follows:

“The outstanding feature of German oil economy during the past 10 years has been the spectacular development of her synthetic oil plants for the production of oil from coal. This attempt at complete oil autarchy, made without regard to cost or orthodox financial considerations, has no parallel elsewhere and is a striking example of the character of the German master plan for world domination which called for the production, within her own boundaries, of all the resources essential to modern warfare.”

Synthetic Rubber. Equally effective in the equipping of the Nazi military machine was Farben’s activity in the field of synthetic rubber production from coal. Following development of the experimental process, numerous conferences were held between Farben representatives and such Reich agencies as the Army Ordnance Office and the Reich Ministry of Economics during 1933 to 1935 [See NI-8326, Pros. Ex. 95; NI-6930, Pros. Ex. 545; NI-7472, Pros. Ex. 562]. As a result of these negotiations an intensive program to produce synthetic rubber in large quantities was developed [NI-7241, Pros. Ex. 547] and was subsequently expanded during 1936 and 1937 with the aid of various Reich subsidies as the possible military needs became more numerous and urgent [NI-7625, Pros. Ex. 549]. The volume of planned production in this field was far beyond the needs of peacetime economy. The huge costs involved were consistent only with military considerations in which the need for self-sufficiency without regard to the cost was decisive. Military and political considerations were controlling in the development of this program. The truth of

the matter is stated by the witness Elias* when he testified that the German Army "placed practically their entire dependence on Farben's synthetic rubber." There can be no doubt that Farben's production of synthetic rubber made it possible for the Reich to carry on the war independently of foreign supplies, an accomplishment which would have been impossible without Farben's synthetic rubber development. The defendants Krauch, ter Meer, and Ambros were particularly active in the development of this phase of Farben's contribution to preparing Germany for war.

Light Metals. As early as 1933 the Reich Air Ministry was giving consideration to the requirements of material for fighter aircraft, and State Secretary Milch, at a discussion in the Air Ministry on 15 September 1933,

"* * * expressed his agreement with the proposals to bring in new firms for the manufacture and *especially approved the installation of a new tube rolling mill, of the enlargement of production at Bitterfeld and of a new electron metal-finishing plant* on the basis of magnesium-chloride. This applied also to the manufacturing preparations for thermite which would become necessary. When it was pointed out the high costs which would be incurred for manufacturing preparations, State Secretary Milch declared that the necessary means would be made available.

"With regard to the very high *replenishment* requirements in electron metal bombs, it was pointed out on the part of Wa A that the manufacturing preparations would presumably necessitate the erection of a *number* of new electron metal works and probably even new *electric power plants* which could not be maintained by peacetime orders." [NI-7123, Pros. Ex. 90.]

In that same year the cooperation of Farben with the Reich Air Ministry began. Dr. Ernst Struss, Secretary of the Technical Committee of the Vorstand of Farben, who appeared as a witness both for the prosecution and defense, said: [NI-8317, Pros. Ex. 98].

"In 1933, IG received from the Luftwaffe the order to build a magnesium plant with the capacity of 12,000 tons a year. The Luftwaffe selected the site in Aken. The plant was partly completed in 1934 when production started. The plant and its production was to be kept secret by order of the Luftwaffe.

"The negotiations for the construction of the plant by IG were carried on between the Luftwaffe and Dr. Pistor of Bitterfeld. Subsequently Dr. Pistor received from Schmitz a kind of blank approval to carry on with the negotiations. This procedure was not usual at that time. The financial arrangement with the Luft-

*See mimeographed transcript, 30 September, 1 October 1947, pages 1342-1462.

waffe had already been made before the project was submitted to the TEA. * * *

"The total investment for magnesium and aluminium in Aken amounted to about 46,000,000 marks; and for magnesium alone it amounted to about 40,000,000 marks. IG furthermore obtained a special concession from the Ministry of Finance authorizing IG to provide for an annual 20 percent depreciation on machinery in the plant. The normal depreciation was 10 percent and so IG obtained a considerable advantage.

"Before the plant was actually built, the Luftwaffe carried out a number of tests from the air in order to ascertain how the plant itself could best be camouflaged. In accordance with the result of these tests in which Bitterfeld's chief engineer, von der Bey, participated, the plans for the plant were repeatedly changed until the Luftwaffe was satisfied that the plant was well hid from the air. Dr. Pistor subsequently stated in the TEA that considerable additional costs had to be incurred by IG on account of the camouflage requirements.

* * * * *

"Also by order of the Luftwaffe, IG started planning in 1934 another magnesium factory, for which the Luftwaffe selected Stassfurth as its site. Construction of the plant started in 1935 and it was completed in 1938. * * * The production capacity for magnesium was 13,000 tons a year since 1942. The total investment amounted to 50,000,000 marks. The Luftwaffe financed the construction by granting a credit of 44,000,000 marks. Here again the Ministry of Finance agreed to increased depreciation at the rate of 20 percent yearly.

"For Aken as well as Stassfurth, IG was permitted to charge to the Luftwaffe an increased amount over the cost price and the normal profit in order to be able to repay the credits out of the accrued extra profits."

While on the witness stand, Dr. Struss stated that the credit of 44,000,000 reichsmarks referred to from the Luftwaffe was for both the Aken and Stassfurth plants. At another time, Dr. Struss said [*NI-4832, Pros. Ex. 744*]:

"3. * * * Shortly after start of production in Aken, probably in the summer of 1935, I visited Aken as well as Bitterfeld and noticed that without doubt practically the entire production was stored there in the form of tubes and packed into cases. These tubes had a diameter of 8 cm, a 1 cm wall and a length of 20 cm. Without doubt these tubes were parts for incendiary bombs. These tubes were packed into standardized boxes and were called 'Textile Shells' (Textilhuelsen). Everybody laughed, whenever somebody

spoke about, or mentioned, 'Textile Shells' (Textilhuelsen). The meaning was common knowledge, and therefore everybody grinned whenever 'Textile Shells' (Textilhuelsen) were transported through the plant.

"4. Aken as well as Stassfurth had been built with loans made by the Air Force (Luftwaffe); and the I. G. Farben was given 5 years for the repayment of the loans and special amortization privileges. The Air Force (Luftwaffe) also paid much more than the cost price for magnesium and took the entire production of the plants. During the first 2 years' existence of Aken, at least 90 percent of the magnesium produced in Aken and Bitterfeld were made into these tubes and shipped out. * * *"

In 1938, arrangements were made between Farben and the Reich Air Ministry for "a second milling plant for Bi IV/1-powder." Bi IV/1-powder is explained as a powder consisting of aluminum and magnesium half and half used in flares and incendiary bombs. In a letter from the Reich Ministry of Aviation and Commander in Chief of the Luftwaffe to Farben, dated 7 September 1938 [NI-6483, Pros. Ex. 581], it was stated:

"* * * It is to be planned for a monthly production of 75 tons of Bi IV/1-powder under the mobilization program. It must be expressly confirmed by you that the total production in the event of mobilization will amount to 150 tons monthly in both plants.

"II. Implementation of your Plan

"In enlarging your Bitterfeld plant to the size necessary for the above-mentioned task, all measures necessary to ensure the quickest possible commencement of production are to be taken."

With reference to the quantity of production of magnesium and aluminum by Farben, Dr. Struss said [NI-8317, Pros. Ex. 98]:

"In 1930 the magnesium production of I. G. Farben amounted to 600 tons. In 1942 the production was 25,100 tons. Farben had thus increased its magnesium production by over 4,000 percent.

"Farben's share in the aluminum production in 1930 was 1,750 tons and in 1942 it was 24,000 tons. The increase in Farben's aluminum production was therefore just over 1,300 percent."

The report of Dr. Eberhard Neukirch on the "Development of Light Metals Industry within the Four Year Plan" [NI-7562, Pros. Ex. 590] dedicated to the defendant Dr. Krauch, shows that by 1939 the Farben plants of Bitterfeld, Aken, and Stassfurth had reached a capacity of 17,100 tons per year of magnesium and that expansion plans were already projected for increasing the existing plants by 16,900 tons per year and the erection of an additional plant at Gerst-

hofen by Farben with a capacity of 6,000 tons per year. In 1932 Farben produced 1,400 tons of aluminum; in 1939, 16,500 tons and in 1943, 24,000 tons. Thus, it appears that the capacity of Farben plants for the production of light metals increased manifold during that period.

As is pointed out by Dr. Neukirch in his report, with the conquest of Norway, Farben undertook to carry out additional plans for increased production of light metals in Norway through the exploitation and use of facilities of Norsk Hydro.

Chemical Warfare Agents. While so far as is known poison gas was never used in World War II, Farben participated extensively in experiments and in preparing for and producing poison gas during the years immediately preceding and during the war. The defendant Ambros may be credited with having participated in dissuading Hitler from the use of poison gas.

There was a close relationship and interlocking of preliminary products needed for the manufacture of explosives, gunpowder and chemical warfare agents. Farben's contribution to the preparation for chemical warfare included research, development and production of mustard gas, tear gas, nitrogen mustard gas, adamsite (throat irritant) and phosgene. The development and production of chemical warfare agents were closely related to and were coordinated with the production and development of other chemical war material. The contract between Farben and Orgacid, dated 22 July 1935, for the production of Ethyl-oxide from alcohol and the production of polyglycol M from Ethyl-oxide [NI-5681, *Pros. Ex. 351*], under which Farben was "to give all chemical technical advice * * * including the experimental work which may become necessary," is a typical example. In 1936 and 1937 there was continued planning with reference to research and production of chemical warfare agents. There is in evidence a detailed "accelerated plan" dated 30 June 1938 outlining an acceleration of the expansion program for the production of many chemical products including chemical warfare agents [NI-8839, *Pros. Ex. 439*]. Following his appointment by Goering as "his Plenipotentiary in this field of work," Krauch in a communication to the Ludwigshafen plant of Farben dated 26 August 1938 [NI-7428, *Pros. Ex. 217*] urged the early completion of building projects for several chemical products, including mustard gas, "for which no postponement of the deadline set for their completion can be tolerated."

The capacity of planned poison gas plants on 1 September 1939 for which Farben was responsible, was over 75 percent of total capacity, and by December 1942, Farben's share was estimated by the Krauch office to be 90 percent. [NI-12678, *Pros. Ex. 1820*; NI-12724, *Pros. Ex. 1818*.]

The evidence in the record makes it abundantly clear that the predominant responsibility for research and production in the field of chemical warfare agents immediately preceding and during the war was that of Farben.

Expansion of Plant Facilities. The rearmament program required an enormous outlay of capital for expansion of plant and production facilities. To meet those demands, special financial arrangements were made by Farben with the Reich taking into consideration the nature of the plants and their equipment, their purposes and the amount of capital required [NI-10540, Pros. Ex. 669; NI-9193, Pros. Ex. 698]. The records of Farben show, generally speaking, that three different plans were used: (1) Contract plants for which loans were obtained from the Reich or a Reich agency chiefly for the construction of new plants under arrangements whereby the loan was paid off over a period of years by the allowance of depreciation write-offs at an accelerated pace and rate [NI-7237, Pros. Ex. 696; NI-7242, Pros. Ex. 697]. Under this plan, the loan was actually paid off through the increased price paid for the products of the plant. Among the expansions so financed were plants at Bitterfeld, Aken, Rottweil and in the Leuna Works; (2) four-year plants, built with Farben funds on order from the Reich under arrangements whereby either: (a) the Reich agencies refunded to Farben the cost of construction by the payment of annual installments under a redemption plan fixed by contract, or (b) Farben was permitted by the contract to include increased rates of depreciation in the calculation of prices until the cost of installation had been absorbed. Expansions under this plan were not independent plants but were extensions of existing Farben plants; (3) other forms of governmental financial aid to Farben including: (a) subventions paid to Farben for carrying out special building projects, (b) proceeds tax, as from Buna sales, which could be used in construction of other plants as was the case of the Auschwitz Buna plant, or (c) tax concessions for new products, as for cellulose at Wolfen and for Buna at Schkopau and Huels, and (d) East Relief Tax Decree allowing liberal exemptions from appraisal of investments.

The agencies used by the Nazi government in carrying out arrangements for expansion of plants and production facilities included the Reich-owned companies of "Montan" and "Wifo". Often the contracts for construction and operation of such plants by Farben included Wifo or Montan as a party. Of the 37 Montan chemical works, 36 were built and operated by Farben and its subsidiaries [NI-9193, Pros. Ex. 698, NI-7377, Pros. Ex. 645]. Witness Zeidelhack* estimated that the capital value of those works alone totalled 1.2 billion

*See Zeidelhack testimony, tr. pages 2339-2349.

reichsmarks. He also said that "of a total of 76 chemical projects of the Army Ordnance Office, no less than 75 were executed by the IG and either operated, or controlled by them."

Zeidelhack further said that in the development of the expansion program, Farben "disclosed a particularly pronounced initiative in finding building sites and in the drawing up of specific plans. Without the intensive co-operation of the IG, including the DAG, and its experience and initiative, the carrying out of the chemical projects of the Army would have been impossible."

While Wifo was predominately a Reich company, Farben owned one-fourth of the "foundation capital." Wifo had to do primarily with production and storage of critical war material, such as sulphuric acid and nitric acid, and the establishment of stand-by plants, commonly called shadow plants, which were to be put in extensive production only in the event of war.

In the minutes of the TEA meeting held in Berlin on 30 June 1943 is a review of the condition of Farben plants on account of destruction by bombing. It shows such a possibility had been contemplated in working out the expansion program since 1933. It is said in those minutes [*NI-10947, Pros. Ex. 1506*]:

"* * * The increase in existing production which has been going on since 1933, and the assimilation of new manufactures, gave early cause for the basic decision to be made to set up new large plants for this purpose, which, apart from new manufactures, should take over also products which had already been manufactured in the old I. G. Farben plants. In the field of organic-chemical goods, Schkopau was founded in 1935, where, together with buna production, large-scale manufacturing of phthalic acid, acetic acid anhydride, vinyl chloride, and Igelit was planned, in order to cut out further increases in western production. The foundation of the major plants

1938 Landsberg
1938 Huels
1938 Moosbierbaum
1939 Heydebreck
1941 Auschwitz

followed, whose location and production program were chosen from the outset in such a way that they would take over such manufactures as already existed in other, principally western, plants."

With reference to financing of new plants, witness Dencker said that Farben "took the position that the total facilities available at that time [1934] were sufficient to cover the peacetime needs." As a consequence, Wifo was formed "to expand the production of nitric acid, for which IG was not prepared to furnish its own means." All these plants, however, were operated by Farben.

It is evident that no consistent policy was followed by the Reich and Farben with reference to the financial arrangements made for the expansion program. Generally when the expansion was outside of, or exceeded, the peacetime requirements of Farben, some special financial arrangements were made to lighten the financial burden on Farben and make the program financially attractive.

The minutes of the Vorstand of Farben for 25 September 1941 show that Farben expended for new construction for the period from 1932 to 1941 two billion reichsmarks.

The evidence shows that of the many Farben diverse products, the following were strategically important war materials: nitrogen (ammonia N), diglycol explosives gunpowder, synthetic gasoline, tetraethyl-lead, synthetic rubber, magnesium, aluminum, poison gas, sulphuric acid, chlorine caustic soda and potash, calcium carbide, sodium cyanide, stabilizers, methanol, other solvents. Farben's records show an enormous expansion of its production facilities for those materials in the years from 1932 to 1944. In 1932, Farben's investments for production of those materials was 4,901,000 reichsmarks; in 1933, it was 12,215,000 reichsmarks (almost three times as much); in 1938, it was 225,238,000 reichsmarks (about 45 times as much); and, in 1943, it was 421,500,000 reichsmarks (more than 86 times the 1932 investment).

From a maze of statistical and detailed information in the record in this case emerges a picture of gigantic proportions depicting feverish activity by Farben in a warlike atmosphere of emergency and crisis to rearm Germany in disregard of economic considerations and in complete sympathy with any demands made upon it by the Nazi regime. There is nothing in this record to suggest that Farben and these defendants ever withheld any energy or initiative that was calculated to help Hitler in plans to build a Germany that would be strong enough militarily to master the world.

e. Stockpiling of Critical War Materials. In this summary of Farben's cooperation in the rearmament of Germany, reference has repeatedly been made to the stockpiling of critical war materials. As early as 1934 Farben began stockpiling war materials in cooperation with the government's program of economic preparation for war. From that time on, Farben pursued and increased its program of stockpiling of strategic materials. Beginning in 1935, periodic reports of stockpiling of "iron pyrites" were made by Farben to the authorities [NI-8843, Pros. Ex. 749]; beginning in the summer of 1935, tubes for incendiary bombs were stored at Aken under the guise of textile shells [NI-4832, Pros. Ex. 744]; from an inspection report dated 11 September 1935, entitled "Nickel Factory Oppau," copy of which went to defendants Krauch, Haefliger, and Gattineau, plans for "a

large supply of nickel-copper-ore for stockpiling" were reported [NI-9549, Pros. Ex. 720].

The defendant Haefliger was especially active in obtaining import of nickel by exploiting Farben's international cartel arrangements. Farben had a contract with the Mond Nickel Company Limited of England [NI-10389, Pros. Ex. 723] for delivery to Farben of a quantity of nickel each year. The minutes of a conference at Ludwigs-hafen, attended by defendant Haefliger, concerning the stock of nickel, on 5 April 1939 [NI-7564, Pros. Ex. 724] comments that the reports to the English company as to the consumption of nickel in Germany "should no longer be made in the hitherto detailed form" as "Berlin is very much against such reports"; the minutes refer to "tendency in Berlin to import into Germany * * * nickel raw materials from another source, the import of which is not linked up with such suspicious conditions from a military economic point of view." In a memorandum by defendant Haefliger, dated 19 October 1939 [NI-9636, Pros. Ex. 725] is set out a contract with the International Nickel Company of Canada, which the memorandum states controlled approximately 85 percent of the world's production of nickel, whereby "IG succeeded in persuading the trust to store a very considerable supply of nickel concentrate * * * in Germany at its own expense, for the benefit of IG"; in that memorandum Haefliger commented that up to the last days before the outbreak of the war, the International Nickel Company had taken no "steps to eliminate the risk, to the tune of several million marks, involved in storing such quantities."

In 1935, Farben undertook the construction of a bomb-proof gasoline depot for the storage of gasoline [NI-7566, Pros. Ex. 747], and in 1936, at the request of the German Government, Farben, taking advantage of its close relationship with Standard Oil Company, arranged to buy twenty million dollars worth of gasoline, the funds for which were furnished by the government in order to build up its stock of gasoline [NI-4690, Pros. Ex. 731]. In July 1938, tetraethyl lead also was obtained from America [NI-4922, Pros. Ex. 732]. In regard to that transaction, Witness Henze of Farben said [NI-4831, Pros. Ex. 733]:

"* * * At the request of the Air Ministry and on direct order of Goering, I. G. Farben procured in 1938, 500 tons of tetraethyl lead from the Ethyl Export Corporation, of the United States. The Air Ministry needed this lead because it is indispensable to the manufacture of high octane aviation gasoline and because they wanted to store up the lead in Germany to tide the Air Ministry over until such time as the plant in Germany could manufacture sufficient quantities. We were producing sufficient quantities of tetraethyl-lead for ordinary purposes but the storage of the 500 tons of tetraethyl-lead was undertaken because in case of war Germany

did not have enough tetraethyl-lead to wage war, for which reason the German Reich pursued a stockpiling policy.

“* * * Finally, it was decided to procure the tetraethyl-lead on a loan basis. All the gentlemen were very bewildered as Goering demanded a report by noon the next day. It was commonly known that tetraethyl-lead was needed as the German production in tetraethyl-lead while sufficient for peacetime purposes, was not sufficient to wage war, and we had to obtain it immediately for aviation gasoline.”

In November 1938, Vermittlungsstelle W sent circular letters to various plants of Farben notifying them of the requirements of the Reich Economic Ministry that insofar as possible 3-weeks' stocks are to be stored in addition to the normal stocks “so that in the event of mobilization production can be continued as a result of accumulation of stocks.” [*NI-documents: 8367, 8365, 8366, 7211, 7209, 8364, Pros. Ex. 737-742 inclusive.*]

It is clear from the evidence in the record that, in cooperation with the Reich agencies, Farben carried out through the years preceding the war an extensive program of stockpiling of strategic and critical war materials in anticipation of the requirements if war should come. Farben utilized its international connections in carrying out such stockpiling often concealing the true objectives of the transactions.

f. Use of International Agreements to Weaken Germany's Potential Enemies. In the conduct of its world-wide enterprises, Farben had numerous contacts and arrangements with business concerns of other countries. Through cartel agreements, plans for sharing of patent rights, association of interests and many other reciprocal arrangements with business enterprises throughout the world, Farben was in a strategic position to serve the expanding purposes of the Nazi government.

Among these international agreements was a contract between Farben and the Standard Oil Company of New Jersey under which Standard Oil Company acknowledged Farben's supremacy or priority all over the world in the chemical field and Farben deferred to Standard Oil's leadership in oil everywhere except in Germany. [*NI-10550, Pros. Ex. 942; NI-10430, Pros. Ex. 943.*]

In a letter dated 9 November 1929, Mr. Teagle, President of Standard Oil, referring to the agreement of that date, set out an understanding of the intentions of each party “to hold itself willing to take care of any future eventualities in a spirit of mutual helpfulness” and more particularly he said:

“In the event the performance of these agreements or of any material provisions thereof by either party should be hereafter restrained or prevented by operation of any existing or future law, or the beneficial interest of either party be alienated to a substantial degree by operation of law or governmental authority, the parties

should enter into new negotiations in the spirit of the present agreements and endeavor to adapt their relations to the changed conditions which have so arisen."

This agreement of 1929 was followed in 1930 by another agreement, the purpose of which was stated to be "the desire and intention of the parties to develop and exploit their new chemical processes jointly on the basis of equality (50-50)." [NI-10433, *Pros. Ex. 945*.] A jointly owned corporation called Jasco was organized to develop any processes turned over to it either by Standard Oil Company or Farben. It was agreed by the parties to the contract that the development of synthetic rubber processes, as well as the developments in the synthetic rubber field, should be turned over to Jasco. [NI-documents 10433, 10431, 10434, 10450, 11249, 10576, 10565, *Pros. Exs. 945-951 inclusive*.]

Early in the Nazi regime, indications of limitations imposed upon the relationship of German enterprises with those abroad began to appear. However, Farben continued its policy of negotiating and making international agreements within their field of interest. On 9 March 1934, Farben wrote Chemnyco, its subsidiary in New York, in connection with the view which the "German Government takes of international agreements about technical collaboration" that "we should * * * not allow foreign industry to gain the impression that in this respect we are not free to negotiate." [NI-10547, *Pros. Ex. 952*.]

In a memorandum dated 24 June 1935, concerning a conference held on 21 June 1935 between Farben and the Army Ordnance Branch at Ludwigshafen-Oppau [NI-5931, *Pros. Ex. 523*], it was said:

"The IG is bound by contract to an extensive exchange of experience with Standard. This position seems untenable as far as developmental work which is being carried out for the Reich Air Ministry is concerned.

"Therefore the Reich Air Ministry will soon conduct an extensive examination of applications for patents of the IG.

"Furthermore, the IG will suggest the necessary security measures to the Reich Air Ministry under special consideration of the situation."

Even though the conflict between the obligation of Farben under its agreements with Standard Oil and the requirements of the German authorities was thus early realized by Farben, nothing was done by Farben frankly to inform Standard Oil of its situation and to "enter into any negotiations in the spirit of the present agreement and endeavor to adapt them relative to the changed conditions which had so arisen." Rather Farben pursued a policy, in cooperation with the Nazi government, calculated to mislead the Standard Oil Company. Howard, of Standard Oil, had occasion to express the understanding of

his company concerning these contracts with Farben in a letter dated 27 July 1936 in which he said: "The arrangement is one which necessarily requires good will on both sides."

On 14 July 1937, there was a meeting at the Wehrmacht office [NI-10437, *Pros. Ex. 954*] on "maintaining secrecy on improvements of IG processes in the production of motor fuel and lubricants which are of importance to national defense" attended by Farben representatives. A report of that meeting said:

"* * * Since the production of this oil is expensive, there has so far been no interest in this process, particularly since the special quality advantages cannot be seen from the registrations. By keeping the work being done towards the large scale exploitation secret, it is possible to ensure that Germany has advantage.

"* * * With regard to iso-octane too, it is desirable that the establishment of installations in Germany is kept secret. On the part of I. G. Farbenindustrie it was mentioned in this connection that as soon as certain products are ready for delivery in larger quantities (as will be the case with ethylene-lubricant as well with iso-octane in the near future) the existence of production plants can hardly be kept secret. If it does become known it would however lead to unpleasant international relations in view of I. G. Farbenindustrie's obligations to exchange know-how.

"The state of knowledge for the production of aviation gasoline, iso-octane and ethylene-lubricant on 1 July 1937 is being fixed in cooperation between the Reich Air Ministry and I. G. Farbenindustrie.

"IG will make no additional statements about the quality of the oils (aviation oil quality) which can be reached with regard to the ethylene-lubricant patent, which has actually been released, in order to justify its capacity for being patented.

"In consideration of its exchange of know-how agreements I. G. Farbenindustrie is permitted to inform its partners in the agreements in a cautious way shortly before the start of large-scale production that it intends to start a certain production of iso-octane and ethylene-lubricant. The impression is however to be conveyed that this is a matter of large-scale experiments. Under no circumstances may statements on capacity be made."

Following a conference with General Thomas, defendant Buete-fisch submitted a memorandum agreed upon with General Thomas dated 25 January 1940. [NI-10447, *Pros. Ex. 958*.] In it, defendant Buete-fisch said:

"This exchange of know-how which is still being handled in the usual way by the neutral countries abroad even now, and which is transmitted to us via Holland and Italy, firstly gives us an insight into the development work and production plans of the companies

and/or their countries and at the same time informs us about the stand of technical development with regard to oil. In these know-how reports, drawings and technical details about the most varied subjects are passed to us. The contractual obligations mean that we too must make our experiences with regard to oil available abroad within the framework of the agreement. Up to now we have carried this exchange of know-how out in such a way that from our side we have only sent reports which seemed unobjectionable to us after consultation with the OKW and Reich Ministry of Economy and which contained only such technical data as concerned facts which are known or out-of-date according to the latest stand. In this way we have managed the handling of the agreements so that in general the German economy remained at an advantage.

"In order to maintain the contact with neutral countries abroad and/or the oil companies located there, we consider it expedient to continue this exchange of know-how in the form drawn up, retaining on our part the guiding principle that under no circumstances must any know-how of military or military-political importance get abroad in this way. In all cases of doubt contact with the Reich offices concerned must therefore be made * * *."

The record shows that this memorandum was initialed by General Thomas and signed by Goering under notation reading: "Director Dr. Bueteffisch bears responsibility that nothing of importance to military or defense policy gets out." And in a letter dated 6 February 1940 from General Thomas to "Dr. Bueteffisch, Vorstand member of I. G. Farbenindustrie A. G.," it said:

"It is however necessary that you yourself in your capacity as head of the Economic Group Motor Fuel Industry as well as Vorstand member of I. G. Farbenindustrie A. G. take over the responsibility for seeing that matters be kept secret in the interests of national defense and do not become known abroad."

On 15 January 1942, defendant ter Meer wrote a letter to defendant Krauch giving "data on action taken by us in the United States regarding buna." Ter Meer said [*NI-10455, Pros. Ex. 960*]:

"In conclusion I should like to state that except for the license agreement concluded with our ally, Italy, processes and experiences on the production of Butadiene and the manufacture of buna S and N, were never made available abroad."

In that letter ter Meer enclosed several memoranda of conferences held with the German authorities before the outbreak of war. In a memorandum concerning a conference held at the Reich Economics Ministry on 18 March 1938, attended by defendant ter Meer, it is said:

“* * * Germany’s going in for large scale manufacture of buna S, the realization abroad, especially in the United States of America that buna S is a suitable tire rubber and, finally, the possibility—as it presented itself to the United States of America—to produce buna S at prices approximately equal to the average price of natural rubber created an extraordinarily great interest in America for the whole problem. Conferences which up to now had the sole object of easing the minds of American interested parties and to prevent as much as possible an initiative on their own part within the frame of Butadiene rubber were held with Standard, Goodrich, and Goodyear. We are under the impression that one cannot stem things in the United States of America for much longer without taking the risk of being faced all of a sudden by an unpleasant situation and lest we be unable to reap the full value of our work and our rights.

“The patent situation in the United States of America was described in brief outline. Our patents covering the agent for mixed polymerization (buna S and N) are very strong and do not expire until 1950 and 1951, respectively. We have, furthermore, the tire patents for butadiene rubber. Therefore, as long as American experiments—which as we know very well are being carefully carried out by such important firms as Goodyear and Dow—remain within the above-mentioned patent sphere, there is danger. * * *

“The American Patent law does not make licensing mandatory. It would nevertheless be conceivable that because of the extraordinarily great importance of the rubber problem for the United States of America and because tendencies for restoring military power are very strong there too, considering the decrease in unemployment, et cetera, a bill for a corresponding law might be submitted to Washington. We, therefore, treat the license requests of the American firms in a dilatory way so as not to push them into taking unpleasant measures. * * *

“Pursuant to the above, the possibility was discussed in detail, through strict reserve on our part to put the breaks on for developments in the United States of America, especially with a view to preserving secrecy in regard to other countries.”

It appears from the evidence that Farben, especially the defendant ter Meer, did go through the motions of seeking permission from the German authorities to divulge the buna process. It was in a dilatory manner, however, not in keeping with the professed relationship of good will and confidence between Farben and its foreign associates. In April 1938, defendant ter Meer wrote Howard of the Standard Oil Company as follows:

"In accordance with our arrangements in Berlin, I have meanwhile taken up negotiations with the competent authorities in order to obtain the necessary freedom of action in the United States of America with regard to rubber-like products. As anticipated, those negotiations have proved to be rather difficult and the respective discussions are expected to take several months before the desired result is obtained. I will not fail to inform you about the result in due course." [NI-10505, *Pros. Ex. 966.*]

On 20 April 1938, Howard wrote to ter Meer urging speed and said:

"My view is that we cannot safely delay the definite steps looking toward the organization of our business in the United States with the cooperation of the people here who would be the strongest allies, beyond next fall—and even to obtain this much delay may not be too easy."

In October 1938, the minutes of the Ministry of Economics [NI-10459, *Pros. Ex. 967*] showed that use of patented buna processes and know-how abroad was permitted with certain restrictions including obtaining consent for passing it abroad "Should fundamental new knowledge with regard to buna be obtained * * *" In a letter from Ringer, a Farben executive to the defendant von Knieriem dated 28 September 1939, referring to a pending conference with Howard of Standard Oil at The Hague, it was said: "Dr. ter Meer thinks it is necessary to point out specifically that there will be no exchange of experience with respect to buna; * * *" [NI-10466, *Pros. Ex. 974*].

A commentary, dated 6 June 1944 [NI-10551, *Pros. Ex. 994*] forwarded by defendant von Knieriem to several persons in Farben, including defendants Schmitz, Ambros, Buetefisch and Schneider, is particularly significant. It refers to an article which appeared in America in the "Petroleum Times," written by Professor Haslam, declaring "that the Americans received processes from IG which were vitally important for the conduct of war." In the commentary it stated:

"In summary, it can thus be said concerning the production of aviation fuels, that we had to use methods which differed in principle from those of the Americans. The Americans have crude oil at their disposal and naturally rely on the products that are created in the processing of crude oil. In Germany, we started out on a coal basis and from there proceeded to utilize the hydrogenation of coal for the production of aviation fuel. As mentioned above, however, specialized information was not turned over to the Americans. Therefore, in contrast to Professor Haslam's assertions, hydrogenation proper was used in Germany, though not in America, for the

production of aviation fuels. Beyond that it must be noted that particularly in the case of the production of aviation gasoline on an Iso-octane basis, hardly anything was given to the Americans, while we gained a lot.

"The conditions in the buna field are such that we never gave technical information to the Americans, nor did technical cooperation in the buna field take place.

"A further fact must be taken into account, which for obvious reasons did not appear in Haslam's article. As a consequence of our contracts with the Americans we received from them above and beyond the agreement many very valuable contributions for the synthesis and improvement of motor fuels and lubricating oils, which just now during the war are most useful to us, and we also received other advantages from them.

"Primarily, the following may be mentioned :

"(1) Above all, improvement of fuels through the addition of lead-tetraethyl and the manufacture of this product. It need not be especially mentioned that without lead-tetraethyl the present method of warfare would be unthinkable. The fact that since the beginning of the war we could produce lead-tetraethyl is entirely due to the circumstances that, shortly before, the Americans had presented us with the production plans complete with experimental knowledge. Thus the difficult work of development (one need only recall the poisonous property of lead-tetraethyl, which caused many deaths in the U. S. A.) was spared us, since we could take up the manufacture of this product together with all the experience that the Americans had gathered over long years.

* * * * *

"(3) In the field of *lubricating* oils as well, Germany, through the contracts with America, learned of experiences that are extraordinarily important for present day warfare."

