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Judge Advocate

**DEPUTY JUDGE ADVOCATE'S OFFICE
7708 WAR CRIMES GROUP
EUROPEAN COMMAND
APO 407**

UNITED STATES

v.

**Josias Prince zu WALDECK
et al.**

Case

No. 000-50-9

**REVIEW AND RECOMMENDATIONS
OF THE DEPUTY JUDGE ADVOCATE
FOR WAR CRIMES**

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15 November 1947
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REVIEW AND RECOMMENDATIONS

I. **TRIAL:** The accused were tried at Dachau, Germany, during the period 11 April 1947 to 14 August 1947, before a General Military Government Court, appointed by paragraph 4, Special Orders No. 18, Headquarters, European Command, APO 757, 1 April 1947.

II. **CHARGE AND PARTICULARS:**

CHARGE: Violation of the Laws and Usages of War.

Particulars: In that Josias Prince zu WALDECK, Otto BARNE-WALD, August BENDER, Anton BERGMEIER, Arthur DIETZSCH, Hans EISELE, Werner GREUNUSS, Philipp GRIMM, Hermann GROSSMANN, Heinrich HACKMANN, Gustav HEIGEL, Hermann HELBIG, Edwin KATZEN-ELLENBOGEN, Josef KESTEL, Ilse KOCH, Richard KOEHLER, Hubert KRAUTWUEST, Hans MER-BACH, Peter MERKER, Wolfgang OTTO, Hermann PISTER, Emil PLEISSNER, Guido REIMER, Helmut ROSCHER, Hans SCHMIDT, Max SCHOBERT, Albert SCHWARTZ, Walter WENDT, Friedrich WILHELM, Hans WOLF, Franz ZINECKER, and divers other persons, German nationals or persons acting with German nationals, during various periods between the 1st of September, 1939, and the 8th of May, 1945, it or in the vicinity of Thuringia, Saxony, Hesse, the Rhineland, the Ruhr, and Westphalia, Germany, acting in pursuance of a common design to commit the acts hereinafter alleged, did, wrongfully and unlawfully, encourage, aid, abet, and participate in the operation of Concentration Camp Buchenwald and its subcamps and out-details, which operation included the wrongful and unlawful

subjection of citizens of the United States of America, Poles, Frenchmen, citizens of the Grand Duchy of Luxembourg, Norwegians, British subjects, Greeks, Yugoslavs, citizens of the Soviet Union, Belgians, citizens of the Netherlands stateless persons, Czechs, and other non-German nationals who were then and there in the custody of the then German Reich, and members of the armed forces of nations then at war with the then German Reich who were then and there surrendered and unarmed prisoners of war in the custody of the then German Reich, to killings, beatings, tortures, starvation, abuses and indignities, the exact names and numbers of such persons being unknown but aggregating many thousands.

The correct name of the accused Edwin KATZEN-ELLENBOGEN is Edwin Katzen ELLENBOGEN, R 4193.)

All of the accused pleaded not guilty to both the charge and the particulars (R 35).

II. FINDINGS AND SENTENCES: The Court announced the following findings (R 5692) and sentences (R 5711-5717). (The numbers preceding the names are those assigned by the Court to the respective accused. These numbers will be used hereinafter to facilitate reference to the various accused.)

ACCUSED	PLEAS	FINDINGS	SENTENCES
1 zu WALDECK, Josias Prince	NG	G	Life Imprisonment
2 BARNEWALE, Otto	NG	G	Death by Hanging
3 BENDER, August	NG	G	10 years, commencing, 6 May 1945
4 BERGMEIER, Anton	NG	G	Death by Hanging
5 DIETZSCH, Arthur	NG	G	15 years, commencing, 6 December 1946
6 EISELE, Hans	NG	G	Death by Hanging
7 GREUNUSS, Werner	NG	G	Life Imprisonment
8 GRIMM, Philipp	NG	G	Death by Hanging
9 GROSSMANN, Hermann	NG	G	Death by Hanging
10 HACKMANN, Heinrich	NG	G	Death by Hanging
11 HEIGEL, Gustav	NG	G	Death by Hanging
12 HELBIG, Hermann	NG	G	Death by Hanging
13 ELLENBOGEN, Edwin Katzen	NG	G	Life Imprisonment
14 KESTEL, Josef	NG	G	Death by Hanging
15 KOCH, Ilse	NG	G	Life Imprisonment
16 KOEHLER, Richard	NG	G	Death by Hanging
17 KRAUTWURST, Hubert	NG	G	Death by Hanging
18 MERBACH, Hans	NG	G	Death by Hanging

ACCUSED

PLEAS

FINDINGS

SENTENCES

19 MERKER, Peter	NG	G	Death by Hanging
20 OTTO, Wolfgang	NG	G	20 years, commencing, 20 June 1945
21 PISTER, Hermann	NG	G	Death by Hanging
22 PLEISSNER, Emil	NG	G	Death by Hanging
23 REIMER, Guido	NG	G	Death by Hanging
24 ROSCHER, Helmuth	NG	G	Death by Hanging
25 SCHMIDT, Hans	NG	G	Death by Hanging
26 SCHOBERT, Max	NG	G	Death by Hanging
27 SCHWARTZ, Albert	NG	G	Death by Hanging
28 WENDT, Walter	NG	G	15 years, commencing, 28 May 1945
29 WILHELM, Friedrich	NG	G	Death by Hanging
30 WOLF, Hans	NG	G	Death by Hanging
31 ZINECKER, Franz	NG	G	Life Imprisonment

IV. GENERAL STATEMENT OF EVIDENCE:

A. FOR PROSECUTION:

1. *Organization.* Buchenwald was a concentration camp where the hardest and most severe work was to be performed (R 1740; P-Ex 36A p. 2), established in 1937 (R 2083), commanded by Colonel Koch until February 1942, and thereafter commanded by accused No. 21 (R 68, 1735; P-Ex 35A p. 1) until the camp was liberated by American troops on 11 April 1945 (R 85). Colonel Koch, husband of accused No. 15, was executed by German authorities (R 349, 350, 1659). (It is not known whether he was hanged because of illegal killings or because of misuse of funds and property.) The adjutant was second in command and legal officer of the SS assigned to Buchenwald (R 283, 284). Under the camp commander and adjutant were the prison compound leader, administration leader, protective custody camp leaders, labor commitment leader, labor service leader, roll call leaders, detail leaders and block leaders, who were all SS men (R 286, 288, 289, 292, 293, 1740, 1765; P-Ex 36A p. 4, 51A p. 1). There were the political department, the department of the roll call leaders, the department of the labor service leaders, and the department of the camp physician (R 289). The heads of these departments were SS men (R 292). The guard battalion was under the camp commander (R 291). The subcamps were under the camp commander of Buchenwald (R 290). German concentration camps were under the operational control of the SS Economic and Administrative Department in Oranienburg, near Berlin (R 283, 314).

2. *Subcamps:* In January 1942 Buchenwald had only one subcamp (R 1865). This number increased until there were between 80 and 104

subcamps in April 1945 (R 235, 1844, P-Ex 9). The following subcamps are mentioned in the record of trial: Bochumer Verein, also referred to as Bochum (R 145, 1455, 1463, 1624); Dora (R 106, 1689) (which later was an independent camp sometimes known as Nordhausen); Gleina, also referred to as Roehmsdorf (R 157, 158); Gustloff Works in Weimar (R 709, 711, 1665); Leipzig Thelka (R 48 642); Mittelbau Nordhausen (R 177; P-Ex 57A pp. 4, 8); Ohrdruf also referred to as 53 (R 419, 1513, 1514, 1556, 171; P-Ex 57A p. 1); and Wernigerode (R 1421).

3 *Inmates*: The inmates of Buchenwald and its subcamps were of all age groups and sexes, and of many nationalities, including Russian, Polish, Czech, Hungarian, Yugoslav, Latvian, Austrian, Greek, Dutch, Danish, Norwegian, German, French, British and American (R 5, 305, 306, 311, 359, 381, 391, 435, 52, 1053, 1092, 1735, 1771; P-Ex 11, 12, 35A p. 12, 57A p. 2). Buchenwald and its subcamps, as of March 1945, had an inmate population of 40,436 males and 23,259 females. About 30,000 inmates were in the main camp near the end of 1943 (R 177; P-Ex 57A p. 2). On 10 April 1945, 49,000 inmates were in the main camp which had facilities for only 21,000 (R 1735; P-Ex 35A p. 13).

Charles Furby, a French Major General, testified that between October 1942 and the liberation in April 1945, approximately 36,000 French citizens were detained for various periods of time in Buchenwald Concentration Camp. These included many prominent people of France, such as Leon Blum, Minister of France; Mr. Marie, Minister of Justice of France; Reserve Division General Andre Challe and his son; Professor Charles Richet, academician of the faculty of medicine; Professor Balachowsky, Director of the Pasteur Institute; Mr. Cili Director of the National Library; Mr. Masbureau, universally known as a pathologist; and the sister of General de Gaulle (R 56—60, 435). Also among the inmates were Dr. Peter Zenkl, Prime Minister of Czechoslovakia (R 65); Anton Falkenberg, Major of the Police, Copenhagen, Denmark (R 627); British Wing Commander Forest Frederick Edward Yeo-Thomas (R 135); and Karl Berthold, American, Washington, D. C. (R 490). Numerous nationalities were similarly represented in Buchenwald Concentration Camp.

Inmates at Buchenwald from September 1939 to April 1945 wore insignia indicating their category. Certain types of triangles with the class indicated thereby are: green, criminal; pink, homosexuals; purple, conscientious objects; black, social movements; red, political; and yellow, Jewish. Letters within the triangle indicated the nationality. A red line across the triangle indicated repeat offenders. A circle with red dot indicated suspected of escape (R 1046—1048 P-Ex 28).

4 *Special Features*: Some of the outstanding features of the camp were the stone quarry (R 243, 1769; P-Ex 46A pp. 1, 2); small camp (R 226, 260—262, 457); "garden of roses" (R 264, 356, 357, 787); camp

prism (R 206, 215, 786, 1185, 1186, 1194, 1195, 1770; P-Ex 56A pp. 2—4, 10, 11); crematory (R 1743, 1763, 1770; P-Ex 38A pp. 1—14, 48A p. 2, 56A pp. 3, 7); "guinea pig" block 46 (R 82, 83, 147—149, 155, 276, 277, 280, 281); "extermination" block 61 (R 566, 567, 584, 585, 609, 1496—1509, 1742; P-Ex 37A p. 5); horse stables "detail 99" (R 372, 450—454, 1240, 1241, 1250, 1281—1287, 1683, 1743, 1759, 1763, 5588; P-Ex 38A p. 2, 45A p. 5, 48A p. 2, 58A p. 3—5); "special treatment" (R 1770; P-Ex 56A); punishment company (R 266, 1756; P-Ex 41A p. 1); "singing forests" (R 78, 110, 265, 1763; P-Ex 48A p. 2); action 14F13 (R 268, 359, 360); and invalid "heaven" transports (R 267—269, 1689, 1690).

5 *Reception*: New arrivals were threatened with many punishments, very often including death, for various violations of rules, but written rules or instructions to inmates were never issued (R 352). They learned by trial and error (R 320).

On 22 September 1939 a transport of 464 Austrian inmates arrived at Buchenwald and were mistreated by having their beards pulled, by being strangled with their neckties, and by having water poured on them. They were required to stand with arms raised or about one half hour, or do knee berds and remain with knees bent. They were slapped, if they did not give the right answers to questions. They were required to stand with their hands folded behind their necks for long periods of time (R 237, 239) and when some collapsed they were beaten by an SS sergeant. The criminal commissar of the political department lectured them for about ten minutes, during which time he mentioned the death penalty about twenty times. The prison compound leader told inmates that the camp officials had no objection to suicide (R 240). Clothes and wooden shoes were thrown at them without regard to size (R 241).

A transport including 2000 inmates from Compiègne, France, arrived at Buchenwald on 9 January 1944. Although the journey took three days, one of the cars was not opened for about one hour after it arrived. The SS men yelled vulgar expressions and accusations at them, followed by "we have been waiting for you for five days . . . in Buchenwald we don't have any sick — you are either healthy or you go to the crematorium." An SS guard knocked an American inmate out of a car with a rifle butt, causing him to become unconscious (R 492, 515, 516).

In January 1945 a transport of 3090 to 3000 inmates from Auschwitz arrived at Buchenwald. The transport consisted of open box cars full of bodies. The weather was 20 degrees below zero, ventigrade, and it was snowing. Although at least ten inmates were lying in each car (R 561, 562, 564), the train was at Buchenwald five hours before they were removed (R 574). In two days 500 of these inmates died. Many could have been saved, if they had been given medical attention (R 563).

About 178 captured Allied airmen, British and American, were brought to Buchenwald. Their uniforms were taken away from them

and they were left in a small camp in the open without adequate care for approximately six weeks (R 143).

The inmates' heads were shaved and they were given ragged clothing without regard to size (R 503).

All artificial limbs were taken from the crippled inmates by the SS in the disinfecting room. Consequently, some of them were forced to hop on one leg a distance of two or three blocks to the latrine (R 502).

In one transport the inmates arrived naked. Other transports contained inmates who were only partially clothed. Their clothes had been taken away to reduce their chances to escape. In a car of dead bodies, some of the limbs were completely severed (R 360).

6. *Housing:* On 10 April 1945, there were 4,000 inmates in the main camp, although there were normal concentration camp accommodations for only 21,000 (R 1735; P-Ex 35A p. 13).

In some blocks there were no beds and the inmates slept on the floor (R 69).

There were about 80 blocks in Buchenwald, approximately 50 of which had toilets. In addition there were some one story blocks constructed of wood. Thousands of inmates were quartered in buildings which were formerly horse stables. Toilets were not installed therein (R 107). Sometimes inmates were quartered in the open in tents (R 108).

In block 17 in August 1944 the single beds were in three tiers, one over the other. Two inmates shared the single beds (R 138, 139).

In the main camp, inmates were fortunate if they had one blanket for two men. In the fall of 1944 in the small camp, five inmates sometimes shared one blanket (R 226).

The small camp was a tent camp, behind the barracks of the main camp, constructed in 1943. Later barracks without windows were built by the inmates (R 260, 261). The barracks were constructed to house approximately 450 inmates in each, but later 1300 to 1900 inmates were placed in each of these barracks (R 261). Unbelievable filth existed because there was only one central open latrine (R 262). The 15,000 to 20,000 inmates in the small camp had only one washroom (R 497).

Subcamp Roetmsdorf was filthy. It consisted of a number of barracks made of slabs of concrete with concrete floors (R 163).

7. *Food:* In 1939, the morning meal consisted of one half liter or more of so-called black coffee, one half kilogram of bread, a piece of margarine, and a piece of salami, made mostly from bread and flour with very little meat. The noon meal consisted of soup and coffee or tea. The evening meal consisted mainly of soup and sometimes a sort of salad. The food became steadily worse (R 70, 71). Inmates received the allotted meals every day, unless they were put on punishment starvation. Some blocks of inmates did not get any food for some days because they were being punished (R 72, 73). In 1941 the value of the labor of concentration camp inmates became more important to the German government. Consequently, an improvement in the food rations

was ordered. The actual amounts of food received by the inmates were less than ordered because SS men, inmates in the kitchen, and block chiefs pilfered from the rations (R 257). In Buchenwald in November 1943, the average inmate's daily ration contained approximately 1200 calories. In 1944 it contained between 800 and 1000 calories. During the first three months of 1945 the daily ration never contained more than 800 calories (R 555). In view of the type of work performed by the inmates, a daily ration containing 2400 calories, would have been necessary to sustain human life (R 556).

Ordinarily, only condemned meat was sent to Buchenwald for the inmates (R 117). The sausage meat was of the lowest quality and was sometimes rotten. The sausage contained about 50 percent meat. The vegetables were usually of very low quality, partly frozen and decayed (R 1178). In the winter of 1939-1940 Polish inmates in the "rose garden" received only one half liter of soup and 150 grams of bread daily (R 1179). In 1940 Jewish and Polish inmates received less food than the other inmates. In the winter 1940-1941, Russian inmates received only 300 grams of turnips and 150 grams of bread daily (R 1179). From February to April 1945, the average daily ration of inmates in subcamp Leipzig Thetka contained 600 to 800 calories (R 642).

At the time of the liberation in April 1945, here remained in the food magazine of the main camp approximately 150 tons of potatoes, 30 to 40 tons of rye grits, 30 tons of margarine, and 3000 loaves of bread weighing 1500 grams each. The last two evacuation transports, which left Buchenwald on 10 April 1945, did not receive any travel rations (R 1181).

8. *Clothing:* In 1939, each inmate was issued a pair of linen trousers, a coat and a cap for summer, and a gray imitation wool suit was issued for winter. Commencing about 1941 this clothing was issued only to those inmates who worked on outdetails. The other inmates received old used clothing of all descriptions (R 69). Leather shoes were issued in 1939. In 194 the shoes issued were partly leather and partly linen with wooden soles. Later, the only shoes issued were linen with wood soles. Near the end, the only shoes issued were entirely wooden. Immediately prior to the liberation, inmate clothing was dirty, worn out and not repairable (R 70). When Buchenwald was liberated, a large supply of clothing and shoes was found in the storerooms (R 224, 225).