The defense seeks to characterize this evidence as "window dressing" deliberately planned to mislead the Nazi government. In my opinion, it is an accurate appraisal of the evidence as to Farben's conduct with reference to its foreign associates in cartel agreements during the rearmament period and prior to the war with the United States to say that Farben, on the one hand, gave the appearance of adhering to the agreements with its associates, and, on the other hand, cooperated with the German authorities in withholding information as to experience and know-how coming within those agreements; that Farben often went through the motions of seeking permission from the authorities to comply with the agreements but with such dilatory tactics that delay resulted to the great disadvantage of the other powers and with resulting advantage to Germany. The contemporaneous documents of Farben and the German governmental authorities in

evidence reveal a record of conduct on the part of Farben characterized by duplicity and lack of that candor and frankness contemplated by the relationship with Farben's foreign associates. Such conduct must have been expressly designed to delay the rearmament of Germany's enemies in preparation to meet and resist any Nazi aggression and, to some degree, undoubtedly contributed to this result.

g. Propaganda, Intelligence and Espionage Activities. The far-flung organization of Farben was an ideal vehicle for carrying Nazi propaganda throughout the world. Soon after the Nazi rise to power in 1933, officials of Farben took the initiative in launching an extensive program. Defendant Ilgner organized a Circle of Economy Leaders, which cooperated with the Propaganda Ministry. This organization undertook to see that "the situation in 'new Germany'" would appear in a more favorable light abroad. Defendant Gattineau said with reference to its activities [NI-4833, *Pros. Ex. 26*]:

"* * * It also was the task of the Circle of the Economy Leaders to prevent awkward actions of the Ministry of Propaganda and to substitute for them more suitable ones. The Circle of Economy Leaders was well qualified for this because its members knew the situation abroad well; they had good connections abroad and were acquainted with the mentality of the respective countries. The development of events in Germany had greatly disturbed the expert policy and the representatives of industry were now wishing to counteract this unfavorable development by appropriate propaganda. One tried to shift the attention from political questions to cultural ones. To the Propaganda Ministry this development was very desirable because in that manner the connections which industry had abroad could be used for its purposes. Besides, it was an advantage to use people not known to be paid propagandists. This propaganda activity was financed not by the Propaganda Ministry but by the firms of the respective subdepartment chiefs. In that manner I handled Scandinavia, and Dr. Max Ilgner North America. Among other things also trips by foreign newspapermen to Germany were financed. The negotiations with and the payment to the propagandist Ivy Lee also occurred during that period. Payments made for such purposes were accounted for by Dr. Ilgner with the Zentral-Finanzverwaltung of IG and Geheimrat Schmitz was informed about them. Dr. Ilgner's Office was used as the business office of the Circle of Economy Leaders. Other propaganda organizations which had been established upon Ilgner's initiative are the Association of Karl Schurz and the Mitteleuropaeische Wirtschaftstag. This activity of Dr. Ilgner's also was an expression of his efforts to make himself useful to the new man in power, thus to obtain a prominent position for himself. He was in a position to do this because as head of the NW 7 organization of IG he had an insight

into all of IG's affairs and he thus could be of service to other people and authorities * * *."

Several of the defendants were appointed to positions in the propaganda organizations. The appointment of defendants Mann, von Schnitzler and Gattineau to the Publicity Board of the German Economy was announced at a meeting held at the Propaganda Ministry on 30 October 1933 [NI-1105, Pros. Ex. 62] which was attended by Nazi officials and prominent representatives of the Party and industry. The meeting was addressed by Funk, who had assumed the chairmanship of the Board, and Goebbels who urged the participants to "go ahead in the spirit of National Socialist vigor and conviction." In 1934 defendant von Schnitzler was selected a member of the Aufsichtsrat of ALA [NI-380, Pros. Ex. 778], an advertising agency set up under State and Party supervision.

In carrying out the propaganda program, defendant Mann sent a circular letter to all of the Bayer representatives abroad describing the achievement of the Nazi regime since its rise to power, and the "miracle of the birth of the German nation" [NI-10267, Pros. Ex. 782]; in this circular appear the following statements:

"In view of the boycott propaganda abroad, which is still noticeable, although it has lost considerably in intensity, we are particularly desirous of describing to you in detail the actual conditions as they prevail under the new National Socialist government in Germany. We wish to express the hope that this report will supply you with important data, enabling you to continue to assist us in our *struggle for the German conception of law*. We ask you expressly, in connection with your collaborators and your personnel, to make use of these data in a manner which appears appropriate to you, to the end that all coworkers of our pharmaceutical business become familiar with these general economic and political conceptions."

It was by such means that Farben undertook to direct its agencies and personnel abroad to influence opinion favorably towards the Nazi regime and thus help and support the furthering of the objectives of the Nazi program.

At a meeting of the Commercial Committee of Farben on 10 September 1937 [NI-4959, Pros. Ex. 363], attended by defendants Schmitz, von Schnitzler, Haefliger, Ilgner, Mann and Oster, the organization of Germans abroad (A. O.) was discussed. Minutes of that meeting state:

"It is generally agreed that under no circumstances should anybody be assigned to our agencies abroad, who is not a member of the German Labor Front and whose positive attitude towards the new era has not been established beyond any doubt. Gentlemen who are

sent abroad should be made to realize that it is their special duty to represent National Socialist Germany. They are particularly reminded that, as soon as they arrive, they are to contact the local or regional group (of Germans abroad) respectively, and are expected to attend regularly at their meetings as well as at those of the Labor Front. The Sales Combines are also requested to see to it that their agents are adequately supplied with National Socialist literature.

“Collaboration with the A. O. (Organization of Germans abroad) must become more organized. * * *”

At a meeting of the Bayer Board of Directors held at Leverkusen on 16 February 1938 [*NI-8428, Pros. Ex. 803*] presided over by defendant Mann, he affirmed the favorable attitude. The minutes of the meeting state:

“The chairman points out our incontestable being in line with the National Socialist attitude in the association of the entire ‘Bayer’ pharmaceutica and insecticides; beyond that, he requests the heads of the offices abroad to regard it as their self-evident duty to collaborate in a fine and understanding manner with the functionaries of the Party, with the DAF (German Workers’ Front), et cetera. Orders to that effect again are to be given to the leading German gentlemen so that there may be no misunderstanding in their execution.”

Pursuant to such instructions, representatives of Farben abroad cooperated actively with the foreign organizations of the Nazi Party. Reports were made by those representatives to Farben of the various schemes and projects undertaken, which were approved and ratified.

During a trip to South America in 1936, defendant Ilgner was especially effective in developing a program of “Defense Against Fostering of Anti-German Sentiments in Latin America,” as reported by a representative in a letter dated 27 January 1937 [*NI-070, Pros. Ex. 790*]. The program included the distribution of propaganda material through Latin America Chambers of Commerce, branches of German banks and other representatives of German economy. Other devices contemplated were the use of film, propaganda schools, and radio, the exchange of students, business men, scientists and artists, all as a means of carrying on “important propaganda work towards Germany.” Farben gave financial support to schools and cultural institutes abroad as well as chambers of commerce promoting the propaganda program.

The activities of Farben with reference to affairs in Czechoslovakia in 1938 are particularly significant as revealed by the minutes of the Conference on Czechoslovakia held on 17 May 1938 at Unter den Linden 82. In the minutes of that meeting [*NI-6221, Pros. Ex. 833*], it is said:

“Seebohm gave an introductory report; he stated that after the incorporation of Austria in the Reich, tension had increased in the Sudeten-German parts of the country and that in all sectors of the population the political and industrial organizations were being reconstructed according to German pattern and to the tenets of National Socialism.” * * *

“It seemed expedient to begin immediately and with the greatest possible speed, to employ Sudeten-Germans for the purpose of training them with IG in order to build up reserves to be employed later in Czechoslovakia.” * * *

“The Information Office (Nachrichtenstelle) had for some time been endeavouring to publish articles of general and particular interest in Sudeten-German newspapers and to this end was making use of the ‘Wirtschafts- und Zeitungsdiens t G. m. b. H.,’ a company sponsored by the German authorities. These articles were intended to serve as a preparation for a gradual financial strengthening of the Sudeten-German newspapers by advertisements.”

“*Proposed action:* The Information Office, in collaboration with the sales combines, would specify the newspapers which were to be sponsored, inasmuch as they were suitable for advertising our marketable products. The papers were then to be supplied with articles by the Information Office and given advertisements for insertion in order to support them financially.”

“Furthermore, those newspapers which had political importance, and periodicals which published articles and reports with a general bias in favour of IG without actually giving publicity to our products, were to be supported by being given items for publication as regularly as possible.”

A report of this conference was given to the members of the Commercial Committee at a meeting of that Committee on 24 May 1938 [NI-6703, *Pros. Ex. 1612*] attended by defendants Schmitz, von Schnitzler, Haefliger, Ilgner, Gattineau, and Kugler, and at the same time the minutes of that conference were distributed to the members of the Commercial Committee. These minutes indicate a knowledge of possible Nazi intentions with reference to Czechoslovakia and show that Farben used its financial power in an effort to influence public opinion in that country in complete harmony with the Nazi-sponsored agitation.

Thus it appears that Farben, through the energetic use of its foreign representatives and contacts and the power of its financial backing, was an active instrument in furthering the Nazi propaganda program in a wide variety of directions and willingly cooperated in various forms of Nazi intrigue.

Of even greater importance to the Nazi program was the energetic initiative of Farben through the use of its foreign connections in

intelligence and espionage activities. Farben worked closely with the intelligence of the Wehrmacht, called the Abwehr, and financed institutions abroad in the service of that agency. Both before and during the war, Farben was zealous in its efforts to obtain and furnish the Wehrmacht militarily important information. The Central Finance Administration (ZEFI), commonly called "Berlin NW 7," had been organized by the defendant Ilgner in 1927 and was gradually enlarged to include the Economic Research Department (VOWI), the Political Economic Policy Department (WIPO) headed by defendant Gattineau, and the Bureau of the Commercial Committee (BdKA) [NI-10702, *Pros. Ex. 839*]. This organization, through its incomparable sources of information all over the world, collected and compiled detailed information in various countries concerning the most important branches of industry and particular enterprises, including the purposes of the undertaking, the financial structure, products, capacity and location. The material thus assembled probably surpassed that of any other institution in Germany in extent and quality, and was made available to several agencies of the government regularly [NI-6544, *Pros. Ex. 377*; NI-8414, *Pros. Ex. 851*]. Often VOWI, at the request of the Military Economic and Armament Staff, made thorough investigations abroad. Witness Bannert said [NI-8149, *Pros. Ex. 850*]:

"* * * As an example of this, I would mention the investigations that were made in the autumn of 1939 concerning the Toluol capacities in England and France, and the study at the beginning of 1940 on the effect of the stoppage of fodder imports on Danish agriculture. We were also asked at this time for pictures and maps of the industrial plant in enemy countries. As we did not possess these, we had to limit ourselves to making photostatic copies from the rarely published drawings and photos in the different technical publications and placing these at the disposal of the Military Economic and Armaments Staff. I remember that once during the war we were asked to explain, with the aid of an air photograph, the lay-out of the Clifton Magnesium Works in England, in preparation for a bombing attack. We passed on the advice of a gentleman from Bitterfeld, who was familiar with the works lay-out."

Concerning Farben as a source of information, General Huehnermann said:

"Another of our sources of information was the Economics Department of the I. G. Farbenindustrie A. G. (Volkswirtschaftliche Abteilung) * * * The Economics Department of the IG cooperated with us by putting their work, such as reports on countries, detailed reports on raw materials, developmental prospects, at our disposal. Since the Economics Department of the IG had

an excellent and highly qualified staff of collaborators we also addressed to this office inquiries on subjects about which we assumed they were informed. (Inquiries during the war about America's nitrogen production, etc.)" [NI-9827, Pros. Ex. 853].

The furnishing of information by Farben to the Wehrmacht during the months preceding the premeditated attack on Poland is significant. In the weekly report to the Office of Military Economy appear these items: [NI-7493, Pros. Ex. 860; NI-8469, Pros. Ex. 861; NI-4875, Pros. Ex. 843; NI-8149, Pros. Ex. 850.]

"6-7 March: Discussion with Dr. Fernau of the I. G. Farben, on the English and French oil supplies.

* * * * *

"14 April: * * * Inception of I. G. Farben study 'Rumanian Mineral Oil' and 'Greater Germany and the Economic Spheres of the Bohemia-Moravia protectorate and of Czechoslovakia.'"

* * * * *

"14 June: Discussion with Dr. Fernau of I. G. Farben. Submission of the essay on Cyprus and discussion on the utilization and exploitation of the I. G. Farben records and library. In accordance with Fernau's statement, the records and library are at the disposal of the WStb at any time.

* * * * *

"24 August: * * * Discussion with the Leader of the Economics Department of the I. G. Farbenindustrie Aktiengesellschaft, Doctor Reithinger, as well as Doctors John and Fernau of the IG, on the closer cooperation envisaged.

"The IG made all their archives and printed material available for exploitation, and furthermore declared themselves prepared to answer questions put to them, which must be kept as brief and concise as possible. Written questions are to be sent through the Office of Military Economy Group VIII to the office controlling the scope of the IG's activities.

* * * * *

"26 August: * * * Discussion with Dr. von der Heyde, Commissioner for Abwehr of the I. G. Farbenindustrie Aktiengesellschaft, Berlin, on the sphere of activities of Dr. Krueger, Betriebsfuehrer of the I. G. Farbenindustrie Aktiengesellschaft, Berlin, who came to the WStb for the reinforcement of mobilization.

"25 August: * * * Discussion at the Office of Military Economy, Group VIII, Captain Dose, Dr. Holzhauser, with Dr. Reithinger, Dr. John. Dr. Fernau's suggestion of using the Economics Department, together with archives, of the I. G. Farbenindustrie for the WStb's purposes was accepted by Captain Dose. Request

for brief description of Poland's situation with regard to raw material stocks and a description of the Reich's increased security against blockade through the Berlin-Moscow nonaggression pact. (Descriptions are promised.)”

From the minutes of the meeting of the Commercial Committee of Farben on 12 November 1940, attended by defendants Schmitz, von Schnitzler, Haefliger, von der Heyde, Ilgner, von Knieriem, Kugler, Mann, ter Meer and Oster, it appears that von Schnitzler made a report of the “work recently prepared by the National Economics Department for various government and military offices.” The minutes state [NI-6162, Pros. Ex. 866]:

“* * * During the discussion following this the Commercial Committee repeated its wish that the National Economics Department should prepare this work in close cooperation with the sales combines and other IG Offices concerned.”

On 2 March 1940, VOWI made a report to the Military Economy Office [NI-7850, Pros. Ex. 657] setting out technological information concerning explosives and chemical warfare agents, including an estimate of production facilities of the United States.

The American company, Chemnyco, Inc., a company controlled by Farben personnel, was used extensively as a source of valuable information. The United States Department of Justice had occasion to investigate the activities of the Chemnyco Company during the war and made an official report of its findings. In that report [NI-10577, Pros. Ex. 875], it is said:

“The simplicity, efficiency and totality of German methods of gathering economic intelligence data are exemplified by Chemnyco, Inc., the American economic intelligence arm of I. G. Farbenindustrie. Chemnyco is an excellent example of the uses to which a country with a war economy may put an ordinary commercial enterprise. * * *”

There can be no doubt that Farben used its world-wide connections as a means of obtaining information of military value and furnished such information to the Wehrmacht to an ever increasing extent. Farben in that regard gave enormous help to the preparation for and the waging of aggressive wars conducted by Germany.

h. Steps Taken in Anticipation of War for Protection of Farben's Foreign Holdings by Camouflage and Projection of Plans for Economic Domination of Europe in the Chemical Field. In July or August of 1938 officials of Farben took up for serious consideration the matter of safeguarding their assets abroad in the event of war. [NI-4923, Pros. Ex. 1022.] According to Witness Kuepper, who was a member of the legal staff of Farben, that was “when the dark clouds called Sudeten

crisis already appeared over the horizon." Several significant events had already occurred by that time which were consistent with the publicly proclaimed program of Hitler revealing what the IMT characterized as "the unmistakable attitude of aggression." The Treaty of Versailles had been repudiated by the Nazi government; the building of a military air force had been announced by Goering over 3 years before; for more than 3 years an army had been in the making since the enactment of compulsory military service in 1935; in defiance of the Versailles Treaty, the demilitarized zone of the Rhineland was entered by German troops in 1936; as was stated by the IMT, "At daybreak on 12 March 1938 German troops marched into Austria." Witness Kuepper said:

"* * * There was no question of an aggressive war; there was a general feeling of the darkening of the general political situation, and the general talk not only was in Farben, but in the whole German public, about the possibility of war; the kind of war, that was not discussed." [*Mim. Tr. p. 2908.*]

The talk of war by the German public at that time was natural in view of the public events during the recent years as above reviewed. Of course, it was not specifically discussed whether it was to be an aggressive war or a defensive war. The "possibility of war" was present in view of repeated aggressive acts committed by the Nazi government. Reasonable men were only being logical when they realized the prospect of war as a consequence of the policy being followed and began prudently to do what they could to protect their foreign assets in the event of war. Such a course of conduct was in keeping with the far-sighted intelligence always exhibited by Farben officials in managing and directing the Farben enterprise. Of course such conduct was not in itself the commission of the crime against peace, but it is significant as indicating the seriousness of the situation in the state of mind of officials of Farben when they undertook to map out the policy for the protection of the concern's foreign holdings. It shows a realistic appraisal of the foreign policy of Germany and an understanding of the imminent possibility of war.

Within 2 days after German troops had occupied Bohemia and Moravia, contrary to the agreements made at Munich in September 1938, the Legal Committee of Farben, presided over by defendant von Knieriem, met in Berlin on 17 March 1939 to consider the problem of protecting Farben assets in foreign countries "in the event of war." [*NI-2796, Pros. Ex. 1020.*] The minutes of that meeting show that this Legal Committee made specific recommendations as to legal steps necessary to camouflage Farben assets abroad to prevent seizure in the event of war. In the minutes [*NI-2796, Pros. Ex. 1020*] it is said:

* * * * *

“*ee.* If the shares or similar interests are actually held by a neutral who resides in a neutral country, enemy economic warfare measures are ineffective; even an option in favor of IG will remain unaffected. A sole exception arises if the neutral is placed on the ‘blacklist,’ since then the liquidation of the shares or similar interest may also be ordered. The English during the war made very sparing use of the authority to liquidate assets in the United Kingdom of a ‘black-listed’ neutral, inasmuch as such procedure invariably resulted in controversies with the government of the neutral involved, controversies which frequently were out of all proportion to the results obtained by such liquidation.

“This survey shows that the risk of seizure of the sales organizations in the event of war is minimized if the holders of shares or similar interests are neutrals residing in neutral countries. Such a distribution of holdings of shares or other interests has the further advantage of forestalling any conflicts troubling the conscience of an enemy national who will inevitably be caught between his patriotic feelings and his loyalty to IG. A further advantage is that the neutral, in case of war, generally retains his freedom of movement, while enemy nationals are frequently called into the service of their country, in various capacities, and therefore can no longer take care of business matters.

* * * * *

“However, as far as possible with due regard to the other interests which call for our consideration, neutral influences should be strengthened in our agencies abroad by the transfer of shares or similar interests to neutral holders. If this is not possible, it seems advisable to transfer the shares or similar interests to parties who are nationals of the particular country and to provide for options on these shares or similar interests, not in favor of IG directly but running to some neutral party with an ultimate option in IG’s favor.”

* * * * *

“The adoption of these measures would offer protection against seizure in the event of war, although this protection may not be a complete one.”

This indicates careful and thorough consideration by Farben of the whole problem of protecting foreign holdings in the event of war so as to reduce the hazard of loss to a minimum.

A summary of the minutes of that meeting was, on 8 June 1939, sent to several executives of Farben, including defendants von Schnitzler, ter Meer and Kugler. In the evidence is a memorandum, dated 22 July 1939 [NI-4923, *Pros. Ex. 1022*] entitled “*Safeguarding measures for the case of war,*” which refers specifically to Farben’s holdings in Belgium, France, Egypt, England, United States of America, Canada,

Australia and New Zealand. This was a memorandum of the Legal Department Dyestuffs.

During the summer months in 1939, preceding the invasion of Poland by Germany, Farben carried on an extensive correspondence with the Reich Ministry of Economics concerning the method of camouflage of foreign assets. In a letter dated 24 July 1939 written by Farben to the Reich Ministry of Economics [NI-8496, *Pros. Ex. 1024*] appear these significant statements:

“The continuous watch which we have kept on the legal structure of our sales system abroad, and the necessity—in view of political tensions—of paying special attention to the protection of our interests in case of a conflict with other powers, have convinced us that even the structure did no longer offer the necessary protection in these countries which were especially exposed to danger, among them particularly the British Empire.

“For these reasons we have come to the conclusion that real protection of our foreign sales companies against the danger of sequestration in wartime can only be obtained by our renouncing all legal ties of a direct or indirect nature between the stockholders and ourselves—which at present give us the *right* of access to the stocks of our sales companies—and replacing these legal relations by transferring the right of access to these assets to such neutral agencies as by virtue of their personal connections with us of many years standing, in some cases even covering decades, will give us the absolute guarantee that in spite of their complete independence and neutrality they will never dispose of these assets otherwise than in a manner entirely in accordance with our interests. This guarantee continues to exist even in the case of unforeseen technical or political complications rendering a discussion with us temporarily impossible, a discussion which in view of our friendly relations, would normally be a matter of course. The experiences we made during the war have made it much easier for us to decide on this step. As an example, for the fact that the only effective protection of our interests lies in the personal trustworthiness of our business friends abroad and not in legal obligations whatsoever, we shall only quote the following incident:

“After the entry of the United States into the World War, all the assets of our constituent companies in the United States were sequestrated and were, in the majority of cases, sold to competitors by the American authorities; only this action provided the basis for the development of the American chemical industry of today. This was the situation when the representative of the Hoechster Farbwerke, General M. A. Metz, while fully observing his duties as an American citizen, staked his entire private property—without being asked to and without any legal obligation—in order to buy

the assets, in particular the patents belonging to the Hoechster Farbwerke, from the American sequestrator, and after the end of the war, in return for his expenses, placed them again at the disposal of our constituent Company. Personality alone was the decisive factor in that situation, when, according to English and American laws of war, all contractual relations with the enemy were automatically severed by entry into the war."

In a communication dated 26 September 1940 [NI-2746, *Pros. Ex. 1035*] to the Reich Ministry of Economics, Farben reported:

"* * * Only during recent years since about 1937, when the danger of a new conflict became more and more apparent, did we take pains to improve our camouflage measures, especially in the endangered countries, in such a way that they should prove adequate even in the case of an armed conflict and at least prevent immediate seizure."

That letter was written by the Central Finance Department of Farben in Berlin following discussions to improve the system of camouflaging various sales companies of Farben in Latin America, concerning which defendants von Schnitzler and Ilgner were generally informed.

While there were other considerations prompting camouflage of holdings in foreign countries, the evidence clearly shows that a controlling reason, particularly in the years 1938 and 1939, was the prospect of war. Thus, in a memorandum dated 2 October 1940, Kuepper of the Farben Legal Staff, who testified personally before this Tribunal, said:

"After the victorious end of the war a long lasting political appeasement can be expected. But distinct possibilities cannot be a reason for camouflage any longer in view of the reasons against it, especially of a political nature." [NI-8646, *Pros. Ex. 1038.*]

Pursuant to the policy of camouflaging its assets abroad, Farben resorted to sham transactions to accomplish such purpose. An excellent example of the technique employed is set forth in the opinions filed in *Standard Oil Co. v. Markham*, 64 F. Suppl. 656 (District Court, S. D. New York), and *Standard Oil Company v. Clark*, 163 F. (2d) 917 (Circuit Court of Appeals, Second Circuit, September 22, 1947) wherein these important Federal Courts of the United States held that the transactions reached at the Hague Conference in September of 1939, between representatives of Farben and representatives of the Standard Oil (referred to as the Jersey group) were "sham transactions designed to create an appearance of Jersey ownership of property interests which, nevertheless, continued to be regarded by the parties as IG owned." The United States courts referred to specifically found:

“The parties intended that after the completion of the war and the resulting disappearance of the danger of United States Government controls the properties would be formally returned to IG and the prewar relationship resumed.”

i. The Activities of Farben in Acquiring Control of the Chemical Industry in Occupied Countries. The evidence discussed in the Tribunal’s judgment in connection with count two shows in detail the activities of Farben in the exploitation and spoliation of the chemical industry of occupied countries. Farben’s New Order for the Chemical industry is indicative of the initiative shown by Farben in planning to acquire control of the key industries as additional territory came under the Nazi yoke.

In July 1938, the Political Economy Department of Farben (VOWI) completed a very full report on Aussig-Verein of Bohemia. On 21 September 1938, the office of the Commercial Committee of Farben wrote to all Vorstand members of Farben referring to the discussion at the Vorstand meeting on 16 September 1938 in Frankfurt [NI-10725, *Pros. Ex. 1043*] and enclosed a preliminary statement on “location of the chemical industry in Czechoslovakia,” and called attention to the report completed in July “which may be obtained from the Political Economy Department on direct request.” On 23 September 1938, defendant Kuehne wrote to defendant ter Meer and defendant von Schnitzler saying [NI-3721, *Pros. Ex. 1044*]:

“I learned from our telephone conversation this morning the pleasant news that you have succeeded in making the competent authorities appreciate our interest in Aussig and that you have already suggested Commissaries to the authorities—viz. Drs. Wurster and Kugler.”

In a letter dated 29 September 1938, defendant von Schnitzler wrote defendants ter Meer, Kuehne, Ilgner, and Wurster, saying [NI-3722, *Pros. Ex. 1045*]:

“You are informed about the general principles of the discussion which I have had at the end of last week with the Ministry of Economics; with Mr. Keppler, Secretary of State, and with the German Economic Board of the Sudeten area, as to the situation of the Aussig-Union. The negotiations have been successful insofar as all parties acknowledged that as soon as the German Sudetenland comes under German jurisdiction all the works situated in this zone and belonging to the Aussig-Union, irrespective of the future settlement of accounts with the head office in Prague, must be managed by trustees (commissioners) ‘for account of whom it may concern.’ I pointed out that, in the first place the works Aussig and Falkenau are involved, and that at least the firm Aussig, but suitably [possibly] also Falkenau, should be run exclusively by IG,

and that therefore IG already now, would lay claim to the acquisition of both works * * *. Before coming to an understanding in regard to ownership, it would be necessary to maintain the technical and commercial activity by expert commissioners, and these commissioners can only be furnished by IG. In accordance with ter Meer I proposed Dr. Carl Wurster for the technical part and Dr. Hans Kugler for the commercial part. This program was accepted by both the Ministry of Economics and the Foreign Organization of the NSDAP on behalf of which Mr. Schlotterer himself (Ministry of Economics) could act."

The Munich Pact was signed 29 September 1938, and Germany occupied the Sudetenland pursuant to that pact. Farben's sympathy with the government's policy at this time is evidenced by a telegram from defendant Schmitz to Hitler [NI-2795, *Pros. Ex. 1046*] reading:

"Profoundly impressed by the return of Sudeten-Germany to the Reich which you, my Fuehrer, have achieved, the I. G. Farbenindustrie A. G. puts an amount of half a million reichsmark at your disposal for use in the Sudeten-German territory."

There is in evidence a memorandum of the "Management Division Farben" entitled "*Preparations for the reshaping of the economic relations in postwar Europe,*" dated 19 June 1940. In that memorandum it is said:

"* * * The Examining Board of the chemical industry was commissioned by Mr. Schlotterer to submit to him as soon as possible a survey of the chemical industry in the following countries: France, Switzerland, England, Holland, Belgium, Denmark, Norway. * * *

"If Farben had any special suggestions to make with regard to the lines on which the manufacture of dyestuffs was to be organized in future in the countries in question, it would be useful if they would bring them forward on this occasion. (It was stated in conference that Herr U. remarked during the conference with Herr B. that European dyestuff production after the war would probably be under the management of Farben). * * *"

On 24 June 1940, defendant von Schnitzler wrote to several officials of Farben, including defendants ter Meer and von Knieriem, especially asking them to attend the meeting of the Commercial Committee to be held on 28 and 29 June in Frankfurt-on-Main, in which he said:

"* * * I include a copy of the invitation for those gentlemen who, although not members of the Commercial Committee are herewith cordially invited to be also present on 28 June. The main topic of our conference, described under No. 1 of the agenda as 'Report on Economic Policy' (*Wirtschaftspolitischer Bericht*) is the discussion of the problems of economic policy that were made

pertinent through the speedy development of the events of the war in the West. A specific inquiry has been received from the Reich government requesting that in the shortest possible time a program be developed outlining a system to be established by, and based on, the impending peace treaty, and covering the entire European interests in the field of chemistry. * * *

The minutes of that meeting, held on 28 and 29 June 1940 at Frankfurt, show that of the defendants in this case the following were present: von Schnitzler, Gattineau, Ilgner, von Knieriem, Kugler, Mann, ter Meer, and Oster. The minutes further show that a comprehensive and broad discussion was had concerning the future of the chemical industry in many countries and that it was determined that all offices of the IG and Konzern companies are to be asked for suggestions on all matters pertaining to economy reorganization of the following countries, to wit: (a) France, (b) Belgium and Luxembourg, (c) Holland, (d) Norway, (e) Denmark, (f) Poland, (g) the Protectorate, (h) England and The Empire.

A memorandum dated 20 July 1940 was transmitted by order of defendant von Knieriem concerning: "1. *Suggestions for the Peace Treaty as regards the protection of industrial rights*" and, "2. *Position of the German Reich patent in a European economic sphere under German control.*" Under the second item the memorandum said:

"The position of the German Reich Patent in a European economic sphere under German control.

"The peace treaty will cause far-reaching changes in the political and economic structure of large parts of Europe. One can perhaps assume that under German leadership a Greater European Area (Europaischer Grossraum) will be established, which besides Greater Germany will include a number of additional states each retaining its own government. This Greater European Area will represent an economic unit, and possibly will later have a uniform system of customs duties and currency. One could not possibly retain this diversity of laws for the protection of industrial rights in such an economically unified area * * *

"The most complete solution which could be regarded as ideal would be to create one uniform patent for the entire European area under German control by regulating the formal and material patent right by a single law, the development of which would be reserved to the German legislator, and the Reich Patent Office would remain in existence as the only patent authority.

"1. Of course the idea is to extend the German patent over the entire area * * *

"4. * * * In order to ensure uniformity of decision, only the Reich Supreme Court should act as the court authorized to handle

appeals with respect to legal issues; suits for nullification and perhaps, following the Austrian example, also problems concerning dependency, should be judged only by the Reich Patent Office and by the Reich Supreme Court * * *

On 3 August 1940, Farben transmitted to the Reich Economic Ministry its "New Order Plans," in a letter signed by defendant von Schnitzler. It is a comprehensive report dealing generally with "the situation of the world economic forces which may be expected in the new order of the international chemical market," in which it was said:

"2. * * * This major continental sphere will, upon conclusion of the war, have the task of organizing the exchange of goods with other major spheres and of competing with the productive forces of other major spheres in competitive markets—a task which includes more particularly the recovery and securing of world respect of the German chemical industry. * * *

"The part which is arranged according to countries, includes primarily those countries with which negotiations concerning a fundamental new order may, in keeping with the military and political developments, be expected within a reasonable period of time under the armistice or peace terms, to wit: (a) France, (b) Holland, (c) Belgium/Luxembourg, (d) Norway, (e) Denmark, (f) England and Empire."

The same report contains a more detailed discussion about "the position of I. G. Farbenindustrie concerning the question resulting from the Franco-German relationship in the chemical field in regard to production and sales." In the course of the discussion of the New Order with reference to France is the following significant language:

"* * * It will, however, appear all the more justifiable in planning a major European spherical economy, again to reserve a leading position for German chemical industry commensurate with its technical, economic, and scientific rank. The decisive factor, however, in all planning relative to this European sphere will be the necessity of securing determined and effective leadership in the discussions which must necessarily be conducted with the other major spherical economics outside of Europe, the contours of which are already distinctly drawn at this time.

"In order to guarantee that the chemical industry of Greater Germany and the European Continent can assert itself in such discussions, it is urgently required clearly to appreciate the forces which, in the world market, will be of decisive importance after the war.

"* * * As a matter of basic principle, therefore, we are of the opinion that the French chemical industry should retain its own

existence in the coming new order, but that the artificial barriers which have been erected against German imports by means of excessive import duties, quotas and the like, should be removed. It will likewise be necessary to base ourselves on the premise that, in general, exports of the French chemical industry should be maintained only by way of exception and insofar as they had already formally been established, i. e. prior to the beginning of the world economic crises, and that French activities should consequently be restricted to the French domestic market! * * *

“The preceding survey on the development and situation of the individual branches of the French chemical industry plainly shows that the chief obstacle blocking German interests in the French market was to be found in the field of commercial policy. If, therefore, participation in the French market—the remaining colonies, protectorates and possible mandated territories included—corresponding to the importance of the German chemical industry is to be built up and maintained, then this aim can be achieved only by a fundamental change in the forms and media of French commercial policy in favor of German imports.

* * * * *

“III. CONCRETE PROPOSALS WITH REGARD TO CERTAIN FIELDS OF PRODUCTION

“1. DYESTUFFS.—In order to achieve a New Order as planned and to compensate in part for damages suffered in and because of France, the best solution seems to be to bring about such regulation of French production and its marketing for all time to come by the participation of the German dyestuffs industry in the French dyestuffs industry, as to prevent further encroachment on German export interests. To this end concrete proposals could be made as for example, IG might be allowed to acquire 50 percent of the capital of the French dyestuffs industry from the Reich.

* * * * *

“a. The German-French dyestuffs company or companies only shall be permitted to establish in France new plants for the production of dyestuffs (including lac dyes) or their intermediate products, or introduce new products into the plants already existing or to expand the latter. In addition the French Government is to issue a decree prohibiting the establishing of plants for the manufacture of dyestuffs and intermediate products.

“b. As a general rule the output of the German-French company shall be intended for the French domestic and colonial markets only.

* * * * *

* * * we have written to the Reich Ministry of Economics under date of 13 July 1940, that we have placed a trustee for these companies at its disposal.

* * * * *

"b. Enforcement of a French quota and licensing system in favor of Germany which will have as its purposes that French demands for imports be supplied by Germany only.

* * * * *

"The granting of preference tariffs to Germany is not only a means of compensating the German chemical industry for damages suffered in consequence of the Versailles Treaty and of the trade policy based upon it; it is rather a necessary political instrument to be used in relation with non-European countries which, through a depreciation of their money and through other measures might be able to disturb the commercial agreements to be concluded with France. It must therefore be stressed particularly that the basic tariffs between France and other countries can be lowered only with German approval.