9. *Suppression of Religious Worship:* Inmates were not permitted to hold religious services in Buchenwald (R 756), although many priests were imprisoned there (R 80).

10. *Medical Treatment:* In 1939 and 1940 sick inmates were required to answer roll call, even though they had fever. If they were not able to walk, they were carried to roll call. The roll call leader often beat them, claiming that they were not sick. The majority were driven back to work and the remainder were taken to the hospital. Later the medical conditions improved, mainly because of the efforts of inmate

male nurses and inmate doctors (R 75). Jewish inmates were not admitted to the hospital for various periods of time (R 1699). Working inmates had priority on admission to the hospital (R 901, 902). Medical care was lacking and it was almost impossible to get into the hospital (R 306). Inmate doctors were not allowed to treat other inmates in the hospital until 1942 or 1943 (R 73, 902). SS doctors were in charge of the hospital (R 78). Prior to the time that the inmate doctors worked in the hospital, untrained inmates performed operations on other inmates (R 74, 75).

It was a matter of general knowledge among the inmates of the camp that the camp physician frequently called healthy inmates to the camp hospital and performed surgical operations on them. These inmates were usually killed by injections shortly thereafter. One of these victims, a Dutch inmate, survived by being reported dead and then removed in the absence of the camp physician (R 358, 359).

If an inmate patient did not have cigarettes, food or other gifts for the chief doctor of the small camp, accused No. 13, he would not treat him. Accused No. 13 sold medicine supplied for inmates on the black market (R 546, 557). When asked by inmates why he refused to treat them, he answered, "You are here in a concentration camp and not in a sanatorium. You are just like your comrades here to die like a dog and not to be cured" (R 614). French inmate doctors in the small camp were not permitted to treat the sick. They were threatened with punishment, if they treated the inmates (R 439).

In the hospital at subcamp Rechmsdorf there were four levels of beds made of boards nailed together, each bed designed for one man. Sometimes each bed contained three patients without blankets. Most of the inmate patients were too sick to get out of bed. They suffered from dysentery and the waste trickled from one bed to another (R 63).

In November 1944 conditions in the hospital at subcamp Gleina were appalling. Medical supplies were scarce because the noncommissioned officer in charge of those supplies sold or bartered them to the civilian population. Although at one time over 1200 inmates were sick, there was only one thermometer in the hospital (R 158, 159).

About four horse stables were used for the sick as a part of the hospital at subcamp Ohrdruf. The sick inmates lay on a stone floor without mattresses or blankets. They received only half the normal inmate ration. Some were too sick to walk to the toilet to relieve themselves, resulting in a horrible stench. Some were virtually human skeletons, with skins covered with suppurated wounds (R 1557, 1558).

Towards the end of the war, delousing was impossible because the chemical factories were destroyed. The main camp controlled medical supervision in the subcamps. The worst doctors were sent to the subcamps. The main camp was always supplied with medical supplies first. Only doctors who had failed in front line assignments were transferred to concentration camps (R 1771; P-Ex 57A p. 5).

11. *Medical Experiments*: In the first half of 1942 all medical experi-

ments performed in blocks 44 and 49, but later they were performed in block 46 exclusively (R 82, 83, 1129, 1130, 1732; P-Ex 37A p. 4).

Dr. Ding-Schuler was in charge of the "guinea pig" block 46, including the experimental work on inmates (R 147). There were 400 to 600 experiments with typhus resulting in the death of about 100 inmates (R 1742; P-Ex 37A p. 4). Records of 30 inmates indicated that 18 of them died after being used for typhus experiments in 1944 (R 227). Approximately 30 of the inmates of block 46 died during the period 15 September to 9 November 1944 (R 155, 156).

There was evidence that after the fall of 1943, only German habitual criminals were made available to experimental block 46 by the Reichs Criminal Police. However, before that time, inmates of all categories were assigned to this block. Contrary to orders, inmates other than German habitual criminals were repeatedly assigned to block 46 after the fall of 1943 (R 325, 1131, 1132, 1141, 1142, 1947). Volunteers were called for at first. They were promised better food and release from work. However, the types and nature of the experiments were not disclosed. After a few weeks, it was learned that dangerous injections were given to these inmates in the experimental blocks (R 276). From the beginning of 1942, inmates were selected, at the request of the camp physician, by the camp administration (R 277). At the beginning of 1944, the SS camp leader refused to accept this responsibility. Consequently, the Reichs Criminal Police selected men for these experiments from Buchenwald and other concentration camps (R 280, 281). Yellow fever experiments were also performed on inmates in blocks 44 and 46 (R 1129, 1130).

On one occasion an escaped Polish inmate when recaptured, was executed and decapitated. His head was shrunken and later displayed as one of the main attractions for visitors to the pathological department (R 382; P-Ex 14). There was no evidence that heads were shrunken after June 1942 (R 382). It was general knowledge that surgical operations were performed on healthy inmates who were afterwards killed by injections (R 358, 359).

12. *Human Skins*: In the pathological department, camp personnel worked on tattooed human skins. By December 1943 they had a large collection of these skins. This work continued until April 1945 (R 76). Tattooed skins of human beings were taken from the dissecting room to this collection. The skins were cleaned, dried and stretched on frames in the pathological department (R 112). They were shown in the course of inspections and exhibitions. Many habitual criminal inmates at Buchenwald had obscene pictures tattooed on their skins (R 113). This type of tattoo seemed to arouse the most interest among the personnel who worked with the skin collection (R 126).

Between June 1942 and April 1945, an order existed requiring that the skin from all bodies, with colorful or otherwise interesting tattoos was to be stripped off and prepared in the pathological department. It

was commonly rumored that inmates were sometimes killed for the sole purpose of securing their tattooed skins. There was evidence that after June 1942, no inmates were killed merely in order to secure their tattooed skin (R 373, 374). Some of the human skins were cured by the pathological department and were sent to the SS Academy in Berlin or to other SS institutions. Others were kept for exhibition in the pathological department (R 375; P-Exs 13A, 13C). Dr. Wagoner, SS, prepared a thesis concerning tattooed skins (R 394, 396).

Inmates in charge of the dissecting room determined whether the tattooed skin was sufficiently colorful or interesting, when the bodies were brought to the pathological department (R 411, 412). One week after a certain healthy inmate arrived, his tattooed skin was in the pathological department (R 1715). This inmate was called to the hospital from the bath by Dr. Mueller. Two days later as he was standing at the gate he said he had to leave. A short time thereafter, the same witness saw the inmate's tattooed skin in the pathological department (R 1716). Still later he saw a lamp shade made from the tattooed skin from his arm (R 1721).

There were two lamp shades in the lounge of the home of Camp Commander Koch, which were said to have been made out of human skin. There was a human skull between two lamps. The son of the camp commander played with this skull (R 1234). A witness testified that accused No. 15, wife of the camp commander, had a photo album, a brief case, and a pair of gloves made from tattooed human skin (R 1362, 1363, 1386). The same witness testified that in the summer of 1940 a French or Belgian inmate, who was known throughout camp for his tattoos, was working without his shirt. He had some very excellent tattoos from the head to the toes, including a colored cobra winding all the way up his left arm (R 1363) and an exceptionally cleanly tattooed sail boat with four masts on his chest. Accused No. 15 saw him and took down his number. This inmate was called to the gate at evening formation. He was not seen again, but about six months later a skin with the same sail boat was seen in the pathological department. In the summer of 1941 the same skin was seen on a photo album belonging to accused No. 15 (R 1364, 1365, 1389, 1390, 1393).

There was a rumor in the camp that tattooed inmates seen by accused No. 15 were called to the hospital from work details, killed, and stripped of their skins (R 375).

3. *Killings and Mistreatment*: Many forms of killing were used at Bochenwald including shooting, hanging, injection, strangulation, beating, kicking, unnecessary surgical operation, starvation, medical experiment, lack of medical attention, and exhaustion from overwork (R 74, 75, 140, 160, 161, 203, 206, 211, 212, 215, 301, 303, 359, 375, 667, 786, 970, 973, 974, 981, 982, 1027-1029, 1108, 1112, 1113, 1124, 1128, 1237, 1238, 1320, 1321, 1325, 1362, 1418, 1435, 1436, 1429, 1446, 1454, 1455, 1465, 1466-1468, 1476, 1562, 1564, 1592, 1593, 1596, 1597, 1599,

1325, 1648, 1649, 1697, 1703-1706, 1742, 1743, 1746, 1757, 1758, 1759, 1770; P-Exs 37A p. 4, 38A pp. 5, 8, 11, 41A p. 1, 42A p. 3, 43A p. 3, 44A pp. 1, 2, 45A pp. 2, 4, 5, 56A pp. 6-8, 11, 12, 24-26).

Inmates were beaten with fists, sticks, clubs, dog whips, riding crops, rubber hoses, ox tail whips, leather belts, rifle butts, shovels, spade handles, and rocks. Also they were bitten by dogs (R 77, 78, 111, 62, 170, 175, 186, 302, 363, 364, 384, 385, 387, 433, 436, 444, 458, 469, 494, 708, 964, 969, 971, 978, 980, 988, 1031, 1053, 1113, 1114, 1120, 1153-1155, 1183-1186, 1233, 1236-1239, 1251, 1256, 1268, 1337, 1338, 1356, 1357, 1361, 1366, 1369, 1382, 1423, 1424, 1430, 1431, 1454, 1466, 1467, 1539-1532, 1597, 1600, 1601, 1613, 1637, 1638, 1666, 1674, 1713, 1723, 1724, 1760, 1767, 1770; P-Exs 46A p. 1, 54A p. 8, 56A p. 16).

Mistreatment of inmates of all nationalities was in every day occurrence, when Colonel Koch was in command (R 1759; P-Ex 45A p. 2). Until Koch was relieved in February 1942, absolute despotism existed in the camp (R 68, 253). Inmates were punished by standing on roll call squares for hours and sometimes for days. Beatings were often administered on the nude body of inmates by specially selected SS men. When inmates fainted during the procedure, cold water was poured over them. Often the victims bled from the beatings. A doctor was usually present, but seldom interrupted the beatings which often took the form of the famous "28" lashes on the nude body of the inmate while he was bent over a table (R 77, 1238, 1763; P-Ex 48A p. 2). Inmates were punished by being tied to trees by their hands and left hanging for one half to two hours. SS men called this the "singing forest" because the victims moaned in pain (R 110, 265, 484-486, 1184, 1185, 1194, 1763; P-Ex 48A p. 2). As punishment, inmates were sent to extremely hard work details, mainly the stone quarry. Weak and undernourished inmates were forced to perform this labor at double time, resulting in many deaths (R 7, 243, 772-775). Inmates in the special punishment company, were treated worse than the others and were required to do harder labor for longer hours (R 266, 1046). The term of service in this company was often not specified (R 1763; P-Ex 48A p. 2).

If an inmate passed over, or accidentally fell across, a specified boundary line, he was shot and reported as having attempted to escape. A witness heard that SS men, who shot inmates attempting to escape, received a reward and a furlough. A witness was told by other inmates that many SS men took caps off inmates and threw them across the boundary line and, if unsuspecting inmates ran across the boundary line to retrieve their caps, they were shot to death (R 77, 78, 1759; P-Ex 45A p. 2). Inmates were also driven through the guard chain and shot for "attempting escape" (R 775, 1770; P-Ex 53A pp. 24-26).

On 10 September 1944, 16 Allied prisoners of war were called to the main gate of the camp and not seen again. The Polish underground intelligence service in the camp reported on 13 September 1944 that these 16 prisoners of war had been strangled to death on the night of R-12 September 1944 (R 140). About the end of September 1944,

12 Allied prisoners of war were sent by by camp officials and were never seen again (R 143). About 178 British and American airmen were confined in a small camp in the open without blankets for about six weeks (R 143, 145). Accused No. 21, as well as the second in command, visited them on several occasions and called them terror fliers. The airmen were told that they were to be punished and probably would not get out alive (R 145).

In the fall of 1939 2000 to 3000 Polish inmates arrived and were placed in tents in a small barbed wire enclosure known as the "garden of roses" (R 356, 357, 787). About 100 members of the maquis, alleged snipers (R 787), were in the "garden of roses" at the same time, but were separated from and received less food, less clothing, and worse treatment than the Polish inmates. In less than a fortnight all but one of the 100 died. Each of the maquis received only one tenth of a three pound loaf of bread and one pint of very thin soup daily. Every second day they each received 25 lashes with a whip (R 356, 357, 787, 788). Of the group of Polish inmates, 300 died in one month. The "garden of roses" was later abandoned because of the danger to the entire camp including the SS men, from the epidemics prevalent there (R 357).

After August 1944, a club guard was formed which consisted of specially selected men who had no duty except to walk through the camp with clubs in their hands and beat the inmates in each detail, who in their opinion worked too slowly (R 368, 1407).

It was forbidden to spit in the street. Whenever the adjutant discovered spittle, he made the nearest inmate lick it up (R 1356, 1357).

From 9 November 1944 to 10 April 1945, approximately 1000 bodies (presumably dead) were carried out of the hospital at subcamp Koehmsdorf (R 155—160).

On 9 February 1945 at the Gustloff Works in Weimar, inmates were locked in barracks during an air raid. After the first bombs fell many inmates escaped from the barracks and entered the underground shelters (R 5612—5615). Some of the shelters were hit by bombs causing some inmates to be killed and others to be wounded. Accused No. 19 kicked some of the wounded inmates (R 5617, 5620).

14. Executions:

a. Executions: Purported executions were carried out by shooting at the rifle range in the German Armament Works (D.A.W.), by shooting by detail 99 at the horse stables, and by hanging at the crematory.

All executions, except those in the horse stables, were said to be exclusively in charge of the adjutant and the acting first sergeant. The executions in the horse stables were in charge of the prison compound leader (R 1735; P-Ex 35A p. 16).

One witness stated that some executions were in conformity with sentences pronounced by courts. No trials preceded the executions pursuant to orders from Berlin (R 1744; P-Ex 40A p. 14). Accused Nos. 1 and 21 knew that inmates were being executed without trial (R 1745;

P-Ex 40A pp. 14, 15). There was a "court commissioner" in the Reichs Security Head Office who summarily imposed penalties upon inmates without color of judicial proceedings. Looting and burglary at night were punished by death (R 1735; P-Ex 35A p. 16).

In September 1941, and on several other occasions at other times, inmates wearing foreign military uniforms were sent going into the German Armament Works (D.A.W.). After a few minutes shots were heard and shortly thereafter dead bodies were seen being carried into the crematory (R 1188, 1661, 1663). One witness counted about 180 Russian and Polish inmates who were apparently killed in this manner (R 1190, 1193). After 1943 executions were not carried out by shooting at the German Armament Works (D.A.W.), but by hanging at the crematory or by shooting at the horse stables (R 301, 1766; P-Ex 52A p. 8). In the years 1942—1943, accused No. 12 served on an execution detail ten times at the German Armament Works. The victims wore inmate clothing (R 1744; P-Ex 39 p. 1). Accused No. 20 was present at the execution of 20 Russian prisoners of war at the German Armament Works in 1943 (R 1766; P-Ex 52A p. 1).

The detail that executed inmates in the horse stables was known as "detail 99" (R 1246, 1250, 1278). Russian prisoners of war were frequently shot in these horse stables. They were first brought to a large assembly room where they were directed to undress under the guise that they were to receive a medical examination. The SS men, who were engaged in this work, wore white doctor's robes and medical instruments were placed on a table to give the impression of a medical examination. The victims were then led into a small room where there was a height scale. There was a slit in the wall behind the scale. When the victim stepped into the scale with his back to the wall, he was shot in the head through this slit in the wall. After the floor was cleaned with water to remove the blood stains, the next victim was brought into the execution chamber. In an adjoining room a loud speaker was going full blast to drown the noise of the shots. Accused No. 26, SS major and prison compound leader, was present at about 300 executions after 1942 (R 1278, 1281—1287, 1303, 1307, 1763; P-Ex 48A p. 2). Between 3000 and 4000 inmates were shot in the horse stables (R 1743; P-Ex 38A p. 2). No crematory cards or death certificates were made for the Russian prisoners of war, who were shot by detail 99 (R 1743; P-Ex 38A p. 13).

The extermination of Russian prisoners of war in the horse stables by detail 99 began in 1943 and continued until the fall of 1944 (R 301)

There were 15 to 20 iron hooks on the wall in the crematory. When an inmate was to be hanged, his hands were tied behind his back and the noose was placed around his neck and over the hook. He was then dropped 20 to 30 centimeters and remained there until the camp doctor pronounced him dead (R 1763; P-Ex 48A p. 3). Some inmates were hanged on the gallows in the yard and some in the cellar of the crematory. There was no trap arrangement in the cellar. Consequently, inmates remained hanging for about 35 to 40 minutes before they died. On one

occasion in 1943, accused No. 21 was present at the hanging of four Polish officer inmates (R 1743; P-Ex 38A pp. 8, 9). Accused No. 11 admitted that he barged about 250 inmates (R 1743; P-Ex 38A p. 11).