* * * * *

"*Licenses for the construction of new plants and for the expansion of existing facilities* are imperative in regard to products which are important to the armament industry. We hope that the requiring of licenses for the production of these articles will be supplemented by rigid control of the production itself.

* * * * *

"The cooperation between German and French industry, which is the necessary basis for a sound and planned economy, can best be achieved—while continuing already existing agreements—by the creation of *long-term international syndicate agreements*, which would have to be preceded by the creation of French national syndicates. In contrast to previous arrangements between the German and French chemical industries, these syndicates should be under a unified and strong leadership, which because of the greater importance of the German chemical industry should be in German hands and should have its administration headquarters in Germany. The export of French chemicals would be handled exclusively by these syndicates, except for territories to which the French industry may freely export the products in question or except in other cases to be defined precisely. The French chemical industry, limited now to supplying the domestic markets, may be asked to make compensations within the framework of the syndicate for possible export deficits."

In a letter to the members of the Commercial Committee dated 22 October 1940, defendant von Schnitzler with reference to the attitude

of German officials towards Farben's suggested plans for the "New Order" said :

"* * * It is evident that our program for France was received very favorably by the official agencies. * * * It is obvious that a similar program is desired for England before the end of the hostilities with her. * * *"

In August 1940, there followed detailed reports and recommendations for the "New Order" for Holland, Denmark and Belgium in the chemical field, following generally the pattern set out for the "New Order" of France, all in keeping with Germany's contemplated "leadership" and domination by Farben of the chemical field in Europe.

Thus we see unfolded Farben's carefully conceived plans to reap in full the industrial fruits of Hitler's policy of aggression. These plans for Farben and German "leadership" closely paralleled the plans of aggression and domination of the Nazi government in the political and military fields. Germany was to dominate Europe, and eventually the world, financially, politically and economically, and Farben was to participate in the spoils on a permanent basis when peace should be established.

In summary, facts in the record abundantly support the assertions made by the prosecution that Farben and these defendants (members of the Vorstand), acting through the corporate instrumentality, furnished Hitler with substantial financial support which aided him in seizing power and contributed to keeping him in power; that they worked in close cooperation with the Wehrmacht in organizing and preparing mobilization plans for the eventuality of war; that they participated in the economic mobilization of Germany for war including the performance of a major role in the Four Year Plan; that they carried out activities indispensable to creating and equipping the Nazi war machine; that they participated in the stockpiling of critical war materials; that they engaged in vital propaganda, intelligence and espionage activities; that they used their business connections and cartels to strengthen Germany and to weaken the war potential of other countries; that they camouflaged and utilized assets abroad for war purposes; that they planned to take over the chemical industry of Europe and participated in plunder and spoliation of occupied countries; and, that they participated in the utilization of slave labor on a vast scale to strengthen the German war machine. The ultimate conclusions reached in this opinion make it unnecessary to discuss in further detail the varying degrees of individual connection and responsibility for the particular acts of Farben with which the defendants who were members of the Vorstand were more particularly identified.

From the foregoing résumé of the evidence, it can be said that I. G. Farben, in its substantial achievements constituting participation in the rearmament of Germany and in a variety of related activities, became integrated into the Nazi regime and made enormous contributions to the German war effort. The record bears abundant proof of the enthusiasm with which Farben undertook its portion of the task which was to make Germany into an armed camp exceeding the strength of all its neighbors. Despite the numerous decrees and regulations reflecting the regimentation of the economy now relied upon as a defense, it is clear that Farben continued to enjoy much freedom of action and initiative in its spheres of responsibility. In the economic structure of the Nazi regime, Farben's position was one of top leadership. The record bears out the degree to which its activities became inextricably intertwined with activities of the political and military leadership. Farben collaborated in the economic regimentation without reserve. It is equally clear that in return it expected the support of, and rewards from, the regime. These circumstances tend to refute the defense of duress and governmental coercion impliedly accepted as a defense in the judgment of the Tribunal. This defense argument made insistently at the trial is at variance with the true facts as revealed by overwhelming evidence showing sustained and continued initiative by Farben in the armament field, and is further at variance with numerous instances of Farben's ability to influence the course of events where such action was deemed to be in the interest either of Farben or of the government program as a whole.

The irresponsible character of the Nazi regime, its constant emphasis upon violence, and its oppressive policies as the regime gained in strength, did not serve to deter the top leadership of Farben in supporting the regime, and these factors indicate how reprehensible was the course of action in which Farben, through the acts of these principal defendants, was engaged. Such action, however, is not criminal as constituting the crime against peace unless it can be said to have been in violation of international law as recognized in Control Council Law No. 10, the basic legal provision from which this Tribunal draws its jurisdiction.

III

Article II of Control Council Law No. 10, in pertinent part reads as follows:

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

"(a) *Crimes Against Peace*. Initiation of invasions of other countries and wars of aggression in violation of international laws and treaties, including but not limited to planning, preparation, initiation or waging a war of aggression, or a war of violation of

international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing.”

This provision of the Control Council Law, like the Charter of the International Military Tribunal, is declaratory of pre-existing international law. It is not *ex post facto* legislation but reflects a further recognition of the development of an international custom pursuant to which aggressive war has come to be regarded as illegal. Participation in the acts covered in the quoted law constitutes a crime. This is the plain meaning of the London Agreement, of the Charter and the judgment of the IMT. Control Council Law No. 10, like the Charter of the IMT, recognizes that an individual may be held criminally responsible for the commission of crimes against peace. As a necessary corollary no distinction is to be drawn between a private citizen and public officials such as the political, diplomatic or military leaders of the State. Criminal responsibility is personal and individual under this conception.

Paragraph 2 of Article II of Control Council Law No. 10 provides:

“2. Any person without regard to nationality or the capacity in which he acted, is deemed to have committed a crime as defined in paragraph 1 of this Article if he was (a) a principal or (b) was an accessory to the commission of any such crime or ordered or abetted the same or (c) took a consenting part therein, or (d) was connected with plans or enterprises involving its commission or (e) was a member of any organization or group connected with the commission of any such crime or (f) with reference to paragraph 1 (a), if he held a high political, civil or military (including General Staff) position in Germany or in one of its Allies, co-belligerents or satellites or held high position in the financial, industrial or economic life in any such country.”

Literally construed, Control Council Law No. 10, paragraph 2 (f), which is applicable only to crimes against peace, might be held to mean that the holders of high political, civil or military positions in Germany, or holders of high positions in the financial or economic life of Germany, are deemed, *ipso facto*, to have committed crimes against peace. The prosecution in this case disclaims any such literal construction and recognizes that criminal guilt does not attach automatically to all holders of high positions. No such literal interpretation could be permitted. Paragraph 2 (f) merely requires that the fact that a person held such a high position to be taken into consideration with all of the other evidence in determining the extent of individual knowledge and participation in crimes against peace. The provision does, however, serve to refute the contention that private businessmen or industrialists are excluded from the possibility of com-

plicity in "crimes against peace" as a matter of law. Paragraph 2 (f) does not shift the burden of proof which remains at all times with the prosecution. Neither does it change the presumption of innocence. It merely emphasizes an evidentiary fact to be weighed along with the sum total of the evidence.

Article X of Military Government Ordinance No. 7, under which this Tribunal is established, provides :

"The determination of the International Military Tribunal in the judgment in Case No. 1 that invasions, aggressive acts, aggressive wars, crimes, atrocities or inhumane acts were planned or occurred, shall be binding on the tribunals established hereunder and shall not be questioned except insofar as the participation therein or knowledge thereof by any particular person may be concerned. Statements of the International Military Tribunal in the judgment in Case No. 1 constitute proof of the facts stated, in the absence of substantial new evidence to the contrary."

Under the quoted provision, pertinent findings of the IMT in regard to aggressive wars and aggressive acts binding on the Tribunal for the purposes of the crimes against peace charged in the indictment in this case include: That aggressive wars were planned and waged by Nazi Germany against Poland on 1 September 1939; against Denmark and Norway, 9 April 1940; against Belgium, Holland and Luxembourg, 10 May 1940; against Greece and Yugoslavia, 6 April 1941; against the Soviet Socialist Republics, 22 June 1941; and against the United States of America, 11 December 1941.

It was further stated by the IMT in regard to the Anschluss that Austria "was occupied pursuant to a common plan of aggression," and,

"* * * 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."

The provisions of the Control Council Law require the same basic elements for the commission of the crime against peace as are required under elementary principles applicable to criminal law. There must be an act of substantial participation and there must be the accompanying criminal intent or state of mind. Under Control Council Law No. 10, the building of armament or the development of the "war potential" in the form of planning production of, or planning facilities for the production of, raw materials essential to the waging of war may constitute a sufficient act of participation to warrant affixing criminal responsibility to the act as planning and preparation for aggressive war. Such action must, however, be combined with the necessary intention to further the aim of aggressive war and, as contended by the prosecution, must constitute a substantial participation. As to the

character of the knowledge required to constitute a state of mind amounting in law to criminal intent in relation to the crime against peace, with great ability, the prosecution has argued:

“In dealing with the *act*, we have stated that anyone who bears a substantial responsibility for conducting activities which are vital to furthering the military power of a country *participates* in the crime. With respect to the *state of mind*, this is the *knowledge* that such military power will be used or is being used for the purpose of carrying out a national policy of aggrandizement to take from the peoples of other countries their land, their property or their personal freedoms.

“It is the position of the prosecution that in connection with the charges of preparation and planning and the charge of conspiracy it is sufficient if there exists the belief that although actual force will be resorted to if necessary, such purpose will be accomplished by using the military power merely as a threat; and that it is not essential that the defendants know precisely which country will be the first victim or the exact time that the property rights or the personal freedoms of the peoples of any country will be under attack.

“10. A separate question which need not be discussed here concerns what type and quantum evidence is necessary to establish beyond a reasonable doubt that any particular defendant knew at any particular time that Germany’s military power would be used for the purpose of carrying out a national policy of aggrandizement to take from the peoples of other countries their land, their property and their personal freedoms. It is sufficient to note here that the prosecution does not contend that the wide publicity given to the program and aims of the Hitler movement over a period of years is enough in itself to establish beyond a reasonable doubt that the average person within Germany had the required knowledge. And the evidence must establish more than knowledge of the aggressive program and aims of the Nazi government and belief that there was a possibility that force would be used to carry out the policy of aggrandizement. It must establish beyond a reasonable doubt that the defendants believed that actual force would be employed if necessary to achieve such policy.”

The test of guilty participation in the crimes against peace for which the Nazi government was responsible was stated in the judgment of the International Military Tribunal as follows:

“The argument that such common planning cannot exist where there is complete dictatorship is unsound. A plan in the execution of which a number of persons participate is still a plan, even though conceived by only one of them; and those who execute the plan do not avoid responsibility by showing that they acted under the di-

rection of the man who conceived it. Hitler could not make aggressive war by himself. He had to have the co-operation of statesmen, military leaders, diplomats, and business men. When they, with knowledge of his aims, gave him their co-operation, they made themselves parties to the plan he initiated. They are not to be deemed innocent because Hitler made use of them, if they knew what they were doing. That they were assigned to their tasks by a dictator does not absolve them from responsibility for their acts. The relation of leader and follower does not preclude responsibility here any more than it does in the comparable tyranny of organized domestic crime."

This broad test of participation in the common plan or conspiracy is, in my opinion, equally applicable to the charges of participation in the planning and preparation of aggressive war. The inquiry must be whether there is knowledge of the "aims" of Hitler. In this regard participation in the policies, planning and purposes of the Nazi regime, as such, does not of itself constitute the crime against peace. There must be participation after concrete plans for the waging of aggressive war have been arrived at and there must be in the mind of the individual sought to be charged a positive knowledge of the intention to resort to aggressive war. It is not necessary, as contended by the defense, that there be knowledge of specific plans for aggressive war against specific countries as of a certain time. Nor is it necessary that an exact knowledge of the order of the victims of aggressive war be shown. It will suffice if the ultimate aim to resort to aggressive war is known or believed at the time of substantial participation but such knowledge or state of mind must be established by convincing proof beyond reasonable doubt. Furthermore, in this stage of the development of international law denouncing the crime against peace it is preferable for a Tribunal to err on the side of liberality in the application of the rule of reasonable doubt.

Analyzing the contention advanced by the prosecution, I conclude that, however desirable such a legal conception of the requisite of knowledge might be as a matter of policy in international law, the proposition advanced in this definition of state of mind is too broad and goes beyond the provisions of Control Council Law No. 10. The relationship between acts of aggression, backed by threats of force, and the evil of aggressive war is sufficiently immediate to warrant serious consideration of the standard proposed in the further delineation of legal aspects of the crimes against peace. I cannot conclude, however, that because the individual defendants knew that the German policy of territorial aggrandizement, backed by military power, was being carried out in the absorption of Austria and Czechoslovakia that such knowledge constituted the state of mind or the criminal intent required for the commission of the crime against peace. I

agree with the prosecution's contention that the evidence in this case does establish that most, if not all, of the defendants knew or believed that military power would be used as a threat to force territorial concessions from Czechoslovakia, Poland, and other nations in favor of Germany. The evidence does not, however, establish beyond reasonable doubt that the defendants actually knew or believed that force to the point of aggressive war would actually be resorted to if necessary. The argument of the prosecution, carried to its logical conclusion, would mean that, in the cases of Austria and Czechoslovakia, these defendants might have been held guilty of the crime against peace even though actual aggressive war did not result from these aggressive acts. It is true that in the case of the defendant Raeder the International Military Tribunal dismissed the contention that Raeder did not have the requisite guilty knowledge because he contended that he believed Hitler would obtain a political solution to Germany's problems without the necessity for actual warfare because of the overwhelming might of Germany. But it must be borne in mind that Raeder, through attendance at a conference at which Hitler specifically announced his plans to wage aggressive war if necessary, had actual knowledge that the then head of the state had decided to embark upon a program of aggression and to pursue it even to the point of engaging in actual warfare to achieve the objective of territorial aggrandizement. In the case of the Farben defendants, while they knew that acts of aggression had been and were being carried out in connection with Austria and Czechoslovakia, and, in fact, the defendants participated in acquiring industries resulting from the acts of aggression mentioned, it cannot be concluded that such action necessarily amounts to the requisite knowledge or state of mind constituting plans to wage aggressive war. Activities of the defendants in this case, conceding that they were of material aid in bringing about territorial aggrandizement by use of threats of force, do not under the circumstances of this case constitute the crime against peace. It is incumbent upon the prosecution to go further with its evidence and to prove by specific evidence that the individual defendant sought to be charged was aware of a plan to resort to aggressive war if necessary to achieve the objective of territorial aggrandizement. Similar conclusions must be advanced with reference to the invasion of Poland, the aggressive act immediately resulting in World War II. Here, the evidence is not conclusive to the effect that the defendants actually knew of a decision to absorb Poland by force, which would be actively pushed to the point of war, if necessary, to achieve the objective of territorial aggrandizement. As the Polish crisis developed, the defendants certainly knew or were charged with knowledge of the fact that methods of aggression were being employed. There were threats of force to their knowledge. But there existed the possibility that with stiffening

resistance war might not result because the aggressor would not continue the policy to the point of open warfare. The evidence does not otherwise conclusively connect the individual defendants with the planning and preparation of any of the other aggressive wars waged by Germany with specific knowledge of the decision to initiate such aggressive wars.

Accepting as sound that portion of the IMT judgment which specifically holds that rearmament of itself is not a crime unless carried out as part of a plan to wage aggressive war, I also conclude that the action of the defendants constitutes participation in armament under circumstances not proved beyond reasonable doubt to have been with actual knowledge of Hitler's ultimate aim to wage aggressive war. Despite strong inferences to be drawn from much of the evidence as applied to some of the individual defendants, as to intent and knowledge, the extraordinary standard of proof which probably should be exacted in this stage of the development of the crime against peace is not clearly met and, for this reason, I concur in the acquittals under count one to charges of planning and preparation of aggressive war. Criminal connection with the decisions of the Nazi regime to initiate aggressive wars has likewise not been established.

There remains only the question of whether any defendant is to be held guilty of "waging" aggressive war. This is the portion of the prosecution's case which is the most difficult for the defendants to meet. From the time of the invasion of Poland the defendants knew or were chargeable with knowledge that the wars being waged by Germany were aggressive wars and the substantial contribution of the defendants to the conduct of those wars cannot be successfully denied. The prosecution, not without considerable logic and weight of argument, relies upon the activities of the defendants in connection with both spoliation and slave labor as constituting an integral part of the waging of aggressive war. In the latter connection there is some analogy between the activities of certain of the defendants in the field of spoliation and slave labor and those of Hermann Roechling, convicted under Control Council Law No. 10, by an International Military Tribunal in the French Zone of Occupation under charges of "waging" aggressive war. (Judgment rendered 30 June 1948 by the General Tribunal of the Military Government of the French Zone of Occupation in Germany in the case against Hermann Roechling et al.)* In that case Hermann Roechling was held not guilty of the charges of preparation of wars of aggression. The evidence against him established that he had attended several secret conferences of Goering in 1936 and 1937 and had pushed the utilization of low grade ore which did not pay commercially in the important steel industries under his direction. The Tribunal held that the act of preparing armament

*See volume XIV, this series, Appendix B, "The Roechling Case," pages 1061-1096.

did not necessarily imply, as the IMT held, that the purpose was to launch a war of aggression. It concluded on the facts that it had not been shown by the proof that Hermann Roechling was ever informed that wars of aggression would be undertaken, and that there was no showing that he had ever participated in the preparation of wars of aggression. However, the Tribunal held that he was guilty of waging wars of aggression for the following reasons:

“After the invasion of Poland in 1939, of Denmark, Norway, Belgium, Luxembourg and the Netherlands in 1940, of Yugoslavia, Greece and Russia in 1941, none could any longer have any doubts concerning the purpose of the wars unleashed by the Government of the Reich, that the aggressive character of these wars has, moreover, been recognized by the aforesaid judgment of the International Military Tribunal.”

The Tribunal held that Roechling had stepped out of his role of industrialist, demanded and accepted high administrative positions in order to develop the German ferrous production. The facts then recited are that he became Plenipotentiary General for the steel plants of the Departments of the Moselle and Meurthe-et-Moselle Sud; that he seized industries having steel production of nine million tons and employing more than two hundred thousand people; that after allocation by Goering of the seized plants he endeavored to increase production of these plants for the war effort of the Reich; he made proposals to Reich authorities concerning increased production of iron; that he was later placed in charge of the Reich Association Iron, charged with intensifying the German ferrous production and exploiting such production in the occupied countries; that exercising his powers he demanded of industry in occupied countries that they work in order to increase the armament of a power at war with their own country. He was held guilty of crimes against peace because by his actions he “contributed in a large measure to the continuation of aggressive wars during 3 years.” The Roechling decision is, therefore, an authority for the view that participation in the exploitation of occupied countries in the interest of the German war effort under the circumstances referred to does constitute a crime against peace. However, I conclude that facts in evidence against the present defendants present a difference of degree sufficient to distinguish the cases. I do not feel warranted in expressing dissent as to the acquittal of the present defendants of the charge of waging of aggressive war based solely upon the Roechling case.

It is impossible, in my view, to harmonize those aspects of the judgment of the International Military Tribunal dealing with the waging of aggressive war so as to draw therefrom a consistent principle governing the waging of aggressive war as used in the Charter

and the Control Council Law. In dealing with the case of Doenitz, the IMT, after concluding that there was no evidence establishing that Doenitz was informed of decisions to wage aggressive war, nevertheless, held Doenitz guilty of waging aggressive war by virtue of participation in submarine warfare immediately upon the outbreak of war. In contrast, Speer's activities as head of the armament industry after aggressive war was well under way did not result in conviction. Said the IMT as to Speer:

"His activities in charge of German armament production were in aid of the war effort in the same way that other productive enterprises aid in the waging of war; but the Tribunal is not prepared to find that such activities involve engaging in the common plan to wage aggressive war as charged in count one or waging aggressive war as charged in count two."

It may seem illogical that a high naval officer, performing the duties of the branch of the armed service which he heads, should be found guilty of the waging of aggressive war and the Minister of Munitions and Armament held not responsible for activities which in most cases are even more vital to the waging of war than the tactical decisions required of the military commander. The compulsion of military discipline in a nation at war was certainly more real and less the object of choice in the case of the naval officer than in the case of the civilian Armament Minister. But in default of sufficient evidence to warrant conviction under the charge of planning and preparation of aggressive war, it would not be logical in this case to convict any or all of the Farben defendants of the waging of aggressive war in the face of the positive pronouncement by the International Military Tribunal that war production activities of the character headed by Speer do not constitute the "waging" of aggressive war. Nor is there a valid answer in extent and the indispensability of the Farben contribution to the German war effort. Speer's acquittal when considered in the light of Schacht's acquittal poses insuperable obstacles to the conviction of these defendants. The factual differences which may be drawn based upon Farben's substantial and sustained contribution to the German war effort do not, in my opinion, lead to a difference in result unless this Tribunal refuses to follow the implications of Speer's acquittal. Despite the cogent arguments based upon other portions of the IMT judgment, I reach the conclusion that the precedent in the case of Speer should be followed here and that the defendants should not be convicted solely of the crime of waging of aggressive war.

For the reasons stated I concur in the acquittal of all defendants under counts one and five of the indictment.

[Signed] PAUL M. HEBERT
Judge, Military Tribunal VI

XV. DISSENTING OPINION OF JUDGE HEBERT ON THE CHARGES OF SLAVE LABOR

DISSENTING OPINION ON COUNT THREE OF THE INDICTMENT*

Filed
28 December 1948
Secretary General
to Military Tribunals
Nuernberg, Germany

This dissenting opinion is filed pursuant to reservations made at the time of the rendition of the final judgment by Military Tribunal VI in this case. Under count three of the indictment, all defendants are charged with having committed war crimes and crimes against humanity as defined in Article II of Control Council Law No. 10. It is alleged in the indictment that the defendants participated in the enslavement and deportation to slave labor on a gigantic scale of members of the civilian population of countries and territories under the belligerent occupation of, or otherwise controlled by, Germany; that the defendants participated in the enslavement of concentration-camp inmates, including German nationals; that the defendants participated in the use of prisoners of war in war operations and work having a direct relation to war operations, including the manufacture and transportation of war material and equipment; and, that the defendants participated in the mistreatment, terrorization, torture, and murder of enslaved persons. It is alleged that all defendants committed war crimes and crimes against humanity as enumerated, in that they were principals in, accessories to, ordered, abetted, took a consenting part in, were connected with plans and enterprises involving, and were members of organizations or groups including Farben, which were connected with the commission of said crimes. There are general allegations that the defendants acted through the corporate instrumentality, I. G. Farbenindustrie, A. G. in the commission of said crimes.

The Tribunal convicted the defendants Krauch, ter Meer, Ambros, Bueteffisch, and Duerrfeld under this count principally for initiative shown in the procurement of slave labor for the construction of Farben's buna plant at Auschwitz. The eighteen remaining defendants were all acquitted of the charges under count three. Included in the group of acquitted defendants were fifteen members of the Vorstand, or principal governing corporate board of Farben. The acquitted Vorstand members included: Schmitz, von Schnitzler,

*Pursuant to reservations made by Judge Hebert at the time of the Tribunal's decision and judgment (section XIII, above), this dissenting opinion was filed in writing with the Secretary General of the Tribunals on 28 December 1948, nearly 5 months after the judgment of the Tribunal.

Buergin, Haefliger, Ilgner, Jaehne, Oster, Gajewski, Hoerlein, von Knieriem, Schneider, Kuehne, Lautenschlaeger, Mann, and Wurster. The majority opinion concedes, and, in fact, it is not seriously controverted in this case, that slave labor, i. e., compulsory foreign workers, concentration-camp inmates and prisoners of war, were employed and utilized on a wide scale throughout numerous plants of the vast Farben organization and that such utilization was known by the defendants. The majority reached the conclusion that, except in the case of Auschwitz where initiative constituting willing cooperation by Farben with the slave-labor program was held to have been proved, no criminal responsibility resulted for participation in the utilization of slave labor. Basically, the majority opinion under count three concluded that, in order to meet fixed production quotas set by the Reich, "Farben yielded to the pressure of the Reich labor office and utilized involuntary foreign workers in many of its plants." The majority assert that "The utilization of forced labor, unless done under such circumstances as to relieve the employer of responsibility, constitutes a violation of that part of Article II of Control Council Law No. 10, which recognizes as war crimes and crimes against humanity the enslavement, deportation, or imprisonment of the civilian population of other countries." But the majority fully accepts the defense contention that the utilization of slave labor by Farben (except in the case of Auschwitz) was the result of the compulsory production quotas and other obligatory governmental decrees and regulations directing the use of slave labor. The asserted defense of "necessity" is held to have been sustained because of the reign of terror within the Reich and because of possible dire consequences to the defendants had they pursued any other policy than that of compliance with the slave-labor system of the Third Reich.

I concur in the conviction of the five defendants found guilty by the Tribunal, but I am of the opinion that the criminal responsibility goes much further than merely embracing the five defendants most immediately connected with the construction of Farben's Auschwitz plant. In my view all the members of the Farben Vorstand should be held guilty under count three of the indictment, not only for the participation by Farben in the crime of enslavement at Auschwitz, but also for Farben's widespread participation and willing cooperation with the slave-labor system in the other Farben plants, where utilization of forced labor in violation of the well-settled principles of international law recognized in Control Council Law No. 10 has been so conclusively shown. I disagree with the conclusion that the defense of necessity is applicable to the facts proved in this case.

While it is true that there were numerous governmental decrees under which complete control of the manpower supply was assumed by the Reich Government, existence of such controls does not, in my

opinion, establish the defense of necessity even under the conditions which existed in Nazi Germany. Recognition of such a defense is, in my view, utterly inconsistent with the provisions of Control Council Law No. 10 which indicate quite clearly that governmental compulsion is merely a matter to be considered in mitigation and does not establish a defense to the fact of guilt. Thus Section 4 (b) of Article II of Control Council Law No. 10 provides:

“The fact that any person acted pursuant to the order of his government or of a superior does not free him from responsibility for a crime, but may be considered in mitigation.”

Under the evidence it is clear that the defendants in utilizing slave labor which is conceded to be a war crime (in the case of non-German nationals) and a crime against humanity, did not, as they assert, in fact, act exclusively because of the compulsion and coercion of the existing governmental regulations and policies. The record does not establish by any substantial credible proof that any of the defendants were actually opposed to the governmental solution of the manpower problems reflected in these regulations. On the contrary, the record shows that Farben willingly cooperated and gladly utilized each new source of manpower as it developed. Disregard of basic human rights did not deter these defendants. At times they expressed concern over the inefficiency of compulsory labor but they willingly co-operated in the tyrannical system. Far from establishing that the defendants acted under “necessity” or “coercion” in this regard, I conclude from the record that Farben accepted and frequently sought the forced workers, including compulsory foreign workers, concentration-camp inmates and prisoners of war for armament work because there was no other solution to the manpower needs. Farben and these defendants wanted to meet production quotas in aid of the German war effort. In fact, the production quotas of Farben were largely fixed by Farben itself because Farben was completely integrated with the entire German program of war production. Farben’s planners, led by defendant Krauch, geared Farben’s potentialities to actual war needs. It is totally irrelevant that the defendants might have preferred German workers. That they would have preferred not to commit a crime is no defense to its commission. The important fact is that Farben’s Vorstand willingly cooperated in utilizing forced labor. They were not forced to do so. I cannot agree that there was an absence of a moral choice. In utilizing slave labor within Farben the will of the actors coincided with the will of those controlling the government and who had directed or ordered the doing of criminal acts. Under these circumstances the defense of necessity is certainly not admissible.

I am convinced that persons in the positions of power and influence of these defendants might in numberless ways have avoided the widespread participation in the slave-labor utilization that was prevalent

throughout the Farben organization. I cannot agree with the assertion that these defendants had no other choice than to comply with the mandates of the Hitler government. Had there been any real will to resist such comprehensive participation in the crime of enslavement, the defendants, possessing superior knowledge in their respective complicated technical fields, could no doubt have avoided such participation through a variety of devices of such imperceptible nature as to avoid the drastic results now portrayed in the posing of this defense. In reality, the defense is an after-thought, the validity of which is belied by Farben's entire course of action. To assert that Hitler would have "welcomed the opportunity to make an example of a Farben leader" is, in my opinion, pure speculation and does not establish the defense of necessity on the facts here involved.

The defense of necessity as accepted by the majority would, in my opinion, lead logically to the conclusion that Hitler alone was responsible for the major war crimes and crimes against humanity committed during the Nazi regime. If the defense of superior orders or coercion, as directed in the Charter of the IMT, was not recognized in the case of the principal defendants tried by that Tribunal as applied to defendants who were subject to strict military discipline and subject to the most severe penalties for failure to carry out the criminal plans decreed and evolved by Hitler, it becomes difficult to ascertain how any such defense can be admitted in the case of the present defendants. The IMT judgment embraces no doctrinal defense of necessity by governmental coercion. That decision, it seems to me, constitutes complete negation of any such theory. Nor do I consider the precedent established by Military Tribunal No. IV in the case of the United States. *v. Flick et al.*, (Case 5) persuasive in its recognition of the defense of "necessity."* Such a doctrine constitutes, in my opinion, unbridled license for the commission of war crimes and crimes against humanity on the broadest possible scale through the simple expediency of the issuance of compulsory governmental regulations combined with the terrorism of the totalitarian or police state. The essence of a truly effective system of international penal law lies in its applicability to the acts of individuals who are not privileged to disregard the overriding commands of international law when they come in conflict with the contrary policies or directives of a state not desiring to abide by the principles of international law. For these reasons, I have no hesitancy in rejecting the conclusions reached in the Flick case on this asserted defense and cannot agree with the majority in its application to the facts here proven.

In effect the majority opinion holds that, regardless of the extent of Farben's participation in the slave-labor program, unless a particular defendant can be shown to have (a) exercised unusual initia-

*Volume VI, this series, pages 1187-1223.

tive to bring about participation in the utilization of slave labor, no crime has been committed; or, (b) unless a defendant in the course of the administration of his particular role in the slave-labor program shows an initiative going beyond the requirements of the cruel regulations, no crime has been committed. Under this construction Farben's complete integration into production planning, which virtually meant that it set its own production quotas, is not considered as "exercising initiative." Even the Flick case did not go so far. Action by a defendant in requesting the allocation of labor, knowing that compulsory foreign workers would be assigned, is considered by the majority to be done pursuant to and under "necessity" and does not result in criminal liability. Under the majority view a defendant who is a plant manager may willingly cooperate in the execution of cruel and inhumane regulations, such, for example, as putting into effect the required discriminations as to food and clothing in the case of the eastern workers, or putting the miserable workers beyond barbed wire fences; this was no more than complying with the requirements of the governmental regulations and, according to the majority opinion, does not result in criminal responsibility. Similarly, where the evidence establishes that a defendant was responsible for the erection of a disciplinary camp at a Farben plant, or participated in the initiation of disciplinary measures against unruly compulsory workers—there is no criminal responsibility, the action is protected by the defense of "necessity" as the defendant did no more than that which the cruel and inhumane regulations required. Slave laborers might be reported to the Gestapo for punishment as this was required by the regulations, and the defendant is not considered responsible. It cannot be successfully contended that this was not done in the Farben plants employing slave labor. I cannot concur in such results. The coercion exercised by a totalitarian police state in the form of commands to its citizens should not be permitted to operate as a complete negation of the opposing command of international penal law which has erected standards for the protection of basic human rights. Accessories and those taking a consenting part in the crime of enslavement should not be afforded such easy means of purging themselves of the fact of guilt. On the facts proven in this record, I am convinced that the defendants who were members of the Vorstand were accessories to and took a consenting part in the commission of war crimes and crimes against humanity as alleged in count three of the indictment.

Conceding *arguendo* the admissibility of the defense of necessity, as a matter of law, it is clearly not here admissible to result in acquittal of all defendants in the light of the finding of the majority as to Farben's initiative at Auschwitz. All defendants who were members of the Vorstand should share in the responsibility for the

exercise of such initiative. The majority concedes such initiative to have existed at Auschwitz, as it was planned from the inception of the Farben Auschwitz buna plant to use concentration-camp labor on the project. I consider it unreasonable to conclude that these plans were not known by all Vorstand members. The majority opinion recognizes that Duerrfeld, Ambros, Krauch, ter Meer, and Buetefisch must bear responsibility for taking the initiative in the unlawful employment of forced workers at Auschwitz, and that they, to some extent at least, must share the responsibility for the mistreatment of the workers with the SS and the construction contractors. The criminal responsibility so found should embrace all Vorstand members for the occurrences at Auschwitz. With regard to the numerous other plants in which slave labor was employed by Farben, no substantial factual distinction exists from that prevailing at Auschwitz, in the matter of Farben's cooperative attitude.

As to the employment of forced workers at Auschwitz after the Sauckel program of forced labor became effective, the majority opinion states :

"The defendants contend that, the recruitment of labor being under direct control of the Reich, they did not know the conditions under which the recruitment took place, and since the foreign workers at first were procured on a voluntary basis, the defendants were unaware later that the method had been changed and that many of the subsequent workers had been procured through a system of forced-labor recruitment. This contention cannot be successfully maintained. The labor for Auschwitz was procured through the Reich Labor Office at Farben's request. Forced labor was used for a period of approximately 3 years, from 1942 until the end of the war. It is clear that Farben did not prefer either the employment of concentration-camp workers or those foreign nationals who had been compelled against their will to enter German labor service. On the other hand, it is equally evident that Farben accepted the situation that was presented to it through the Labor Office of the Reich and that when free workers, either German or foreigners, were unobtainable, they sought the employment and utilization of people who came to them through the services of the concentration camp Auschwitz and Sauckel's forced-labor program."

The foregoing analysis of the responsibility for utilization of forced labor at Auschwitz is equally applicable to slave-labor utilization at the other Farben plants where the situation was identical in fact. Willing cooperation with the slave-labor utilization of the Third Reich was a matter of corporate policy that permeated the whole Farben organization. The Vorstand was responsible for the policy. For this reason, criminal responsibility goes beyond the actual immediate

participants at Auschwitz. It includes other Farben Vorstand plant managers and embraces all who knowingly participated in the shaping of the corporate policy. I find on the evidence that all Vorstand members must share the responsibility for the approval of the policy despite the fact that there were varying degrees of immediate connection among various defendants. The "freedom and opportunity for initiative" found to exist at Auschwitz was, in my opinion, equally present at the other plants. I find it hard to understand why the majority can conclude that construction and production at Auschwitz was not under Reich compulsion when the Reich wanted the plant for war production and directed its erection, and production involving utilization of slave labor in other plants was "under compulsion." The answer, it seems to me, lies in the fact that the freedom was as real in all the Farben plants and the similar attitude of willing cooperation was present—differing at Auschwitz only in the matter of degree. The majority opinion concludes that the defendant Krauch was a willing participant in the crime of enslavement. With that conclusion I agree, but the mere fact that Krauch was a governmental official operating at a high policy level is insufficient, in my opinion, to distinguish his willing participation in the crime of enslavement from other degrees of willing participation exhibited by the other defendants according to their respective roles within Farben.

Criminal liability is not to be imputed to the officer of a corporation merely by virtue of his occupancy of his office. Generally a corporate officer is not criminally liable for the corporate acts performed by other agents or officers of a corporation. But the action of an officer of a corporation may result in criminal liability where, by virtue of the officer's individual act, he may be said to have authorized, ordered, abetted, or otherwise has actually participated in a course of action which is criminal in character. The criminal intent required as a prerequisite to guilt under the charges of war crimes, and crimes against humanity alleged in count three of the instant indictment is present if the corporate officer knowingly authorizes the corporate participation in action of a criminal character. On this score the evidence is more than sufficient. From the time of the participation by Farben in the Auschwitz project, the corporation was actively engaged in continuing criminal offenses which constituted participation in war crimes and crimes against humanity on a broad scale and under circumstances such as to make it impossible for the corporate officers not to know the character of the activities being carried on by Farben at Auschwitz. From the outset of the project it was known that slave labor, including the use of concentration-camp inmates, would be a principal source of the labor supply for the project. Utilization of such labor was approved as a matter of corporate policy. To permit the corporate instrumentality to be used as a cloak to

insulate the principle corporate officers who approved and authorized this course of action from any criminal responsibility therefor is a leniency in the application of principles of criminal responsibility which, in my opinion, is without any sound precedent under the most elementary concepts of criminal law. It represents a doctrine which should not be permitted to gain a foothold in the application of criminal sanctions to the acts of individuals who are charged with such serious infractions of international penal law. The law does not require the degree of personal participations in the execution of crimes against international law that I understand the majority opinion to require. It matters not that, under the division of labor employed by I. G. Farben, supervision of the Auschwitz project fell in the sphere of immediate activity of certain of the defendants; that is, ter Meer, Ambros, Bueteffisch, and Duerrfeld. In my view, the Auschwitz project would not have been carried out had it not have been authorized and approved by the other defendants, who participated in the corporate approval of the project knowing that concentration-camp inmates and other slave labor would be employed in the construction and other work.

We do not have in this case a situation of complete delegation of authority to subordinates without knowledge of the criminal character of the action to be undertaken by those granting the authority for corporate action. We do not here have the situation of subordinates committing offenses against criminal law on their own initiative without the knowledge of the corporate officers. Decisions in Anglo-American law which decline to impose a vacarious criminal liability in such situations are not, therefore, strictly in point. There is, however, respectable authority for the imposition of criminal responsibility where the defendant was in a position to know and should have known of the illegal action carried out by a corporation through an agent. An analogy in Anglo-American law may be found in decisions dealing with the employment of child labor. For example, in the case of *Overland Cotton Mill Co. et al v. People*, 32 Colorado 263, 75 Pac. 924 (1904) the conviction of an assistant plant superintendent for violation of the child-labor laws was sustained by the court despite the fact that he was not shown to have personally participated in the hiring of the minor. In discussing the liability of this officer, the court said:

“* * * An agent of a corporation is presumed to have that knowledge of its affairs particularly under his control and management which, by the exercise of due diligence, he would have ascertained * * * He [the assistant superintendent] was engaged at the mill, and, in the performance of his duties, had the authority to hire and discharge employees. It thus appears from the testimony that by reason of his relationship to the company, and the

performance of his duties he either knew, or, by the exercise of due diligence upon his part, should have known, that a minor under the prohibited age was in the employ of the company. For this reason he must be held as having violated the statute, for it was within his power, by virtue of the relationship he bore to the company, to have prevented the employment. An officer of a corporation, through whose act the corporation commits an offense against the laws of the state, is himself also guilty of the same offense."

In this case, offenses against international law (to which the defense of necessity is not applicable) were committed by Farben, the corporate instrumentality through which the individual defendants acted in consummating such criminal acts. The defendants who were members of the Vorstand of Farben and who were plant managers certainly knew of and were active participants in the slave-labor utilization. At the very least, they took a consenting part in war crimes and crimes against humanity as defined in Control Council Law No. 10. These plant managers not only knew of the action but they participated in executing and formulating the policies within Farben under which such action was taken. There is no sound reason, under the evidence, to render a judgment of exculpation in the cases of the defendants who were plant managers at Farben plants employing slave labor. The other defendants, who were not plant managers but were members of the Vorstand, were likewise apprised of and took a consenting part in approving and directing the policies under which Farben participated in the slave-labor program on such a broad scale. They, too, should be held criminally liable. Essentially, we have action by a corporate board, participated in by its members, authorizing the violation of international law by other subordinate agents of the corporation.

Under the evidence presented there can be no doubt that the Farben Vorstand was responsible for general employment policies as well as the welfare of its workers. This responsibility was recognized in the law regulating national labor and by the action of the Vorstand of Farben taken under the law to discharge its responsibilities in this regard. The appointment of the defendant Schneider as the main plant leader of Farben was pursuant to this responsibility of the Vorstand and was in conformity with the mentioned law. Schneider frequently reported to members of the Vorstand and its committees on matters of labor policy.

The evidence shows Farben's willing cooperation in the utilization of forced foreign workers, prisoners of war and concentration-camp inmates as a matter of conscious corporate policy. For example, in a report made by the defendant Schmitz, as chairman of the Vorstand,

to the Aufsichtsrat (supervisory board) on 11 July 1941 [NI-6099, *Pros. Ex. 1312*], Schmitz stated:

"The factories have to make all efforts to get the necessary workers; by utilizing foreign workers and prisoners of war the demand could be generally met."

This report was after the 1939 German decree introducing labor in Poland. The evidence shows that Farben took the initiative to obtain Polish workers and that such workers were actually employed as early as 1940. In the light of the historical facts establishing the compulsory nature of the slave-labor program of Nazi Germany, it is impossible to avoid the conclusion that the Polish workers included large numbers of enslaved persons. It is further certain that of the voluntary foreign workers originally employed many were later prohibited from leaving their employment had they chosen to do so. This also constituted enslavement. The subsequent retention of such workers in a state of servitude constituted war crimes and crimes against humanity in violation of Control Council Law No. 10.

Farben's willing cooperation with the slave-labor program continued even after its inhumane character became more evident with the appointment of Sauckel as Plenipotentiary General for the Utilization [Allocation] of Labor. On 30 May 1942, the defendant Schmitz again reported to the Aufsichtsrat that the lack of workers had to be compensated by the employment of foreigners and prisoners of war. A credible witness, Struss, stated that practically everybody in Germany knew that Russian workers were forced to come to Germany after the battle of Kiev. The members of Farben's Vorstand, therefore, necessarily knew that such forced workers were being employed by Farben and they approved and cooperated in the execution of such a labor policy. It is highly unrealistic to say, as important as labor procurement was to the vital matter of German war production, that persons occupying the positions of influence and responsibility of a Vorstand member of Farben were not well informed concerning the policies of the compulsory-labor program in which Farben participated on such a large scale. It is not necessary for the evidence to establish that each defendant was informed of all of the details of each major instance of such employment and personally exercised initiative. There is an abundance of evidence from which knowledge of the widespread participation by Farben as a matter of official corporate policy, sanctioned and approved by the individual Vorstand members, is conclusively to be inferred. For example, the Vorstand and its subsidiary committees had to approve the allocation of funds for the housing of compulsory workers. This meant that members of the Vorstand had to know the extent of Farben's willing cooperation in participating in the slave-labor program and had to take an individual personal part in furthering the program.

As to the Auschwitz buna plant, the evidence conclusively establishes that Farben took the initiative in the selection of the Auschwitz site and that an important factor, if not the decisive one, was the knowledge of availability of concentration-camp inmates for work in the construction of the plant. As pointed out by the majority opinion, it was contemplated from the start that concentration-camp labor would be used in such work. But, in my view, the individual liability for the carrying out of such plans goes further than the individual acts and actions of Krauch, Ambros, ter Meer, Bueteffisch, and Duerrfeld. In discussing the criminal responsibility of the defendant ter Meer, the Tribunal quite properly asserts that it would be unreasonable to conclude that conferences between the defendants Ambros and ter Meer did not include discussions of the all-important question of labor supply for the construction of the Auschwitz buna plant, and that it was consequently known to ter Meer that officials in charge of the Auschwitz plant construction were taking the initiative in planning for and availing themselves of the use of concentration-camp labor. With this conclusion, I agree but, in my opinion, it is similarly unreasonable to conclude that the reports to the Vorstand on the Auschwitz project ignored these matters. Just as ter Meer was the superior of Ambros, the Vorstand was the superior of both, and there is no reason to conclude that the knowledge possessed by Ambros and ter Meer was not fully reported to and discussed in the Vorstand. There is, indeed, strong positive evidence that this was done and that it must have been done is a proper inference of fact to be drawn from the very nature of the serious responsibility being undertaken by Farben in becoming involved in the slave-labor utilization to the extent that it did at Auschwitz.

The defendants Gajewski, Hoerlein, Buergin, Jaehne, Kuehne, Lautenschlaeger, Schneider, and Wurster, in their capacities as plant leaders or managers of one or more of the important plants of Farben and as members of the Technical Committee, participated in the utilization of slave labor in plants under their jurisdiction, and actively participated in furthering the policy of slave-labor utilization within the Farben enterprises. They should all be held guilty under count three of the indictment.

Although the duties of the defendants Schmitz, von Schnitzler, von Knieriem, Haefliger, Ilgner, Mann, and Oster were not directly related to the management of any specific plant or project in which slave labor was employed, they did know of the policy throughout the Farben organization. As members of the Vorstand, they tacitly approved such policy. In my view, it is not necessary for them as individuals personally to take the initiative in procurement or allocation of such labor. It suffices that they knowingly approved of the

policy of slave-labor utilization and that is, I conclude, abundantly established by the record.

A construction project of the magnitude of Auschwitz could not have been initiated unless adequate reports were made to the Vorstand on the more important factors which influence the selection of an industrial site, including the source of and availability of labor. I am convinced that Krauch spoke the truth in his pretrial affidavit when he stated that Farben could agree to or refuse to erect the buna plant at Auschwitz; that the site was selected by Ambros and report was made to the Farben Vorstand of the factors considered, including labor; and that the members of the Executive Board of Farben (Vorstand) "were informed of the employment of concentration-camp inmates with the IG buna plant at Auschwitz and did not protest." In other words, there can be no doubt that the Farben Vorstand approved the policy of employing concentration camp inmates in the erection of the Auschwitz buna plant and did not object as it was their duty to do.

This, in my opinion, constitutes affirmative action of approval by the members of the Vorstand and leads inescapably to their criminal complicity within the degree of participation required by Control Council Law No. 10, as constituting taking a consenting part in the action. I cannot agree with the majority that it is necessary for the evidence to show an abnormal degree of initiative on the part of each defendant in seeking such labor or in participating in negotiations to obtain it. These are matters far below the policy level at which many of the defendants operated. But it suffices that they knew the policy and tacitly approved. Certain of the defendants were more intimately concerned with the execution of the project than others, but that does not, in any sense, detract from the complicity of the other corporate officials, sitting on the governing board or Vorstand of Farben, and who are shown by the evidence to have known what was in progress and who gave their consent thereto by their inaction and acquiescence and by not objecting. Corroborating evidence is found in the pretrial affidavits of defendants Buetefisch and Schneider. Furthermore, members of the Technical Committee (TEA), including defendants ter Meer, Schneider, Buetefisch, Ambros, Lautenschlaeger, Jaehne, Hoerlein, Kuehne, Buergin, Gajewski, and von Knieriem (as guest) participated in meetings at which reports were made on the Auschwitz project and huge appropriations were made for the work. It taxes credulity to say that these important corporate officials were not informed in a general way of the major developments in the all-important matter of labor procurement. I conclude, from the evidence, that they were bound to know, as a prerequisite to the proper discharge of their duties, of such a major development as the Goering order of 18 February 1941, issued

at the request of the defendant Krauch and addressed to Reichsfuehrer SS Himmler, directing that concentration-camp inmates be made available for the construction of the buna plant at Auschwitz. There is, in my opinion, absolutely no merit to the defense that the defendants were "forced" to use concentration-camp inmates, or that they were ignorant of Farben's plans being executed at Auschwitz.

The true attitude of Farben and the flimsy character of the defense of coercion and necessity asserted by the defendants is best illustrated by defendant Krauch's letter to Himmler written in July 1943 wherein Krauch wrote that he was—

"particularly pleased to hear that during this discussion you hinted that you may possibly aid the expansion of another synthetic factory * * * in a similar way as was done at Auschwitz, by making available inmates of your camps, if necessary. I have also written to Minister Speer to this effect and would be grateful if you would continue sponsoring and aiding us in this matter."
[NI-10040, Pros. Ex. 1526.]

I conclude that all members of the Vorstand viewed the availability of such labor and its subsequent employment at Auschwitz as an "assistance" to Farben, and all defendants must share in the responsibility for its utilization. The evidence established that consistent procedures for dissemination of information among key Farben personnel were regularly followed as a matter of policy. It is certain that, through this medium, at the very minimum, knowledge came to the more important Farben officials of the extent of Farben's participation in the slave-labor utilization at Auschwitz. The increase in inmates at Auschwitz from seven hundred in 1941 to more than seven thousand by the end of 1943 could not have been unknown to the defendants who were members of Farben's Vorstand.

Having accepted a large-scale participation in the utilization of concentration-camp inmates at Auschwitz, and, acting through certain of its agents, having exercised initiative in negotiating with the SS to obtain more and more workers, Farben became inevitably connected with the inhumanity involved in the utilization of such labor. The majority opinion, in effect, by recognizing the defense of necessity, implies that if the defendants in the operation of the slave-labor program did no more than the cruel and inhuman regulations prescribed, those participating in the utilization of labor under such a condition of servitude are not responsible therefor. I cannot agree. The evidence establishes that the conditions under which the concentration-camp workers were forced to work on the Farben site at Auschwitz were inhumane in an extreme degree. It is no overstatement, as the prosecution asserts, to conclude that the working conditions indirectly resulted in the deaths of thousands of human beings.

These defendants may not, themselves, have subjectively willed the deaths of the unfortunate victims, who were subsequently exterminated by the SS in the gas chambers, but their part in the utilization of the inmates under such conditions was a link of the entire hideous criminal enterprise, and I cannot minimize in the slightest degree the heavy responsibility which Farben and its responsible managers—the members of the Vorstand—must bear in this regard. Farben's sympathy and identity with the whole enterprise found further expression in the erection by Farben of its own concentration camp, Monowitz, in 1942. Funds for this purpose were appropriated by the TEA and the Vorstand after consideration of the need—showing again the widespread knowledge within Farben of the extent of utilization of the concentration-camp inmates.

The extreme cold, the inadequacy of the food, the rigorous nature of the work, the cruel treatment of the workers by their supervisors, combine to present a picture of horror which, I am convinced, has not been at all overdrawn by the prosecution and which is fully sustained by the evidence. The living and working conditions were in truth unendurable and, as these inmates were engaged in Farben's business, it was the responsibility of Farben to correct the situation. Such efforts at amelioration of the conditions as were attempted to be shown fall short of any adequate effort to meet the real responsibility imposed on Farben in this regard. It must be borne in mind that these men were misused as slaves by Farben, through Farben's own initiative and out of Farben's desire to utilize them as the means of furthering the building of a plant whose immediate purpose was to be war production but which was to be fitted into the long-range plans of Farben's domination of the eastern economic area. Consequently, in view of the degree of the initiative, the duty to the workers must be regarded as a higher duty. Farben's efforts fall far short of the requirement.

Among the credible witnesses whose testimony was offered to the Tribunal were a number of British prisoners of war who described the pitiable lot of the inmates working on the Farben site at Auschwitz. There was highly credible evidence from these eye witnesses to establish that the inmates were skinny and not physically fit for the work they were forced to do; that their appearance was such as to make it hard to believe that they were human beings; that they all suffered from malnutrition; that the so-called "buna soup" was thin and watery and inadequate; that the inmates were being starved to death. I am convinced from this evidence that Farben did not discharge the high responsibility imposed upon it in the matter of seeing that its compulsory workers were adequately fed, and responsibility for this situation cannot be shifted by the defendants to the SS and the Farben subcontractors.

The evidence further establishes conclusively that the working conditions on the Farben construction site at Auschwitz were inhuman. The miserable inmates were forced to work beyond their physical capacities. They were subjected to rigorous discipline in the performance of work assignments, and there was a direct relationship between the requirements set by Farben and the ill-treatment accorded the inmates by the SS. The son of the defendant Jaehne* has testified :

“Of all the people employed in IG Auschwitz, the inmates received the worse treatment. They were beaten by the capos, who in their turn had to see to it that the amount of work prescribed them and their detachments by the IG foreman was carried out, because otherwise they were punished by being beaten in the evening in the Monowitz camp. A general driving system prevailed on the IG construction site, so that one cannot say that the capos alone were to blame. The capos drove the inmates in their detachments exceedingly hard in self-defense, so to speak, and did not shrink from using any means of increasing the work of the inmates, just so long as the amount of work required was done.”

I am convinced that this is a true description of what actually happened at Auschwitz, and from the vast amount of credible evidence introduced before the Tribunal I am further convinced that it was true, as contended by the prosecution, that it was Farben's drive for speed in the construction at Auschwitz which resulted indirectly in thousands of the inmates being selected for extermination by the SS when they were rendered unfit for work. The proof establishes that fear of extermination was used to spur the inmates to greater efforts and that they undertook tasks beyond their physical strength as a result of such fear. It is also clear from the proof that injured or ill inmates frequently refrained from seeking medical treatment out of fear of being sent for extermination to the gas chambers at Birkenau. The defendants, members of the Vorstand, cannot, in my opinion, avoid sharing a large part of the guilt for these numberless crimes against humanity. The condition of the inmates being worked by Farben could not have been unknown to the principal corporate officials. The truth of the matter is related by the witness Frost, a British prisoner of war :

“In addition to the IG foreman and other officials at Auschwitz, every once in a while big shots from the main firm would come down to the plant. In my opinion nobody who worked at the plant or who came into the plant on business or inspections could avoid discovering the fact that the inmates were literally being worked to death. They had no color in their faces whatsoever. They were practically living corpses covered with skin and bone and completely broken

*See NI-12002, Prosecution Exhibit 2059, affidavit by Norbert Jaehne.

in spirit. Everyone who was there knew that the inmates were kept there as long as they turned out work and that when they were physically unable to continue, they were disposed of." [NI-11692, *Pros. Ex. 1480.*]

In summary, it is established that Farben selected the Auschwitz site with knowledge of the existence of the concentration camp and contemplated the use of concentration camp inmates in its construction; that these matters necessarily had to be reported to and discussed by the Vorstand and the TEA; that Farben initiative obtained the inmates for work at Auschwitz; that the project was constantly before the members of the TEA for necessary appropriation of funds; that the TEA had to have information on the labor aspects of the project to properly perform its functions; that the condition of the concentration camp inmates was brought to the attention of the TEA and Vorstand members in various discussions and reports; that a number of the defendants were actually eye witnesses to conditions at Auschwitz because of personal visits to Auschwitz; that the defendants Krauch, von Knieriem, Schneider, Jaehne, Ambros, Buetefisch, and ter Meer were all shown to have visited the I. G. Auschwitz site during occurrences of the nature generally described above; that the conditions at Auschwitz were so horrible that it is utterly incredible to conclude that they were unknown to the defendants, the principal corporate directors, who were responsible for Farben's connection with the project.

A letter written by a Farben employee at I. G. Auschwitz to a Farben employee at Frankfurt on 30 July 1942 describes the enterprise in which these defendants must be considered as taking a consenting part as follows [NI-838, *Pros. Ex. 1497*]:

"* * * You can imagine that the population is not going to behave in a friendly or even correct manner toward the Reich Germans, especially towards us IG people. The only thing that keeps these filthy people from becoming rebellious is the fact that armed power (the concentration camp) is in the background. The evil glances which are occasionally cast at us are not punishable. Apart from these facts, however, we are quite happy here. * * *

"With a staff of such a size, you can well imagine that the number of accommodation barracks is constantly increasing and that a large city of shacks has developed. In addition to that, there is the circumstance that some 1,000 foreign workers see to it that our food supply does not deteriorate. Thus we find Italians, Frenchmen, Croats, Belgians, Poles, and, as the 'closest collaborators' the so-called criminal prisoners of all shades. That the Jewish race is playing a special part here, you can well imagine. The diet and treatment of this sort of people is in accordance with

our aim. Evidently, an increase in weight is hardly ever recorded for them. That bullets start whizzing at the slightest attempt of a 'change of air' is also certain as well as the fact that many have already disappeared as a result of a 'sunstroke.'"

It is contended by the defense that the construction of the Farben concentration camp Monowitz was to improve the living standards of concentration camp inmates who formerly lived in the Auschwitz concentration camp. Such contention is refuted by contemporaneous documents which establish that far from any such humanitarian motive the true motive was to obtain the labor which had been interrupted due to the typhus epidemic of 1942. The defendant Krauch admitted that Ambros and Bueteffisch "proposed to the executive board of the IG to erect the concentration camp Monowitz within the IG territory Auschwitz for reasons of expediency." I am convinced from the proof that the purpose in erecting the camp was to obtain the concentration camp labor and to make it more productive by eliminating the transportation to and from the main concentration camp. The food bonus system, also pointed to by the defense, was introduced to increase the output of the workers and was administered with this as the predominant consideration. Moreover, it did not actually improve the miserable lot of the majority of the workers. It is never a defense in a criminal case to point to instances in which criminal action is not involved. The evidence does not convince me of any serious efforts by Farben to remedy the food situation at Auschwitz and I am unable to find evidence of a mitigating nature in this regard.

We have in this case the absurd contention urged that the fence around the premises of the Farben plant was erected, not for the purpose of making the servitude of the workers more secure, but for the purpose of giving the inmates more freedom and keeping the SS out of the premises. Here, again, the contemporary documents establish that the purpose of the construction of the fence was to meet suggestions of the SS that this be done to make possible assignment of more inmates under conditions requiring fewer guards.

The overwhelming weight of the evidence is to the effect that the living conditions in Farben's camp Monowitz added greatly to the misery of the workers. The quarters were overcrowded, the water, toilet, and other sanitary facilities were inadequate. The devastating effect of the cold weather upon the undernourished and underclothed inmates has, in my opinion, been established by overwhelming credible proof. The attempt of Farben to ameliorate this situation by providing winter coats in 1944 shortly before the evacuation of Auschwitz can hardly be said to operate as exculpation for the misery and mistreatment as related in the statements of numerous eye witnesses to these conditions. The defense has introduced voluminous documents, affi-

davits, and some testimony in an attempt to controvert the overwhelming weight of the prosecution's evidence. I do not consider that this evidence presented by the defense is sufficiently credible to raise a reasonable doubt on the subject of mistreatment.

The contemporaneous documents introduced by the defense fall far short of detracting from the prosecution's proof. On cross-examination by the prosecution, in a sampling process, the defense affiants who were leading employees of Farben at the Auschwitz site made numerous damaging admissions seriously detracting from the weight and credibility of the previous testimony given in their affidavits. Defense affiants who were called for cross-examination by the prosecution fell into three categories—those from whom testimony corroborating the damaging evidence of the prosecution was obtained on cross-examination; those whose credibility was completely destroyed on cross-examination; and those whose affidavits were withdrawn by the defense, in some instances, even after appearance at Nuernberg. I conclude that very little weight, is to be attached to the affidavits introduced by the defense. Unless we are to resort to weighing the evidence by the bulk and number of affidavits, the prosecution has established Farben's participation in the mistreatment of the concentration camp inmates at Auschwitz in an aggravated degree. At the very minimum it was the responsibility of defendant Schneider and the members of the Vorstand shown to have visited Auschwitz to have succeeded in correcting these conditions. This these defendants did not do, and they should be held criminally responsible for these *aggravations* of the crime of enslavement, in addition to their responsibility for participation in the *utilization* of slave labor.

No useful purpose would be served in an analysis of the evidence in detail as applied to each individual defendant. The guilt varies in degree with each defendant and his functions in Farben must be considered. It is untenable, however, in my opinion, to say that Schmitz, the Chairman of Farben's Vorstand, bears none of the responsibility for Farben's participation in the slave-labor program, including occurrences at Auschwitz, or that Schneider, Farben's Main Plant Leader in the labor field is not responsible. International law cannot possibly be considered as operating in a complete vacuum of legal irresponsibility—in which crime on such a broad scale can be actively participated in by a corporation exercising the power and influence of Farben without those who are responsible for participating in the policies being liable therefor. What is true of Schmitz, Chairman of the Board, is true of the other managers of Farben in varying degrees.

Auschwitz has been chosen in this summation as it is the most aggravated of Farben's many participations in the slave-labor program. In such treatment of the evidence, it must be noted that the various

defendants who were plant managers were, in most instances, also active participants in the utilization of slave-labor in plants under their jurisdiction, and in instances in which this was not the case the defendants knew of, acquiesced in, approved, and were consequently responsible for the Farben policy involved in such utilization. To review the evidence in detail as to each defendant, or as to each plant manager, in this opinion, would lengthen the opinion beyond any reasonable bounds. With respect to the western workers employed in Farben plants, mitigating circumstances have been shown in regard to the treatment of some of these workers. It suffices, therefore, to conclude this separate expression of views by merely stating that I am of the opinion that each defendant who is a member of the Vorstand should be held guilty under count three of the indictment and that I disagree with the majority in the acquittal of defendants Schmitz, von Schnitzler, Gajewski, Hoerlein, von Knieriem, Schneider, Buergin, Haefliger, Ilgner, Jaehne, Kuehne, Lautenschlaeger, Mann, Oster, and Wurster. These defendants are, in my opinion, guilty subject to such individual consideration of mitigating circumstances as should be considered in fixing their punishment.

[Signed] PAUL M. HEBERT

Judge
Military Tribunal VI

XVI. CONFIRMATION AND REVISION OF THE SENTENCES BY THE MILITARY GOVERNOR OF THE UNITED STATES ZONE OF OCCUPATION

A. Introduction

Under Articles XV and XVII of Ordinance No. 7, the sentences imposed by the Tribunal were subject to review by the Military Governor of the U. S. Zone of Occupation (See vol. XV, this series, sec. XXV). On 7 November 1948, General Lucius D. Clay, Military Governor of the United States Zone of Occupation, issued a special order with respect to the defendant Haefliger commuting his sentence to the time already spent in confinement (subsec. B). This order was made because of an error in a stipulation filed by counsel during the trial concerning the time previously spent in confinement by this defendant. On 4 March 1949, the Military Governor confirmed by separate orders the sentences imposed upon all of the defendants by the Tribunal. The order of the Military Governor with respect to the sentence of defendant Krauch is reproduced below (subsec. C). The orders confirming the other sentences were similar to the order concerning defendant Krauch. By the time the sentences were confirmed by the Military Governor, a number of the defendants had already been freed because they had served the term of sentence imposed by the Tribunal.

B. Order of Military Governor Commuting Sentence of Defendant Haefliger to Time Served

HEADQUARTERS, EUROPEAN COMMAND

Office of the Commander-in-Chief

APO 742

Berlin, Germany

7 November 1948

In the Case of
The United States of America
vs.
Carl Krauch, et al.

Military Tribunal VI
Case No. 6

Order with respect to Sentence of Paul Haefliger

In the case of the United States of America against Carl Krauch, et al., tried by United States Military Tribunal VI, Case No. 6, Nuremberg, Germany, the defendant Paul Haefliger, on 29 July 1948, was sentenced by the Tribunal to 2 years imprisonment, with the

provision that he shall be allowed credit for the period of time already in custody, to wit, from 11 May 1945 to 30 September 1945, and from 3 May 1947 to the date of this judgment, both inclusive. A petition to correct the sentence, filed on behalf of the defendant by his counsel, has been referred to me. I have duly considered the petition, together with the favorable recommendation of the Acting Chief of Counsel for War Crimes and it appearing to my satisfaction that due to an error by Counsel in their stipulation to the Tribunal the periods mentioned in the sentence do not include all the time already spent by this prisoner in custody, it is hereby ordered, pursuant to Article XVII of Military Government Ordinance No. 7, that the sentence imposed by Military Tribunal VI on Paul Haefliger, be commuted to the time already spent in confinement and that he be released forthwith.

[Signed] LUCIUS D. CLAY
General, U. S. A.

Commander-in-Chief, European Command and Military Governor

C. Order of the Military Governor Confirming the Sentence Imposed on Defendant Krauch

HEADQUARTERS, EUROPEAN COMMAND

Office of the Commander-in-Chief

APO 742

Berlin, Germany

Mar 4 1949

In the Case of
The United States of America
vs
Carl Krauch, et al.

Military Tribunal VI
Case No. 6

Order with Respect to Sentence of Carl Krauch

In the case of the United States of America against Carl Krauch, et al., tried by United States Military Tribunal VI, Case No. 6, Nurnberg, Germany, the defendant Carl Krauch, on 29 July 1948, was sentenced by the Tribunal to imprisonment for a term of 6 years. A petition to modify the sentence, filed on behalf of the defendant by his defense counsel, has been referred to me pursuant to the provisions of Military Government Ordinance No. 7. I have duly considered the petition and the record of the trial, and in accordance with Article XVII of said Ordinance, it is hereby ordered that:

a. the sentence imposed by Military Tribunal VI on Carl Krauch be, and hereby is, in all respects confirmed;

b. the defendant be confined in War Criminal Prison No. 1, Landsberg, Bavaria, Germany.

[Signed] LUCIUS D. CLAY
General, U. S. Army

Military Governor and Commander-in-Chief European Command

APPENDIX

Photographic Reproduction of Documentary Evidence

z. V.
OBERSTLEUTNANT ~~XXX~~ KIRSCHNER
im Stabe des Generalbevollmächtigten
für Sonderfragen der chemischen Erzeugung
Prof. Dr. G. Krauch

EC 489 17
Berlin W 8 20.10.41
Sauerstr. 128
Tel. 12 00 48

7617/41g

IV
23.10.41
No. 6819/41g

Geheim! P 5 - d #
23/40
22/10

An den
Chef des Wehrwirtschafts- und Rüstungsamtes
im Oberkommando der Wehrmacht
Herrn General der Infanterie T h o m a s
B e r l i n W 62

Sehr verehrter Herr General,

Herr Professor Krauch hat mich bei einem Besuch an seinem Krankenlager gestern beauftragt, Ihnen seinen ganz besonderen Dank dafür zum Ausdruck zu bringen, dass Sie sich so tatkräftig für die Notstandsaktion Brück eingesetzt haben und bereit waren, durch Ihr persönliches Erscheinen die Bedeutung der durch die Vorarbeiten aller Beteiligten unnötig gewordenen Besprechung am 23.10. zu unterstreichen.

Bei dieser Gelegenheit hat Professor Krauch einen Gedankengang über den Einsatz russischer Kriegsgefangener in der Kriegsrüstung entwickelt, für dessen weitere Verfolgung und insbesondere Realisierung er Sie, sehr verehrter Herr General, für berufen hält.

Die Gedanken von Professor Krauch habe ich in der Anlage kurz skizziert und darf sie Ihnen als Anregung des GB-Chemie gehorsamst überreichen.

Heil Hitler!
Ihr sehr ergebener

Anlage

U. Krauch

DOCUMENT EC-489, PROSECUTION EXHIBIT 473, LETTER FROM LT. COLONEL KIRSCHNER (DEPUTY TO DEFENDANT KRAUCH) TO GENERAL THOMAS, 20 OCTOBER 1941, CONCERNING KRAUCH'S IDEA FOR THE EMPLOYMENT OF RUSSIAN PRISONERS OF WAR IN THE ARMAMENT INDUSTRY, AND OTHER MATTERS. THIS LETTER BEARS KIRSCHNER'S SIGNATURE. TRANSLATION APPEARS ON PAGE 397.

12.9.1940.

NI-792

Herrn
Dr. Jost Terhaar
Berlin NW 7
Unter den Linden 82.

hierbei Dr. Terhaar,

ich danke Ihnen für Ihr Schreiben vom 9. cr. Die von Ihnen angefertigte Aktennotiz gibt eine ausgezeichnete Zusammenfassung des Verlaufs und Ergebnisses der Pariser und Brüsseler Tage. Ich habe nach Durchsicht meiner eigenen Notizen praktisch nichts hinzuzufügen. Zu dem "amtlichen" Teil möchte ich lediglich anheim stellen, ob Sie zu Seite 3 der Brüsseler Notiz noch meine Unterhaltung mit Herrn Dr. Bard, Warenstelle (Reichsstelle) Chemie, Brüssel mit dem Hinweis erwähnen wollen, dass dieser für die Bewirtschaftung in den Départements Pas-de-Calais und Nord zuständig ist und dass er über den Antrag der IG, die Wiederaufnahme der Fabrikation der französischen Farbenfabriken zunächst nicht zuzulassen, unterrichtet wurde. Herr Dr. Bard hat zugesagt, bei irgendwelchen Anforderungen von Schwerchemikalien aus den Kuhlmannschen Fabriken in den genannten Départements für organische Fabriken im besetzten Gebiet seinerseits ablehnende Haltung einzunehmen.