A confidential order was issued by the headquarters at Oranienburg to the administrator department to distribute five cigarettes, one wine glass of schnapps, and nine grams of sausage to those SS men who participated in executions (R 1759; P-Ex 45A p. 4). This order was followed (R 1190, 1191, 1203, 1204, 1759, 1770; P-Exs 45A p. 5, 58A p. 14).

From February 1943 to January 1945, many inmates were sent to the camp prison for "special treatment". They were chained and either taken to the crematory and hanged (R 1770; P-Ex 56A pp. 3-5, 10) or to the rifle range and shot. About 30 were taken to the rifle range and about 350 went to the crematory (R 1770; P-Ex 56A p. 20).

b. Injections: The killing of inmates at Buchenwald by injection of poison started in the summer of 1941 (R 415, 836, 1742; P-Ex 37A p. 2). A witness heard that when the hospital was crowded many tubercular inmates were killed by injections. He also heard that injections were given as a form of secret punishment resulting in the death of many inmates (R 82, 83). In early 1941, six Dutch inmates died a few minutes after being injected with cyanide (R 1320-1322, 1336). In 1941, injections were given to seven healthy Polish and Jewish inmates causing their immediate death (R 1702, 1704, 1705).

In the winter of 1944-1945, block 61 was changed from living quarters to a so-called medical block, where Polish, Russian, Yugoslav, French, Dutch, Albanian, Greek, Hungarian and Italian inmates were given injections with what was thought to be lysol. As a result, 30 to 60 of the inmates died each day during the period from December 1944 to March 1945 (R 1498-1500). It was in this block that sick inmates were injected with potassium cyanide. Many of the victims were French, Belgian, Polish and Russian nationals (E 566, 567, 584, 585, 609).

Inmates in block 51 were also injected in the back of the neck with phenol causing immediate death (R 1767; P-Ex 54A p. 14). An inmate, male nurse decided who of the newly arrived inmates were to be injected. Patients having dysentery, typhoid or typhus were injected (R 1767; P-Ex 54A pp. 15, 16). In reality, block 61 was an "extermination block" (R 609).

c. Outgoing transports: "Invalid transports" or "haven transports" were composed of inmates, who could no longer do any useful work because of their physical condition. It was common knowledge among the inmates at Buchenwald that these weak inmates were transported to other camps for the purpose of extermination (R 337, 1689).

Invalid transports to Auschwitz or Mauthausen were directed by the headquarters at Oranienburg. The inmates for these transports were selected by the camp physician from the invalid block. Invalid transports also went to Belsen and Dachau Concentration Camps. The invalids were of all nationalities (R 1741; P-Ex 36A pp. 1-3).

In about 1940, an invalid transport consisting of 500 to 600 inmates was sent to Belsen. These inmates were chosen by the camp physician because they were too sick to work (R 1761; P-Ex 47A p. 1).

Transports from Buchenwald to other places for the purpose of gassing the inmates started in July 1941. The first three or four groups consisted of 90 to 120 inmates and later larger transports of this kind were sent to Auschwitz (R 267). Groups of inmates classified as lunatics, mental inferiors, or physically unfit, were sent to gas chambers or were killed by other methods beginning about July 1941. These extermination transports were referred to as "14F13". The transport to the Bernberg Sanatorium were for purposes of extermination (R 268, 359).

In October 1942 an invalid transport of 600 inmates left Buchenwald for Auschwitz (R 829). Other invalid transports left from subcamp Ohrdruf to Belsen Concentration Camp (R 1567).

15. *Death Rates*: During the latter part of the war, approximately 5000 inmates died in Buchenwald monthly (R 84). The death rate in the small camp was estimated to be three to four times higher than in the balance of the main camp (R 261). It was estimated by a labor allocation chief that from October 1940 to November 1942, 600 to 800 inmates died each month at Buchenwald. Undernourishment was one of the principal causes (R 1761; P-Ex 47A p. 1). Out of about 1700 young, healthy Danish police officers, three and one half percent died within four months in the last half of 1944 (R 368, 369). About 25,000 dead bodies passed through the pathological department from 1942 to April 1945. A large portion of them were bodies of French, Russian, Polish and Czech inmates (R 366).

From December 1943 to March 1944, about five percent of the inmates of subcamp Dora died each month. There was some evidence indicating that ordinarily all bodies were sent to the pathological department of the main camp to determine the cause of death. Each third day 50 to 60 dead bodies arrived at the pathological department. During the same period of time, the death rate of outdetail "Laura" was about ten percent (R 370).

From January to April 1945, at least 1500 died out of 13,000 inmates at subcamp Ohrdruf, excluding the transports from Ohrdruf to extermination camps and excluding inmates who died on the evacuation march from Ohrdruf to Buchenwald in April 1945. On this march only 9,300 out of 12,000 prisoners arrived at Buchenwald alive (R 371).

16. *Evacuation Marches*: A total of 28,000 inmates left Buchenwald on evacuation marches between 7 and 10 April 1945. There remained in Buchenwald, when it was liberated on 11 April 1945, 21,000 inmates out of which 12,000 were invalids and unable to march (R 1745, 1924, 1925; P-Ex 40A p. 18). Many of the inmates on the evacuation marches were shot to death by the SS guards and many died from exhaustion or starvation (R 1456-1460, 1471-1483, 1756, 1757, 1767; P-Exs 42A p. 3, 43A p. 3, 53A pp. 6-8).

Approximately 2000 inmates were evacuated from subcamp Rodmsdorf on 10 April 1945 (R 158). The sick were put in open trucks side by side. Most of them were suffering from dysentery and enormous catarrhes. Their bodies were covered with lice (R 158).

Approximately 1000 inmates were evacuated from subcamp Leipzig Thelka on 13 April 1945. When this subcamp was liberated on 18 April 1945, there remained 310 critically ill inmates out of which only 35 to 40 survived. The other 270 to 275 were either shot or burned to death by the SS when the camp was burned on 18 April 1945 (R 645—648, 649, 654, 666, 669—674, 682, 691, 692, P-Exs 18, 20).

Subcamp Ohrdruf was evacuated on 2 April 1945. The SS men circulated through the subcamp and shot the inmates who attempted to hide (R 1662).

Subcamp Buchener Verein was evacuated on 13—14 March 1945. Between 90 and 100 inmates were placed in each railway car. In the car occupied by a witness, 30 of his fellow inmates were dead by the time the car arrived at Buchenwald five days later (R 1468).

B. FOR DEFENSE.

1. *General Conditions:* In many respects Buchenwald was like a big labor office. From it inmates were sent to various subcamps to work (R 4544). This allocation of inmates to industrial concerns, SS organizations and governmental agencies, was made by the Chief of the SS Economic and Administrative Department in Berlin (R 4640).

After January 1943 when accused No. 21 took command, conditions at Buchenwald improved materially. It was his idea to give the inmates better treatment so that he could get more work from them (R 2921). The frequency of corporal punishment of inmates decreased to one tenth of what it was before (R 2774). The beating of inmates was forbidden and what still occurred was done secretly and without the knowledge of accused No. 21 (R 2776, 2923). No more inmates were sent to their deaths through the chain of guards and the few illegal killings that still took place were done without his knowledge (R 2786, 2877). Inmates in solitary confinement were given books, chairs, mattresses, and a second blanket (R 3071). The time required for roll call was decreased. Longer recesses were given and the guard details received a warm noon meal (R 2775). While accused No. 21 was camp commander, no distinction was made between Christians and Jews. Jews received the additional rations for heavy workers, although this was expressly forbidden by the Minister of Food and Agriculture (R 2138).

There were a few Russian prisoners of war in Buchenwald. They were housed in a segregated camp labeled "prisoner of war camp" and wore old uniforms (R 2184). A transport of American and Canadian prisoners of war was sent to Buchenwald by mistake. Due to overcrowding of the camp, they had to sleep under the open sky. Within a week they were placed in buildings and, after an investigation, sent to a prisoner of war camp at Oberursel (R 1940, 1941, 4267—4269).

No clergymen were allowed in Buchenwald by orders from higher headquarters and, consequently, there were no religious services (R 2139). Cultural agencies and facilities at Buchenwald included a library of 16,000 to 20,000 volumes, a movie theater where inmates could see movies at least once a week, and radio loud speakers in each living room (R 1901). There was a canteen offering tobacco and beer (R 1903, 1904). At subcamp Wernigerode there was a radio loud speaker in each room where inmates were quartered. The inmates could play games in the camp stadium on Sunday mornings and they could attend a movie every two or three weeks (R 2487, 5083).

2. *Subcamps:* Subcamp Dora was created in the fall or winter of 1943. It became an independent concentration camp on 1 October 1944 (R 4653, 4972, 4978).

Ohrdruf, also known as S-3, was established in the fall of 1944 directly under the supervision of the headquarters at Oranienburg (R 4630). It was a large detail constructing an underground headquarters for Hitler in central Germany (R 4551). Inmates were used as transportation workers, for carrying materials and in building roads. Very few inmates worked in the tunnels (R 4552). The inmates were in very poor physical condition, most of them having arrived at Ohrdruf after a march of 600 kilometers from the east (R 4555). There was great pressure to finish the project by a certain date (R 4555). Buchenwald did not take over Ohrdruf as a subcamp until 15 January 1945. After that date additional rations were supplied for heavy workers (R 4565, 4652).

3. *Housing:* The capacity of Buchenwald was 24,000 to 25,000 inmates in 1942 and 1943 it held 15,000 to 18,000 inmates. On 5 April 1945 it contained 46,000 inmates (R 1860). Between 1943 and 1945, 500,000 to 600,000 inmates passed through Buchenwald. This included many inmates evacuated from eastern concentration camps (R 2084).

In 1940 the quartering conditions for the inmates were very good. Every inmate had a bed and bed-sheets (R 4730). In 1943 the living conditions in inmate quarters were still entirely satisfactory considering wartime conditions. The quarters were very clean and the barracks were heated. Each inmate had his own bed. This was before he overcrowded by transports from the east (R 2797, 2883). The "horsestable" barracks in the small camp were newly built and had wooden floors (R 1861). Prominent French inmates were housed separately in a house or a hotel and given separate rations (R 1939).

Quarters for inmates at subcamp Wernigerode were good, with central heating in all barracks (R 2445). The inmates at subcamp Buchener Verein were quartered in heated stone barracks (R 2451, 2453, 5089). After three barracks at that subcamp were destroyed by an air raid, two inmates slept in one bed as a temporary measure (R 5099). At subcamp Ohrdruf a part of the inmates were quartered in tents heated by hot air (R 3970). The guards were quartered in the same type of tents (R 3585).

4. *Food:* The amount of food issued to the inmates was determined by

the Reichs Food Ministry (R 3513). The minimum food issued inmates daily during the period from May 1944 to April 1945 was one liter of soup, 300 grams of bread, 25 grams of fat, and, twice a week, meat products. Sometimes there was also vegetable salad (R 3520, 3527). The food was issued from the kitchen in 50 liter kettles to each block for distribution to the inmates (R 3520).

Until the middle of February 1945, all inmates at Buchenwald and subcamps, regardless of whether they worked or not, received the ration for heavy workers with an average daily content of 580 calories (R 3515, 3517, 3980, 3983). This was in violation of regulations and was finally discontinued on orders from higher headquarters (R 3517, 3981). Thereafter the normal ration for nonworkers was 1800 calories daily (R 3586). Those who worked and hospital patients received more (R 3985). Additional food was obtained from the garden (R 3987). Inmates could purchase food in the canteen at Buchenwald, including such items as vegetable salad, mussel meat, potatoes, fish, and soups. As much as 1000 liters of soup were prepared daily. The food was sold at 10 percent over cost (R 3531). Thus, a liter of soup cost 15 to 25 pfennigs (R 3532). One to three carloads of beer a week was available to inmates (R 3536).

Inmates quartered in the small camp received as much food as those in the balance of the main camp but not the additional ration for heavy workers (R 2147).

At subcamp Buchener Verein, rations for inmates included one liter of soup before going to work in the morning and a liter of vegetable soup at noon (R 2453). The soup was made from cabbage and spinach but never from grass (R 2454, 5088). After an air attack in November 1944, the rations of both SS personnel and inmates were cut to a minimum (R 2455, 2459). About the middle of December 1944 after the inmates started production work in the factory, they were given the additional rations for heavy workers (R 2454, 5123). The food at subcamp Buchener Verein was sufficient for the work required (R 5121, 5122). At subcamp Gustloff Works, Weimar, the inmates received a liter of soup in the morning, at noon a liter of stew, sometimes containing meat, noodles and potatoes, and in the evening, coffee or tea, 500 grams of bread, and cheese, margarine, or luncheon meat. They also received beer and tobacco (R 2590, 2592, 2594). Food at subcamp Warnigerode was sufficient in quantity and of good quality (R 2445).

5. *Clothing*: In 1942 each inmate had his own bed wardrobe, bedding, spoon, fork, and towel. Bed linen was taken away in 1943 and turned over to hospitals (R 3968). The quantity of other equipment decreased due to increased inmate strength and lack of replacements (R 3969). Beginning in October or November 1944, it was impossible because of wartime conditions to obtain additional supplies of beds, blankets and other materials (R 3972). The personal belongings and clothing of inmates were stored for them (R 3974). After the end of 1943 because of the short supply of clothing, inmates were permitted to wear their

civilian clothing (R 3880, 3976). In an air raid on 24 August 1944, over 80,000 pairs of new wooden socks and other winter clothing for 100,000 inmates were destroyed at Buchenwald (R 3977).

An SS motor training and replacement unit occurred a caserne at Buchenwald. When the unit departed on 15 March 1945, it left behind in the caserne equipment such as beds, blankets, clothing, etc. However, this equipment was the property of the Waffen SS and could not be used for the supply of inmates in Buchenwald (R 3945, 3946, 3963, 3973).

6. *Medical Treatment*: Incoming transports were examined for contagious diseases and quarantined in the small camp for four weeks (R 360, 2031). Inmates were also examined by physicians to determine those capable of doing work or of going on transports covering labor requests. Each inmate so examined was asked, through an interpreter, whether he was sick. If an inmate complained of being sick, he was examined by inmate doctors and, if they found him to be sick, he was hospitalized (R 2029 2030, 2631). In some instances when inmates were examined for fitness for transports covering labor requests, 60 to 70 percent were turned back as unfit (R 2631). The most common ailments were physical weakness, phlegmons, and tuberculosis (R 2030). Most of the operations in the inmate hospital were of a difficult nature because of the advanced state of the diseases and the poor physical condition of the patients (R 3491, 3783). Thus, a disease which under normal conditions would not be fatal resulted in death under the conditions at Buchenwald. Because some inmates had never done any work before coming to Buchenwald, they collapsed under the strain of physical work (R 3916). Drugs, surgical instruments, etc., at the inmate hospital in Buchenwald were ample. Drugs and medicine were sold by the chief doctor of the small camp, accused No. 13. These were purchased by him from private concerns outside Buchenwald and were sold at cost, plus 10 percent to cover the handling. They were sold to inmates who could pay and administered free of charge to those who could not pay (R 2322, 4274, 4353, 4986). The chief doctor of the small camp accepted gifts, but did not demand them for his services (R 2322, 4274).

A group of inmates at subcamp Ohrdruf, who had been determined to be unfit for work, were quartered in horse stables and slept on straw, but this was only while they were awaiting transportation back to Buchenwald (R 4575).

7. *Medical Experiments*: The experimental station at Buchenwald was directly under the command of the Reichs Physician of the SS in Berlin. The camp commander at Buchenwald had no control over it (R 1886, 2788). Most of the experiments in block 46 were for the purpose of finding a protective vaccination for typhus (R 3109). Only German habitual criminal inmates were used for the typhus experiments (R 3115). Non-Germans were not used. In this connection it could be assumed that eastern nationals had experienced typhus in their youth and were immune and, in any event, it was impossible to get a proper case history

on them (R 3115, 3116). Many other non-Germans were sick from typhus upon arrival. This was true of many of the French, who came on a transport from Cologne in 1944. They were treated in block 46 but were not used for experiments (R 3115, 3131). In addition to the typhus experiments in block 46 there was an experiment with phosphorus incendiary bombs performed on four German habitual criminal inmates (R 3111). The only experiments on non-Germans were a poison experiment with strychnin or perridin and luminal, and an experiment with abdominal typhoid (R 3111, 3115). Inmates in block 46 received extra rations in addition to the regular rations issued working inmates and most of them gained weight there (R 3124). A witness, who was one of a group of 60 German inmates subjected to the typhus experiment in 1942, gained weight while in block 46. Only two of the group died (R 3456, 3458).

8. *Killings and Mistreatment*: The camp commander issued orders in the spring of 1942 directing that mistreatment of inmates cease immediately (R 1802, 3098). Thereafter he punished SS men and capes when he saw them mistreating inmates (R 2100).

The duties of the guard battalion at Buchenwald were purely military. Members of the guard were not permitted inside the prison compound and had nothing to do with the inmates (R 4870, 4901). Guards were instructed that it was not their concern whether inmates worked or not (R 3191, 3201). Each member of the guard had to sign a regulation, which recited that it was an offense to talk with, beat, or mistreat an inmate (R 4839). When an inmate approached the chain of guards, the guard was required to challenge him three times by calling "halt". If an inmate passed the guard chain after being thus challenged, the guard could use his weapon (R 4840, 4869). Whenever an escaping inmate was shot, the incident was thoroughly investigated by the legal officer of Buchenwald (R 4892, 4841, 4900). Guards who shot escaping inmates were not given furloughs (R 4875).

Inmates were beaten by camp personnel for infractions of the camp rules and regulations. This was a favor to the inmates because, if the infraction had been reported, the punishment report would have remained in the inmates' personnel files causing their release to be delayed (R 3384, 4136, 4137, 5148).

A so-called illegal camp administration existed at Buchenwald consisting of a number of inmates who attempted to place inmates of their own group and choice in key positions in the inmate self administration. There were several such groups which fought each other and members of the groups did not hesitate to kill (R 2789). More than 200 inmates were killed by the illegal camp administration (R 2793). The hospital was the headquarters of the communist inmates. The SS doctor in charge was under their influence and they virtually ran the hospital (R 2731).

During an air raid on subcamp Gustloff Works, Weimar, in February 1945, about 230 or 280 inmates and from seven to ten SS men were killed. There were only about 1800 inmates in the entire camp (R 2571, 2572, 2598, 2699).

Inmates on the gardening detail were sometimes carried back to camp because they were convalescents from the hospital and suffered relapses but not because they were beaten (R 2823).

9. *Punishment*: When a punishment report was turned in, it went first to the protective custody camp leader for investigation, then to the camp commander for decision as to the type of punishment, and finally to Berlin for issuance of an order to execute the punishment (R 4125—4127). If corporal punishment were imposed, a physician was required to determine whether the inmate was healthy enough to endure the punishment (R 4127). There was a strict prohibition against administering corporal punishment to western nationals (R 1938). Hanging of inmates in trees as a general type of punishment at Buchenwald was forbidden some time before the war and was not used during the war years (R 2822).

Inmates who violated camp regulations or committed sabotage, were not reported, but rather were given unauthorized beatings and punished by members of the camp administration. Had they been reported, the punishment would have been more severe and would have been entered on the personnel record of the inmate (R 3336, 3337, 3384, 5148).

At subcamp Werrigerode inmates were punished for stealing from their comrades and for individual acts of sabotage (R 3445). Punishment consisted of, first, a warning, and thereafter three to five blows with a stick (R 2446).

D. *Executions*: Those executed at Buchenwald were brought from the outside, from civil life, to Buchenwald to be executed for criminal acts they had committed. They were not inmates of the concentration camp (R 4477). All executions at Buchenwald were based on sentences, which had been imposed by the Reichs Security Head Office (R 1911). Such sentences were always imposed upon named individuals and stated the reason for the sentences (R 1907). The sentences were read to the victims before they were executed and were for such crimes as murder, rape, and serious acts of sabotage in the armament industry (R 4478). The number hanged at Buchenwald did not reach 100. It included German foreigners and SS personnel (R 2104).

Eastern nationals were executed at Buchenwald under a law of the German Reich in the form of a decree issued about the middle of 1942 and entitled "Decree about the punishment of Poles and Jews". Under that decree the cases were investigated by the police and witnesses were heard both for and against the accused. Following the hearings the files were sent through Gestapo channels to the Reichs Security Head Office in Berlin. There a council of several persons reviewed them and made suggestions as to punishment. These recommendations were submitted for the approval of SS Major General Mueller. In the opinion of a defense witness, who was a doctor of law and formerly a judge in a German state court, a written execution order based on this decree concerning Poles and Jews was legal under German law (R 2778—2783).

Among the men executed at the German Armament Works were members of the SS and police force and, in a few instances, members of the postal department (R 4130). Sentences were read to the victims (R 4131).

No inmates were executed at the crematory. The men executed there were sentenced and brought there by the secret state police and were not inmates of Buchenwald (R 4132, 4133). The sentences were read to the condemned before the executions and a doctor was present (R 4133).

Russian political organizers and commissars were executed by detail 99 in the horse stables (R 1913, 1914, 4478). They were not inmates of Buchenwald (R 243, 4481). Accused No. 21 asserted that they came to Buchenwald through police channels from prisoner of war camps, but were not prisoner of war, inasmuch as they had no prisoner of war tag number and only a number from the prison camp from which they came (R 2128, 2141, 4481). Reports of the executions were made directly to the Reichs Security Head Office. As the victims had never been admitted as inmates to Buchenwald, no death certificates were issued. The bodies were cremated (R 2143). These victims were political commissars who were executed by detail 99 as reprisals for crimes committed against the German Wehrmacht by the Russians (R 2146, 2181, 4503). The execution orders entitled "special treatment" always came from the Reichs Security Head Office. They stated that under authority of the decree of the Reichsführer, 1 October 1941, the Russian commissars and political commissioners, whose names were listed, were to be executed (R 4479, 4481). The last execution by detail 99 took place in December 1943 (R 4494).

There was a general regulation applicable throughout Germany authorizing the issuance of whiskey, cigarettes, and sausage to execution details (R 4498).

11. *Injections*: In an effort to prevent a tuberculosis epidemic in Buchenwald, about 30 or 40 inmates with open tuberculosis were isolated and given daily calcium and vitamin C injections (R 3793—3795).

As was the practice in other German hospitals, narcosis was produced by injection of evipan sodium rather than by inhalation of ether (R 3775, 3776).

12. *Outgoing Transports*: Some inmates went on labor replacement transports voluntarily because they wished to be with comrades or because they believed living conditions would be better in the subcamp (R 2294, 2636). It was not known to the camp commander that the inmates who were unfit for work and who were sent on transports to Auschwitz and Lublin Concentration Camps would be killed (R 1877). A transport called 4F13, a so-called euthanasia transport, left Buchenwald in February 1942. It consisted exclusively of mentally ill German inmates (R 2159, 2160).

13. *Death Rates*: The mortality rate at Buchenwald before it became overcrowded was lower than such cities as Weimar. The death rate was

not due to poor quarters or food, but to the fact that most inmates arrived at the camp in very poor physical condition (R 3086, 263, 3185). Sick inmates at subcamps were returned to Buchenwald and replaced by healthy ones (R 2186).

Many inmates were killed by Allied air raids. Thus, at subcamp Gustloff Works 37 inmates were killed in one raid (R 3335, 3345). At subcamp Bochumer Verein 60 inmates were killed in air raids (R 5091, 3097-A).

14. *Evacuation Transports and Marches*: As subcamps of Buchenwald were threatened by approaching Allied armies in early 1945, the inmates were evacuated to Buchenwald (R 3210, 3665, 5100).

Subcamp Bochumer Verein was evacuated in March 1945. About 1300 inmates were transported in 36 closed railway cars (R 5005, 5100). The transport lasted three days and food sufficient for that period was taken along (R 5006, 5102). Two to five inmates died on the transport (R 3138, 5006, 5102).

On the evacuation from subcamp Ohrdruf to Buchenwald the sick inmates were transported in trucks (R 4581, 4582). Inmate doctors accompanied the transport (R 4623).

On the 5th or 6th of April 1945, Himmler personally ordered Buchenwald evacuated down to a bare minimum (R 1919, 1920, 5308, 5309). At that time the camp, swollen by transports from subcamps, held 45,000 inmates (R 1880). Beginning on the 7th of April 1945, approximately 28,000 inmates were evacuated in a series of eight to ten transports (R 1921—1924). In a letter to the camp commander the inmates requested evacuation by rail (R 1930, 2171). At that time there was no great destruction by Allied bombing of railroads to the east of Buchenwald (R 2176, 5331). The leaders of each evacuation transport were instructed by the camp commander to treat the inmates as prisoners of war and to turn sick inmates over to Party or police organizations along the way (R 1924).

An evacuation transport commanded by accused No. 18 was scheduled to go to Flossenbürg Concentration Camp, an estimated 24 hours of travel (R 3208). On 7 April 1945, 4480 inmates were marched nine kilometers to Weimar and loaded on 69 railway cars (R 3208, 3211). The rations taken along consisted of one kilogram of potatoes, 500 grams of bread, 25 grams of margarine, and 50 grams of meat products for each inmate (R 322). While en route the destination was changed from Flossenbürg Concentration Camp to Dachau Concentration Camp because of the destruction by bombing of the rails to the former place (R 3213). Thereafter, the transport was delayed by damage to the rail system (R 322). The transport leader made numerous attempts to obtain food from army ration dumps and civilian sources along the road, but was only partially successful because cities were damaged by bombs and crowded with refugees (R 3214—3227). The transport leader had no control over the route of the train, which was in the hands of the Reichs

Railroad Company (R 3215). By the 25th of April, when the train was divided into three sections, between 400 and 450 inmates had escaped, fifteen had been shot while attempting to escape, and 400 to 480 had died a natural death (R 3222-3224). An attempt, not entirely successful, was made to burn some of the bodies which, due to the heat, had already decomposed. One section of the transport arrived at Dachau Concentration Camp on 26 April 1945 (R 3223). Another section was said to have been strafed by Allied fliers (R 3231, 3250). The third section was never heard from (R 3221).

V. QUESTIONS OF LAW:

A. JURISDICTION:

1. *Common Design as Separate Substantive Crime.* While the question was not raised during the course of the trial, the defense contends in its Petition for Review, pages 2-6, that the Court was without jurisdiction, inasmuch as the charge and particulars allege a common design to commit certain described unlawful acts as a separate substantive crime. Tribunal III, Nurnberg, Germany, in an order, July 1947, concerning a defense motion attacking Count I of the indictment in Case No. 3, the United States of America v. Josef Altstoetter, et al., stated in pertinent part as follows:

"Count I of the indictment in this case charges that the defendants, acting pursuant to a common design, unlawfully wilfully and knowingly did conspire and agree together to commit war crimes and crimes against humanity as defined in Control Council Law No. 10, Article 2. It is charged that the alleged crime was committed between January 1933 and April, 1945.

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

Without conceding that the jurisdiction of Military Government Courts is limited to the trial of those war crimes cases contemplated by Control Council Law No. 10, it is clear that this order has no application to the instant case because the charge and particulars thereunder do not allege a common design to commit a war crime as a "separate substantive crime". They allege that the accused "acting in pursuance of a common design to commit the acts hereinafter alleged, did, wrongfully and unlawfully, encourage, aid, abet, and participate in the operation of Concentration Camp Buchenwald *** which operation included the wrongful and unlawful subjection of *** (certain persons) *** to killings, beatings, tortures ***", etc. Thus, the particulars in this case charge as an offense, the execution of a common design to commit described

unlawful acts. They do not allege a common design as a "separate substantive crime".

The extent of the ruling relied upon by the defense is amplified by the text of the last paragraph of the order which provides:

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

The contention of the defense is without merit.

2. *Universality of Jurisdiction Over War Crimes.* A special plea was entered on behalf of the accused in effect attacking the jurisdiction of the Court (1) as to acts in violation of the law of war committed against the nationals of any country at any place prior to the entry of the United States into the war, and (2) as to acts in violation of the law of war committed outside the US Zone of Occupation and subsequent to the entry of the United States into the war, except as to such acts committed against citizens of the United States (R 4, 5; Petition for Review, page 7).

A validly constituted court of an independent state derives its power from the state. A state is independent of all other states in the exercise of its judicial power, except where restricted by the law of nations (S. S. Lotus, France v. Turkey, 3 Hudson World Court Reports 33). Concerning punishment for a crime of the type involved in the instant case, it has been stated that the sovereign power of a state extends "to the punishment of piracy and other offenses against the common law of nations, by whomsoever and wheresoever committed" (Wheaton's "International Law", Sixth Edition, Volume I, page 269). Recognition of this sovereign power is contained in the provision of the Constitution of the United States which confers upon Congress power "to define and punish offenses against the law of nations". (Wintrop, "Military Laws and Precedents", Second Edition, Reprint 1920, page 831).

Any violation of the law of nations encroaches upon and injures the interests of all sovereign states. Whether the power to punish for such crimes will be exercised in a particular case is a matter resting within the discretion of a state. However, it is axiomatic that a state, adhering to the law of war which forms a part of the law of nations, is interested in the preservation and the enforcement thereof. This is true, irrespective of when or where the crime was committed, the belligerency status of the punishing power, or the nationality of the victims. ("Universality of Jurisdiction over War Crimes", by Cowles, California Law Review, Volume XXXIII, June 1945, No. 2, pages 177-218; "Law Reports

of Trials of War Criminals', by United Nations War Crimes Commission, 1947, hereinafter referred to as "Law Reports", Volume I, pages 41, 42, 43, 63; United States v. Klein, et al., Hadamar Murder Factory Case, opinion D.J.A.W.C., February 1946; United States v. Weiss, et al., Dachau Concentration Camp Case, opinion D.J.A.W.C., March 1946; United States v. Becker, et al., Flossenbürg Concentration Camp Case, opinion D.J.A.W.C., May 1947; United States v. Brust, opinion D.J.A.W.C., September 1947; and United States v. Otto, opinion D.J.A.W.C., July 1947. A British court sitting in Singapore tried Tomono Shimio of the Japanese army and sentenced him to death by hanging for illegally killing American prisoners of war at Saigon, French Indochina (Law Reports, Volume II, page 128).

In support of its special plea attacking the jurisdiction of the Court the defense relied upon Section 5-300.3, Title 5, 'Legal and Penal Administration' of 'Military Government Regulations', published by Office of Military Government for Germany (US), 21 March 1947, hereinafter referred to as "Title 5", which provides in part as follows:

"Military Government Courts have jurisdiction over all offenses committed in the U.S. Zone against the legislation enacted by Military Government, the existing German law, and the laws and usages of war..."

Part 3 of said Title 5 deals specifically with Military Government Courts and Section D thereof deals with the trial of war criminals. Section 5-300 appearing in said Section D provides in pertinent part as follows:

"Jurisdiction. Cases involving offenses committed prior to 9 May 1945 against the laws and usages of war or the law of the Occupied territory or any part thereof, commonly known as 'War Crimes'... shall be tried before specially appointed Military Government Courts, except where otherwise directed by the Theater Commander."

In support of its special plea the defense also relied upon paragraph 4 of a directive by Headquarters, United States Forces, European Theater, relating solely to the trial of war crimes cases by specially appointed Military Government Courts, being letter, file AG-000.5 JAG-AGO, subject: "Trial of War Crimes Cases", 14 October 1946, which directive is set forth at length in Section 120 of the "Manual for Trial of War Crimes and Related Cases", 15 July 1946, as amended, hereinafter referred to as "Trial Manual". That paragraph 4 provides:

"Hereafter Military Government Courts for the trial of war crimes cases involving American nationals as victims and mass atrocities committed in the American Zone of Occupation will be appointed by, and all further actions in connection with such cases will be taken by this headquarters. The principles hereinafter set forth will be adhered to in the appointing of such courts and in the taking of such actions."

An examination of paragraph 12 of the same directive reveals that it

contemplates the development of trial of mass atrocity subsequent proceedings cases involving additional participants in the Mauthausen Concentration Camp mass atrocity. That camp and most of its subcamps were located outside the US Zones of Occupation in Germany and Austria.

In determining the merit of the special plea by the defense not only must Sections 5-300.3 and 5-300 be read together, but both of these Sections must be read together with paragraphs 4 and 12 of the special directive dealing with the trial of cases of the type herein involved by specially appointed Military Government Courts. It is obvious that no limitation is imposed as to time or place of commission or nationality of victims in the trial of war crimes cases by Military Government Courts specially appointed for the trial of war crimes cases.

The special plea by the defense attacking the jurisdiction of the Court was properly overruled (R 15).

3. *Accused No. 13.* A question not raised during the course of the trial merits discussion, viz., did the Court have jurisdiction of the person of the accused No. 13. He testified that he was born in a portion of what is now Poland, which was then under Australian rule; that he became a naturalized citizen of the United States in 1910; and that he has resided outside of the United States continuously since 1915 (R 24, 4:94-4:301). The accused, therefore, lost his United States citizenship under the provisions of the Nationality Act of 1940, Sections 404, 406; 54 Stat. 1176; 8 U. S. C. A. 804, 806. The accused did not claim United States citizenship and was apparently a stateless person.

It is clear that the Court had jurisdiction of the person of the accused and of the subject matter.

B. LEGAL SUFFICIENCY OF CHARGE AND PARTICULARS:

The defense moved for a bill of particulars seeking (1) the number, identity and present whereabouts of Americans, who as surrendered and unarmed prisoners of war were subjected to killings, beatings, tortures, etc., during the period 1 September 1939 to 9 December 1941, in Buchenwald and the "inclusive dates" during which they, naming them, were thus subjected, and (2) like information as to the same class of inmates who were thus subjected during the period 9 December 1941 to 11 April 1945, "clearly stating in detail the places or place at which the inclusive dates during which the alleged American victim or victims, naming them, were subjected" to killings, beatings, tortures, etc., (R 38, 39; Petition for Review, page 8). The motion was properly overruled (R 40).

The Supreme Court of the United States in the case of *In re Yamashita*, 65 Supreme Court Reporter 340, stated:

"Obviously charges of violations of the law of war triable before a military tribunal need not be stated with the precision of a common law indictment. Cf. *Collins v. McDonald*... 258 U. S. 420, 42 S. Ct. 328, 65 L. Ed. 692."