Über die Absichten des Herrn Generalkonsul Mann, bei der Neuordnung des Verhältnisses zu Rhône-Poulenc auf eine 51%ige Kapitalbeteiligung hinzuzutreten, habe ich Herrn von Schnitzler unterrichtet. Das ganze Thema wird ja anlässlich der nächsten KA-Sitzung nochmals mündlich besprochen werden. Den Gedanken der 51%igen Beteiligung haben Sie wohl absichtlich nicht in der Notiz erwähnt.

Aus der Reihe der ins Private gehenden Informationen frage ich mich, ob es vielleicht interessant wäre, an geeigneter Stelle folgendes (in Stichworten) noch anzuführen:

Duchemin hat mit Kolb Fühlung und soll angeblich "verhünftig" sein.
Meinung Kolb über den geringen Prozentsatz derjenigen Franzosen, (10%), die sich innerlich auf die neuen Verhältnisse um- und eingestellt haben.
Thesmar ist in Paris und wird von den deutschen Stellen als "netter als die Kuhlmannleute" empfunden.
Frossard ist ebenso wie Rhein im umsetzten Gebiet und zwar in Toulouse. Frossard kann nach seinen Angaben nicht ins besetzte Gebiet kommen, da er als "deutscher Deserteur" im besetzten Gebiet Schwierigkeiten zu erwarten hätte. Rhein hat einen Gewährsmann seine Meinung wissen lassen, dass Kuhlmann demnächst "ganz gross weitermachen werde".
Information des Pharmazeuten, den Herr Dr. Grobel von Rhône-Poulenc zurückengagiert hat, wonach sowohl R.-P. wie Kuhlmann besorgt darüber seien, dass die IG noch nicht versucht habe, die Verbindung in irgendeiner Form wieder aufzunehmen.

Ich überlasse es ganz Ihnen, den einen oder anderen Punkt in der Aktennotiz noch unterzubringen oder evtl. auch in dem Begleitschreiben, mit dem der endgültige Text versandt wird, zu erwähnen.

Mit herzlichen Grüßen bin ich
Ihr

gez. Kugler
1. 228

DOCUMENT NI-792, PROSECUTION EXHIBIT 1242. PAGE 2 OF LETTER FROM DEFENDANT KUGLER TO DR. TERHAAR, CONCERNING FARBEN'S PROPOSAL TO PREVENT RESUMPTION OF FRENCH DYESTUFFS MANUFACTURE FOR THE PRESENT, AND RELATED MATTERS.

BBH-554

556

rd. 183.000 KGeF. beschäftigt haben, ein erheblicher Anteil der RÜ.-Wirtschaft zuzurechnen sein. Ich schätze den Anteil an KGeF. in dieser Sparte auch auf mindestens 50.000 Mann, sodaß man doch davon ausgehen kann, daß Ende Dezember in der RÜ.-Wirtschaft etwa 250.000 KGeF. bereits eingesetzt waren. ~~Wie Ihnen bekannt ist, sind die Dienststellen der Arbeitseinsatzverwaltung ^{hierzu auf einen} ~~bestimmten~~ angewiesen, der RÜ.-Wirtschaft eine möglichst hohe Anzahl von KGeF. zuzuführen. Dies hatte sich bereits in Laufe des Dezember 1941 beispielsweise dadurch bemerkbar gemacht, daß allein in Laufe dieses einen Monats der Eisen- und Metallwirtschaft gegenüber dem Vormonat 13.000 KGeF. mehr zugeführt worden sind. ~~Wie Ihnen bekannt ist, habe~~ Ich ferner durch einen Erlaß vom 8.1.42 - Va 5135/45 - eine nochmalige schärfste Durchführung aller laufenden Einsatzmaßnahmen für KGeF. angeordnet und dabei bestimmt, daß die bei der Durchführung freiwerdenden KGeF. zunächst nur bei Maßnahmen der RÜ.-Wirtschaft einzusetzen sind. Ferner ist angeordnet worden, daß auch die auf Grund der Weisung des OKW aus den wehrmacheigenen Arbeiten abzugebenden KGeF. ausschl. in die RÜ.-Wirtschaft zu überführen sind. Die Überleitung der KGeF. in die RÜ.-Wirtschaft wird von mir besonders überwacht. Ich werde Ihnen zu gegebener Zeit mitteilen, wie sich diese letztgenannten Maßnahmen zahlenmäßig zu Gunsten der RÜ.-Wirtschaft auswirken.~~

*Für Camp H. Umwelt
jenseit von Berlin
18 von Kriegsgefangenen
begehren*

2.) Vv. nach Abgang *(Berth. Lorenz)*
(dann S.B.A.)

688

5735

Handwritten signatures and initials, including "H. B." and "26/11/42".

DOCUMENT NI-1435, PROSECUTION EXHIBIT 1289, PAGE 2 OF LETTER FROM THE LABOR ALLOCATION DIVISION OF THE PLENIPOTENTIARY FOR THE FOUR-YEAR PLAN TO THE REICH MINISTER FOR ARMAMENTS AND MUNITIONS, CONCERNING UTILIZATION OF PRISONERS OF WAR IN THE ARMAMENT INDUSTRY, NOTING THAT THE CHEMICAL INDUSTRY IS A PART OF THE ARMAMENT INDUSTRY IN THE BROADER SENSE, AND RELATED MATTERS.

Fernschrift

I. G. Höchst M-9778
Fernschreiber, Ruf 424

I. G. Höchst
28.AUG.39 16-17
Fernschreiber
Eingangsbogen

+ BLN L 6 28.8. 39 15,11 =

aus

Empfänger: HERRN DR. KRAENZLEIN HOE=

NEVERMITTLUNGSSTELLE W IST VORLAEUFIG VON 8 BIS 20 UHR UEBER
FERNSCHREIBER UND FERNSPRECHER ERREICHBAR , VON 20 BIS 6 UHR
LEITET FERNSCHREIBER STICKSTOFFSODIKAT NACHRICHTEN AN
MITGLIEDER DER VERM, STELLE W FERNMUENDLICH WEITER .
WEGEN SICHERHEIT UND SCHNELLIGKEIT DER NACHRICHTENUEBERMITTLUNG
IST VOR ALLEM FERNSCHREIBER ZU BENUTZEN =

VERMITTLUNGSSTELLE W BLN L =++

*Bitte für Verhütung
Abgabe per 28.8.1939
aus dem Fernschreiber*

DOCUMENT NI-8778, PROSECUTION EXHIBIT 262, TELETYPE FROM VERMITTLUNGSSTELLE W TO FARBEN'S
HOECHST PLANT, 28 AUGUST 1939, CONCERNING MESSAGES TO VERMITTLUNGSSTELLE W ON A 24-
HOUR BASIS. TRANSLATION APPEARS ON PAGE 1110.

An die
Direktion.

I. G. Bitterfeld

Sekretär

Eing 22. JUL

Beantw.

1111
1111
575

Ihre Zeichen

Ihre Nachricht vom

Hausnr./Nr.

Umsatz Zeichen

Bitterfeld
22.7.1943.

Gef. Abt.
Tsch/Bu.

Betreff

Zuweisung von Arbeitskräften.

Mit der Zuweisung weiterer Arbeitskräfte sieht es, wie wir auf Grund einer telefonischen Rücksprache mit Herrn Kauffmann soeben feststellen, sehr schlecht aus. Aus der Juli-Aktion können der Farbenfabrik und den Bitterfelder Werken wahrscheinlich höchstens nur 100 Mann im Wege des Rotzettelverfahrens zugewiesen werden, wovon etwa 2/3 auf Bitterfeld entfallen würden. Der Gebechem soll für Juli lediglich ein Gesamtkontingent im Ausmaß des Bedarfes der Farbenfabrik und der Bitterfelder Werke zuerkannt bekommen haben. Es wird also aus der Juli-Aktion nicht mehr als oben angegeben herauszuholen sein.

Hinsichtlich der August-Aktion ist z.Zt. noch gar nichts bekannt. Wenn aber in Hinblick auf vorangestellte Fertigkeiten wie Panzer, Marine und Luftwaffe der Gebechem wiederum nur so mager wie im Juli bedacht wird, so wäre auch im August nur mit Zuweisungen zu rechnen, die in keinem Verhältnis zu unserem dringenden Bedarf stehen.

Wegen der Deckung des Bedarfes der N.-Anlage sind seitens des Herrn Dr. Perschmann Verhandlungen im Luftfahrtministerium geführt worden. Ob dies auch hinsichtlich des Bedarfes für unsere E-Metallabteilung geschehen ist, entzieht sich der Kenntnis des Herrn Kauffmann.

D.W.

1111
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B. 385.

DOCUMENT NI-14557, PROSECUTION EXHIBIT 1965, PAGE 1 OF MEMORANDUM OF FARBEN'S BITTERFELD PLANT, 22 JULY 1943, CONCERNING LABOR ALLOCATION AND CONTAINING HANDWRITTEN STATEMENT BY DEFENDANT BUERGIN THAT "FRENCH PERSONNEL GOING ON LEAVE HAVE TO FURNISH GUARANTOR! PRIVATE AGREEMENT WITH SLAVE TRADERS?" TRANSLATION APPEARS ON PAGE 529.

Wir regen an, durch die Herren abteilungsleiter feststellen zu lassen, mit welchen Produktionsausfällen zu rechnen ist, wenn keine oder nur ganz geringfügige Kräftezuweisungen erfolgen, um in der Lage zu sein, dem Gebotem gegenüber die Vordringlichkeit der Zuweisungen begründen zu können.

Angesichts dessen, daß in den nächsten Monaten eine größere Entlastung auf dem Gebiete des Arbeitseinsatzes nicht eintreten wird, ist zu empfehlen, in der nächsten W.B. nochmals auf die Zurückhaltung hinsichtlich der Urlaubserteilung hinzuweisen.

Gefolgschaftsteilung

W.B.

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DOCUMENT NI-14557, PROSECUTION EXHIBIT 1965, PAGE 2 OF MEMORANDUM OF FARBEN'S BITTERFELD PLANT, 22 JULY 1943, CONCERNING LABOR ALLOCATION AND CONTAINING HANDWRITTEN STATEMENT BY DEFENDANT BUERGIN THAT "FRENCH PERSONNEL GOING ON LEAVE HAVE TO FURNISH GUARANTOR! PRIVATE AGREEMENT WITH SLAVE TRADERS?"

Table of Comparative Ranks

<i>U. S. Army</i>	<i>German Army</i>	<i>U. S. Navy</i>	<i>German Navy</i>	<i>SS</i>
2d Lieutenant.....	Leutnant.....	Ensign.....	Leutnant zur See.....	Untersturmfuehrer.
1st Lieutenant.....	Oberleutnant.....	Lieutenant (junior grade) ..	Oberleutnant zur See.....	Obersturmfuehrer.
Captain.....	Hauptmann.....	Lieutenant (senior grade) ..	Kapitaenleutnant.....	Hauptsturmfuehrer.
Major.....	Major.....	Lieutenant Commander.....	Korvettenkapitaen.....	Sturmabannfuehrer.
Lieutenant Colonel.....	Oberstleutnant.....	Commander.....	Fregattenkapitaen.....	Obersturmbannfuehrer.
Colonel.....	Oberst.....	Captain.....	Kapitaen zur See.....	Standartenfuehrer.
Brigadier General.....	Generalmajor.....	Commodore.....	Konteradmiral.....	Oberfuehrer.*
Major General.....	Generalleutnant.....	Rear Admiral.....	Vizeadmiral.....	Brigadefuehrer.
Lieutenant General.....	General der Infanterie, der Artillerie, etc.	Vice Admiral.....	Admiral.....	Gruppenfuehrer.
General.....	Generaloberst.....	Admiral.....	Generaladmiral.....	Oberstgruppenfuehrer.
General of the Army.....	Generalfeldmarschall.....	Admiral of the Fleet.....	Grossadmiral.....	Reichsfuehrer.

*Equivalent to a senior Colonel.

German Civil Service Ranks ¹

- I. *Lower level*²
- II. *Intermediate level*
 - 1. Assistent³
 - 2. Sekretær³
 - 3. Obersekretær³
- III. *Upper level*
 - 1. Inspektor³
 - 2. Oberinspektor³
 - 3. Amtmann³
 - 4. Amtsrat³
- IV. *Higher level*
 - 1. Regierungsrat
 - 2. Oberregierungsrat
 - 3. Ministerialrat
 - 4. Ministerialdirigent
 - 5. Ministerialdirektor
 - 6. Staatssekretær

¹The German Civil Service is divided into two main groups: Beamte (officials) and Angestellte (employees). Beamte are classified according to four levels: Beamte of "unteren Dienstes" (lower level), "einfachen mittleren Dienstes" (intermediate level), "gehobenen mittleren Dienstes" (upper level), and "hoeheren Dienstes" (higher level). Angestellte are mainly custodial employees, workers, and minor clerks, but the term also includes some specialists who do not have Beamten status.

²Officials of the "lower level" are usually clerical employees and are usually addressed with the title of their position (such as "Buerovorsteher," chief clerk).

³Usually carries a prefix such as "Regierungs," "Verwaltungs," "Ministerial," etc.

Glossaries

In many instances, the translations of terms used in the following glossaries refer only to connotations as applied in this case.

1. Glossary of terms, firm names, administrative and governmental agencies

Abteilungsdirektor-----	Section chief; department chief.
Abwehr-----	Defense; security; military intelligence; counterintelligence; protection.
Abwehrbeauftragter-----	Intelligence or counterintelligence agent or representative; security officer.
Abwehrdienststelle-----	Military security control center.
Abwehroleitstelle-----	Military intelligence and counterintelligence regional headquarters.
Abwehroffizier (AO)-----	Military intelligence and counterintelligence officer.
Abwehrstelle-----	Military intelligence and counterintelligence subregional headquarters (usually subordinated to an "Abwehroleitstelle").
Abwicklung-----	Winding up; liquidation (of an enterprise).
Adolf Hitler Spende der Deutschen Wirtschaft.	Adolf Hitler Fund of German Trade and Industry.
Aktenzeichen-----	Reference on a letter; file reference; serial number.
Aktie-----	Share; stock.
Aktiengesellschaft (A. G.)-----	Roughly translated: stock company or stock corporation; joint-stock company.
Aktiengesetz-----	Stock corporation act; stock corporation law.
Aktienkapital-----	Capital stock; share capital.
Aktienrecht-----	Laws relating to stock corporations; stock laws.
Aktionaer-----	Shareholder; stockholder.
Aktiva-----	Assets; resources.
Allgemeines Heeresamt (AHA)---	General Army Office.
Amt-----	Office; bureau; department agency; functions; board.
Amt fuer Deutsche Roh- und Werkstoffe.	Office for German Raw Materials and Synthetics (of the Four Year Plan); prior to establishment of Four Year Plan Office, general functions were performed by the "Rohstoff- und Devisenstab"; in 1938, office was renamed "Reichsstelle fuer Wirtschaftsausbau".
Amtseid-----	Oath of office.
Amtsgericht-----	Lower court of first instance (competent to try petty civil and criminal cases; often translated as municipal or local court).
Amtsgerichtsrat-----	(Official designation of the) senior judge in an "Amtsgericht"; municipal judge.
Amtsgruppe-----	Subdivision; subsection.
Amtsgruppe fuer Entwicklung und Pruefung des Heereswaffen- amts (Wa Pruef).	Development and Testing Section of the Army Ordnance Office.

Anlage (Anl.)	Enclosure.
Anweisung (also Hinweisung, Weisung).	Instruction; directive; direction; order; allocation; advice.
Arbeitsamt	Labor office; employment office.
Arbeitsausschuss (A. A.)	Working Committee of the Vorstand (of I. G. Farben).
Arbeitsbedingungen	Terms of employment; conditions of work.
Arbeitsbuch	Employment book; work book.
Arbeitsdienst	Labor service (organized in 1932 as an emergency measure on a voluntary basis to absorb a portion of the unemployed; became compulsory through "Arbeitsdienstgesetz").
Arbeitsdienstgesetz	National Labor Service Law (dated 26 June 1935), enacting compulsory labor service.
Arbeitseinsatz	Labor allocation; utilization of labor; mobilization of labor; conscription of labor.
Arbeitseinsatzverwaltung	Labor Allocation Administration.
Arbeitsgemeinschaft	Working combine; joint association; work community; working association; joint alliance (partnership between employers and workers).
Arbeitslager	Labor camp or work camp.
Arbeitsordnungsgesetz (AOG)	National Labor Law; Charter of Labor (literally, law for the regulation of national labor).
Arisierung	Aryanization.
Assessor	Applicant on probation for the higher service; junior judge; assistant judge.
Aufruestung	Rearmament.
Aufsichtsrat	"Supervisory board of directors" (usually not translated, since no exact American equivalent).
Auslandsorganisation (AO)	Foreign Organization of the NSDAP.
Ausschuss	Committee; board; panel.
Ausschuss fuer Aussenhandel und Waehrungsfragen der Internationalen Handelskammer.	Committee for Foreign Trade and Currency Questions of the International Chamber of Commerce.
Ausschuss fuer Hydrierverfahren	Hydrogenation Committee.
Aussenhandels-Ausschuss	Committee for Foreign Trade.
Aussenpolitisch	Pertaining to foreign policy.
Aussenstelle	Field office; regional or subsidiary office; outlying station or post.
Auswaertiges Amt (A. A.)	German Foreign Office.
Auswechlager	Dispersal point (for documents, equipment).
Autarkie	Autarchy; economic self-sufficiency.
Autobahnen	Express highways (network of special roads for motor traffic).
Baudirektor	Construction director.
Baurat	Construction counsellor; building councilor for public works.
Beauftragter	Agent (if government function: plenipotentiary).
Beauftragter fuer den Vierjahresplan (Goering).	Plenipotentiary for the Four Year Plan (established by decree of 18 October 1936).

Bedarfsdeckung -----	Procurement of adequate supply.
Beirat -----	Advisory board; advisory council.
Beitreibung -----	Requisition; recovery; collection.
Beraubung -----	Spoilation; pillage; deprivation.
Bereitschaftsanlage -----	Stand-by plant; emergency plant.
Berg und Huettengewerkschaft Ost, m. b. H. (B. H. O.)	A special corporation set up to operate in the Occupied Eastern Territories.
Bergbau -----	Mining.
Bergbaugesellschaft -----	Mining company.
bergrechtliche Gewerkschaft -----	Roughly translated: corporation established under mining law.
Berufsgenossenschaft -----	Trade association; employers' or professional liability insurance association.
Beschlagnahme -----	Seizure; sequestration; confiscation; restraint.
Betrieb -----	Plant; enterprise; establishment; works.
Betriebsfuehrer -----	Plant or enterprise manager (also special "plant leader" under National Labor Law, 1934).
Betriebsgemeinschaft -----	Works combine (as used by Farben); factory plant community.
Betriebsobmann -----	Plant labor leader; plant labor trustee.
Betriebsrat -----	Factory or industrial council (later replaced by "Vertrauensrat").
Betriebszellenobmann -----	Chairman of a factory cell.
Betriebszellen-Organisation (NSBO).	See—Nationalsozialistische Betriebszellen-Organisation.
Bevollmaechtigte -----	Agent (if government function: plenipotentiary).
Bezirk -----	District; administrative unit; subregion.
Bezirksstelle -----	District office.
Block -----	Block (smallest Party unit, each embracing about 50 households, headed by a block leader).
Blutschutzgesetz (short name for Gesetz zum Schutze des deutschen Blutes und der deutschen Ehre).	Law for the protection of German blood and honor (promulgated 1935).
Braunkohle-Benzin A. G. (BRABAG).	A corporation producing gasoline from lignite.
Buergermeister -----	Mayor.
Buero des Kaufmaennischen Ausschusses (BdKA).	Office or Bureau of the Commercial Committee (of Farben).
Capo -----	See kapo.
Chemikalien - Ausschuss (CHEMA).	Chemicals Committee (of I. G. Farben).
Coloristische Kommission -----	Dyestuffs Application Committee.
Conseil d'Administration -----	Board of Administration of Francolor.
Dachgesellschaft -----	Parent company or holding company.
Deutsche Arbeitsfront (DAF) -----	German Labor Front.
Deutsche Gemeindeordnung -----	German municipal code (of 30 January 1935, reorganizing the local government on a national scale).

Deutsche Gesellschaft fuer Schaedlingsbekämpfung (DEGESCH).	A corporation. producing "Zyklon B," among other products.
Deutsche Golddiskontbank	Literally, German Gold Discount Bank (a central bank under the direction of the "Reichsbank"; created especially to provide credits for industry to promote foreign trade).
Deutsche Gold-und Silberscheide-Anstalt A. G. (DEGUSSA).	A corporation concerned with smelting and refining of precious metals.
Deutsche Industrie Norm(ung) (DIN).	German industry standard.
Deutsche Reichsbahn (DRB)	Reich Railways.
Deutsche Volkspartei (DVP)	German People's Party (founded at the end of 1918).
Deutscher Reichsanzeiger (RA or DRA).	German Reich Gazette.
Deutsches Beamtengesetz (DBG)	German Civil Service Law.
Deutsches Institut fuer Normen (DIN).	German Institute for Standardization.
Deutsches Nachrichtenbuero (DNB).	German News Bureau (official German wire service).
Deutschnationale Volkspartei (DNVP).	German National People's Party (established in 1918 to merge all conservative wings in one united Christian national front).
Devisen	Foreign exchange.
Devisenbewirtschaftung	Foreign exchange control.
Devisengesetz	Foreign exchange law.
Devisenstelle	Foreign currency control office.
Devisenzwangswirtschaft	Government control of foreign currency.
Diplom-Ingenieur (Dipl. Ing.)	Certified engineer; graduate engineer.
Diplom-Volkswirt	Certified economist.
Direktionsabteilung	Management department.
Direktor	Manager (title given to a member of the Vorstand or to a manager of a corporation, plant, or division); director.
Direktorium	Board of managers; managers; directorate, board of directors, managing board.
Dynamit Aktiengesellschaft vorm. Alfred Nobel & Co. (DAG).	The largest German corporation producing explosives.
Ehrenfuehrer	Honorary SS leader.
Eigentum	Property or ownership.
eingetragener Verein (e. V.)	Chartered or registered association.
Einsatzgruppe	Execution and investigation unit of the Sipo and SD, operating with the Wehrmacht in the field.
Einziehung	Confiscation (of property); draft (recruits); conscription.
Engerer Beirat	Select Advisory Council (of I. G. Farben).
Engerer Farben-Ausschuss	Dyestuffs Steering Committee (of I. G. Farben).
Enteignung	Expropriation; confiscation; dispossession.
Entjudung	"De-Judaization"; elimination of Jews from public or economic life.

Entscheidungen des Reichsgerichts in Zivilsachen (RGZ).	Decisions of the German Supreme Court in civil law cases.
Erfassung	Control or seizure.
Erziehungslager	Reform or "disciplinary" camp.
Fabrik	Factory or plant.
Fachabteilung	Subgroup; subdepartment; subsection.
Facharbeiter	Skilled worker.
Fachgruppe	A special or subgroup of a "Wirtschaftsgruppe".
Farben-Ausschuss (F. A.)	Dyestuffs Committee.
federfuehrend	Literally, "holding, or leading the pen", or "those signing"; among several offices or persons, the one in charge of the actual management; responsible (agency); controlling; competent; authoritative; in charge.
feindliches Eigentum	Enemy property.
Feldkommandantur	Military administration headquarters (in combat zone and occupied countries).
Fernschreiber	Teletype.
Finanzamt	Internal revenue office.
Francolor	Short name for a chemical corporation organized in France in 1941.
freie Mark	Free mark (unblocked).
Freundeskreis Himmler	Himmler Circle of Friends (also known as "Keppler Circle").
Fuehrerprinzip	Literally, the leader-principle; principle of leadership; totalitarian principle of absolute leadership by one.
Fuehrungsanspruch	Claim to leadership.
Gau	Regional unit of the Nazi Party, or of the Reich; main administrative unit of the NSDAP.
Gauarbeitsamt	Gau labor office.
Gauleiter	Regional leader of the NSDAP for the "Gau".
Gaubobmann	Chief of the Labor Front in a "Gau".
Gauwirtschaftsberater	Gau economic adviser; NSDAP deputy in "Gauwirtschaftskammer".
Gauwirtschaftskammer	Gau economic chamber.
Gefolgschaft	Followers; staff; personnel; employees and workers (term used particularly under the National Labor Law of 1934).
Gefolgschaftsabteilung	Personnel department.
geheime Kommandosache	Top secret (military matters).
geheime Reichssache	Top secret (state or government matters).
Geheime Staatspolizei (G E S - T A P O).	Secret State Police.
geheimer Kommerzienrat	An honorary German title for privy councillor of commerce.
geheimes Chiffrierverfahren (Geh. Chiff. Verf.).	Secret cipher-code.
Geheimrat	Privy councillor.
Gemeinde	Basic unit of local government; commune; municipality; corporate body; community; parish; congregation; district.

Gemeindeverfassung -----	Municipal constitution (based on the "Deutsche Gemeindeordnung", characterized by "Fuehrerprinzip").
Gendarmerie -----	Rural police (section of the constabulary).
Generalbevollmaechtigter -----	Plenipotentiary general.
Generalbevollmaechtigter Chemische Industrie (G. B. Chem, or GEBECHEM, or GEBECHEMIE, or GB-CHEMIE).	Plenipotentiary General for Special Questions of Chemical Production (office held by Carl Krauch).
Generalbevollmaechtigter fuer den Arbeitseinsatz (GBA).	Plenipotentiary General for Labor Allocation.
Generalbevollmaechtigter fuer Sonderfragen der Chemischen Erzeugung (GEBECHEM).	See—Generalbevollmaechtigter Chemische Industrie.
Generaldirektor -----	Director general; managing director; general manager (title given to the Vorstand chairman or chief manager of a corporation). Compare "Direktor".
Generalgouvernement (GG) -----	Government General (administrative region established by the Germans in Central Poland after the 1939 invasion).
Generalinspekteur -----	Inspector general.
Generalrat der Reichsbank -----	General Council of the Reichsbank (controlled and supervised the Reichsbank until it was abolished by law of 10 February 1937).
Generalrat des Vierjahresplanes ..	General Council of the Four Year Plan.
Generalreferent -----	A "Referent" who exercises broad powers in conducting a specific project.
Generalversammlung -----	Stockholders' meeting (generally called "Generalversammlung" prior to Stock Corporation Law of 1937, and "Hauptversammlung" after that).
Generalvollmacht -----	General or full power of attorney.
Geschaeftsanteil -----	Participation share (ownership rights in a G. m. b. H.).
Geschaeftsfuehrer -----	Managing director; executive secretary; manager (of a G. m. b. H.).
Geschaeftsgruppen -----	Administrative Groups (created by Goering [six] to coordinate all problems involved in the rearmament program).
Geschaeftsordnung -----	Bylaws; rules of procedure; agenda.
Gesellschaft mit beschraenkter Haftung (G. m. b. H.).	Limited liability corporation.
Gesellschaft zur Verwertung chemischer Erzeugnisse m. b. H. (Verwertchemie).	A DAG-controlled corporation for operating Reich-owned explosives plants.
Gesellschaftsvertrag -----	Articles (or certificates) of incorporation; articles of partnership (called "Satzung" after Stock Corporation Law of 1937).
Gesetz -----	Law; statute; act.
Gesetz zur Ordnung der nationalen Arbeit (AOG).	See—"Arbeitsordnungsgesetz".

Gewerkschaft -----	Mining corporation; trade union (German trade unions were dissolved in April 1933).
Gewoehnliches Chiffrierverfahren (Gew. Chiff. Verf.)	Cipher-code.
Grosser Beirat -----	Greater Advisory Council (of I. G. Farben).
Grube -----	Pit; mine.
Handel -----	Commerce; trade; market.
Handelsgesetzbuch (H. G. B.) -----	German Commercial Code.
Handelsregister -----	Commercial registration office; trade register.
Handlungsbevollmaechtigter -----	Employee with power of attorney, entitled to bind his firm by his signature, either generally or for a specified type of transaction.
Hauptabwehrbeauftragter -----	Chief intelligence or counterintelligence agent; chief security officer.
Hauptamt -----	Main office; central office.
Hauptausschuss -----	Main or central committee.
Hauptbetriebsfuehrer -----	Chief of plant leaders (see "Betriebsfuehrer").
Hauptgruppe -----	Main group; a major production division of I. G. Farben; in 1930's usually referred to as a "Sparte".
Haupttreuhandstelle Ost (H. T. O.).	Sometimes translated as "Main Trustee Office East," a special Reich agency for occupied Poland.
Hauptversammlung -----	Stockholders' meeting (generally called "Hauptversammlung" after Stock Corporation Law of 1937, and "Generalversammlung" prior to that).
Heereswaffenamt (HWA, Wa A) -----	Army Ordnance Office.
Hermann Goering Werke (Reichswerke A. G.) (HGW).	Hermann Goering Works Corporation.
Hinweisung -----	See Anweisung.
Huettenwerk -----	Foundry or smelting plant.
im Auftrag (i. A.) -----	By order.
in Reinschrift (i. R.) -----	Original, to be signed.
Interessengemeinschaft (I. G.) -----	Community of interests.
Internationale Gesellschaft fuer Chemische Unternehmen A. G. (I. G. Chemie).	Literally, "International Corporation for Chemical Enterprises," (Basel, Switzerland).
in Vertretung (i. V.) -----	As deputy.
Jaegerstab -----	Special staff organization formed for the purpose of increasing fighter plane production.
Jahrestonnen (JATO) -----	Tons per year.
Joint American Study Company (JASCO).	An American corporation.
Juristische Person -----	Juristic or legal person; legal entity; public corporation.

kapo (or Capo) -----	Concentration camp inmate-overseer of fellow inmates; minor supervisor or "straw boss" recruited from a special and preferred segment of the concentration camp inmates.
Kartell -----	Cartel.
Kaufmaennischer Ausschuss (K. A.) -----	Commercial Committee (of I. G. Farben).
Keppler Kreis -----	See—Freundeskreis Himmler.
Kleiner Kreis -----	Small Circle (a group of industrialists which exercised great influence over the coal, iron, and steel industries).
Kleiner Ministerrat des Vierjahresplans -----	Small Ministerial Council of the Four Year Plan.
Koloristische Kommission -----	See—Coloristische Kommission.
Kommanditgesellschaft (K. G.) ---	Similar to a limited partnership.
Kommanditgesellschaft auf Aktien -----	Share company; partnership limited by shares (includes members whose liability is unlimited).
Kommerzienrat -----	Councillor of commerce (honorary title conferred on industrialists and businessmen).
Kommissarischer Leiter -----	Acting or special leader, chief, or manager.
Kontingent -----	Quota; share; (authorized) ration.
Konzentrationslager (KL or KZ) ---	Concentration camp.
Konzern -----	Concern; combine; syndicate.
Konzernspitze -----	Top combine company; parent company.
Kraft durch Freude (KdF) -----	See NS-Gemeinschaft Kraft durch Freude.
Kredit -----	Credit or authorized expenditures.
Kreis -----	Regional division, size of county or city district, of Nazi Party; district.
Kreisleiter -----	Leader of a district of the Nazi Party.
Kriegsgefangener -----	Prisoner of war.
Kriegsspiele -----	War games or maneuvers; map maneuvers.
Kriegswirtschaft -----	War economy; compulsory or forced war economy.
Kriminalpolizei (KRIP0) -----	Criminal Police (branch of the Security Police).
Kriminalrat -----	Councillor of Criminal Police in Security Police Force.
Kuxe -----	Mining corporation shares.
Laender -----	See—Land.
Lager -----	Camp; depot; stock; store; deposit.
Lagerfuehrer -----	Camp leader (prisoners' representative); camp commandant (in charge of guards).
Land (pl. Laender) -----	State; province; administrative subdivision of Reich; regional, district, and local authorities; regional subdivision.
Landesarbeitsamt -----	Provincial or Regional Labor Office.
Landesgruppe -----	Nazi Party group (outside of Germany).
Landgericht -----	District court; regional court; circuit or provincial court.
Landgerichtsrat -----	Judge of district court; counsellor of a provincial court; senior judge in a county court.

Landrat-----	County councillor; highest administrative official of a county.
Leiharbeiter -----	Loan worker; worker on loan (foreign and German workers "loaned" by one employer to another).
Leiter -----	Leader; head; chief; director; manager.
Loesungsmittelkommission (LOEKO).	Solvents Committee.
Matura -----	See Reifepreuefung.
Metallurgische Forschungsgesellschaft m. b. H. (MEFO).	Metallurgical Research Association, Inc. (organization supported by and working for the armament firms during the 1930's in violation of the Versailles Treaty).
Ministerialdirektor -----	Administrative official who holds the highest rank of the ministerial bureaucracy, where departments are divided into sections usually headed by a " <i>Ministerialdirigent</i> " and staffed with the required number of " <i>Ministerialtraete</i> ," and other officials.
Ministerialdirigent -----	See Ministerialdirektor.
Ministerialrat-----	Superior counsellor in a ministerial department (see also: "Ministerialdirektor").
Ministerrat fuer die Reichsvertheidigung (also called Reichsverteidigungsrat).	Cabinet or Ministerial Council for National Defense.
Mitglied des Reichstags (MdR)---	Member of the Reichstag.
Mobilisierung -----	Mobilization.
Mobilisierungsplan (Mob-Plan)--	Mobilization plan or planning.
Mobilmachung (Mobilmachungs— in compound words).	Mobilization.
Monatstonnen (MOTO)-----	Tons per month.
Montan-Industriewerke G. m. b. H. (short name: Montan).	A government-controlled holding company for armament plants operated by various private concerns.
Muttergesellschaft-----	Parent company.
nach Abgang (n. A.)-----	After dispatch.
Nationalsozialistisch (e, er, es) (NS).	National Socialist.
Nationalsozialistische Betriebszellen-Organisation (NSBO).	Factory cell-organization (smallest National Socialist group in factories, offices, etc.).
Nationalsozialistische Deutsche Arbeiterpartei (NSDAP).	National Socialist German Workers Party (Nazi Party).
Neuordnung-----	New Order (Nazi plan for the reorganization of Europe).
Norsk Hydro-Elektrisk-Kvaelstofaktielskab (Norsk-Hydro).	One of the largest corporations in Norway; producers of nitrogen and nitrogen products, among others; one of its electrochemical plants produced heavy water.
NS-Gemeinschaft Kraft durch Freude (KdF or NSG).	Association of Strength through Joy (founded in 1933 within the German Labor Front to organize recreational activities, group trips, sport, etc.).
NS-Volkswohlfahrt (NSV)-----	National Socialist Public Welfare Association (carried out "Winterhilfswerk").