There is no material difference between the allegations of the charge and particulars in this case and those in the Mauthausen Concentration Camp Case (United States v. Altfüllisch, et al., opinion DJAWC, February 1947) and the Dachau and Flossenbürg Concentration Camp cases supra. Similar attacks upon the charges and particulars in the Mauthausen and Flossenbürg cases were overruled. There can be no doubt that the charge and particulars conform to the requirements of definiteness prescribed by the procedure for Military Government Courts and sufficiently apprised the accused as to the particulars of the crime alleged (Section 5-323, Title 5).

The defense also challenged the propriety of the charge and particulars because of the words "and divers other persons" and moved that the trial take place only against those accused specifically named in the particulars (R 36). The phrase in question certainly did not result in unnamed individuals being placed on trial for participation in the execution of the common design. While this is not a conspiracy, in Anglo-American municipal criminal law practice concerning a true conspiracy, the evidence is permitted to take a wide range and all facts or circumstances, which taken together show a common plan or purpose, are admissible (Underhill's "Criminal Evidence", Fourth Edition, pages 1406-1409). The phrase in question merely serves the purpose of specifically alerting the accused that it was not they alone who participated in the execution of the common design. Irrespective of the phrase in question, as indicated by the authority immediately hereinbefore cited, evidence as to acts of others participating in the execution of the common design would have been admissible. The motion was properly overruled (R 37).

As to group responsibility and liability of individuals comprising the group for the acts of the group as a whole for ill-treatment of concentration camp inmates, the British court in the Belsen Concentration Camp Case admitted evidence as to cruelty and ill-treatment in the camp, irrespective of whether it pointed directly to accused then on trial, on the principle of vicarious liability, each of the accused being responsible in varying degrees according to the position held. In its notes on the trial, the United Nations War Crimes Commission commented favorably upon the action of the court pointing out that the regulation under which the court admitted the evidence resembled a rule of English municipal criminal law whereby, after proof of a conspiracy between a number of persons, any act or statement by any of them "in furtherance of the common design" is admissible against them all. It stated that the reason for the rule "is that each of the parties to a conspiracy has, by entering into it, accepted all his confederates as agents to assist him in carrying it out" (Law Reports, Volume II, pages 138-141).

C. JUDICIAL NOTICE:

It was not clearly established by evidence that the victims, who were nationals of countries wholly or partially occupied by Germany,

were deported for labor or other purposes to Germany. However, the Court could take judicial notice of the fact that, as a war measure, hundreds of thousands of Russian, French, Polish, etc., nationals had been compulsorily deported from occupied territory to Germany for work. The illegal killing of these deported Allied nationals was a war crime (Law Report, Volume I, page 58). It is obvious that the courts in the Dachau, Mauthausen and Flossenbürg Concentration Camp cases, and in the Hadamar Murder Factory Case, supra, took judicial notice of this mass deportation.

D. MOTION FOR FINDINGS OF NOT GUILTY:

At the close of the prosecution's case, the defense moved that findings of not guilty be made as to all the accused for the reason that the prosecution had failed to establish a prima facie case (R 1773, 1774; Petition for Review, page 23). It is not error for a war crimes tribunal to overrule a motion for findings of not guilty made at the close of the case for the prosecution, if it believes that there is sufficient evidence to support the charge and that the accused should be required to answer it (Section 5-327.2, Title 5, supra). In view of the evidence submitted by the prosecution, the Court did not err in requiring the defense to answer. The motion was properly overruled (R 1778). A similar practice is followed in courts-martial (Paragraph 71, d, "Manual for Courts-Martial, U.S. Army", 1928).

E. SUPERIOR ORDERS:

As indicated in Section VI, post, accused Nos. 16, 21 and 29 sought to justify their actions by offering evidence to show they were acting in compliance with superior orders. By its Petition for Review, pages 14-17, the defense appears to claim that most, if not all, of the accused acted in compliance with superior orders. Compliance with superior orders does not constitute a defense to the charge of having committed a war crime (Trial of Henry Wirz, 40th Congress, 3rd Sess., House of Representatives, Ex. Doc. No. 23, page 812; Volume II, Sixth Edition, Openheim, "International Law", paragraph 253, page 453; Landoverly Castle Case, 16 American Journal of International Law, page 708; United States v. Thomas, opinion DJAWC, December 1945; Hadamar Murder Factory Case, supra; and French Republic v. Wagner, et al., Court of Appeals France, July 1946). This rule is followed in Anglo-American jurisprudence (Mitchell v. Harmony, 13 How. 115, and "Manual for Courts-Martial, U. S. Army", 1928).

Compliance with superior orders may, under certain circumstances, be considered in mitigation of punishment. However, an accused who seeks relief on such grounds assumes the burden of establishing (a) that he received an order from a superior directing that he commit the wronged act; (b) that he did not know or, as a reasonably prudent person, would not have known that the act which he was directed to perform,

was illegal or contrary to universally accepted standards of human conduct; and (c) that he acted, at least to some extent, under immediate compulsion. Having satisfactorily established these elements, the amount to which his sentence should be mitigated depends upon the character and extent of the immediate compulsion under which he acted. (See London Agreement of 8 August 1945, Concerning Prosecution and Punishment of Major War Criminals of the European Axis; FM 27-10, War Department, U. S. Army, "Rules of Land Warfare", paragraph 345-1, Change No. 1, 15 November 1944; Oppenheim, "International Law", paragraph 263, and the Llanóbery Castle Case cited therein; "Manual for Courts-Martial, U. S. Army", 1928; "Report to be President of United States", 7 June 1945, by Mr. Justice Jackson, U. S. Chief Counsel for the Prosecution of Axis Criminality; Extract from Goebbels' "The Air Terror of Our Enemies", found in footnote, page 63, "Military Occupation and the Rules of the Law", by Ernst Fraenkel; United States v. Bury, et al, opinion DJAWC, September 1945; United States v. Thomas, supra; United States v. Beck, et al., opinion DJAWC, December 1946; Flusenberg Concentration Camp case, supra; and United States v. Streep, et al., Superior Orders Case, opinion DJAWC, September 1947.)

The evidence, if any, offered on behalf of each accused in mitigation of punishment because of an element of superior orders is discussed in Section VI, post.

F. EXECUTIONS:

The defense through two witnesses offered evidence apparently for the purpose of establishing that the executions in general, but not in particular, had a color of legality. At most the evidence indicates that the executions, other than those in the horse stables by "detail 99", were in compliance with orders from SS Major General Mueller, Chief of the Gestapo in Himmler's Reichs Security Head Office. These orders were in accordance with a decree issued in 1942 relative to punishment of Poles and Jews, which placed the power of punishment in the Gestapo. (It appears that these witnesses probably had in mind the "Night and Fog Decree" issued by Hitler, 7 December 1941, discussed by the International Military Tribunal Nuremberg, pages 232, 233.) The execution orders were issued after receipt of files and reports from local Gestapo agents. The evidence indicates the decree may have been applied to all "eastern laborers" (R 2778-2785). The secretive, ceremonious executions by "detail 99" were allegedly in compliance with orders from the same agency, and were based on an undefined theory of reprisals; and reports of compliance were made to the Reichs Security Head Office, as in other cases (R 2901, 4478-4488).

The defense in its Petition for Review, pages 18-2, after citing the same evidence asserts that those killings were legal concerning the executions by "detail 99", it asserts that the Hague Convention No. IV

18 October 1907, is not applicable by reason of Article 2 thereof. Said Article 2 provides as follows:

"The provisions contained in the Regulations referred to in Article I, as well as in the present Convention, do not apply except between Contracting Powers, and then only if all the belligerents are parties to the Convention."

Irrespective of the words of limitation contained in that article, Germany was burdened with like principles in conducting its war for the reason that the Convention merely gives formal expression to the practices and usages followed by civilized nations at war ("International Military Tribunal, Nuremberg", Volume I, pages 253, 254). In any event, in view of the fact that it is the position of the defense that most, if not all, of the inmates killed by "detail 99" were Russian prisoners of war, the more pertinent convention is the Geneva (Prisoners of War) Convention of 27 July 1929 which contains no provision requiring that all the belligerents be parties to the Convention to make it of binding force (TM 27-251, War Department, U. S. Army, "Treaties Governing Land Warfare", 7 January 1944; "International Military Tribunal, Nuremberg", Volume I, page 232).

The law of war is addressed not only to combatants and public authorities of a state but to anybody regardless of status or nationality who assists or participates in violation thereof (Law Reports, Volume I, page 103).

While under international law a person who has been found guilty of acting as a spy or of having committed a war crime may be legally executed, the execution must be preceded by a proper trial and sentence by a legally constituted court. Moreover, the Geneva Convention specifically prohibits measures of reprisal against prisoners of war (Volume II, Oppenheim's "International Law", Sixth Edition, pages 331, 456, 457, Article 30, Annex to Hague Convention No. IV of 18 October 1907 and Article 2 of the Geneva (Prisoners of War) Convention of 27 July 1929 both set forth in TM 27-251, War Department, U. S. Army, "Treaties Governing Land Warfare", 7 January 1944; Volume 2, Wheaton's "International Law", Seventh Edition, pages 220, 240; and Law Reports, Volume I, page 31). The United Nations War Crimes Commission in commenting upon the British Almelo Case stated as follows:

"The rule of law on which the decision of the Military Court is based is, therefore, the rule that it is a war crime to kill a captured member of the opposing armed forces or a civilian inhabitant of occupied territory, suspect of espionage or war treason, unless their guilt has been established by a court of law" (Law Reports, Volume I, page 44.)

It is irrelevant that the executions may have been legitimate in the eyes of German jurists and that no violation of domestic law resulted (Law Reports, Volume I, page 54). Similarly it is stated in "International Military Tribunal, Nuremberg", Volume I, page 223:

"On the other hand 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."

Regardless of the preceding considerations, the defense failed to meet its burden of going forward with the evidence to establish that the killings were justifiable. While not applicable as such to war crimes trials, the rule as to affirmative defense in homicide cases in American municipal criminal law has been stated as follows:

"Generally, in criminal cases as in civil cases the burden of proving affirmative defenses rest upon the defendant at all times. Accordingly, after the state has made out its case by evidence, in a prosecution for homicide, the accused must assume the burden of establishing circumstances of justification, excuse, or mitigation. The prosecution being entitled to the benefit of the presumption of an intent to take life, when a person has been killed by the infliction of a wound or by some other means calculated to produce death, the accused must assure the burden of proving that there was no intent to take life or that the killing was justifiable or excusable, or, at least, of raising a reasonable doubt in his favor. In order for the accused to overcome the inference or presumption of malice arising from proof of the intentional use of a deadly weapon in committing a homicide, he must prove circumstances of extenuation or excuse, unless such facts appear in the evidence produced by the prosecution. It is generally agreed that the accused is not under any obligation to introduce evidence to show mitigation, justification, or excuse if the proof on the part of the prosecution shows it."

(26 American Jurisprudence 552).

This mass atrocity involved tens of thousands of concentration camp inmates. Hundreds of the inmates were subjected to beatings, tortures, starvation and other abuses and indignities daily. Killings by various methods were numerous and very common occurrences. It is quite improbable that any of those who were in the camp a few days could have believed that any of the beatings or killings were legitimate. It must have been apparent to them that the entire operation was contrary to universally accepted standards of human conduct. Under such circumstances it is all the more appropriate that the burden be on the defense to go forward with the evidence to establish that the killings in general or in particular were justifiable.

G. CONDUCT OF TRIAL:

1. *Exclusion of Witnesses.* As the trial opened the defense sought a direction by the Court that all prosecution witnesses leave the courtroom. The prosecution responded that there was no prosecution witness in the

courtroom who would testify prior to the afternoon session of that day. The Court denied the request (R 2; Petition for Review, page 10). The proceedings during the forenoon session were limited solely to purely preliminary procedural steps. No evidence was introduced (R 1-35) following the brief opening statement of the prosecution in the afternoon session, the defense again requested that prosecution witnesses, if any, be directed to leave the courtroom, which request was granted by the Court (R 43). In courts-martial, the permitting of witnesses to be in court before they have completed their testimony or during opening statements is not prohibited, but subject to the discretion of the court, is strongly discouraged (Paragraph 121a, "Manual for Courts-Martial, U.S. Army, 1938). In the absence of statutory enactments, a similar rule is followed by municipal criminal law courts (Wharton's "Criminal Evidence", Eleventh Edition, page 2129). The Royal Warrant 14 June 1945 concerning British war crimes trials contained no specific provision in this connection. However, after objection by defense counsel in the Belser Concentration Camp Case, prosecution witnesses were not permitted to remain in court after they had given evidence (Law Reports, Volume II, pages 145, 146). Section 501, page 408, Trial Manual, provides that witnesses should be permitted in the courtroom only during the course of their interrogation. The obvious objective of this rule is to prevent witnesses from being aided in their testimony or influenced by other evidence presented in the case. While it would have been better had the Court excluded all witnesses from the courtroom, even during the preliminary steps the Court's action met the general objectives of the applicable rule and no injustice resulted to the accused.

2. *Assignment of Identification Numbers to Accused.* The defense objected during the trial to the practice followed in American war crimes trials of requiring accused to wear assigned numbers while in the dock (R 85, 86; Petition for Review, page 18). Apparently, it was the position of the defense that the cardboard shields bearing the numbers assigned to the respective accused should be reversed so as not to be visible to a witness until after he had identified a particular accused by pointing to him. Thus, the possibility of witnesses identifying accused by relying primarily on information as to the number assigned to a particular accused obtained prior to entering the courtroom would be eliminated. The defense has not pointed to any instance where a witness in fact so utilized information as to assigned numbers. The assignment of numbers is a practical expedient in cases involving a large number of accused. The Court did not abuse its discretion. It appears that the practice of assigning numbers to accused is also followed in British war crimes trials (Law Reports, Volume II, page 146). The real answer in avoiding spies in the courtroom would be to exclude the whole of the general public.

3. *Photographs During Trial.* The defense, without stating its reasons therefor, requested that press photographers be not permitted to photograph accused while wearing assigned numbers (R 52; Petition for Review, page 10). Obviously, it was the position of the defense that the

dissemination of such photographs would serve as an aid to unscrupulous witnesses, thus permitting them to pretend to be able to identify certain accused, when they would otherwise have been unable to do so. The photographing of accused in municipal criminal law trials by press photographers and the publication of the pictures in newspapers together with their names and other data is but an incident of public trials, is susceptible to the same abuse, if any, and is common practice. The Court did not err in denying the request (R 52).

4. *Impachment of Witnesses.* In its Petition for Review, pages 10—12, the defense attacks the credibility of three witnesses and in general contends that it was deprived of proper opportunity to attack their credibility (R 1266, 1399, 1401, 2765, 4878, 4808, 4814, 4884, 4885, 5381, 5382). It does not appear that the Court abused its discretion in this connection.

5. *Absence of Accused, Illness.* The defense made the following statement for the record:

"From time to time during the course of the trial certain of the accused have been absent. The reason for the absence of these accused is that they were sick in the hospital. During their absence they have been represented by an attorney of the United States Forces and by individual German counsel, so that their interests during their absence have been adequately represented" (R 1778).

Although not utilized to date, the applicable procedure permits of a trial in absentia (Section 5—327.7, Title 5). Martin Bormann was actually tried in absentia as indicated at pages 340, 341, Volume I, "International Military Tribunal, Nuremberg". It does not appear that any of the accused who were absent from portions of the trial because of illness were materially hindered in defending the charge against them. British rules also permit of proceeding with war crimes trials during the temporary absence of an accused (Law Reports, Volume I, page 147).

6. *Inaccessibility of Witnesses.*

a. *Location.* Prior to resting the defense introduced an exhibit containing a list of prospective witnesses requested by the defense, setting forth as to each the reason they had not appeared (R 5445, 5446; D-Ex 35). By its Petition for Review, page 9, it appears that the defense intends to complain that accused were deprived of their fifth formal right, i.e., to present material witnesses on their behalf "or to have them summoned by the Court at your request, if practicable" (Section 501, page 404 Trial Manual). There is no showing by the defense as to what it expected to prove by these witnesses. In any event, an examination of the exhibit reveals that it was not within the power of the Court to require these witnesses to appear at the trial, most of them residing in areas in Europe beyond the control of United States authorities, one having died, one having not been apprehended, etc.

b. *Intimidation.* At an early stage in the presentation of the evidence:

for the defense, it contended that there was pressure from some unofficial sources to induce witnesses not to testify in favor of the accused (R 1988, 1989, 1994, 2023—2025). The Court entertained the suggestion of the defense that the Court request an investigation by the proper agencies (R 2025). The report of the investigation, which was made a part of the record, fails to reveal any such activity in the US Zone of Occupation, but does indicate that possibly some questionable contact was being indulged in by members of a certain political party in the British Zone of Occupation resulting in the withholding of welfare benefits from individuals who appeared as defense witnesses. The report contains a copy of a letter by an official of Land Bavaria to German authorities in the British Zone of Occupation calling the matter to their attention and suggesting that action be taken to assure that prospective defense witnesses were not influenced directly or indirectly. It does not appear that the defense was materially hindered in presenting its case (R 5680, 5681 P-Ex 113).

7. *Dossier.* The defense contends by its Petition for Review, pages 27 and 28, that the prosecution failed to support all the data contained in its dossier (R 5431, D-Ex 33) by evidence adduced during the trial, and that the dossier contained inflammatory and exaggerated material calculated to influence improperly the Court, as well as witnesses who by chance saw it prior to trial. The applicable procedure required that the Chief Prosecutor "assure that the court receives a dossier of the case against the accused" containing a summary of the evidence in support of the prosecution's case (Paragraph b, Section 230, Trial Manual). The pertinent provisions are not susceptible to the construction that the prosecution must, at its peril, fully support all data therein by evidence adduced.

8. *Procedure Generally.* The accused were represented by competent American and German counsel. One member of the Court was a legally trained officer. Sufficient interpreters were provided at all times. Full right of cross-examination was extended throughout the trial. All of the accused were given an opportunity to testify in their own behalf and all but five chose to do so. Both the findings and the sentence as to each accused were approved by a two thirds vote of the members present. An effort has been made in this Section to discuss all questions of substantial importance raised by the defense. The trial was conducted with fairness to all accused.

VI. EVIDENCE AND RECOMMENDATIONS:

There is set forth in this Section a summary of the pertinent evidence both for and against each accused in numerical sequence according to the numbers assigned to them by the Court. Near the end of each summary of evidence are Petitions for Review and Petitions for Clemency, if any which have been received up to and including 15 November 1947, are described as to date, the accused on whose behalf they are filed, and

the name of the person filing the same, together with such discussion if any, as the petitions are believed to warrant.

Unless otherwise indicated, an item referred to as a "Statement" is in the form of extrajudicial sworn testimony.

1. JOSIAS PRINCE ZU WALDECK

Nationality: German

Age: 50

Connection with Buchenwald:

- a) Period: 1 September 1939 — April 1945 (P-Ex 40A p. 1)
- b) Status: SS Lieutenant General (P-Ex 40A p. 13)
- c) Position: Higher SS and Police Leader for area including Buchenwald Concentration Camp and subcamps (P-Ex 40A pp. 1, 2)

Evidence: Following 1944 there existed an order that in event of a state of emergency, concentration camps would no longer come under the authority of the headquarters at Oranienburg, but under that of the Higher SS and Police Leaders of the areas in which the camps were located. The accused, as one of such officers, moved his headquarters from Kassel (R 1656) to the ground floor of the administration building in Buchenwald in early spring of 1945 (R 1735, 1745, 1769; P-Exs 35A p. 8, 40A p. 16, 55A p. 5).

In his Statement, the accused admitted that he visited Buchenwald about fifteen times after 1939 in connection with legal cases (R 1745; P-Ex 40A p. 4), and frequently in 1943 and 1944 in connection with cases of corruption which occurred during the regime of Camp Commander Koch. From the findings of a special court the accused learned of unlawful killings of inmates but did not learn of the killing of Russian prisoners of war in the horse stables (R 1745; P-Ex 40A pp. 8, 9). The accused also admitted in his Statement that executions on orders from Berlin were not pursuant to sentences imposed by courts (R 1745; P-Ex 40A p. 14). Accused No. 21 and this accused knew that the inmates to be executed on orders from Berlin had not had the benefit of a trial and they discussed that fact in 1944 (R 1745; P-Ex 40A pp. 14, 15). In his Statement, the accused further admitted that in April 1945 he saw three or four dead bodies lying on the road between Buchenwald and Weimar and thought the deaths had resulted from over-exertion (R 1745; P-Ex 40A pp. 19, 20). In his Statement, accused No. 21 stated that he assumed that an emergency had been proclaimed in March 1945, inasmuch as this accused was present and gave directions as to the operation of Buchenwald and passed on to the camp commander the order of the Reichsfuhrer SS that Buchenwald was to be evacuated in the beginning of April 1945. The order expressly stated that the camp commander would become the subordinate of this accused. This accused was in charge of the evacuation of Buchenwald (R 1735; P-Ex 35A pp. 4, 8).

The accused testified that, as Higher SS and Police Leader, in November 1939 he became judge advocate appointing and reviewing authority (R 1285). He had no power of command over Buchenwald and no jurisdiction over the inmates there (R 5286, 5289). In all, the accused visited Buchenwald about thirty times and on these visits went inside the actual protective custody camp seven to eight times. The visits concerned current court matters and discussions with the camp physician about questions of public hygiene arising out of the war (R 5290, 5293). The accused was not told of the medical experiments carried out by the Camp Commander Koch when he heard that something was wrong financially at Buchenwald. The accused personally persuaded Himmler to let the case proceed. Included in the case against Koch were reports that Koch had caused inmates to be mistreated (R 5295, 5296). The investigation was not initiated by accused purely out of personal hostility to Koch (R 5297).

"Case A" was an order that, when there was no longer communication between a concentration camp and the headquarters at Oranienburg, the Higher SS and Police Leader of the district was to take over the function of the headquarters (R 5303). This order was not carried into operation at Buchenwald, inasmuch as communications functioned until the end (R 3904). Because of the approach of American forces, the accused left his headquarters in Kassel and moved first to Weimar and then to Buchenwald on 31 March 1945 (R 3305). The Gauleiter and Reichs Defense Commissar of Thuringia insisted that Buchenwald be liquidated. When the accused refused, the Gauleiter threatened to take the question to the army high command (R 5307). On about 6 April 1945, the accused received a telephone call from Himmler in which the latter told him to "transmit my order to PISTER to evacuate Buchenwald down to a bare minimum". The accused then transmitted the order to Camp Commander PISTER, accused No. 21, who had learned of it earlier from Weimar (R 3308, 5309, 5310). The accused did not supervise or control the evacuation, but he assisted the camp commander in every way possible (R 5359). The accused saw two or three of the transports leave (R 5311). He saw no beatings (R 5312). He saw about 10 dead inmates on the Buchenwald Weimar road (R 5314). The accused also testified that according to official information from the railroad management at the time the evacuation transports departed, the rails used were not disrupted (R 5361).

Four defense witnesses, one a former Higher SS and Police Leader, two former SS and police court judges, and the fourth a German lawyer, testified as to the extent of the power and authority of the accused as Higher SS and Police Leader. According to the witnesses, the accused had no power of command over any troops, police organizations, the SS or the secret state police, except in case of a public emergency (R 2891, 2915, 5189, 5190, 5213). He was located outside the channel of command (R 5190). He had no authority over the inmates of concentration camps

(R 5194, 5236), but all cases of unnatural deaths of inmates were reported to him to determine whether any offenses had been committed by SS guards (R 5194, 5236). It was his duty to order an investigation when he thought an offense had been committed (R 5208, 5444). Three defense witnesses testified that the accused was the driving force behind the investigation of Koch (R 2193, 2916, 5221, 5240). A prosecution witness told that the accused ordered the prosecution of former Camp Commander Koch and that he gave the order for the execution of Koch just before the American troops arrived (R 1658, 1659). The accused asserted in his Statement that some of the inmates were executed pursuant to orders imposed by courts (R 1745; P-Ex 40A p. 14).

Sufficiency of Evidence: The Court was warranted from the evidence as to the extent and nature of his participation, especially that as to his taking charge of the camp during the last days and the evacuation thereof, in its findings of guilty. The sentence is not excessive.

Sentence: Life imprisonment.

Petitions: A Petition for Review was filed by defense counsel, Major Carl Whitney, 3 October 1947. A Petition for Clemency was filed by Colonel Gilbert E. Ackerman, Harry R. Pierce and William W. Robinson, members of the Court, 23 September 1947, recommending a reduction of the sentence from life imprisonment to five years' imprisonment. Clemency was recommended because it was not believed that the accused had any jurisdiction or authority over Buchenwald until the time of the evacuation, excepting court jurisdiction over SS personnel, and that as to the latter, his efforts to prosecute former Camp Commander Koch were for the general betterment of the camp. At the time of the evacuation of Buchenwald, the accused passed on the evacuation orders, but there was nothing criminal per se in that. The accused was not responsible for the results that actually developed. A Petition for Clemency was filed by accused's wife, Altborg Fursfin zu Waldeck-Pyrmont, 2 September 1947.

Recommendation: Approval of findings and sentence.

2. OTTO BARNEWALD

Nationality: German

Age: 51

Connection with Buchenwald:

a) Period: January 1943—11 April 1945 (R 3949)

b) Status: SS Major (R 881)

c) Position: Administration leader (R 3949)

Evidence: The accused and one witness testified that as administration leader the accused was responsible for procurement and initial distribution of food and clothing for the inmates, equipment for inmate quarters and administration of inmate property, and that he was

responsible for procurement of food, clothing, equipment for quarters and quarters for the troops at the main and subcamps (R 290, 3965). A second witness testified that from 1942 to April 1945, the accused was in charge of the administration of the camp and especially in charge of food. In 1942 the food situation was still normal (R 881). Food was distributed according to tables which came from Berlin (R 882). According to inmates who worked for the accused, he distributed to inmates all the food he received (R 884). A third witness, a former inmate, testified that he was struck on the head with a stick by an unknown man. Later, his fellow inmates told him it was the accused who had struck him (R 1153, 1154). A fourth witness testified that the accused beat two inmates with his riding crop (R 1236). A fifth witness testified that the accused beat inmates with a dog whip because they were not carrying enough bread (R 1356). A sixth witness testified that the accused was in the horse stables in June 1942 with accused No. 21, while prisoners of war were being executed (R 1286, 1293).

The accused testified that as administration leader for Buchenwald his duty was to obtain food and equipment for the inmates and for the camp guard troops (R 3965). He had nothing to do with orders to the guards, inmate labor allocations, nor any control over the manner in which the inmates were treated (R 3966). Upon taking over his duties at Buchenwald, the accused stopped the feeding of inmate rations to animals in the zoo and made certain that the Russian prisoners of war received the full inmate ration (R 3968). The ration for the inmates was prescribed by the Ministry of Agriculture and Food in the same manner as for the civilian population (R 3979). Requisitions were based upon strength. By making a statement under oath that all inmates were heavy workers and that there were no Jewish inmates in camp, the accused procured the heavy workers ration for all inmates regardless of whether they were working or not. This ration had an average daily content of 2580 calories (R 3980). This falsification became known in February 1945 and the accused was ordered to follow regulations (R 3980, 3983). Thereafter, rations for inmates were approximately the same as for civilians (R 3985). The accused bought additional foodstuffs, rationed and unrationed, and secured food from the camp garden (R 3986, 3987). During the last four weeks of the operation of the camp nearly all the camp barracks stopped working because of air attacks (R 3988).

The accused further testified that in 1942 each prisoner had his own bed, bed linen, wardrobe, towel, and eating utensils (R 3968). Later, equipment became more scarce due to increased inmate strength and lack of replacements for equipment (R 3969). Beginning in October 1944, it was impossible to obtain and distribute additional beds, blankets or other equipment (R 3972). The entire operation of the accused relating to clothing and food was checked by the Reichs Accounting Office (R 3992). Records were kept and it was impossible not to use allocated food for the feeding of inmates (R 3993, 3994). The accused never carried a riding crop or dog whip (R 4001, 4044). He did not beat an inmate labor-

or (R 4002), nor beat two Russian inmates in the face with a whip (R 4044). The accused also testified that he had nothing to do with detail 99 (R 4003).

Accused No. 21 testified that this accused had nothing to do with detail 99 and was never at the horse stables with him (R 1941). A defense witness testified that, contrary to orders, the accused as administrative officer obtained heavy laborer rations for all inmates, including Jewish and non-working inmates (R 3515-3517).

Sufficiency of Evidence: The Court was warranted from the evidence concerning the extent and nature of his participation, particularly that relating to his responsible position as administration leader for about three years and that relating to some individual acts of cruelty, in its findings of guilty. It is not shown that the death of any inmate resulted directly from his actor from acts by others at his direction. The sentence is excessive.

Sentence: Death by hanging.

Petitions: A Petition for Review was filed by defense counsel, Major Carl Whitney, 3 October 1947. A Petition for Clemency was filed by Ludwig Barnewald, 29 August 1947.

Recommendation: Approval of findings and sentence, but that the sentence be commuted to imprisonment for life.

3. AUGUST BENDER

Nationality: German
Age: 38

Connection with Buchenwald:

- a) Period: Second half 1944 — 11 April 1945 (R 849)
- b) Status: SS Major (R 873)
- c) Position: An assistant camp physician (R 2681)

Evidence: One witness testified that the accused examined inmates to be sent out on work details or transports (R 849); that these examinations were called medical examinations, but involved the mere showing of naked bodies; that in most instances the inmates, who were assigned to work details, were in very bad physical condition (R 850); and that the accused often took the names of inmates off work detail or transport lists in order to have the inmates examined by a specialist (R 871). A second witness testified that, when the accused moved among crowds of inmates, he mistreated them by pushing, punching and kicking them (R 1166); and that inmates were sent on transports regardless of their physical condition (R 1164).

Accused No. 29, who served as first sergeant in the inmate hospital during the accused's tour, said in his Statement that this accused signed inmate death certificates listing the causes of death, although he never examined the bodies of the dead inmates to ascertain the causes, except

when inmates died from unnatural causes. An inmate clerk filled in data on certificates signed by the accused (R 1767; P-Ex 54A pp. 7, 14).

A prosecution witness testified that the accused was considered by the inmates as one SS physician who did not harm the inmates (R 4.4). Another prosecution witness testified that the accused was ethical as a doctor and that he did not discriminate as to race or nationality in his treatment of inmates (R 626). One of these and two other prosecution witnesses testified that the accused helped inmates in several instances by taking them off transports or stopping transports because the inmates were physically unfit or badly equipped (R 414, 601, 602, 873).

Three defense witnesses, inmates who worked with the accused in the inmate hospital throughout the accused's tour, testified that the accused did not strike or mistreat inmates (R 2292, 2632, 2685). Two of these witnesses and a fourth witness, one of whom was an inmate doctor and another who was a worker in the inmate hospital testified that the accused was never seen making his way through waiting inmates by kicking or hitting them with his fists (R 2034, 2292, 2632). The accused was never observed discriminating between nationals during examinations (R 2296). After an air raid, the accused aided victims without distinguishing between SS guards and inmates (R 2028). A fifth witness testified that the accused saved his life and that the reputation of the accused at Buchenwald was good (R 3096).

Sufficiency of Evidence: The Court was warranted from the evidence as to the extent and nature of his participation, particularly that relating to the rank and position held by the accused for a substantial period of time, in its findings of guilty. However, there is no satisfactory proof of personal acts of violence or violence at his direction, nor is there proof that his assigned tasks were inherently harmful to inmates. The sentence is excessive.

Sentence: 10 years, commencing 6 May 1945.

Petitions: A Petition for Review was filed by defense counsel, Major Carl Whitney, 3 October 1947.

Recommendation: Approval of the findings and sentence, but that the sentence be reduced to imprisonment for three years, commencing 6 May 1945.

4. ANTON BERGMEIER

Nationality: German
Age: 33

Connection with Buchenwald:

- a) Period: September 1939 — February 1943 (R 3434)
- b) Status: SS Technical Sergeant (R 3433; P-Ex 96A p. 1)
- c) Position: Co-chief of the camp prison (R 786, 1184, 3062, 3434)

Evidence: One witness testified that it was his duty to remove dead bodies from the camp prison; that the accused was in charge of the camp prison on alternate days from September 1939 to February 1943; that the accused was second in charge thereof; and that when dead bodies were removed from the prison most of them had blood and foam issuing from their mouths and their faces were bloodshot and swollen (R 206, 214). Between 50 and 100 dead bodies were carried from the camp prison during an undisclosed period (R 214—216). A second witness, appearing for the defense and who testified during a German investigation in 1943 that about 3000 to 4000 inmates of the prison "disappeared" during the preceding four years, testified that he knew about 800 deaths there during that period (R 3078—3081). A third witness testified that the accused was in charge of the camp prison; and that on one occasion an inmate was taken to the camp prison and three days later his death report was received in the witness' block (R 786).

A fourth witness testified that on several occasions he saw the accused, who was in charge of the camp prison, taking inmates and ropes from the camp prison to the woods and saw the accused return the inmates to the prison in an exhausted condition (R 1184, 1185). The witness saw inmates hanging by their wrists from trees in the woods with the accused nearby. The witness was in the camp prison about Easter 1942 for nine days without water or food (R 1194, 1195). Several times food and water were placed before him and he was asked whether he wanted to make a confession. When he said "No", he was beaten by the accused with a whip (R 1185, 1186, 1199). Several times the witness observed the accused take inmates from the prison to the crematory and saw him return without the inmates (R 1186). A fifth witness testified that in September 1939 he saw the accused give a Jewish inmate the "25 lashes", while he was bent over a special table. The witness heard from Jewish inmates that the victim died as a result of the beating (R 1238). In June 1940 the accused gave the witness 24 lashes with a stick as partial punishment for drinking wine (R 1233, 1256). A sixth witness stated that he accused hanged two groups of Polish, Russian and German inmates to trees by their wrists (R 484, 485).