Oberfinanzpraesident-----	Chief of a regional internal revenue office.
Oberingenieur -----	Senior or chief engineer.
Oberkommando des Heeres (OKH).	Army High Command.
Oberkommando der Kriegsmarine (OKM).	High Command of the Navy.
Oberkommando der Luftwaffe (OKL).	High Command of the Air Force.
Oberkommando der Wehrmacht (OKW).	High Command of the Armed Forces.
Oberlandesgericht -----	Appellate court; district court of appeals.
Oberlandesgerichtspraesident-----	Presiding judge of a district court of appeals; administrative head of all courts in his district.
Oberpraesident -----	Provincial governor (in Prussia the chief official of a province).
Oberregierungsrat -----	Higher government counsellor (councillor).
Obmann-----	Chairman; foreman; German Labor Front representative in a plant or shop.
Oesterreichische Magnesit-Aktien- gesellschaft (OEMAG).	An Austrian corporation.
Offene Handelsgesellschaft (o. H. G.).	Ordinary partnership; general partnership.
Ordnungspolizei (ORPO)-----	Uniformed regular police or constabulary (includes, among others, the "Gendarm- erie").
Organisation Todt (OT)-----	Todt Organization (paramilitary construc- tion organization, auxiliary to the Wehr- macht; named after its founder, Dr. Todt; consisted of a cadre of engineers, expanded as necessary by the use of hired, conscript, or foreign labor).
Ortsgruppe -----	Local unit or subdistrict of the Nazi Party.
Ostarbeiter-----	"Eastern workers"; workers from eastern occupied areas.
Ostarbeiterabgabe -----	Eastern workers tax.
Ostland -----	Administrative unit comprising the Baltic countries and White Russia.
Ostmark-----	Austria under Nazi rule 1938-45, forming an administrative unit (Land) of Germany.
Ostministerium-----	See "Reichsministerium fuer die besetzten Ostgebiete".
Parteigenosse (Pg)-----	Member of NSDAP; political associate; partisan.
Patenschaft-----	Sponsorship.
Patentkommission (PAKO)-----	Patent Commission (of I. G. Farben).
Pharmazeutika (PHARMA)-----	Short designation of pharmaceutical depart- ments, used in connection with a number of pharmaceutical agencies of I. G. Farben.
Pharmazeutische Hauptkonferenz-----	Pharmaceuticals Committee (of I. G. Far- ben).
Planspiel-----	Map exercise; war game or maneuver.
Planungsamt-----	Planning Office; executive agency of "Zen- trale Planung".
Pluenderung-----	Plunder; pillage; looting.

Praesidium	Presidium.
Prokurist	Employee with a general power of attorney; confidential or head clerk; corporation or company official with full power of attorney.
Protokoll	Minutes; statement; (official) record; proceedings; protocol.
Protokollfuehrer	Recording clerk.
Pruefungsstelle Chemie	Supervisory Office Chemistry; a government control agency for exports of chemical products, establ. in 1935.
Raub	Spoliation; pillage; deprivation.
Rechnungshof des Deutschen Reichs.	Supreme Reich agency responsible for the control and supervision of execution of the Reich budget.
Referat	Office or section concerned with a specialized subject matter (also: report; review).
Referendar	Law clerk; law graduate serving a three-year apprenticeship in law offices.
Referent	Principal (higher official, technical aide and adviser in charge of a particular subject matter in a ministry); section chief; specialist; consultant; reviewer.
Regierungsbezirk	Administrative district or area (subdivision of a Prussian province and of the Bavarian State, headed by the "Regierungspraesident").
Regierungspraesident	County or district president; highest official of the "Regierungsbezirk"; also the title of the representative of the Reich in the Sudetenland.
Regierungsrat	Governmental counsellor.
Reichsamt fuer Wirtschaftsausbau (RWA).	Reich Office for Economic Development (formerly: "Amt fuer Deutsche Roh- und Werkstoffe").
Reichsangehoerigkeit	Reich citizenship (enacted by 1934 decree, abolishing statehood of the "Laender," used for Jews as a second category of citizens, replaced by "Staatsangehoerigkeit" in "Reichsbuergergesetz").
Reichsarbeitsblatt (R. A. Bl.)	Reich Labor Gazette.
Reichsarbeitsdienst (RAD)	Reich Labor Service; see—Arbeitsdienst.
Reichsarbeitsfuehrer	Reich Labor Leader (established as supreme government agency by decree of 20 August 1943).
Reichsarbeitskammer	Reich Labor Chamber (established 1935 as supreme representative body of the Labor Front).
Reichsarbeitsministerium (RAM) ..	Reich Ministry of Labor.
Reichsaussenminister (RAM)	Reich Foreign Minister.
Reichsbahn	See—Deutsche Reichsbahn.

Reichsbank -----	National Bank of Germany, founded in 1875, was transformed in 1924 as an independent bank of the national government, placed under the control of the "Generalrat der Reichsbank." By laws of 1933 and 1937 the Generalrat as well as the independence from the government were abolished; by act of 15 June 1939 the Reichsbank was placed under the immediate control of the Fuehrer; the only bank of issue administered by the Reichsbank directorate.
Reichsbeauftragter -----	Reich commissioner or plenipotentiary.
Reichsbuerger -----	Reich citizen (first category of subjects with full political status).
Reichsbuergergesetz -----	Reich citizenship law (dated 15 September 1935; creates two categories of subjects: "Reichsbuerger" and "Reichsangehoerige").
Reichsdeutscher -----	German citizen (citizen of a federal state or citizen of the Reich directly, obsolete since "Reichsbuergergesetz").
Reichsfinanzministerium (RFM) ---	Reich Ministry of Finance.
Reichsforschungsrat -----	Reich Research Council (established 1937 as a center of research, especially in connection with the Four Year Plan).
Reichsfuehrer SS und Chef der Deutschen Polizei im Reichsministerium des Innern (Himmler) .	Reich Leader SS and Chief of the German Police in the Reich Ministry of the Interior.
Reichsgericht -----	Reich Supreme Court of Justice.
Reichsgesetzblatt (RGB or RGBL) ..	Reich Law Gazette.
Reichsgruppe -----	Reich Group.
Reichsgruppe Industrie -----	Reich Group Industry (formerly "Reichsverband der Deutschen Industrie").
Reichshauptkasse -----	Reich Treasury (under supervision of the "Reichsfinanzministerium," affiliated with the "Reichsbank"),
Reichskassenscheine -----	Reich treasury notes; special paper marks (of varying value for use in the occupied territories).
Reichskommissar -----	Reich commissioner (sometimes commissar).
Reichskommissar fuer die Festigung deutschen Volkstums (RKdF) .	Reich Commissioner for the Strengthening of Germanism.
Reichskreditkasse -----	Reich Credit Bank (established in occupied territories as itinerant bank or credit institution, supervised by head offices in Berlin, affiliated with the Reichsbank).
Reichskreditkassenscheine -----	Reich credit bank notes (also called occupation marks).
Reichskriegsministerium (RKM) ---	Reich War Ministry (former "Reichswehrministerium").
Reichsleiter (der Partei) -----	Reich leader of the NSDAP, one of the highest Party officials.

Reichsluftfahrtministerium (RLM).	Reich Air Ministry.
Reichsministerium fuer Bewaffnung und Munition (short: Reichsruestungsministerium).	Reich Ministry for Arms and Munitions (name changed to "Reichsministerium fuer Ruestung und Kriegsproduktion")
Reichsministerium fuer die besetzten Ostgebiete (RMfdbO).	Reich Ministry for the Occupied Eastern Territories (comprising two branches Ostland and Ukraine; both are divided into general and subdivided into regional commissariats).
Reichsministerium fuer Ruestung und Kriegsproduktion.	Reich Ministry for Armaments and War Production (Speer Ministry); name changed from "Reichsministerium fuer Bewaffnung und Munition".
Reichsministerium fuer Volksaufklaerung und Propaganda.	Reich Ministry for Public Enlightenment and Propaganda.
Reichsnaehrstand-----	Reich Food Estate.
Reichsorganisationsleitung der NSDAP.	Reich Organization Directorate of the Party (the most important center of the Party organization).
Reichsruestungsministerium-----	See "Reichsministerium fuer Bewaffnung und Munition".
Reichssicherheitshauptamt (RSHA).	Reich Security Main Office of the SS (a department of the Reichsfuehrer SS or SS High Command; highest HQ of all German security police branches).
Reichsstelle Chemie-----	A government control agency for the production and distribution of chemical products (from 1934 to 1939 called "Ueberwachungsstelle Chemie").
Reichsstelle fuer Kautschuk (REIKA).	Reich Control Office for Rubber.
Reichsstellen-----	Special Reich agencies or offices (name changed from "Ueberwachungsstellen" at outbreak of war).
Reichstag-----	German Parliament.
Reichsverband der Deutschen Industrie.	Reich Association of German Industry (replaced in 1934 by "Reichsgruppe Industrie").
Reichsvereinigung Eisen (RVE)--	Reich Association Iron (controlled by "Ruestungslieferungsamt").
Reichsvereinigung Kohle (RVK)--	Reich Association Coal (controlled by "Rohstoffamt").
Reichsverteidigungsrat-----	See—"Ministerrat fuer die Reichsverteidigung".
Reichswehr-----	Reich Defense Forces (land and naval) (term used after the First World War during the time when the Defense Act of 23 March 1921, imposed by Versailles Treaty, was in force).
Reichswehrministerium (RWM)--	Reich Defense Ministry (later called "Reichskriegsministerium").
Reichswirtschaftskammer-----	Reich Economic Chamber.
Reichswirtschaftsministerium (RWiM or RWM).	Reich Ministry of Economics.

Reifeprüfung (also Matura)-----	Leaving-examination (entitling the graduate to enter a university or similar institution).
Reiter-SS -----	SS cavalry; mounted SS.
Rohstoff -----	Raw material; raw stock; crude substance.
Rohstoff und Devisenstab-----	Raw Materials and Foreign Exchange Staff (performed general functions of the "Amt fuer Deutsche Roh- und Werkstoffe" prior to establishment of Four Year Plan Office).
Rohstoffamt-----	Office for Raw Materials (controlled the "Reichsvereinigung Kohle" and other Reich Associations and Economic Groups in raw materials field).
Rohstoffhandelsgesellschaft m. b. H. (ROGES).	Central procurement agency for raw materials from occupied territories.
Ruestungsamt-----	Armaments Office (a department in the "Reichsministerium fuer Reustung und Kriegsproduktion").
Ruestungsbau (Rue-Bau) -----	Armament construction.
Ruestungslieferungsamt-----	Armament Supply Office (controlled the "Reichsvereinigung Eisen").
Sachverstaendigenausschuss-----	Experts committee.
Satzung-----	Articles of incorporation (called "Gesellschaftsvertrag" prior to Stock Corporation Law of 1937).
S-Betrieb -----	Protected plant.
Schriftleiter-----	Editor.
Schriftleitergesetz -----	Law concerning editors of newspapers and magazines (regulates the semiofficial position of the "Schriftleiter").
Schutzhaft-----	Protective custody.
Schutzstaffel der NSDAP (SS)-----	Elite Guard; Protective Squad (started as a personal guard of Hitler; became a semi-military, political elite force, wearing black uniforms and cross-bones insignia, therefore also called "Schwarzes Korps" (Black Corps)).
Sicherheitsdienst (SD)-----	Security Service (part of the SS).
Sicherheitspolizei (SIPO)-----	Security Police (including Criminal Police and Secret State Police).
Société pour l'importation de Matières Colorantes et des Produits Chimiques (SOPI).	Farben agency in Paris.
Sonderausschuss "C"-----	Special Committee "C" (Chemical Warfare).
Sondergericht-----	Special court or tribunal (for minor political crimes; established on 21 March 1933 in each district of the "Oberlandesgericht").
Sozialkommission (SOKO)-----	Social Welfare Committee.
Sparte -----	Division; branch, subject; a major production division of I. G. Farben (see also "Hauptgruppe").
Sperrmark -----	Blocked reichsmark.
SS Wirtschafts- und Verwaltungshauptamt.	See—"Wirtschafts- und Verwaltungshauptamt".

Staatsangehoeriger	Subject or citizen of a particular German state; national (in this sense abolished by "Staatsangehoerigkeitsverordnung"); Reich subject (but not possessing full right of citizenship, based on "Reichsbuergergesetz"; to be distinguished from "Reichsbuerger").
Staatsangehoerigkeitsverordnung..	Decree concerning nationality (1934); it abolished nationality rights based on the German state citizenship, introducing "Reichsangehoerigkeit".
Staatsgeheimnis	State secret.
Staatsrat.....	Council of state; councillor of state (term used for the members as well as for the advisory body in Prussia).
Staatssekretaer.....	State secretary (title of the highest permanent official of a ministry).
staendiger Beirat.....	Permanent advisory council.
Stammaktien	Common stocks or shares.
Stammlager (Stalag).....	Permanent prisoner-of-war camp for NCO's and privates; base camp for prisoner-of-war labor detachments.
Stelle	Office; field office; board; authority; post; position; agency; department.
Stellvertreter.....	Deputy; representative; proxy; substitute.
Stickstoff Ost G. m. b. H.....	A corporation organized to exploit nitrogen facilities in the East.
Stickstoff-Syndikat G. m. b. H....	German nitrogen syndicate for the determination of production quotas as well as for sales of nitrogen in Germany.
Stillhalteabkommen.....	Moratorium or standstill agreement.
Strafgefangener	Convict.
Strafgesetzbuch (StGB).....	Penal code.
Straflager.....	Punitive camp; disciplinary camp.
Sturmabteilungen der NSDAP (SA).	Storm Troops or Storm Guard (the brown shirted Nazi organization which furnished strongarm squads which policed Nazi meetings).
Suedosteuropa-Ausschuss (SOA) ..	Southeastern Europe Committee.
Syndikat.....	Syndicate.
Tagestonnen (TATO).....	Tons per day.
Tarnung	Camouflage or concealment.
TEA-Buero.....	Office of the Technical Committee (of I. G. Farben).
Technische Kommission (TEKO).	Technical Commission (five engineering subcommittees grouped together under the TEA).
Technischer Ausschuss (TEA)....	Technical Committee (of I. G. Farben).
Teerfarben- und Chemikalien- Handels A. G. (TEFA).	Dyestuffs sales organization of Farben in Czechoslovakia.
Tochtergesellschaft.....	Subsidiary company.
Treuhaender	Trustee or custodian.
Treuhaender der Arbeit.....	Reich Trustee of Labor (appointed under law concerning national labor, 1934).

Ueberwachungsstelle Chemie-----	Supervisory Office Chemistry; Control Office Chemistry (a government control agency for the production and distribution of chemical products, established in 1934 and renamed "Reichsstelle Chemie" after 1939).
Ueberwachungsstellen-----	Supervisory offices; supervisory boards (established 1934, they played an important role in the mobilization of industry for war; at the outbreak of war they were renamed "Reichsstellen").
Unternehmen-----	enterprise; concern; venture.
Unterstaatssekretaer (U. St. S.)--	"Under state secretary" (civil service rank next to "Staatssekretaer", corresponding to assistant secretary of an executive department of the U.S.).
Verbindungsmann -----	Liaison man; liaison officer; contact man.
Verein fuer Chemische und----- Metallurgische Produktion (Prager Verein) (also called Aussiger Verein).	Literally, "Association for Chemical and Metallurgical Production" (a Czech company, with headquarters in Prague, plants in Sudetenland, at Aussig and Falkenau).
Verein zur Wahrung der----- Interessen der Chemischen In- dustrie Deutschlands.	Association for the Protection of the Interests of the German Chemical Industry (later called "Wirtschaftsgruppe Chemische Industrie").
Vereinigte Industrie-Aktiengesell- schaft (VIAG).	Reich holding corporation for all government-owned industrial enterprises.
Vereinigte Stahlwerke A. G. (Stahlverein).	A steel combine.
Verkaufsgemeinschaft -----	Sales combine.
Verkaufsgemeinschaft Agfa-----	Sales Combine Agfa (photographic materials and artificial fibers).
Verkaufsgemeinschaft Pharmazeu- tika und Pflanzenschutz.	Sales Combine Pharmaceuticals and Insecticides.
Vermittlungsstelle W-----	Liaison Office Wehrmacht (also called Military Liaison Office of I. G. Farben).
Verordnung-----	Decree; ordinance; order; regulation.
Vertrag-----	Contract; (contractual) agreement; pact.
Vertrauensmann-----	Confidential agent; trustee; confidential adviser (of leader of establishment).
Vertrauensrat-----	Confidential council (formed by NSDAP in establishments which employ at least 20 persons, for the purpose of advising the leader of the establishment; formerly "Betriebsrat").
vertraulich-----	Confidential.
Verwaltungsausschuss -----	Executive committee; administrative committee.
Verwaltungsrat -----	The Administrative Council of I. G. Farben's Aufsichtsrat until 1937; otherwise council of administration or board; supervisory board.
Vierjahresplan -----	Four Year Plan.

Voelkischer Beobachter-----	Central organ of the NSDAP; five editions related to different parts of Germany.
Volksdeutsche-----	Persons of German blood, "racial Germans" (with foreign citizenship and outside the German frontier).
Volksdeutsche Mittelstelle (VOMI).	Bureau for the repatriation and settlement of "racial" Germans; an adjunct of the SS High Command.
Volkswirtschaftliche Abteilung (VOWI).	Economic Research Department (of I. G. Farben), located in Berlin NW 7.
vor Abgang (v.A.)-----	Before dispatch.
Vorsitzender-----	Chairman.
Vorstand-----	Managing Board of Directors (usually not translated since no exact American equivalent).
Vorstandsmitglied-----	Member of Vorstand.
Vorzugsaktien-----	Preferred shares or stocks.
Waffen-SS-----	Military SS troops (with a command of their own).
Wahlkonsul-----	Unpaid or unsalaried consul; honorary or trade consul.
Wehrkreis-----	Military district or area (corresponds roughly to corps area).
Wehrkreiskommando-----	Military area headquarters.
Wehrmacht-----	Term for the collective armed forces of Germany.
Wehrmachtsgefangener-----	A soldier-prisoner (a member of the Wehrmacht).
Wehrverbaende (SS and SA)-----	Para-military units.
Wehrwirtschaft-----	Military (or war) economy; military economic system.
Wehrwirtschafts- Ruestungsamt.	Office of Military Economics and Armaments (of the OKW).
Wehrwirtschafts- und Waffenwesen.	Military Economic and Ordnance Affairs (established 1934; renamed "Wehrwirtschaftsstab" in 1935).
Wehrwirtschaftsfuehrer-----	Military Economy Leader (member of the "Wehrwirtschaftsrat").
Wehrwirtschaftsinspektionen-----	Military Economics Inspectorates (established 1935).
Wehrwirtschaftsrat-----	Military Economic Council (established at the "Reichswirtschaftskammer" in 1938; its members are called "Wehrwirtschaftsfuehrer").
Wehrwirtschaftsstab (W. Stb.)---	Military Economics Staff (of the OKW) formerly: "Wehrwirtschafts- und Waffenwesen".
Weisung-----	See Anweisung.
Weberat der deutschen Wirtschaft---	National Advertising Council of the German Economy (created by law of 12 September 1933 to supervise public and private advertisements, under supervision of the Propaganda Ministry).

Werkschar-----	Plant troop or squad (organized within the Labor Front to combat oppositional attitude within the factories).
Werkschutz-----	Plant police; plant protective group; factory guard; works police; works security detachment.
Westfaelisch-Anhaltische Sprengstoff A. G. (WASAG).	A German corporation producing explosives.
Winterhilfswerk-----	Winter relief fund (an annual institution, established in 1933; reorganized as a part of the public welfare work in 1936; carried out by "NS-Volkswohlfahrt").
Wirtschaft-----	(Political) economy; economics; business.
Wirtschafts- und Verwaltungshauptamt (WVHA).	Economic and Administrative Main Office of the SS.
Wirtschaftliche Forschungs G. m. b. H. (WIFO).	Economic Research Corporation (Reich corporation for stock-piling gasoline, and construction of explosives plants).
Wirtschaftsfuehrungsstab Ost-----	Economic Executive Staff East.
Wirtschaftsgruppe (WIGRU)-----	Economic Group (subdivided into "Fachgruppen").
Wirtschaftsgruppe Chemische Industrie.	Economic Group Chemical Industry (formerly "Verein zur Wahrung der Interessen der Chemischen Industrie Deutschlands").
Wirtschaftskammer-----	(Regional) economic chamber.
Wirtschaftspolitische Abteilung (WIPO).	Political-Economic Policy Department of I. G. Farben, located at Berlin NW 7.
Wirtschaftspruefer-----	Certified accountant or auditor.
Wirtschaftsstab Ost-----	Economic Staff East.
Z. A.-Buero-----	Office of the Central Committee of the Vorstand (of I. G. Farben).
Zeche-----	Mine.
Zentralausschuss (Z. A.)-----	Central Committee of the Vorstand (of I. G. Farben).
Zentralbuchhaltung-----	Central Bookkeeping Department (of I. G. Farben).
Zentrale Planung-----	Central Planning Board of the Four Year Plan.
Zentralfinanzverwaltung (ZEFI)---	Central Finance Administration (of I. G. Farben) located in Berlin NW 7.
Zentralstelle fuer Angehoerige der Ostvoelker (ZO).	Central Office for Eastern Nationals.
Zentralsteuerabteilung-----	Central Tax Department (of I. G. Farben).
Zentrumspartei Deutschlands (ZPD) (also called Zentrum).	German Center Party (founded in 1869 as Roman-Catholic Party in German Parliament, broken up in 1933).
zu den Akten (z. d. A.)-----	Settled matter; to be filed.
zur Kenntnisnahme (z. K.)-----	For information.
2. Glossary of chemical and technical terms	
Blue Cross-----	"Blue cross" designation for a nose irritant, used as a poison gas in warfare.
Braunkohle-----	Lignite, brown coal, bituminous coal.
buna-----	A German substitute prepared by the polymerization of butadiene; synthetic rubber.

Butadien.....	Butadiene (base material for manufacture of several synthetic rubbers; in World War II the Germans made a great variety of synthetics, drugs, etc. from butadiene by so-called "Reppe-Chemie" process).
Direkt-Lost (D-Lost).....	Direct-process mustard gas (made directly from ethylene instead of through the Oxol intermediate).
Elektron.....	Electron; electrum; Elektron (a trade mark used in connection with certain magnesium alloys; used in cast and wrought forms for aero engines and other purposes).
Erdoel.....	Mineral oil; naphtha; petroleum; rock oil.
Gelbkreuz.....	"Yellow cross" designation for vesicant gas.
Hexogen.....	Hexogen (a constituent of high explosives).
Hochdruckverfahren.....	High-pressure process.
hochkonzentrierte Saeure (Hoko-saeure).	Highly concentrated acid.
Hydrierung.....	Hydrogenation.
Hydronalium.....	An aluminum alloy, resistant to sea-water, soap, and soda.
Igedur (trade name).....	A type of aluminum alloy.
Kampfstoffe.....	Chemical warfare agents or materials; poison gases.
Kokerei.....	Coke works; coking plant; coke kiln.
kok-saghyz.....	A Russian natural rubber.
Kraftwerk.....	Power station or plant.
Kunstfaser.....	Artificial fiber; synthetic fiber.
Kunststoffe.....	Plastics; artificial or synthetic substances; plastic materials.
Losantin.....	A bleaching powder preparation (trade name); a decontamination agent.
Lost.....	Mustard gas (an exceedingly toxic and vesicant poison gas).
Mineraloel.....	Mineral oil; petroleum.
Naturkautschuk.....	Natural rubber (esp. unprocessed).
Nebelsaeure.....	A smoke-screen chemical; a mist-creating acid.
Nebelstoff.....	Smoke agent; screening agent.
Oxol.....	An intermediate for mustard gas.
Pflanzenschutzmittel.....	Insecticides and fungicides.
Pharmazeutika.....	Pharmaceuticals.
Pulver- und Sprengstoffverarbeit- ung (PSV).	Powder and explosives processing or industry.
Reppe-Chemie.....	See—Butadien.
Sarin.....	A poison gas developed by I. G. Farben.
Schaedlingsbekaempfungsmittel.....	Insecticides.
Schrott.....	Scrap iron; metal scrap.
Schwelerei.....	Low-temperature carbonization process or plant; low-temperature distillation.
Soman.....	A poison gas developed by I. G. Farben.
Sprengstoffe.....	Explosives.
Steinkohle.....	Bituminous coal or soft coal; pit coal.
Stickstoff.....	Nitrogen.
Stickstoffduenger.....	Nitrogenous fertilizer.

Stickstoffverbindungen	Nitrogen compounds.
Streckmittel	Diluting agent; extender; filler.
Tabun	A poison gas developed by I. G. Farben.
Vorprodukt	Initial or primary product; intermediate; crude product; preliminary product.
Werkstoffe	Synthetics; substitutes; processed materials.
Zellstoff	Cellulose; wood pulp; ligneous fiber.
Zellwolle	Cellulose fiber; staple rayon; synthetic wool; spun rayon.
Zwischenprodukt	Intermediate; intermediate product.
Zyklon B	Cyclon B (a fumigant, originally developed as an insecticide, later used for exterminating human beings in concentration camps).

3. Glossary of abbreviations and short names

A. A.	Arbeitsausschuss (in Farben).
A. A.	Auswaertiges Amt.
A-Fall	German code word for "in case of war".
A. G.	Aktiengesellschaft.
AGFA (originally abbreviation for "Aktiengesellschaft fuer Anilin-fabrikation").	Trade name for Farben photographic products.
AHA	Allgemeines Heeresamt.
Anl	Anlage.
AO	Abwehroffizier.
AO	Auslandsorganisation.
AOG	Arbeitsordnungsgesetz.
Aussiger Verein	A common name for the plants of the "Prager Verein" which were located in the Sudetenland (see—"Verein fuer Chemische und Metallurgische Produktion").
AZ	Auschwitz (concentration camp).
BADAMMON (originally abbreviation for "Badische Ammoniakwerke").	An I. G. Farben sales office for nitrogen fertilizers.
Badische	Abbreviation for Badische Anilin- und Soda-fabrik.
BAMAG	Abbreviation for Berlin-Anhaltische Maschinenbau A. G.
BASF	Abbreviation for Badische Anilin- und Soda-fabrik.
BATESTICK (originally abbreviation for "Badische Technische Stickstoffstelle").	An I. G. Farben sales office for technical nitrogen.
BdKA	Buero des Kaufmaennischen Ausschusses.
B. H. O.	Berg- and Huettenwerksgesellschaft Ost m. b. H.
BRABAG	Braunkohle-Benzin A. G.
CHEMA	Chemikalien-Ausschuss.
DAF	Deutsche Arbeitsfront.
DAG	Dynamit A. G. vorm. Alfred Nobel & Co.
DBG	Deutsches Beamtengesetz.
DEGESCH	Deutsche Gesellschaft fuer Schaedlingsbe-kaempfung.

DEGUSSA	Duetsche Gold- und Silberscheide-Anstalt A. G.
DIN	Deutsche Industrie-Norm (ung) and Deutsches Institut fuer Normen.
Dipl. Ing	Diplom-Ingenieur.
D-Lost	Direkt-Lost.
DNB	Deutsches Nachrichtenbuero.
DNVP	Deutschnationale Volkspartei.
DRA	Duetscher Reichsanzeiger.
DRB	Deutsche Reichsbahn.
D. V. P.	Deutsche Volkspartei.
e. V.	Eingetragener Verein.
F. A.	Farben-Ausschuss.
GBA	Generalbevollmaechtigter fuer den Arbeitseinsatz.
G. B. CHEM, or GEBECHEM, or GEBECHEMIE, or GB-CHEMIE.	Generalbevollmaechtigter Chemische Industrie.
geh. Chiff. Verf	Geheimes Chiffrierverfahren.
GESTAPO	Geheime Staatspolizei.
gew. Chiff. Verf	Gewoehnliches Chiffrierverfahren.
GG	Generalgouvernement.
G. m. b. H.	Gesellschaft mit beschraenkter Haftung.
H. G. B.	Handelsgesetzbuch.
HGW	Hermann Goering Werke (Reichswerke A. G.).
Hokosaure.	Hochkonzentrierte Saeure.
H. T. O.	Haupttreuhandstelle Ost.
H. W. A.	Army Ordnance Office.
i. A.	Im Auftrag.
I. C. I.	Abbreviation for Imperial Chemical Industries Ltd., London.
I. G.	Interessengemeinschaft.
I. G. Chemie	Internationale Gesellschaft fuer Chemische Unternehmungen A. G.
i. R.	In Reinschrift.
i. V.	In Vertretung.
JASCO	Joint American Study Company.
JATO	Jahrestonnen.
K. A.	Kaufmaennischer Ausschuss.
KdF	Kraft durch Freude.
K. G.	Kommanditgesellschaft.
KL	Konzentrationslager.
KRIPO	Kriminalpolizei.
KZ	Konzentrationslager.
LOEKO	Loesungsmittelkommission.
MdR	Mitglied des Reichstags.
MEFO	Metallurgische Forschungsgesellschaft m. b. H.
Mob	Mobilisierung ; Mobilmachung.
Mob-Plan	Mobilisierungsplan.
Montan (short name)	Montan-Industriewerke G. m. b. H.
MOTO	Monatstonnen.
n. A.	Nach Abgang.

Norsk-Hydro	Norsk Hydro-Elektrisk Kvaelstofaktielskab.
NS	Nationalsozialistisch (e, er, es).
NSBO	Nationalsozialistische Betriebszellen-Organisation.
NSDAP	Nationalsozialistische Deutsche Arbeiterpartei.
NSV	NS-Volkswohlfahrt.
NW 7	Short for I. G. Farben, Berlin NW 7, where most of Farben's Berlin offices were located.
OEMAG	Oesterreichische Magnesit-Aktiengesellschaft.
o. H. G.	Offene Handelsgesellschaft.
OKH	Oberkommando des Heeres.
OKL	Oberkommando der Luftwaffe.
OKM	Oberkommando der Kriegsmarine.
OKW	Oberkommando der Wehrmacht.
OKW/Abwehr	Intelligence department of the OKW, so-called Canaris Organization.
ORPO	Ordnungspolizei.
OT	Organisation Todt.
PAKO	Patentkommission.
Pg	Parteigenosse.
PHARMA	Pharmazeutika.
Prager Verein	Verein fuer Chemische und Metallurgische Produktion.
PSV	Pulver und Sprengstoffverarbeitung.
RA	Deutscher Reichsanzeiger.
R. A. Bl.	Reichsarbeitsblatt.
RAD	Reichsarbeitsdienst.
RAM	Reichsarbeitsministerium.
RAM	Reichsaussenminister.
REIKA	Reichsstelle fuer Kautschuk.
RFM	Reichsfinanzministerium.
RGB or RGBl.	Reichsgesetzblatt.
RGZ	Entscheidungen des Reichsgerichts in Zivilsachen.
RKdF	Reichskommissar fuer die Festigung Deutschen Volkstums.
RKM	Reichskriegsministerium.
RLM	Reichsluftfahrtministerium.
RM	Reichsmark.
RMfdbO	Reichsministerium fuer die besetzten Ostgebiete.
ROGES	Rohstoffhandelsgesellschaft m. b. H.
RSHA	Reichssicherheitshauptamt.
Rue-Bau	Ruestungsbau.
RVE	Reichsvereinigung Eisen.
RVK	Reichsvereinigung Kohle.
R. W. A.	Reichsamt fuer Wirtschaftsausbau.
RWiM	Reichswirtschaftsministerium.
RWM	Reichswehrministerium.
RWM	Reichswirtschaftsministerium.

SA	Sturmabteilungen der NSDAP.
SD	Sicherheitsdienst.
SIPO	Sicherheitspolizei.
SOA	Suedosteuropa-Ausschuss.
SOKO	Sozialkommission.
SOPI	Société pour l'importation de Matières Colorantes et des Produits Chimiques.
SS	Schutzstaffel der NSDAP.
Stahlverein	Vereinigte Stahlwerke A. G.
Stalag	Stammlager.
StGB	Strafgesetzbuch.
TATO	Tagestonnen.
TEA	Technischer Ausschuss.
TEFA	Teerfarben- und Chemikalien-Handels A. G.
TEKO	Technische Kommission.
U. St. S.	Unterstaatssekretaer.
v. A.	Vor Abgang.
Verwertchemie	Gesellschaft zur Verwertung chemischer Erzeugnisse m. b. H.
VIAG	Vereinigte Industrie-Aktiengesellschaft.
VOMI	Volksdeutsche Mittelstelle.
VOWI	Volkswirtschaftliche Abteilung.
Wa A.	Heereswaffenamt.
Wa Pruef	Amtsgruppe fuer Entwicklung und Pruefung des Heereswaffenamts.
WASAG	Westfaelisch-Anhaltische Sprengstoff A. G.
WIFO	Wirtschaftliche Forschungen G. m. b. H.
WIGRU	Wirtschaftsgruppe.
WIPO	Wirtschaftspolitische Abteilung.
W. Stb.	Wehrwirtschaftsstab.
WVHA	Wirtschafts- und Verwaltungshauptamt.
Z. A.	Zentralausschuss.
z. d. A.	Zu den Akten.
ZEFI	Zentralfinanzverwaltung.
z. K.	Zur Kenntnisnahme.
ZO	Zentralstelle fuer Angehoerige der Ostvolker.
ZPD	Zentrumspartei Deutschlands.