A defense witness testified that the accused was on duty during the time an inmate was kept chained to his bunk in cell 13 (R 3029—3031); also during the time a Polish inmate with a badly cut face was kept three days with his hands chained behind his back and without food (R 3034). Another defense witness, who was in the camp prison from the fall of 1939 to February 1943, testified that the accused was on duty while five Polish inmates were chained to their bunks so that they could not sit or lie. They were left in that position until they starved to death (R 3078).

The accused testified that he occasionally slapped an inmate, but denied that he ever beat an inmate sufficiently to cause him to bleed or need medical attention (R 3438). The accused administered corporal punishment to inmates on 12 to 15 occasions by beating them on the buttocks with a willow stick 60 to 70 centimeters long. These beatings

were in compliance with written orders from the Inspector General in Berlin and pursuant to direct orders from the camp commander (R 3439, 3440). The accused also testified that he saw inmates hanged by their wrists in the woods but this was in 1938 and the summer of 1939 (R 3448, 3453).

Two defense witnesses testified that, in 1943 during the German investigation of killings in the camp prison, the co-worker of the accused in the camp prison confessed his guilt in connection with the killings and stated that the accused did not participate in the crimes (R 2814, 2933). Two other defense inmate witnesses, both of whom had been confined in the camp prison one for 14 months and the other from 1939 to 1943, testified that the accused and his co-worker had duty on alternate days and that they were enemies (R 3002, 3003, 3055). They further testified that killings were committed by the co-worker of the accused when the accused was not present (R 3006, 3057); and that accused beat inmates only when they misbehaved, in which cases they preferred the beatings to being reported (R 3056, 3077). These witnesses did not know nor did they hear from other inmates that the accused ever hanged inmates by ropes (R 3007, 3066). No inmates died in the camp prison on days when the accused was on duty (R 2816, 2938, 3062, 3070). The accused aided the inmates in the camp prison by getting them medicine from the hospital and additional blankets (R 3008). The accused and all other SS personnel of Buchenwald were afraid of the co-worker of the accused (R 3013).

Sufficiency of Evidence: Viewing the evidence in its most favorable light for the accused, he was second in charge of the camp prison and in fact responsible for the operation thereof on alternate days. It is clear that at least hundreds of those confined therein died as a result of various abuses and mistreatment and, while there is no satisfactory proof that the accused personally killed any of them, it is satisfactorily established that he was responsible for many of the deaths. The Court was warranted from the evidence concerning the extent and nature of his participation especially that relating to the operation of the camp prison for more than three years, in its findings of guilty. The sentence is not excessive.

Sentence: Death by hanging.

Petitions: A Petition for Review was filed by defense counsel, Major Carl Whitney, 3 October 1947. Petitions for Clemency were filed by accused's pastor, Jos. Piersich, 28 August 1947; Alfred Miller, 15 October 1947; and by the accused, 25 October 1947.

Recommendation: Approval of findings and sentence.

i. ARTHUR DIETZSCH

Nationality: German

Age: 46

Connection with Buchenwald:

- a) Period: September 1933 — 11 May 1945 (P-Ex 37A p. 1)
b) Status: Inmate (political) (R 3099)
c) Position: Chief male nurse in experimental block 46 from 1943 to 1945 (R 3109)

Evidence: Three witnesses testified that in accordance with instructions from the SS physician in charge, the accused injected Jewish, Polish, Dutch and German inmates in block 46 with typhus (R 155, 565, 1130—1132). One of these witnesses also testified that the tasks assigned to the accused included supply or as well as acting as a principal assistant in carrying out the medical experiments on human beings in this block. The experiments related to typhus and yellow fever (R 1130).

A fourth witness testified that, in the fall of 1943, he was ordered to report to the inmate hospital. Several Jewish, Russian, French and German inmates were also there, although none had reported sick. The accused took them to block 46. They did not know why they were taken there. On the third day the witness and three others were injected by the accused. The witness became ill with typhus on the thirteenth day. There were 65 to 70 inmates in block 46 including Russians, French and Jews. The accused severely mistreated the inmates. The witness saw eight to ten of these inmates die before he became critically ill. All injections were given by the accused. Of the 65 to 70 patients in block 46 the witness never saw any of them again in camp, except for one French inmate. Probably they died later (R 1647—1649).

In his Statement, the accused admitted that there were 400 to 600 experiments with typhus. About 100 inmates died from these experiments (R 1742; P-Ex 37A, p. 4).

A former inmate, a British wing commander, and three other prosecution witnesses testified that the accused helped, at the risk of his own life, to substitute three live Allied inmates, including this wing commander, for three dead inmates, thereby assisting in the escape of the Allied inmates (R 172 195, 274, 275, 333—336, 581, 1143). The wing commander also testified that the accused smuggled letters out for inmates (R 173). Two of the above witnesses also testified that one Dutch inmate was saved from a transport by the accused (R 336, 1143). Three witnesses testified that the accused was on the list of inmates to be executed by the SS on 6 April 1945, but he avoided being executed by hiding until the liberation of the camp (R 581, 1145, 231). A defense witness testified that, while he was experimented upon in block 46 from January to June 1942, the accused gave him good treatment and did not beat him or any one else (R 3156).

The accused testified that in 1941 he spent six weeks in the camp prison for antifascist activities (R 3190, 3101). Upon his release in January 1942, he was to be sent on a transport. In order to avoid that fate, he obtained a job in the new experimental station in block 46

(R 3104, 3105, 3106). In the spring or summer of 1943, he became chief male nurse there. As such, his duties consisted of inoculations, examinations, and treatment of the sick (R 3109). He was present at all experiments after 1943 (R 3111). His principal duty was to nurse the inmates experimented upon back to health (R 3112). He had nothing to do with selecting the infecting material or the inmates for the experiments (R 3114). The accused did his best to nurse the inmates back to health. He saved those he could. Also he avoided experimenting upon between 100 and 150 inmates whose names were furnished by the inmate illegal camp administration (R 3123, 3132). The accused also testified that he worked with the inmate illegal camp administration and that he gathered information from foreign news broadcasts for it (R 3126). He admitted by his testimony that he punished inmates in block 46 by withholding their food (R 3147) but only rarely, when reprisals would no longer suffice (R 5626).

Sufficiency of Evidence: The Court was warranted from the evidence concerning the extent and nature of his participation in its findings of guilt. The sentence is not excessive.

Sentence: 15 years, commencing 6 December 1945.

Petitions: Petitions for Review were filed by the accused, 21 August 1947, and by defense counsel, Major Carl Whitney 3 October 1947. A Petition for Clemency was filed by Wing Commander F. Yeo Thomas, 3 September 1947.

Recommendation: Approval of the findings and sentence.

6 HANS EISELE

Nationality: German
Age: 35

Connection with Buchenwald:

- a) Period: February 1941 — August 1941 (R 3757, 3758)
b) Status: SS First Lieutenant (R 3755, 3758, 3759)
c) Position: Second camp physician (R 3468)

Evidence: One witness testified that the accused was known among the inmates as the "terror of Buchenwald" and there was general talk among the inmates that he performed surgical operations on healthy inmates who were afterwards killed by injections (R 358, 359).

A second witness, who was a body carrier in the hospital from 1939 to the end of 1941, testified that, at the beginning of the year 1941, he saw the accused inject a Dutch inmate with evipan in operating room No. 2 and after a few minutes the inmate was dead. The witness carried out his body and the bodies of about six other Dutch inmates on the same day (R 1320, 1321, 1323, 1325).

A third witness, a male nurse in the inmate hospital, testified that

in 1941 he personally saw the accused give injections to several Polish and Jewish inmates and that they died almost immediately (R 1704). One morning this witness observed the giving of such injections to seven inmates, who were not seriously ill, and helped carry out their bodies after they died (R 1745, 1710). The accused enjoyed using the operating knife and he made very large cuts in comparison with other surgeons (R 1709). The accused picked up all camp inmates who were suffering from hernia and ordered them to the hospital where he told them "you cannot expect any light work or any convalescent period if you will not permit yourself to be operated upon for hernia". He operated on an unwilling old Polish inmate who died 12 to 14 days later (R 1703).

A fourth witness, who worked as a physician's clerk in the pathological department from 1939 to 1944, testified that the accused went through various details in camp and picked out inmates for reporting to the hospital. The witness personally observed the accused making selections in the sock mending detail. They usually died within a short time thereafter. When the accused was on furlough only two or three dead bodies came into the pathological department each day instead of the usual 20 to 30 bodies (R 1690, 1697). According to the inmates, the accused issued verbal orders that for various periods of time up to six weeks Jewish inmates could not be treated in the hospital (R 1697, 1698).

The accused testified that he was sent to Buchenwald in February 1941 and served first as troop doctor (R 3766). From the middle of June 1941 until he left Buchenwald, about the middle of August 1941, he treated inmates at the inmate hospital (R 3758, 3767, 3910). The accused was the only doctor who performed operations at the inmate hospital at that time (R 3771). He was told that, if he did not perform the operations, "we will have to let those bums rot" (R 3769). The accused could have withdrawn, but was forced by his conscience and professional ethics as a physician to continue (R 3781). Many inmates died during operations due to their being nearly dead when brought to the operating table (R 3789). A disease which under normal conditions would not be fatal resulted in death under the conditions at Buchenwald (R 3916). The accused gave many injections to inmates at Buchenwald but never for the purpose of killing them (R 3793). He did not order any mass operations for hernia (R 3786). The accused operated on a 69 year old Polish inmate. The operation was a success but later the inmate suddenly died, possibly at the hands of the inmate illegal camp administration. The accused did not kill him (R 3786-3788). He did not issue a regulation prohibiting the treatment of Jewish inmates and he had no authority to do so (R 3772). Narcosis was produced as in other German hospitals, by injection of evipan sodium (R 3775, 3776). The accused did not wander around the camp looking for victims (R 8803). He was never present at official conferences at Buchenwald and never present at an execution (R 3807, 5633). The accused did not experiment on the inmates (R 9919). The accused gave an isolated group of about 40 inmates, suffering from

open tuberculosis, calcium and vitamin C injections daily (R 3793). Later, he heard that these inmates were, on orders from Berlin, to receive "special treatment", namely, to be eliminated by medical means. The accused objected, refused to take part, and wrote a report to Berlin about it. The accused also testified that later he heard that these inmates had been killed (R 3798).

Four defense witnesses, former inmates, testified that the accused was not known among the inmates as the "error of Buchenwald" (R 2985, 318, 3459, 3494). One of these witnesses, a male nurse in the surgical department of the inmate hospital with the accused, never saw the accused inject a prisoner for the purpose of killing him (R 3494).

Sufficiency of Evidence: The Court was warranted from the evidence concerning the extent and nature of his participation, especially that as to his activities as second camp physician for about six months during which time he killed several inmates by injection, in its findings of guilty. The sentence is not excessive.

Sentence: Death by hanging.

Petitions: A Petition for Review was filed by defense counsel, Major Carl Whitney, 3 October 1947. A Petition for Clemency was filed by Colonel Harry R. Fierce and William W. Robinson, members of the Court, 22 September 1947, recommending a commutation of the sentence to 10 years imprisonment. This petition requested the commutation on the ground that the greater portion of the testimony against accused regarding killings of inmates by deadly injections is hearsay and none of it is conclusive. Petitions for Clemency were also filed by Erich Heberlein, 31 July 1947; accused's sister, Elizabeth Eisele, 22 August and 26 August 1947; Dr. M. Hoeck, 22 August 1947; Abbot Corbman Hofmeister, 26 August 1947; Catholic chaplain, P. L. Roth, 27 August 1947; accused's wife, Hedwig Eisele, 1 September 1947; accused's aunt Elsa Lieberknecht, 17 September 1947; and by German defense counsel, Dr. Martin Korn, 26 October 1947.

Recommendation: Approval of the findings and sentence.

7. WERNER GREUNUSS

Nationality: German
Age: 39

Connection with Buchenwald:

- a) Period: November 1944 — April 1945 (R 4237, 4581)
- b) Status: SS Second Lieutenant (R 3593, 4537)
- c) Position: Assistant doctor at Buchenwald; chief doctor of subcamp Ohrdruf, 1 January 1945 — 2 April 1945 (R 4540, 4549, 4581)

Evidence: The accused admitted in his testimony that he had charge of all medical services at subcamp Ohrdruf from 1 January 1945 until the

liberation (R 4549, 4581). A witness testified that of 13,000 inmates at subcamp Ohrdruf in January 1945 at least 1500 died before liberation, excluding those who died during the evacuation (R 371).

A second witness testified that at subcamp Ohrdruf three or four horse stables used as barracks formed a part of the hospital under the direct supervision of the accused. In these horse stable barracks forming a part of the hospital alone up to fifteen inmates died daily. In addition inmates died in other barracks (R 1557). The sick inmates lay on the stone floors in the barracks used as a part of the hospital, without mattresses or blankets. They received only half of the normal inmate ration. They relieved themselves on the spot and the stench was horrible. They were like human skeletons and their skins were covered with untreated suppurated wounds. In February and March 1945, two transports left subcamp Ohrdruf for Belsen Concentration Camp. The accused stated at the time that the inmates were being sent "for concealment". These inmates were in extremely poor physical condition. Although it was winter, they were packed into open trucks (R 1553, 1567). The accused did not try to get medical supplies, food, or proper bedding for them (R 1561). The witness further testified that several thousand inmates died at subcamp Ohrdruf while the accused was there (R 1563, 1582, 1583).

The accused slapped the witness in the face two or three times when the witness endeavored to "save the life of one prisoner" (R 1559). The accused's medical orderly beat a Greek inmate in the presence of the accused by striking him 20 times on the buttocks with a wire filled rubber hose (R 1560). On another occasion a medical orderly, in the presence of the accused, drove sick inmates out of the waiting room at the dispensary by beating them with a stick. Some of them were bleeding as a result of prior ailments or as a result of the beatings (R 1561). At the time the subcamp was evacuated, the accused and other SS personnel shot inmates too sick to walk and those who tried to hide in order to avoid being evacuated. However, the witness merely saw the accused enter a barrack with a pistol in hand and heard shots and screams, but did not see any actual shootings by him (R 1562, 1563).

A third witness corroborated the testimony of the second witness as to the conditions in and the deaths which occurred in the hospital at Ohrdruf, as well as the accused's failure to attempt to remedy the situation (R 1524, 1525).

The accused testified that he was stationed at Buchenwald for seven and one half weeks for orientation and then sent to subcamp Ohrdruf where he was required to provide medical care for 1,000 inmates in addition to troops and civilian workers (R 4547, 4551). He immediately undertook a medical re-examination of all inmates and found 3000 of them unfit for work. He caused 2000 of the unfit inmates to be returned to Buchenwald (R 4558-4560). He set up a medical administrative office and had complete medical records made on all inmates (R 4561, 4562). The accused inspected the food of the inmates and objected

when he found the vegetable soup very thin (R 4565). At his instigation all inmate doctors and male nurses were taken off work details and given medical duties (R 4558). All information as to mistreatment of inmates coming to the attention of hospital personnel was reported to him and he passed the same on to his superiors (R 4571, 4572). He strictly forbade the beating or rough handling of inmates (R 4573). In the north camp some inmates, unfit for work, were quartered in horse stables and slept on straw while awaiting transport back to Buchenwald. Inasmuch as they did not work, they received only the normal ration (R 4575, 4576). Accused also testified that when he arrived at subcamp Ohrdruf in January 1945, there were 10 to 15 deaths daily, but in February and March this was reduced to five deaths daily (R 4549, 4577, 4578).

A defense witness testified that the accused forwarded about 500 dead certificates left by his predecessor (R 2689). The accused succeeded in obtaining considerable quantities of drugs and medical supplies from the army for subcamp Ohrdruf (R 1952, 3577).

Sufficiency of Evidence: The Court was warranted from the evidence concerning the extent and nature of his participation in its findings of guilty. However, the sentence of imprisonment for life is not warranted because the evidence does not satisfactorily establish that deaths or widespread abuse and ill-treatment were traceable directly to the accused.

Sentence: Life imprisonment.

Petitions: A Petition for Review was filed by defense counsel, Major Carl Whitney, 3 October 1947. A Petition for Clemency was filed by Colonel Gilbert Ackeman, Harry R. Pierce and William W. Robinson, members of the Court, 22 September 1947, recommending a reduction of the sentence from life imprisonment to five years' imprisonment. Clemency was recommended because there was no satisfactory evidence of personal cruelties committed by the accused, while there was considerable evidence showing that he did much good and made improvements in the camp under very difficult circumstances and conditions. Petitions for Clemency were filed by the accused's wife, Dr. Charlotte Grcunass, 1 September 1947; and Otto Kohler, 4 September 1947.

Recommendation: Approval of the findings and sentence, but that the sentence be reduced to imprisonment for 20 years, commencing 3 July 1945.