Explanation of "Signatures" and "Initials"

[signed] Schmidt	Document signed by Schmidt.
signed: Schmidt	The words "signed: Schmidt" were typed or stamped on the document.
signed signature	The words "signed signature" were typed or stamped on the document.
Schmidt	"Schmidt" typed or stamped.
[Initial] S [Schmidt]	Initial "S" is identified as Schmidt's initial.
[Initial] S	Unidentified initial "S".
Schmidt S [Initialed]	Initial "S" appears next to "Schmidt" typed or stamped name.

List of Witnesses in Case 6

[NOTE.—The witnesses in this case appeared either before the Tribunal or a commission appointed by the Tribunal, or before both. Prosecution witnesses are designated by the letter "P," defense witnesses by the letter "D." The letter "C" after the date when the witness appeared indicates appearance before a commission. As the first column below indicates, the same witness was sometimes called by both the prosecution and the defense at different stages of the trial. The names not preceded by any designation represent defendants.]

	Name	Dates of Testimony	Appeared before Commission	Pages (mimeographed transcript)
P	AFRINE, Gregoire.....	14 Nov 47.....		3855-3873
D	ALT, Wolfgang.....	3 May 48.....	C	13246-13269
	AMBROS, Otto.....	26, 27, 28 Feb; 1 Mar 48.....		7751-7920; 7964-8145
P	AMEND, Karl.....	9 Jan 48.....	C	4996-5017
P	BAESSLER, Hermann.....	14 Oct 47.....		2063-2081
P	BALANDIER, René.....	27, 28 Feb 48....	C	7926-7963
P	BANNERT, Hans.....	29, 30 Oct 47....		3050-3076
D	BAYER, Karl.....	12 May 48.....	C	14458-14490
D	BEEK, Heinrich van.....	17 Mar 48.....	C	9359-9376
P	BENDEL, Charles.....	18 Mar 48.....	C	9586-9618
D	BIEDENKOPF, Wilhelm.....	1 Mar 48.....		8145-8160
D	BOYMANNS, Wilhelm.....	20 Apr 48.....		11939-11952
D	BRAUS, Karl.....	11, 12 Mar 48....		8972-9017
P	BROAD, Perry.....	17 Jan 48.....	C	5494-5512
	BUERGIN, Ernst.....	3, 4, 5 Mar; 11 May 48.....		8340-8476 14313-14321
	BUETEFISCH, Heinrich.....	8, 9, 10, 11 Mar 48.....		8605-8696; 8703-8940
D	BUTENANDT, Adolf.....	2 Feb 48.....		6172-6202
P	COWARD, Charles Joseph....	13 Nov 47.....		3679-3691
P	DAGNE, Willi.....	9 Jan 48.....	C	4982-4995
P	DALES, Leonard.....	13 Nov 47.....		3692-3699
P	DAVISON, Frederick.....	14 Nov 47.....		3815-3827
P	DEICHSFISCHER, Helmut.....	8 Oct 47.....		1780-1793
D	DEMnitz, Albert.....	8 Apr 48.....		10791-10855
P	DENCKER, Paul Heinrich....	17 Oct 47.....		2315-2329
P	DIEKMANN, Heinrich.....	15, 16 Oct 47....		2196-2233
P	DIELS, Rudolf.....	27 Oct; 26 Nov 47.....		2830-2842; 4426-4438
D	DIETRICH, Bernhard.....	19 Mar 48.....		9711-9728
D	DIETRICH, Gerhard.....	6 May 48.....	C	13752-13771
D	DION, Fritz.....	4 May 48.....	C	13450-13460
D	DOEMMING, Rudolf.....	7, 8 May 48.....	C	13925-13963
D	DOERING, Wilhelm.....	3 May 48.....		13225-13245; 13321-13324
P	DOYLE, Eric James William..	17 Nov 47.....		3920-3927
D	DUELBERG, Wilhelm.....	27 Apr 48.....	C	12599-12621
	DUERRFELD, Walter.....	15, 16, 19 Apr 48		11535-11582; 11615-11705; 11725-11821

List of Witnesses in Case 6—Continued

	Name	Dates of Testimony	Appeared before Commis- sion	Pages (mimeographed transcript)
P	DVORACEK, Jan.....	7 Nov 47.....		3490-3533
P	ECKERT, Albert.....	31 Oct 47.....		3167-3172
P/D	EHMANN, Emil.....	30 Oct; 2 Dec 47; 15 Jan 48.		3119-3143; 4513-4531; 4560-4570; 5347-5375
P	EHRMANN, Felix.....	7 Oct 47.....		1724-1745
D	EISFELD, Kurt.....	4 May 48.....	C	13460-13479
P	ELIAS, Nathaniel.....	30 Sep; 1 Oct 47.....		1342-1462
D	ENDERLE, Hermann.....	27 Apr 48.....		12525-12532
P	EPSTEIN, Berthold.....	18 Nov 47.....		3986-3992
D	ESTER, Paula.....	12 Apr 48.....	C	11177-11199
P	FALKENHAHN, Guenther.....	25 Nov 47.....		4362-4385
D	FAUST, Max.....	8 May 48.....	C	13965-14041
D	FAYE, Werner.....	15 Apr 48.....		11519-11534
D	FEIGS, Georg.....	20 Apr 48.....		11890-11912
P	FEINBERG, Kai.....	14 Nov 47.....		3810-3815
D	FEINDEL, Adalbert.....	19 Apr 48.....	C	11828-11841
P	FERRIS, Robert William.....	14 Nov 47.....		3829-3844
D	FLICK, Friedrich.....	12 Mar 48.....		9018-9063
P/D	FRANK-FAHLE, Guenther.....	13, 14 Oct 47; 22 Mar 48.		1942-2053; 9788- 9826
D	FRIEDRICH, Adolf (of Mecklenburg).....	22 Mar 48.....		9771-9788
D	FRITZSCHE, Hans.....	4 May 48.....		13380-13402
P	FROSSARD, Joki Pierre.....	24 Nov 47.....		4270-4307
D	FUERSTEINBERG, Franz Hi- larius.....	10, 11 May 48.....	C	14221-14245; 14377-14384
D	GADOW, Carl.....	3 May 48.....	C	13271-13291
	GAJEWSKI, Fritz.....	2, 3 Mar 48.....		8174-8333
	GATTINEAU, Heinrich.....	21, 22, 23 Apr 48; 10 May 48.		12090-12096; 12142-12312; 14154
D	GERLACH, Prof. Walter.....	11 Mar 48.....		8942-8958
D	GIESSEN, Johann.....	24 Feb 48.....		7524-7553
D	GOERNERT, Fritz.....	16 Mar 48.....	C	9289-9305
D	GOLDSCHMIDT, Theo.....	29 Apr 48.....	C	12872-12909
P	GORR, Guenther.....	24 Oct 47.....		2680-2706
P	GRENOT, Marcel.....	5 Nov 47.....		3342-3388
P	GRITZBACH, Erich.....	16 Oct 47.....		2288-2298
D	GROBEL, Josef.....	20 Apr 48.....	C	11842-11860
P	GROSS, Rudolf Eberhard.....	24 Oct 47.....		2707-2722
D	HAAS, Emil de.....	21 Apr 48.....	C	12098-12128
D	HACKEMANN, Ernst.....	6 May 48.....	C	13738-13751
	HAEFLIGER, Paul.....	12, 15, 16, 17 Mar; 11 May 48.		9064-9250; 9433- 9464; 14293- 14307
P	HAENI, Paul H.....	12 Dec 47.....	C	4580-4592

List of Witnesses in Case 6—Continued

	Name	Dates of Testimony	Appeared before Commis- sion	Pages (mimeographed transcript)
P	HAGERT, Werner.....	1, 2 Oct 47.....		1463-1536
P	HANNEKEN, Hermann von.....	19 Sep 47.....		1001-1025
P	HARTLAND, Reginald Aus- tin.	18 Nov 47.....		3929-3941
D	HARTMANN, Kurt.....	3, 4 May 48.....	C	13292-13316; 13412-13450
P	HAUSEN, Guenter.....	29 Oct 47.....		3041-3049
D	HEERDT, Walter.....	2, 3 Apr 48.....		10478-10508
P	HEIDER, Karl von.....	2, 3 Oct 47.....		1601-1655
P	HERZOG, Gustav.....	12 Nov 47.....		3621-3639
P	HESS, Ludwig Wolf.....	12 Nov 47.....		3641-3659
	HEYDE, Erich von der.....	26, 27 Apr; 10 May 48.		12384-12460; 12515-12520; 14096-14101
P	HILL, Charles.....	14 Nov 47.....		3845-3853
D	HIRSCH, Fritz.....	21 Apr 48.....		11999-12022
		10 May 48.....	C	14195-14209
D	HIRSCHEL, Otto.....	24 Mar 48.....		10021-10046
P	HOEHLE, Adolph.....	9 Jan 48.....	C	4957-4980
	HOERLEIN, Heinrich.....	30 Jan; 2, 3, 4, 5 Feb 48.		6135-6171; 6202-6326; 6340-6452
P	HOFMANN, Alfred Johan- nes.	14 Oct 47.....		2056-2063
P/D	HUENERMANN, Rudolf.....	31 Oct 47; 4, 5 May 48.		3147-3152; 13408-13410; 13495-13524
	ILGNER, Max.....	16, 17, 18, 19, 22 Mar 48.		9252-9287; 9377-9431; 9465-9583 9618-9706; 9733-9769
	JAEHNE, Friedrich.....	23, 24 Mar 48.....		9889-9970; 9977-10020
D	JOERSS, Hans.....	5 Mar 48.....		8480-8535
P	JOHAM, Josef.....	6 Feb 48.....	C	6827-6872
D	KAEDING, Hans.....	24 Feb 48.....		7571-7604
D	KAMMERER, Hans.....	27 Apr 48.....		12522-12525
D	KASTL, Ludwig.....	21 Jan 48.....		5709-5751
D	KIKUTH, Walter.....	26 Apr 48.....	C	12461-12498
P	KLENCK, Juergen E. von.....	17 Oct 47.....		2349-2355
	KNIERIEM, August von.....	5, 6, 9, 10 Feb 48.....		6485-6715
P	KOERNER, Paul.....	16 Oct 47.....		2261-2288
D	KRASCHIEWSKI, Ernst.....	10 May 1948.....	C	14210-14220
	KRAUCH, Carl.....	12, 13, 14, 16, 19 Jan 48.		5037-5258; 5379-5469; 5514-5571

List of Witnesses in Case 6—Continued

Name	Dates of Testimony	Appeared before Commis- sion	Pages (mimeographed transcript)
P/D KRUEGER, Kurt.....	28, 29 Oct 47; 17 Dec 47; 9 Apr 48.	C	2941-3029 4693-4707; 11131-11163
KUEHNE, Hans.....	25, 30, 31 Mar; 13 Apr; 7 May 48.	-----	10078-10111 10120-10208; 10215-10275; 11280-11287; 13840-13858
P/D KUEPPER, Gustav.....	13, 28 Oct 47; 28, 29 Jan 48.	-----	1933-1942; 5976-6051; 2896-2934
KUGLER, Hans.....	27, 28, 29 Apr 48.	-----	12538-12597; 12626-12705; 12778-12787; 12815-12842
D LAMMERS, Clemens.....	20 Jan 48.....	-----	5609-5684
D LANG, Hermann.....	6 Mar 48.....	-----	8574-8593
LAUTENSCHLAEGER, Carl.....	-----	-----	(Did not take the witness stand.)
D LUECKER, Otto.....	5 Feb 48.....	-----	6453-6484
MANN, Wilhelm Rudolf.....	31 Mar; 1, 2, 3, 5 Apr 48.	-----	10278-10306; 10319-10478; 10570-10626; 10646-10663
P MAYER-WEGELIN, Heinz.....	30 Oct 47.....	-----	3076-3119
MEER, Fritz ter.....	10, 11, 12, 13, 16, 17, 18 Feb; 30 Apr; 3, 10 May 48.	-----	6717-6824; 6886-6924; 6953-6956; 6988-7066; 7080-7153; 7156-7321; 12999-13012; 13036-13064; 13142-13168; 13174-13177; 13211-13224; 14159-14167
D MILCH, Erhard.....	15 Jan; 5 Mar 48.	-----	5296-5347; 8535-8550
P MISCHKE, Lothar.....	8 Oct 47.....	-----	1754-1780
P MORGAN, John Hopman.....	11 Sep 47.....	-----	727-760
P MUELLER, Karl Friedrich.....	6 Nov 47.....	-----	3423-3436
D MUENCH, Hans.....	11 May 48.....	-----	14321-14345
P MULERT, Botho Alvin.....	7 Oct 47.....	-----	1706-1724
P MURECK, Herbert.....	29 Oct 47.....	-----	3030-3041
D MURR, Gustav.....	7 May 48.....	C	13894-13924
D NESTLER, Martin.....	20 Apr 48.....	-----	11965-11997
P NOACK, Helmut.....	27, 28 Oct 47.....	-----	2843-2893

List of Witnesses in Case 6—Continued

	Name	Dates of Testimony	Appeared before Commis- sion	Pages (mimeographed transcript)
D	OBERHOFF, Julius	26 Jan 48		5759-5814
D	OEFFNER, Friedrich	21 Apr 48		12026-12041
P	OHLENDORF, Otto	2 Dec 47		4499-4510
P	ORLIK, Erich	2 Dec 47		4556-4560
	OSTER, Heinrich	5, 7 Apr 48		10665-10789
P	PAULMANN, Hugo Richard	15 Oct 47		2138-2142
D	PEANTEK, Ernst	25 Feb 48		7605-7614
D	PETERS, Gerhard	3, 5 Apr 48		10528-10553; 10628-10645
P	PFEFFER, Philippe	17 Nov 47		3907-3920
D	PISTOR, Gustav	20 Apr 48	C	11861-11878
D	POEHN, Hans	25 Mar 48		10046-10073
P	POHL, Oswald	21, 24 Nov 47		4188-4232
D	PREDRAG, Vljajic	12 Apr 48		11018-11044
D	RAUMER, Hans von	20 Jan 48		5685-5695
P	RAUSCH, Felix	13, 14 Nov 47		3753-3778
D	RAUSCHER, Herbert	3 Apr 48		10556-10569
D	REINHOLD, Paul	11 May 48	C	14440-14455
P/D	REITHINGER, Anton	31 Oct 47; 29, 30 Apr. 48.	C	3153-3166; 12871-12953; 13075-13092
D	RITTER, Gerhard	16, 17 Mar 48	C	9305-9358
D	ROSPATT, Heinrich von	30 Apr 48		13031-13035
P	ROTTENBERG, Franz	6, 7 Feb 48	C	6872-6881; 6958-6979
D	RUMSCHEIDT, Karl	11 May 48	C	14425-14439
P	RUPP, Franz	28 Oct 47		2935-2940
D	SAUER, Hans	26 Apr 48	C	12500-12511
D	SAVELSBERG, Heinz	11 May 48	C	14387-14424
D	SCHERMULY, Fritz	12 May 48	C	14492-14507
D	SCHIEBER, Walther Lud- wig.	14 Jan 48		5259-5295
D	SCHILLER, Guenther	6 May 48	C	13771-13783
D	SCHINDLER, Heinrich	23, 28 Apr 48	C	12337-12370; 12707-12776
D	SCHLOSSER, Hermann	3 Apr 48		10509-10528
P/D	SCHLOTTERER, Gustav	15 Dec 47; 26, 27 Jan 48.	C	4625-4655; 5815-5836; 5849-5898
P	SCHMIDT, Paul Otto	2 Oct 47		1537-1600
D	SCHMIDT, Rudolf	30 Apr; 5, 6 May 48.	C	13093-13133; 13620-13629; 13651-13719
P	SCHMIED-LOSSBERG, Heinz SCHMITZ, Hermann	6 Nov 47		3437-3450 (Did not take the witness stand.)
D	SCHMITZ, Werner	6, 7 May 48	C	13720-13735; 13861-13889

List of Witnesses in Case 6—Continued

	Name	Dates of Testimony	Appeared before Commis- sion	Pages (mimeographed transcript)
	SCHNEIDER, Christian	18, 19, 20, 24 Feb 48.		7321-7524
D	SCHNEIDER, Helmut	14 Apr 48		11386-11440
D	SCHNELL, Berthold	2 Mar 48		8161-8172
	SCHNITZLER, Georg von			(Did not take the witness stand.)
D	SCHOENER, Bernhard	16 Apr 48	C	11710-11723
P	SCHRADER, Gerhard	16 Oct 47		2235-2260
D	SCHUH, Heinrich	21 Apr 48	C	12129-12140
P	SCHULHOF, Ervin	12 Nov 47		3600-3611
D	SCHWAB, Hermann	29, 30 Jan 48		6052-6135
D	SILCHER, Friedrich	27 Apr 48; 10 May 48.	C	12532-12535; 14182-14194
P	SPETTER, Isaac	17 Nov 47		3890-3906
D	SPRETTY, Rudolf von	29, 30 Apr 48	C	12954-12960; 13065-13075
P	STERN, Jan	12 Nov 47		3663-3678
P	STOTHFANG, Walter	13 Nov 47		3722-3742
D	STRADAL, Hermann	20 Apr 48		11912-11938
P/D	STRUSS, Ernst August	9 Oct; 20, 21 Nov. 47; 13 Apr; 5 May 48.	C	1849-1927; 4065-4160; 11294-11338; 13566-13619
P	SZPILFOGEL, Maurycy	23 Oct 47		2629-2661
D	TAUB, Adolf	4 May 48	C	13480-13489
P	TAUBER, Arnost	7, 12 Nov 47		3535-3596
P	TILLEY, Edmund	20 Nov 47		4030-4040
P	TREISTER, Noack	26 Feb 48	C	7697-7732
D	ULITZKA, Herbert	6 May 48	C	13783-13797
P	VITEK, Rudolf	18 Nov 47		3957-3985
D	VITS, Ernst	11 May 48		14264-14280
P	WAGNER, Hans	9 Sep; 8 Oct 47		549-622; 1794-1821
P	WAITZ, Robert Elie	14 Nov 47		3779-3808
P/D	WARLMONT, Walter	17 Oct 47; 8 Apr 48.	C	2305-2315; 10875-10907
D	WEBER, Karl	5 Mar 48; 12 Apr 48.	C	8551-8573; 11165-11175
D	WEESE, Helmut	3 Feb 48		6326-6339
D	WEIGAND, Karl	1 Apr 48		10311-10319
D	WEISS, Albrecht	25 Feb 48		7614-7650
D	WINKLER, Max	10 May 48	C	14173-14181
P	WOLFF, Karl	15 Dec 47	C	4598-4624
P	WOLFFSOHN, Hans	10 May 48		14116-14150; 14167-14169
P	WOLLHEIM, Norbert	13 Nov 47		3700-3718

List of Witnesses in Case 6—Continued

Name	Dates of Testimony	Appeared before Commis- sion	Pages (mimeographed transcript)
WURSTER, Carl.....	8, 9, 12 Apr 48..	-----	10861-10874; 10909-11011; 11044-11127; 11202-11206
D ZAHN, Christian.....	14, 15 Apr 48..	C	11444-11489; 11587-11611
P ZAUN, Alfred Bruno Carl..	17 Jan 48.....	C	5471-5492
P ZEIDELHACK, Max.....	17 Oct 47.....	-----	2329-2349

Biographical Index of Principal Persons Referred to in the "Farben Case"

The following index is limited to persons whose names appear frequently in documents and testimonies in this case and to persons who hold positions of prominence in relation to the subject matter covered. It includes all of the defendants. All committees, boards, plants, work combines, et cetera. of which the defendants were members or officials, were agencies of I. G. Farben unless otherwise specified. The biographical data furnished is not complete but is given only in the nature of a broad outline.

ABS, HERMANN J.—Member of Aufsichtsrat of Farben, 1940–45; chairman, executive board, Deutsche Bank, Berlin; official, Kontinentale Oel A. G.; deputy chairman, executive board, Creditanstalt Bankverein, Vienna; member of advisory board, Deutsche Reichsbank; member of board in numerous corporations in Germany and abroad.

ALPERS, FRIEDRICH—State Secretary, Reich Office for Forestry, 1937–45; chief, Division Forestry, Four Year Plan; member, General Council, Four Year Plan; lieutenant general in SS.

AMBROS, OTTO (def.)—Professor of chemistry; member of Vorstand, Technical Committee, and Chemicals Committee of I. G. Farben, 1938–45; chairman of three Farben committees in the chemical field; plant leader of eight of the most important Farben plants, including Buna-Auschwitz; member of control bodies in several Farben enterprises, including Francolor; member of Nazi Party and German Labor Front; Military Economy Leader; chief of Special Committee "C" (Chemical Warfare) of the Main Committee Powder and Explosives, Reich Ministry of Armaments and War Production; chief of a number of units in the Economic Group Chemical Industry.

BACKE, HERBERT—Reich Minister, 1943–45; Acting Reich Minister of Food and Agriculture, April 1942–45; State Secretary, Reich Ministry of Food and Agriculture, 1933–43; chief, Division Food, Four Year Plan; member, General Council, Four Year Plan; lieutenant general in SS.

BERTRAMS, FERDINAND—Chief of "Buero Bertrams", Farben's central personnel office for social welfare matters and labor statistics which, during the war, handled procurement, utilization, and accommodations of foreign workers.

BLOMBERG, WARNER, E. F. VON—Field Marshal; Commander-in-Chief, German Armed Forces, 1935—4 February 1938; Reich War Minister, 1935—4 February 1938; Reich Defense Minister, 30 January 1933–35.

BOHLE, ERNST W.—Chief, Foreign Organization of NSDAP, 1933–1945; State Secretary, German Foreign Office, December 1937—No-

vember 1941; chief, Foreign Organization in Foreign Office, 30 January 1937—November 1941; Gauleiter in NSDAP; lieutenant general in SS.

BORMANN, MARTIN—Reich Minister, 1944–45; chief, Party Chancellery, 1941–45; Chief of Staff, Deputy of the Fuehrer of the NSDAP, 1933–41; member, Ministerial Council for the Defense of the Reich; Reichsleiter in NSDAP; lieutenant general in SS.

BOSCH, KARL—Chemist; chairman of Farben Vorstand, 1926–35; chairman of its Central Committee, 1930–35; chairman of Farben Aufsichtsrat, 1935–40; president, Kaiser Wilhelm Society, 1937–40; adapted the Haber process (for the synthetis of ammonia) to the commercial production of ammonia; awarded, jointly with Friedrich Bergius, the 1931 Nobel prize in chemistry; member, General Economic Council; chief, Economic Group Chemistry.

BRINKMANN, RUDOLF—State Secretary, Reich Ministry of Economics, 1938–39; member, General Council, Four Year Plan; member, managing board, Deutsche Golddiskontbank; member, Reichsbank Directorate; Generalreferent and chief, Export Division, Reich Ministry of Economics; official in Reich Ministry of Economics, 1934–39.

BRUEGGEMANN, MAX*—Member and secretary of the Vorstand of Farben 1934–45; member of the Legal Committee; deputy plant leader of the Farben Leverkusen plant; deputy chief of Sales Combine Pharmaceuticals 1935–45; director of the legal, patent, and personnel departments of the Works Combine Lower Rhine.

BUERGIN, ERNST (def.)—Electro-chemist; member of Vorstand, 1938–45; member of Technical Committee, 1938–45; chief, Works Combine Central Germany and member of Chemicals Committee during same periods; plant leader at Bitterfeld and Wolfen plants; member of various Farben control groups in Germany, Norway, Switzerland, and Spain; member of Nazi Party and German Labor Front; Military Economy Leader; collaborator of Krauch in the Four Year Plan; chairman of technical committees of certain important products, Economic Group Chemical Industry.

BUETEFISCH, HEINRICH (def.)—Doctor of engineering; deputy member of Vorstand, 1934–38; full member of Vorstand, 1938–45; member of Working Committee (of Vorstand), 1933–38; member, Technical Committee, 1938–45; deputy chief of Sparte I, 1938–45; chief of Leuna Works; chairman or member of control groups of many Farben concerns in the fields of chemicals, explosives, mining, synthetics, et cetera, in Germany, Poland, Austria, Czechoslovakia, Yugoslavia,

*Max Brueggemann was indicted at the same time as the other defendants in the Farben case, but the charges against Brueggemann were severed from the charges against the other defendants by a Tribunal order of 9 September 1947. Both prosecution and defense joined in requesting the severance because of Brueggemann's physical inability to stand trial.

Romania, and Hungary; member of Himmler Circle of Friends; member of Nazi Party and German Labor Front; lieutenant colonel in SS; member of NS-Association of German Technicians; collaborator of Krauch in the Four Year Plan; Production Commissioner for Oil, Ministry of Armaments; president of Technical Experts Committee, International Nitrogen Convention, etc.

CANARIS, WILHELM—Admiral; chief, Office of Foreign Intelligence and Counterintelligence, High Command of the German Armed Forces (OKW), 1938-44.

CONTI, LEONARDO—State Secretary, Reich Ministry of Interior, 1939-45; Reich Health Leader, 1939-45; lieutenant general in SS.

CZIMATIS, ALBRECHT—Colonel; chief of staff, Raw Materials and Foreign Exchange Staff which later became the Office for German Raw Materials and Synthetics, until 1938; chief, Reich Office for Economic Development, 1938-39.

DENCKER, PAUL H.—Titular director of Farben, 1927-45; chief, Farben's Central Bookkeeping Department, 1931-45; member, Working Committee of Farben's Vorstand, 1935-38; member, Farben's Technical Committee, 1938-45; member, Commercial Committee of Farben, 1940-45.

DIEKMANN, HEINRICH—Chemist; from 1936, chief, Sparte I department in Farben's Vermittlungsstelle W; chief of counterintelligence, Vermittlungsstelle W, 1937-38; deputy chief of counterintelligence pertaining to technical matters in Farben plants, from 1940; in 1941 appointed Farben Prokurist; representative of the Plenipotentiary General for Special Questions of Chemical Production in the Reich Ministry for Armaments and War Production, 1942-45.

DUERRFELD, WALTER (def.)—Doctor of engineering; not a member of the Vorstand nor of any Farben committee; senior engineer (Chefingenieur) of Leuna Works, 1932-41; Prokurist of Farben and chief of construction and installation at the Auschwitz plant, 1941-44; director of Auschwitz plant, 1944-45; member of Nazi Party, 1937-45; member of German Labor Front, 1932-45; district chairman (Bezirksobmann) for Upper Silesia, Economic Group Chemical Industry.

DUISBERG, CARL—Chemist; doctor of philosophy; doctor of engineering; one of the founders of Farben; chairman, Reich Association of German Industry, 1925-31; chairman of Farben's Aufsichtsrat and Verwaltungsrat, 1926-35; made important discoveries in the fields of coal-tar dyes and pharmaceuticals.

EISFELD, KURT—Chemist; Prokurist in Farben, 1942-44; director in Farben, 1944-45; deputy chief, Auschwitz Buna IV plant.

FAUST, MAX—Engineer; entered employment of Badische Anilin- und Sodafabrik as construction engineer in 1922; until 1929, plant engineer at the Oppau plant of Farben; construction engineer at Ludwigshafen plant, 1929-36; in charge of construction of Farben's

Rattwitz and Dyhernfurth plants, 1940-41; Farben Prokurist, 1941-45; construction chief of Auschwitz plant, 1941-45.

FISCHBOECK, HANS—State Secretary; Reich Commissioner for Price Administration; Commissioner General for Finance and Economic Affairs with Reich Commissioner for the Occupied Netherlands, 1940-42; Minister of Commerce in Seyss-Inquart Cabinet of Austria, March 1938; leader in Nazi Party of Austria (before the Anschluss in March 1938); brigadier general in SS.

FLICK, FRIEDRICH—Director general; general manager and principal proprietor of Friedrich Flick Kommanditgesellschaft; member, directorate, Reich Association Iron, 1942-45; member, advisory council, Economic Group Iron-Producing Industry, 1939-45; Military Economy Leader.

FRANK-FAHLE, GUENTHER—Farben employee, 1933-45; titular director of Farben, 1935-45; secretary of Commercial Committee of Farben, 1937-45.

FRANK, HANS—Reich Minister, December 1934-45; Governor General of Government General (Generalgouvernement), October 1939-45; Plenipotentiary General of the Four Year Plan for the Government General; Reichsleiter in NSDAP.

FRICK, WILHELM—Reich Minister; Reich Protector of Bohemia-Moravia, August 1943-45; Plenipotentiary General for the Administration of the Reich 1939-43; Reich Minister of Interior, 30 January 1933-20 August 1943; member, Ministerial Council for Defense of the Reich; Reichsleiter in NSDAP.

FRTZSCHE, HANS—Ministerialdirektor; chief, Radio Division, Reich Ministry for Public Enlightenment and Propaganda, November 1942-45; official in Reich Ministry for Public Enlightenment and Propaganda, May 1933-45; chief, German Press Division, Reich Ministry for Public Enlightenment and Propaganda, December 1938-42; chief, Wireless News Service, 1932-37.

FUNK, WALTHER—Reich Minister; member, Central Planning Board, Four Year Plan, November 1943-45; Plenipotentiary General for the War Economy, August 1939-45; President of Reichsbank, January 1939-45; Reich Minister of Economics, February 1938-45; Press Chief of the Reich Government and State Secretary, Reich Ministry for Public Enlightenment and Propaganda, 30 January 1933-37; member, Ministerial Council for the Defense of the Reich; member, Small Ministerial Council, Four Year Plan.

GAJEWSKI, FRITZ (def.)—Chemist; deputy member of Vorstand, 1931-34; full member of Vorstand, 1934-45; member of Working Committee, 1929-38; member of Central Committee, 1933-45; member of Technical Committee, 1929-45; chief of Sparte III, 1929-45; chief of Works Combine Berlin, 1931-45; manager of Agfa plants; member of board in numerous other subsidiaries and affiliates, includ-

ing Dynamit Aktiengesellschaft; member of Nazi Party and German Labor Front; Military Economy Leader; member of NS-Association of German Technicians.

GATTINEAU, HEINRICH (def.)—Lawyer; not a member of the Vorstand but member of Vorstand Working Committee, 1932–35; member of Southeast Europe Committee, 1938–45; chief, Political-Economic Policy Department, 1934–38; officer or member of control groups in a dozen Farben units and subsidiaries in Germany and southeastern Europe; colonel in SA, 1933–34; member of Nazi Party, 1935–45; member of German Labor Front and NS-Public Welfare Association; member of National Advertising Council of the German Economy.

GLUECKS, RICHARD—Major general in SS; lieutenant general in Waffen-SS; chief, sub-section D (concentration camps), SS Economic and Administrative Main Office; inspector general of SS “Deathhead” Units (concentration camp guards).

GOERING, HERMANN—Reich Marshal; Plenipotentiary for the Four Year Plan, 18 October 1936–45; Commander-in-Chief of the Luftwaffe, May 1935–45; Reich Forestry Master, 1934–45; Reich Game Warden, 1934–45; Reich Minister for Aviation, 30 January 1933–45; Minister President of Prussia, 30 January 1933–45; President of Reichstag, 1932–45; Acting Reich Minister of Economics, 2 November 1937–February 1938; chief, Economic Executive Staff East; chairman, Ministerial Council for the Defense of the Reich; chairman, General Council of the Four Year Plan; member, Secret Cabinet Council.

GREIFELT, ULRICH—Lieutenant general of SS and of Police; chief, Main Office of the Reich Commissioner for the Strengthening of Germanism; deputy chairman, Deutsche Treuhand G. m. b. H. (German Resettlement Trustee Company).

HAEFLIGER, PAUL (def.)—Swiss national; retained his Swiss citizenship and served as honorary Swiss consul in Frankfurt from 1934 to 1938; acquired German citizenship in 1941 and relinquished it in 1946; deputy member of Vorstand, 1926–38; full member of Vorstand, 1938–45; member of Commercial Committee, 1937–45; member of Chemicals Committee, 1938–45; vice-chairman and deputy chief, Metals Department, Sales Combine Chemicals, 1944–45; was not a member of the Nazi Party but was a member of the German Labor Front.

HANNEKEN, HERMANN VON—Lieutenant general; German Military Commander for Denmark, September 1942–January 1945; Under State Secretary, and chief of Raw Materials Division, Reich Ministry of Economics, January 1938–September 1942; Plenipotentiary General for Iron and Steel Production and Allocation, Four Year Plan, July 1937–April 1942; member, General Council, Four Year Plan; Chief of Staff, Army Ordnance Office, December 1934–July 1937.

HEERDT, WALTER—Chemist; manager of “DEGESCH” 1919–25; appointed member of “DEGESCH” administrative committee in 1930; discoverer of “Zyklon B”.

HEIDER, KARL VON—Farben director, 1934–45; in charge of various departments in Sales Combine Chemicals; member, Commercial Committee, 1943–45; member, Chemicals Committee, 1944–45; chief counterintelligence agent, Farben’s central administration building, Frankfurt.

HEMMEN, HANS—Minister (FSR); chief, Economic Delegation of the German Armistice Commission for France, July 1940–44.

HESS, RUDOLPH—Reich Minister without Portfolio, 1 December 1933–May 1941; Deputy of Hitler as Fuehrer of the NSDAP, 21 April 1933–May 1941; member, Ministerial Council for the Defense of the Reich; member, Secret Cabinet Council.

HEYDE, ERICH VON DER (def.)—Never a member of the Vorstand or any Farben committees; “Handlungsbevollmaechtigter” with Farben, 1939–45; attached to Farben’s Political-Economic Policy Department, 1936–40; counterintelligence agent for Berlin NW 7, 1938–40; member of Nazi Party, 1937–45; member of German Labor Front, 1934–45; member of Reiter-SS (Captain), 1940–45; attached to Office of Military Economics and Armaments in OKW, 1942–45.

HEYDRICH, REINHARD—Lieutenant general in SS and of Police; Acting Reich Protector for Bohemia-Moravia, September 1941–June 1942; chief, Reich Security Main Office, September 1939–June 1942; chief of Security Police and Security Service, 1936–June 1942.

HIMMLER, HEINRICH—Reichsfuehrer SS, January 1929–45; chief of Army Equipment and Commander of Replacement Army, July 1944–45; Reich Minister of Interior, 25 August 1943–45; Plenipotentiary General for the Administration of the Reich, 1943–45; Reich Commissioner for the Strengthening of Germanism, 1939–45; Reichsfuehrer-SS and Chief of German Police in the Reich Ministry of Interior, June 1936–45; deputy of the Plenipotentiary General for the Administration of the Reich, 1939–43; member, Ministerial Council for the Defense of the Reich; member, General Council, Four Year Plan; Reichsleiter in NSDAP.

HITLER, ADOLF—Fuehrer and Reich Chancellor (Head of State), 1 August 1934–1945; Commander-in-Chief of German Army, December 1941–45; Supreme Commander of the Armed Forces, 1 August 1934–45; Reich Chancellor, 30 January 1933–30 September 1934; Fuehrer of the NSDAP, 1921–45.

HOERLEIN, HEINRICH (def.)—Professor of chemistry; deputy member of Vorstand 1926–31; full member of Vorstand, 1931–45; member of Working Committee, 1931–38; member of Central Committee, 1933–45; member of Technical Committee, 1931–45; chairman of Pharmaceuticals Committee, 1930–45; manager of Elberfeld plant;

member of Nazi Party, German Labor Front, NS Association of German Technicians; officer or member of several scientific bodies.

HOESS, RUDOLF—Major in SS; commandant of Auschwitz concentration camp, 1940–43; member of Waffen-SS; chief of central office in sub-section D (concentration camps), SS Economic and Administrative Main Office.

HOMANN, HEINRICH—Principal Farben representative and liaison man in Argentina; managing director, La Quimica “Bayer”, Buenos Aires, Argentina, a Farben subsidiary; President, German Chamber of Commerce, Buenos Aires, Argentina.

HUENERMANN, RUDOLF—Major general; certified engineer; attached to the Military Economics Staff of the OKW, October 1936–March 1943; chief of a department in Military Economics Staff, 1937–38; chief of staff, Military Economics Staff, 1938–43.

HUGENBERG, ALFRED—Reich Minister of Economics and Agriculture, 30 January 1933–29 June 1933; leader, German National People's Party, 1928–33; chairman, directorate, Friedrich Krupp A. G.

ILGNER, MAX (def.)—Doctor of political science; deputy member of Vorstand, 1934–38; full member of Vorstand, 1938–45; member of Working Committee, 1933–38; member of Commercial Committee, 1937–45; chief of Farben's Berlin NW 7 office, 1926–45; chairman of Southeast Committee; director of Schkopau buna plant; deputy plant leader of Ammoniakwerk Merseburg G.m.b.H.; became member of Nazi Party in 1937; member of German Labor Front; Military Economy Leader; chairman or member of 7 advisory committees to the government; officer or member of 41 chambers of commerce and economic associations and of 21 societies and clubs in Germany and abroad.

JAEHNE, FRIEDRICH (def.)—Certified engineer; deputy member of Vorstand, 1934–38; full member of Vorstand and member of Technical Committee, 1938–45; deputy chief of Works Combine Main River Valley, 1938–45; chairman of Technical Commission; chief, engineering department of Hoechst plant; member of control boards of several Farben units; member of Nazi Party and German Labor Front; Military Economy Leader; member of Greater Advisory Council, Reich Group Industry.

JAGWITZ, EBERHARD VON—Under State Secretary and chief, Foreign Currency Department, Reich Ministry of Economics; member, General Council, Four Year Plan.

JUETTNER, HANS—Lieutenant general in SS; general in Waffen-SS; chief, SS Operational Headquarters; chief, General Army Office; permanent deputy to Himmler in his capacity as Commander of the Replacement Army.

KALTENBRUNNER, ERNST—Lieutenant general in SS and of Police; chief, Security Police and Security Service, January 1943–45; chief,

Reich Security Main Office, January 1943-45; State Secretary for Security, Seyss-Inquart Cabinet of Austria, March 1938; chief of SS in Austria, 1935-38.

KEHRL, HANS—Chief, Planning Office with Plenipotentiary General for Armaments, November 1943-45; chief, Raw and Basic Materials Office, Reich Ministry for Armaments and War Production, November 1943-45; chief, Raw Materials Division, Reich Ministry of Economics, November 1942-September 1943; Generalreferent in Reich Ministry of Economics, February 1938-November 1942; chief, Textiles Division, Reich Ministry of Economics, February 1938-November 1942; president, Chamber of Industry and Commerce of Niederlausitz, May 1933-April 1942; chief, Textiles Section, Office for German Raw Materials and Synthetics, Four Year Plan, 1936-38; member, supervisory board, German Resettlement Trustee Company; brigadier general in SS.

KEITEL, WILHELM—Field Marshal; chief, High Command of the German Armed Forces (OKW), 4 February 1938-45; chief, Armed Forces Office in Reich War Ministry, 1935-38; member, Ministerial Council for Defense of the Reich; member, Secret Cabinet Council.

KEPPLER, WILHELM—Chief, Reich Office for Soil Research, Reich Ministry of Economics, 1939-45; State Secretary for Special Assignments, German Foreign Office, March 1938-45; chairman, supervisory board, German Resettlement Trustee Company, November 1939-43; Reich Plenipotentiary for Austria, March-May 1938; Plenipotentiary for Economic Questions to the Fuehrer and Reich Chancellor, 1934-36; Plenipotentiary for Economic Questions to the Reich Chancellor, 1933-34; chief, Division Industrial Fats, Four Year Plan; member, General Council, Four Year Plan; lieutenant general in SS.

KERRL, HANNS—Reich Minister for Church Affairs, 1935-41; chief, Reich Office for Regional Planning, 1935-41; Reich Minister without Portfolio, 17 June 1934-35; member, Small Ministerial Council, Four Year Plan.

KIRSCHNER, OTTO KARL—Lt. colonel; section chief in the office of the Plenipotentiary General for Special Questions of Chemical Production (Krauch Office), 1939-45.

KLEINMANN, WILHELM—State Secretary, Reich Ministry of Transportation, 1937-42; deputy director general of Reichsbahn, 1933-42; chief, Division Transportation, Four Year Plan; member, General Council, Four Year Plan.

KNIEREM, AUGUST VON (def.)—Lawyer; deputy member of Vorstand, 1926-31; full member of Vorstand and occasional guest at meetings of Aufsichtsrat, 1931-45; member of Working Committee, 1931-38; member of Central Committee, 1938-45; guest at meetings of Technical Committee, 1931-45; chairman of Legal Committee and of Patent Commission; self-styled "principal attorney" of Farben; member of board in several Farben units and two Dutch firms at The Hague;

member of Nazi Party; German Labor Front; member of four committees and several sub-committees of Reich Group Industry dealing with legal questions, patents, trademarks, market regulations, et cetera; member of a large number of professional associations.

KOCH, ERICH—Gauleiter and Oberpraesident of East Prussia, 1933–45; Reich Commissioner for the Ukraine, November 1941–44.

KOEHLER, WALTER—Minister President of Baden, 1933–45; chief, Economics Division with the Chief of Civil Administration for Alsace, 1941–45; chief, Division Raw Materials Distribution, Four Year Plan.

KOERNER, PAUL—Member, Central Planning Board, Four Year Plan, April 1942–45; State Secretary and chief of Central Office, Four Year Plan, October 1936–45; State Secretary, Prussian State Ministry, 1933–45; deputy chairman, General Council, Four Year Plan; deputy chief, Economic Executive Staff East; member, Small Ministerial Council, Four Year Plan; chairman, Verwaltungsrat, Berg- und Huettenwerksgesellschaft Ost m. b. H. (BHO), 1941–42; chairman, supervisory board, Hermann Goering Werke (parent holding company), 1939–42; chairman, supervisory board, Reichswerke A. G. fuer Bergbau und Huettenbetrieb (Reich Works for Mining and Smelting [Hermann Goering Werke—foundation company]), 1937–42; lieutenant general in SS.

KRANEFUSS, FRITZ—Brigadier general in SS; member, Personal Staff of Reichsfuehrer SS; secretary, Himmler Circle of Friends; member, supervisory board, Braunkohle-Benzin A. G.

KRAUCH, CARL (def.)—Doctor of natural science; professor of chemistry; member of Vorstand and its Central Committee, 1934–40; member and chairman of Aufsichtsrat, 1940–45; chief of Sparte I, 1929–38; chief of Liaison Office Wehrmacht; chief, Research and Development Branch, Office for German Raw Materials and Synthetics, Four Year Plan, 1936–38; Plenipotentiary General for Special Questions of Chemical Production, July 1938–45; chief, Reich Office for Economic Development; Military Economy Leader; member of directorate, Reich Research Council; became member of Nazi Party in 1937; member of German Labor Front.

KRUEGER, FRIEDRICH-WILHELM—Lieutenant general in SS, in Waffen-SS, and of Police; Higher SS and Police Leader in the Government General of Poland, 1939–43.

KRUEGER, KURT—Lawyer; employee of Farben's Central Finance Administration, 1928–45; named Farben director in 1934; chief, Central Finance Administration; deputy chief of NW 7, Berlin; member, Commercial Committee, 1937–45; official, Stickstoff-Syndikat G. m. b. H., 1944–45.

KRUPP VON BOHLEN UND HALBACH, ALFRIED—Sole owner, proprietor, active and directing head of Fried. Krupp, Essen, since December 1943; successor to Gustav and Bertha Krupp von Bohlen und Halbach,

directing head and owner, respectively, of Fried. Krupp A. G.; deputy chairman, Reich Association Coal; member of Armaments Commission in the office of the Reich Minister for Armaments and War Production; supporting member of the SS.

KUEHNE, HANS (def.)—Chemist; member of Vorstand, 1926–45; member of Working Committee (of Vorstand), 1926–38; member of Technical Committee, 1925–45; chief of Works Combine Lower Rhine, 1933–45; member of Chemicals Committee, 1926–45; plant leader of Leverkusen plant; officer or member of Aufsichtsrat in numerous Farben concerns within Germany and of eight such concerns in five other countries; became a member of Nazi Party in 1933 but was expelled shortly thereafter and not reinstated until 1937; member of German Labor Front.

KUEPPER, GUSTAV—Lawyer; in 1923, was employed by Chemische Fabriken vorm. Weiler—ter Meer; in 1930 appointed official, and 1938–45, chief, legal section of Sales Combine Chemicals of Farben; in charge of Farben's insurance matters.

KUGLER, HANS (def.)—Doctor of political science; not a member of the Vorstand; Prokurist (with title of "director"), 1928–45; member of Commercial Committee, 1940–45; member of Dyestuffs Steering Committee, 1937–45; chief, Sales Department Dyestuffs for Hungary, Romania, Yugoslavia, Czechoslovakia, Austria, Greece, Bulgaria, Turkey, the Near East, and Africa, 1934–45; member of Southeast Europe Committee, 1939–45; member of Commercial Committee of Francolor, Paris; member of Nazi Party, 1939–45; member of German Labor Front, 1934–45; Reich Commissioner of Reich Ministry of Economics for the Falkenau and Aussig plants in Czechoslovakia, 1938–39; chief of said plants and member of Advisory Council of the Aufsichtsrat, 1939–45.

LANDFRIED, FRIEDRICH—State Secretary, Reich Ministry of Economics, 1939–43; member, General Council, Four Year Plan.

LANGE, KARL—Plenipotentiary General for Machinery, Four Year Plan; manager, Economic Group Machinery Construction.

LAUTENSCHLAEGER, CARL (def.)—Doctor of medicine; doctor of chemical engineering; professor of pharmacology; deputy member of Vorstand, 1931–38; full member of Vorstand, member of Technical Committee, and chief of Works Combine Main River Valley, 1938–45; member of Pharmaceuticals Committee, 1926–45; plant leader of Hoechst plant; member of Nazi Party, 1938–45; member of German Labor Front, 1934–45; Military Economy Leader, 1942–45; member of various scientific research organizations.

LEY, ROBERT—Reich Housing Commissioner, 1942–45; founder and chief of the German Labor Front (DAF), 1933–45; chief of Party Organization of NSDAP, 1932–45; Reichsleiter in NSDAP.

LOEB, FRITZ—Major general; chief, Office of German Raw Materials

and Synthetics, Four Year Plan, October 1936-38; member, General Council, Four Year Plan.

LOM, ALBERT VON—Engineer; became plant engineer at Leuna Works in 1929; Oberingenieur in charge of technical planning and construction of part of the Auschwitz plant, 1941-45.

LORENZ, WERNER—Lieutenant general in SS, in Waffen-SS, and of Police; chief, Repatriation Office for Ethnic Germans (VOMI), 1937-45; member, supervisory board, German Resettlement Trustee Company.

MANN, WILHELM (def.)—Deputy member of Vorstand, 1931-34; full member of Vorstand, 1934-45; member of Working Committee, 1931-38; member of Commercial Committee, 1937-45; chief, Sales Combine Pharmaceuticals and Insecticides, 1931-45; chairman, East Asia Committee; official or member of numerous control groups in Farben concerns (including chairmanship in "DEGESCH"); member of Nazi Party; member of German Labor Front; member of Greater Advisory Council, Reich Group Industry; member of many scientific organizations.

MANSFELD, WERNER—Ministerialdirektor; chief, Administrative Group for Law and Wage Policy, Reich Ministry of Labor, 1933-42; chief, Administrative Group for Labor Allocation in Four Year Plan, 1941-March 1942; associate chief, Administrative Group for Labor Allocation in Four Year Plan, October 1936-41; member, General Council of Four Year Plan.

MAROTZKE, WILHELM—Ministerialdirektor; personal Referent to chief, Central Office of the Four Year Plan (State Secretary Koerner), 1936-42; official in Prussian State Ministry, July 1934-42; colonel in SS.

MEER, FRITZ TER (def.)—Doctor of chemistry; member of Vorstand, 1926-45; member of Working Committee, 1926-38; member of Central Committee, 1933-45; member of Technical Committee, 1925-45; (chairman, 1933-45); chief, Sparte II, 1929-45; technical representative, Dyestuffs Committee, 1936-45; officer or member of control groups of numerous Farben units, subsidiaries, and affiliates, including Francolor, Paris, as well as concerns in Italy, Spain, Switzerland, and the United States; member of Nazi Party and German Labor Front; Military Economy Leader; Commissioner for Italy of the Reich Ministry for Armaments and War Production; member of Economic Group Chemical Industry; member of numerous technical and scientific bodies.

MILCH, ERHARD—Field Marshal; cochairman of Jaegerstab (special staff organization for fighter plane production), March 1944-45; member, Central Planning Board, Four Year Plan, 1942-45; General-luftzeugmeister (chief of Air Force Supply and Procurement Service), 1941-44; Inspector General of German Air Force, 1939-45; State Secretary, Reich Air Ministry, 1933-45.

MUELLER, PAUL—Generaldirektor; chemist; president, Dynamit Aktiengesellschaft vorm. Alfred Nobel & Co. (DAG); member of Farben's Technical Committee, 1926-45; member of Commercial Committee, 1937-45; member of Farben Aufsichtsrat, 1938-45.

MUELLER-CUNRADI, MARTIN—Chief, Farben's Oppau plant; member, Farben's Technical Committee, 1938-45; member of the Vorstand of Farben, 1943-45.

MULERT, BOTHO—Ministerialdirigent; chemist; official in Reich Ministry of Economics, 1922-44; Referent for mineral oil in Reich Ministry of Economics, 1933-38; Referent for chemistry, 1938-44.

MURECK, HERBERT—Oberregierungsrat; chemist; Referent for chemical raw materials, Army Ordnance Office, 1933-36; official in raw materials section, Office of Military Economics and Armaments, 1936-43; chief, raw materials section, Office of Military Economics and Armaments.

NEUMANN, ERICH—Director general of Deutsches Kali-Syndikat (German Potash Syndicate), 1942-45; State Secretary in Central Office, Four Year Plan, 1938-42; member, General Council, Four Year Plan, December 1939-42; secretary, General Council, Four Year Plan, 1938-39; chief, Administrative Group for Foreign Exchange, Four Year Plan; senior colonel in SS.

OHLENDORF, OTTO—Major general in SS and of Police; Under State Secretary, Reich Ministry of Economics, 1943-45; chief of Department III (Security Service), Reich Security Main Office, 1939-41 and 1942-45; manager, Reich Group Trade, 1938-43; chief, Einsatzgruppe D of Security Service and Security Police, 1941-42; member, Security Service (SD), 1936-45.

OSTER, HEINRICH (def.)—Deputy member of Vorstand, 1928-31; full member of Vorstand, 1931-45; member of Working Committee, 1929-38; member of Commercial Committee, 1937-45; manager, Stickstoff-Syndikat G. m. b. H., 1930-45; member of East Asia Committee; member of several control groups in Germany, Austria, Norway, and Yugoslavia; member of Nazi Party; member of German Labor Front.

PAPEN, FRANZ VON—German Ambassador to Turkey, 29 April 1939-August 1944; German Minister Extraordinary and Plenipotentiary on Special Mission to Austria, 16 August 1934-13 March 1938; Vice-Chancellor, 30 January 1933-July 1934; Reich Chancellor, 1 June-2 December 1932.

PISTOR, GUSTAV—Chief, Works Combine Central Germany, 1929-37; chief, Farben's Bitterfeld plant until 1937; from 1925 to 1937, member, and from 1925-32, deputy first chairman, Technical Committee of Farben; member of Farben's Vorstand, 1926-37; member of its Working Committee, 1926-37; member of Farben Aufsichtsrat, 1938-45.

PLEIGER, PAUL—Director general; chairman, Verwaltungsrat, Berg- und Huettengewerkschaft Ost m. b. H. (BHO), April 1943–45; general manager, Berg- und Huettengewerkschaft Ost m. b. H. (BHO), August 1941–March 1943; Reich Plenipotentiary for Coal for the Occupied Territories, 1942–45; chairman, Reich Association Coal, 1941–45; Reich Plenipotentiary for Coal, 1941–45; chief, Iron and Metals Section, Office for German Raw Materials and Synthetics, Four Year Plan, October 1936–July 1937; member, Keppler Office, 1933/34–October 1936; chairman, managing board, Reichswerke A. G. fuer Bergbau und Huettenebetrieb (Reich Works for Mining and Smelting [Hermann Goering Werke—foundation company]); chairman, managing board, Hermann Goering Werke (parent holding company).

POHL, OSWALD—Lieutenant general in SS and in Waffen-SS; chief, SS Economic and Administrative Main Office, 1942–45; chief, Amtsguppe W (sub-section economic enterprises), SS Economic and Administrative Main Office, 1942–45; Ministerialdirektor and chief, Office for Budget and Buildings, Reichsfuehrer SS and Chief of German Police, Reich Ministry of Interior, 1939–42.

POSSE, HANS E.—State Secretary for Special Assignments, Reich Ministry of Economics; member, General Council, Four Year Plan.

RIBBENTROP, JOACHIM VON—Reich Minister for Affairs, February 1938–45; foreign policy adviser to Hitler, 1933–45; German Ambassador to Great Britain, October 1936–38; member, Secret Cabinet Council; lieutenant general in SS; representative of NSDAP for all foreign policy matters.

RITTER, KARL—Ambassador for Special Assignments, German Foreign Office, 1939–45; liaison officer of Reich Foreign Minister to chief, High Command of the German Armed Forces (OKW), October 1940–44; German Ambassador to Brazil, 1937–38.

ROECHLING, HERMANN—Chief, Reich Association Iron, May 1942–44; chief, Economic Group Iron-Producing Industry; president, Roechling'sche Eisen- und Stahlwerke, G. m. b. H.; chief, Main Ring Iron—Production, Reich Ministry for Armaments and War Production; Reich Plenipotentiary for Iron and Steel in the Occupied Territories.

ROSENBERG, ALFRED—Reich Minister for the Occupied Eastern Territories, July 1941–45; chief of Foreign Policy Bureau of the NSDAP, April 1933–45; Plenipotentiary of the Fuehrer for the Guidance and Control of the Entire Ideological Education of the NSDAP; Reichsleiter in NSDAP.

SARNOW, OTTO—Ministerialdirektor; chief, Foreign Trade Division, Reich Ministry of Economics.

SAUCKEL, FRITZ—Plenipotentiary General for Labor Allocation in Four Year Plan, March 1942–45; Reich Governor of Thuringia, 1933–

45; Gauleiter of NSDAP for Thuringia, 1927-45; lieutenant general in SS.

SAUR, OTTO K.—Chief of Staff, Jaegerstab (special staff organization for fighter plane production), March 1944-45; chief, Technical Office in Reich Ministry for Armaments and War Production; chief, Central Office, Main Office Technology of NSDAP.

SCHACHT, HJALMAR G.—Reich Minister without Portfolio, November 1937-22 January 1943; President of Reichsbank, December 1923-December 1930 and March 1933-January 1939; Acting Reich Minister of Economics, August 1934-November 1937; Plenipotentiary General for the War Economy, May 1935-November 1937; member of the Small Ministerial Council of the Four Year Plan.

SCHIEBER, WALTER L.—Chief, Armament Supply Office (Ruestungslieferungsamt) in Reich Ministry for Armaments and War Production (before 2 September 1943, Reich Ministry for Arms and Munitions), 1942-44; Referent for Chemistry in Reich Ministry for Arms and Munitions, 1941-42; deputy chief of Reich Group Industrie; brigadier general in SS.

SCHLOTTERER, GUSTAV—Ministerialdirektor; chief, Eastern Division, Reich Ministry of Economics, 1941-44; member, Economic Staff East; chief, Economic Policy Liaison, Reich Ministry for Occupied Eastern Territories; official in Reich Ministry of Economics, 1935-44; senior colonel in SS.

SCHMELT, ALBRECHT—Brigadier general in SS; member of the Reichstag; member of Prussian State Legislature; Regierungspraesident of Oppeln; active in intelligence service of Nazi Party; attached to Reich Security Main Office of the SS.

SCHMITT, KURT—Lawyer; Reich Minister of Economics, 1933-34; vice-president, Berlin Chamber of Commerce; member, Central Committee of the Reichsbank; member, General Economic Council; Prussian Councillor of State; member, Academy for German Law.

SCHMITZ, HERMANN (def.)—Member of Vorstand, 1926-45; member of Central Committee, 1930-45; chairman of Vorstand and guest at meetings of Aufsichtsrat, 1935-45; chairman of the board, I. G. Chemie, Basel, Switzerland; chairman of the board, American I. G. Chemical Corporation, New York; chairman of supervisory board, Dynamit Aktiengesellschaft; member of supervisory board, Fried. Krupp A. G., Essen; chairman or member of control groups in several other subsidiary and affiliated Farben concerns; became member of Reichstag in 1933; chairman, Currency Committee of the Reichsbank; member of directorate, Bank for International Settlements, Basel; member or chairman of control group in several other financial institutions; member of Experts Committee on Raw Materials Questions; member of Select Advisory Council, Reich Group Industry; Military Economy Leader.

SCHNEIDER, CHRISTIAN (def.)—Chemist; deputy Vorstand member, 1928–37; full Vorstand member and member of its Central Committee, 1938–45; member of Working Committee, 1937–38; member of Technical Committee, 1938–45; chief, Sparte I, 1938–45; chief of plant leaders and chief counterintelligence agent, Vermittlungsstelle W; plant leader, Ammoniakwerk Merseburg G. m. b. H.; member of the Nazi Party; supporting member of SS; member of German Labor Front; member of Advisory Council, Economic Group Chemical Industry.

SCHNITZLER, GEORG VON (def.)—Lawyer; member of Vorstand, 1926–45; member of Working Committee, 1926–38; member of Central Committee, 1930–45; guest at meetings of Technical Committee, 1929–45; chairman of Commercial Committee, 1937–45; chief, Sales Combine Dyestuffs, 1930–45; member of Nazi Party; captain in SA; member of German Labor Front; Military Economy Leader, member of Greater Advisory Council, Reich Group Industry; deputy chairman, Economic Group Chemical Industry; chairman, National Advertising Council of the German Economy; chairman, supervisory board, Chemische Werke Aussig-Falkenau G. m. b. H.; member of supervisory board, Francolor, Paris; officer or member of supervisory boards of other Farben affiliates in Spain and Italy.

SCHROEDER, FREIHERR KURT VON—Brigadier general in SS; co-owner of Stein Bank, Cologne, president, Cologne Chamber of Industry and Commerce; president, Gau Economic Chamber in Cologne; Gau Economic Adviser, Cologne-Aachen; member, advisory board, Reich Economic Chamber and of the Reichsbank; member, board of directors, Bank for International Settlements, Basel, Switzerland; vice-president, board of directors, Deutsche Reichsbahn; member, board of directors, Dynamit Aktiengesellschaft vorm. Alfred Nobel & Co., and many other corporations.

SCHULZE-FIELITZ, GUENTHER—State Secretary of Reich Minister for Armaments and War Production (before 2 September 1943, Reich Ministry for Arms and Munitions), 1942–45; chief, Technical Division, Reich Ministry for the Occupied Eastern Territories; chief, Central Office, Inspector General for German Highway System.

SCHWAB, HERMANN—Appointed “Handlungsbevollmaechtigter” of Farben in 1921; Farben Prokurist in 1922; titular director of Farben, 1929; Referent at Hoechst plant in charge of commercial relations with Poland, 1929–39; trustee for government of three Polish dyestuffs plants, 1939–45.

SCHWERIN VON KROSIGK, COUNT, LUTZ—Foreign Minister in the so-called Doenitz Cabinet of Germany in May 1945; Reich Minister of Finance, 2 June 1932–45; member, Small Ministerial Council, Four Year Plan.

SEEBOHN, KARL—From 1925, Farben representative in Czecho-

slovakia and manager of Teerfarben- und Chemikalien-Handels A. G. (TEFA), Farben's dyestuffs sales organization.

SEYSS-INQUART, ARTHUR—Reich Minister without Portfolio, May 1939–45; Reich Commissioner for the Occupied Netherlands, May 1940–45; Deputy Governor General in the Government General of Poland, October 1939–May 1940; Reich Governor of Austria, 15 March 1938–1 May 1939; Federal Chancellor of Austria, 11/12 March 1938–15 March 1938; Minister of Interior and Security of Austria, 16 February 1938–15 March 1938; lieutenant general in SS.

SPEER, ALBERT—Reichsleiter; cochairman, Jaegerstab (special staff organization for fighter plane production) March 1944–45; member of Central Planning Board, Four Year Plan, April 1942–45; Plenipotentiary General for Armament Tasks, Four Year Plan, March 1942–45 Reich Minister for Armaments and War Production, 1942–45 (before 2 September 1943, Reich Minister for Arms and Munition); Inspector General of German Highway System, February 1942–45; Inspector General for Water and Power Industry, February 1942–45; Chief of Organization Todt, February 1942–45; Inspector General for the reconstruction of Berlin.

STADEN, HANS ADOLF VON—Farben director; chief of Leuna plant; until 1943, in charge of Auschwitz plant (Sparte I); member, Farben's Technical Committee, 1941–43; director, technical committee of Sub-Group Nitrogen of Economic Group Chemical Industry; Prokurist and director, Ammoniakwerk Merseberg G. m. b. H.

STEINBRINCK, OTTO—Reich Plenipotentiary for Coal in the Western Territories, 1942–September 1944; member, directorate of Reich Association Coal, April 1941–45; Plenipotentiary General for the Steel Industry in Luxembourg, Belgium, and Northern France, May 1940–July 1942; deputy chairman, supervisory board, Vereinigte Stahlwerke, A. G., 1940–45; official in Flick enterprises, 1923–39; Military Economy Leader; brigadier general in SS.

STRUSS, ERNST A.—Chemist; Farben director; chief, Office of the Technical Committee; guest at meeting of Technical Committee, 1925–45; manager of Sparte II in Vermittlungsstelle W; production manager of the entire German dyestuffs industry within the framework of Economic Group Chemical Industry, 1943–45.

SYRUP, FRIEDRICH—State Secretary in Reich Ministry of Labor; associate chief, Administrative Group for Labor Allocation, Four Year Plan, October 1936–41; president, Reich Institute for Employment and Unemployment Insurance; member, General Council, Four Year Plan.

THOMAS, GEORG—Lieutenant general; General for Special Assignments with the chief, High Command of the German Armed Forces (OKW), January 1943–August 1944; chief, Military Economy Office, High Command of the German Armed Forces, November 1942–Janu-

ary 1943; chief, Military Economics and Armaments Office, High Command of the German Armed Forces, September 1939–November 1942; chief, Armaments Office, Reich Ministry for Arms and Munitions, May 1942–November 1942; chief, Military Economics Staff, Armed Forces Office (after 1937, High Command of the German Armed Forces), November 1934–November 1939; member, General Council, Four Year Plan; member, Economic Executive Staff East.

THYSSEN, FRITZ—Industrialist; member of Reichstag; Prussian Councillor of State; chairman, supervisory board, Vereinigte Stahlwerke A. G.; member, Central Committee of the Reichsbank; member, General Economic Council; fled from Germany in 1939, when Germany attacked Poland.

TITTUS, HANS—Official in Paris liaison office of the Plenipotentiary General for Special Questions of Chemical Production, 1941–44; expert of Krauch Office on problems of labor allocation in the Paris office of the Plenipotentiary General for Labor Allocation.

TODT, FRITZ—Reich Minister for Arms and Munitions, 17 March 1940–8 February 1942; Inspector General for Water and Power Industry, 1941–8 February 1942; Plenipotentiary General for the Construction Industry, Four Year Plan, 1938–8 February 1942; Inspector General for German Highway System, 1933–8 February 1942; founder and chief of Organization Todt.

UNGEWITTER, CLAUß—Lawyer; manager, Economic Group Chemical Industry, appointed 1934; appointed chief, Supervisory Office Chemistry, in 1940; chief manager, Association for the Protection of the Interests of the German Chemical Industry; Reich Commissioner for Chemical Industry; Reich Commissioner for Industrial Fat Supply; chief, Central Office for Caustic Alkalines and Soda.

VEESENMAYER, EDMUND—German Minister and Reich Plenipotentiary to Hungary, March 1944–45; Referent to Wilhelm Keppler, 1933–44; brigadier general in SS.

WAEGER, KURT—Major general; chief, Armaments Office, Reich Ministry for Armaments and War Production, November 1942 to December 1944; chief of staff, Army Ordnance Office.

WAGNER, JOSEF—Reich Commissioner for Price Control, Four Year Plan, 1936–41; Gauleiter of NSDAP for Silesia, 1935–41; Gauleiter of NSDAP for South Westphalia, 1930–41; Gauleiter of NSDAP for Westphalia, 1928–30; member, General Council, Four Year Plan.

WAIBEL, HERMANN—Kommerzienrat; Farben's expert on China; deputy member of the Farben Vorstand, 1926–28; full member of Vorstand, 1928–45; member of its Working Committee, 1927–38; member, Dyestuffs Committee and Dyestuffs Steering Committee of Farben, 1927–45; deputy chief, Sales Combine Chemicals, 1930–45; member, Commercial Committee, 1937–45; member, Ludwigshafen Chamber of Industry and Commerce.

WEBER-ANDREAE, EDUARD—Member of Farben Vorstand, 1926–43; member of its Working Committee, 1926–38; chairman, Chemicals Committee, 1926–43; chief, Works Combine Chemicals, 1926–43; member, Commercial Committee, 1937–43.

WILLUHN, FRANZ—Reich Cabinet Councillor; chief of Department B in Reich Chancellery, charged with processing matters concerning the following agencies: Ministries of Transportation, Economics, Food and Agriculture, Armaments and War Production; Plenipotentiary for the Four Year Plan, Reich Forest Office, Inspector General for Water and Power Industry, Inspector General for the German Highway System; member, General Council, Four Year Plan.

WINKLER, MAX—Major in SS; chief, Main Trustee Office East; mayor of Lodz under the German occupation; chief, Combined Finance Boards; Reich Commissioner for the German Film Industry; chief of holding company of Ufa-Film G. m. b. H.; member of the advisory board of the Reichsbank.

WITWER, DR. MAX—Chemist in Farben's Ludwigshafen plant, 1923–40; in 1940, appointed manager, Gendorf plant of Anorgana G. m. b. H.; adviser in matters concerning ethylene chemistry, Office for German Raw Materials and Synthetics, 1936–40.

WOLFF, KARL—Lieutenant general in SS and in Waffen-SS, Highest SS and Police Leader for Italy, 1943–45; chief, Personal Staff of Reichsfuehrer SS, 1936–45; liaison officer of Reichsfuehrer SS at Fuehrer Headquarters, 1939–43; adjutant of Reichsfuehrer SS, 1933–36.

WURSTER, CARL (def.)—Doctor of chemistry; member of Vorstand, Technical Committee and Chemicals Committee, 1938–45; chief, Works Combine Upper Rhine, 1940–45; chairman, Inorganics Committee, and plant leader of Oppau plant, Ludwigshafen; member of supervisory boards in several Farben concerns; member of Nazi Party and German Labor Front; Military Economy Leader, collaborator of Krauch in Four Year Plan Office for German Raw Materials and Synthetics.

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[This is not a complete index of the evidence which was submitted in the I. G. Farben case. Only those documents and testimonies which are reproduced in volumes VII and VIII of this series are listed. It will be noted that, in some instances, listings appear more than once with the same document and exhibit numbers but with different descriptions. In these instances, portions of these documents have been reproduced in the various sections of the volumes in this case in the order most pertinent to the subject matter discussed.]

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EC-128-----	Pros. Ex. 716-----	Extracts from a top secret military memorandum, 30 September 1934, concerning progress in economic mobilization.	VII, 763
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