8. PHILIPP GRIMI

Nationality: German
Age: 38

Connection with Buchenwald:

- a) Period: 1 October 1940 — 30 November 1942 (R 4725, 4746)
b) Status: SS Second Lieutenant (R 4725)
c) Position: Labor Allocation Leader (R 4725)

Evidence: The accused testified that he was specially assigned to his job as labor allocation leader at Buchenwald by the SS Economic and Administrative Department in Berlin (R 4726). As labor allocation leader the accused was required to compile complete labor statistics on all inmates in the main and subcamps, make all labor allocations and supervise the labor service leaders, whose duty it was to cause the work details to fall out and to inspect their work (R 4727, 4728). One witness testified that the accused selected the 600 inmates, who were transported from Buchenwald to Auschwitz Concentration Camp in October 1942 (R 829). A second witness testified that the accused made up the list of names for the "invalid transports" for the purpose of eliminating inmates who were unable to work (R 1689, 1690). A third witness testified that in the fall of 1941, a Polish inmate was lying in the formation square. The accused kicked him in the side and said, "You lazy swine, get up". Then he jumped on the inmate's chest with both feet (R 1188). The witness never saw the victim after that (R 1184). A fourth witness testified that in October or November 1943 the accused beat inmates with a riding crop because their actions displeased him (R 1237, 1268).

The accused testified that as labor allocation leader, from October 1940 to November 1942, he processed the requisitions and took care of the bookkeeping concerning their daily work (R 4725, 4727, 4746). When orders came to detail inmates to a subcamp or to compose a transport to another concentration camp, the accused caused them to be selected on the basis of their skills. Those selected were examined for fitness for the transports by the camp physician and the transport lists included only those found to be fit (R 4733, 4734). Only inmates who were or could be allocated for work were covered by labor statistics card files (R 4738). The accused had nothing to do with making up an invalid transport to Belsen Concentration Camp in 1941, or a transport exclusively of Jewish inmates to Auschwitz Concentration Camp in 1942 (R 4737, 4738, 4739). The accused removed from the latter transport the skilled laborers needed in Buchenwald (R 4739). The accused was required to assure that inmates were allocated to the work intended, but not to determine whether they were doing the prescribed amount of work (R 4742). The accused asserted that he did not kick an inmate and jump up and down on his chest in the fall of 1941 (R 4745). He also denied that he beat inmates during the fall of 1943, at which time he had already left Buchenwald (R 4746, 4747).

Two defense witnesses and accused No. 26 testified that this accused, as labor allocation leader, had nothing to do with forming a transport exclusively of invalids or Jews, there being no application for labor in such cases (R 4150, 4151, 4643, 4644, 4701). Accused Nos. 24 and 26, who were at the gate each morning (apparently the formation square was visible from that point) testified that they did not see the accused kick and jump on an inmate in the fall of 1941 (R 4145, 4146, 5157).

Sufficiency of Evidence: The Court was warranted from the evidence concerning the extent and nature of his participation particularly that

relating to his occupying a very important managerial position which vitally involved the daily lives of the inmates for two years, in its findings of guilty. However, it is not believed the death sentence is warranted.

Sentence: Death by hanging.

Petitions: A Petition for Review was filed by defense counsel, Major Carl Whitney, 3 October 1947. Petitions for Clemency were filed by Mara Durr, 30 August 1946; Hans Muller, 10 May 1947; Margarete Neuman, 18 September 1947; Gottfried Purrucker, 18 September 1947; accused's mother-in-law, Barbara Moll, 20 September 1947; Ludwig Frosch, 22 September 1947; Karl Trautner, 22 September 1947; Alex Kaspar, 23 September 1947; Karl Feldmann, 24 September 1947; Hermann Grunewald, 24 September 1947; Fritz Hamel, 24 September 1947; Ernst Kohlus, 24 September 1947; Alfred Rosdor, 24 September 1947; Franz Stoss, 24 September 1947; Dr. Meyer, 25 September 1947; Dr. Seiberger, 25 September 1947; Adam Seeser, 27 September 1947; and accused's wife, Grete Grimm, 30 September 1947, together with a petition with 310 signatures.

Recommendation: Approval of the findings and sentence, but that the sentence be commuted to life imprisonment.

9. HERMANN GROSSMANN

Nationality: German

Age: 45

Connection with Buchenwald:

- 1) Period: 31 August 1939 — 11 April 1945 (R 5067)
- 2) Status: SS First Lieutenant (R 1421, 5067)
- 3) Position: Guard company commander, May 1940 — March 1943; camp commander of subcamp Wernigerode, March 1943 — June 1944; camp commander of subcamp Buchener Verein, June 1944 — March 1945 (R 5067, 5068).

Evidence: The accused was camp commander of subcamp Wernigerode and later of subcamp Buchener Verein from March 1943 to June 1944 and from June 1944 to March 1945, respectively (R 5067, 5068, 5106, 5107). One witness testified that in August 1943 there were 600 to 700 inmates in subcamp Wernigerode (R 1421). Included among them were Yugoslavs, Russians, Poles, French and Czechs. The food they received consisted of poor quality soup and bread. They were required to stand toll call from 0500 to 0600 hours. They worked 11 to 12 hours a day in an airplane factory (R 1429). Their physical condition was very poor. Each week transports of five to eighteen inmates who had collapsed were sent to Buchenwald. The witness never saw these men again (R 1422, 1423). During the fall of 1943 the accused kicked inmates with

his nailed boots and hit them with his riding crop when the columns were not kept straight (R 1421, 1423). The witness saw the accused beat prisoners on many occasions (R 1424). The witness was in the front row about 12 feet from the gullows when three Polish and three Russian inmates were hanged as a result of a mentally defective Polish inmate reporting that they intended to escape and liberate the camp in September 1943 (R 1425). The witness saw the accused standing about eight feet from the gallows (R 1425). The accused admitted that these hangings took place (R 5079-5081). The accused testified that all the prisoners in the subcamp were required to stand at attention in front of the gallows for one hour (R 5080).

A second witness testified that at subcamp Bochumer Verein the accused beat an inmate to death because he was not working hard enough (R 1454). He also shot three Russian inmates for stealing food (R 1456). The witness, an inmate at Bochumer Verein from June 1944 to March 1945, also testified that there were not enough beds for the inmates. For breakfast they received a half liter of black water instead of coffee; for lunch, one liter of soup made from grass; for supper, 100 grams of bread and 10 grams of sausage (R 1455).

A third witness testified that the accused was camp commander of subcamp Bochumer Verein, which was at the outset a construction detail (R 1463). According to the accused, after the subcamp was established the approximately 3600 inmates worked in a munitions factory (R 5083, 5080, 5091, 5124). The inmates worked twelve hours a day and received only a liter of soup and 250 grams of bread daily. About March 1945 they received one half liter of soup and 150 grams of bread daily. These were Czech, Russian, Polish, Hungarian, Rumanian, Jewish and German inmates (R 1464). In November 1944, the witness saw the accused shoot four Russian inmates who may have been looting during an air raid (R 1465, 1466). In October 1944, the witness saw the accused hit a Russian inmate six times across the back of the head with a rubber hose resulting in his death (R 1466, 1467). Bochumer Verein was evacuated about 14 March 1945. About 100 inmates were placed in each car where they remained about five days. They received one liter of soup before they left, but no food for the journey. In the car in which this witness rode, 30 inmates, including Czech and French, were dead when the car arrived at Buchenwald (R 1468).

A fourth witness testified that inmates of subcamp Bochumer Verein were beaten and kicked in the presence of the accused. Many inmates died as a result of these beatings and kickings. Working conditions compared with the worst extermination camp of the east. Inmates worked 12 to 14 hours a day. The camp doctor, a Czech inmate, said he had instructions from the accused to perform gasoline injections on the inmates (R 5450, 5451, 5453, 5458).

The accused testified that he was in charge of all the inmates at subcamp Wernigerode; that he was responsible for the proper use of the

inmates, their food and quarters, and for their continued productivity (R 5070). The inmates lived in four large wooden barracks which could be heated from the factory (R 5069). Following difficulty with the plant foremen because they tried to get more work out of the inmates than could be expected, the accused established a table of maximum production (R 5070, 5071). Although the accused did not have the right to do so, he caused corporal punishment up to five or six blows to be administered rather than to report infractions of rules to higher authority (R 5071, 5072). The accused did not kick marching details or otherwise mistreat them (R 5072). He had no riding crop at subcamp Wernigerode (R 5073). The six inmates executed at this subcamp were sentenced to death by the Reich Security Head Office (Himmler's). The accused had nothing to do with the executions (R 5079-5081). The accused testified that there was a loudspeaker system in camp over which inmates could hear music; motion pictures were shown once a week, and the inmates could play soccer on Sundays (R 5083). The accused testified that his assignment at subcamp Bochumer Verein after June 1944 was similar to his former assignment at Wernigerode and that at one time he had 1600 inmates therein (R 5086). While the subcamp was being constructed, the inmates received only normal rations as they were not doing production work. The accused secured additional food from the factory warehouse. Cabbage and spinach, but not grass, were used for soup (R 5088). After the inmates started working in the factory, the additional ration for heavy workers was approved (R 5123). The food was sufficient for the work required of the inmates (R 5122). The accused did not shoot several Russian inmates who were looting the warehouse during the air raid on subcamp Bochumer Verein in November 1944 (R 5094, 5097, 5098). Three barracks were destroyed in this air raid and it was necessary, as a temporary measure, to put two inmates in one bed (R 5098, 5099). In evacuating subcamp Bochumer Verein, 1300 inmates were placed in 26 covered railway cars (R 5100). The accused also testified that rations for three days were taken along and there was a wafer container in each car. Only two inmates died on the entire transport (R 5102).

Four defense witnesses testified that they never saw the accused carry a stick, club, or other object which could be used for beating. They never saw him beat inmates at subcamp Bochumer Verein (R 2454, 2460, 2726, 3933, 3934, 5001). These and one additional witness had never heard that the accused shot four Russian inmates for looting during an air raid (R 2457, 2723, 2727, 3935, 5003). Two of these witnesses testified that the inmates on the evacuation transport were fed each day (R 2739, 5006).

Sufficiency of Evidence: It is clear that the accused was camp commander of subcamps for two years; that during his administration at subcamp Wernigerode six inmates were publicly hanged in his presence; and that in his capacity as subcamp commander he permitted and personally subjected inmates to severe mistreatment. The Court was

warranted from the evidence in its findings of guilty. The sentence is not excessive.

Sentence: Death by hanging.

Petitions: A Petition for Review was filed by defense counsel, Major Carl Whitney, 3 October 1947.

Recommendation: Approval of findings and sentence.

10 HEINRICH HACKMANN

Nationality: German

Age: 33

Connection with Buchenwald:

- a) Period: September 1939 — January 1940 (R 3398)
- b) Status: SS First Lieutenant (R 3398)
- c) Position: Camp adjutant (R 3398)

Evidence: The accused admitted that he was camp adjutant from September 1939 to January 1940 (R 3398). One witness testified that the accused, as adjutant to Camp Commander Koch, was the personal representative of the camp commander and responsible for the work of the two or three protective custody camp leaders. The latter on alternate days were in effect officers of the day and had charge of all inmates in the camp. The roll call leaders worked for the protective custody camp leaders (R 283, 284, 286, 287). The witness stated that the accused was greatly feared by the inmates; that on one occasion inmates near the witness were kicked and beaten with a stick by the accused; and that the accused frequently mistreated inmates at roll call by striking them with his fists, beating them with a stick or whip, and by kicking them (R 296).

A second witness testified that the accused was always present when any official beatings took place (R 1239). In April 1940, the accused struck an inmate in the back of the head with his fist, knocking the victim against a wall, causing him to bleed (R 1239). The victim was taken to the hospital (R 1240). A third witness testified that the accused made inmates kneel and then kicked them in the scrotum (R 1356). To spit on the street was strictly forbidden by the camp commander. When the accused saw spittle on the street, he made the nearest inmate lick it up (R 1356, 1357). In the first half of 1940, the accused had two block leaders bend down a birch tree and made a Jewish inmate hold on to it. Then the block leaders released the tree and the inmate was catapulted into the stone quarry (R 1357, 1373). The third witness testified that about one month after Germany occupied France and Belgium (1940) the accused severely beat a Belgian inmate and a Dutch inmate with a leather whip about 1.20 meters long which he always carried (R 1713—1715). Accused No. 23 stated in his Statement that he served as a rifleman on an execution detail at the German

Amament Works in the first half of 1941. The accused was present and designated the individual that accused No. 22 was to shoot (R 5585; P-Ex 107A p. 5).

The accused testified that in January 1940 he was transferred to Berlin (R 3409). In 1943 he returned as an inmate to Buchenwald (R 3399). As adjutant he was in charge of personnel matters for members of the staff (R 3398), and had nothing to do with the protective custody camp or the inmates (R 3402). He was also legal officer and investigated suicides and shootings of inmates (R 3403, 3407). While he was adjutant there were no executions nor any detail 99 (R 3444). In April 1940, when he was alleged to have pushed an inmate's face against the wall and in 1941 when he was alleged to have hit a Belgian and a Dutch inmate with a whip, he was no longer in Buchenwald (R 3414). The accused did not make inmates kneel down and then kick them in the scrotum, nor make them lick the spittle on the ground (R 3413). He did not cause an inmate to be catapulted from a birch tree into the stone quarry (R 3414). The accused also testified that when he was adjutant he did not beat inmates, although he did so when he worked in the inmate compound in 1937 (R 3423).

Two defense witnesses, one the former inmate orderly of the accused, testified that they had never seen the accused beat or mistreat inmates during the time he was adjutant (R 1999, 2011, 3163).

Sufficiency of Evidence: The Court might well have concluded that the accused was not transferred to Berlin in January 1940; and that he continued as adjutant at Buchenwald until sometime during 1941. Although it is not shown that any specific deaths resulted directly from the acts of the accused or from the acts of others at his direction, in view of the responsibilities assumed and performed by the accused in his important position as adjutant, coupled with a continuous course of violence, it is clear that he was responsible for immeasurable mistreatment and suffering. The Court was warranted from the evidence concerning the extent and nature of his participation in its findings of guilty. However, the evidence as to the significance of his position and the evidence merely tending to assign responsibility to him for illegal killings does not satisfactorily establish that the death penalty is warranted. The sentence is excessive.

Sentence: Death by hanging.

Petitions: A Petition for Review was filed by defense counsel, Major Carl Whitney, 3 October 1947.

Recommendation: Approval of the findings and sentence, but that the sentence be commuted to life imprisonment.

11 GUSTAV HEIGEL

Nationality: German

Age: 54

Connection with Buchenwald:

- a) Period: 5 December 1941 — 10 April 1945. (P-Ex 56A p. 1)
- b) Status: SS Master Sergeant (P-Ex 56A p. 1)
- c) Position: Block leader; administrator of camp prison; guard platoon leader; supervisor of labor service (P-Ex 56A pp. 1, 28)

Evidence: In his Statement, the accused admitted that he was in charge of the camp prison from February 1943 to January 1945 (R 1770; P-Ex 56A p. 1). There were 26 cells in the camp prison. Each cell was 2.80 meters by 1.80 meters. Sometimes there were two, three, or even four inmates in each cell. The cells were built for only one inmate each. Inmates were sent there by the political department for "special treatment" on order of the camp commander (R 1770; P-Ex 56A pp. 2, 3). Those sent in for "special treatment" were chained by the accused a short time before the execution detail was formed. Then they were taken to the basement of the crematory and hanged. The accused was present at 50 to 70 executions at the crematory. On most occasions two to five inmates were executed, but on one or two occasions there were fifty inmates hanged. After August 1943 the accused was present at all executions with the exception of a few times when he was not on duty (R 1770; P-Ex 56A pp. 6, 7).

The accused also stated in his Statement that he prepared a total of 350 to 400 inmates, including the two large groups of Russians, for "special treatment". He transferred them either to the crematory or to the rifle range. About 30 went to the rifle range and about 350 went to the crematory (R 1770; P-Ex 56A p. 20). The accused attended all the executions on the rifle range. Most of the victims executed there were Russian inmates. Two were women spies (R 1770; P-Ex 56A p. 11). Although beating was forbidden, the accused beat inmates in the camp prison, once with his hands and once with a rubber club (R 1770; P-Ex 56A p. 16). The accused received the extra ration of cigarettes, liquor and sausage after each execution (R 1770; P-Ex 56A p. 14).

Accused No. 25 stated in his Statement that this accused aided in several executions by preparing the victims therefor and leading them to the place of execution. This accused fired shots on two occasions (R 1766; P-Ex 52A pp. 8, 10). In his Statement, the accused admitted that he fired mercy shots on two or three occasions (R 1770; P-Ex 56A p. 13). Accused No. 12 stated in his Statement that this accused gave mercy shots at executions on three occasions in 1943 (R 1744; P-Ex 39A pp. 3, 4).

Accused No. 13, who spent 23 days as a prisoner in the camp prison, testified that this accused treated him and other prisoners very decently and that he saw no beatings (R 4308).

Sufficiency of Evidence: The Court was warranted from the evidence concerning the extent and nature of his participation, particularly that relating to his position as administrator of the camp prison and his participation in illegal killings, in its findings of guilty. The sentence is not excessive.

Sentence: Death by hanging.

Petitions: A Petition for Review was filed by defense counsel, Major Cad Whitney, 3 October 1947.

Recommendation: Approval of the findings and sentence.

12 HERMANN HELBIG

Nationality: German

Age: 44

Connection with Buchenwald:

- a) Period: 1939 — April 1945.
- b) Status: SS, Master Sergeant
- c) Position: Charge of crematory, March 1943 — May 1944 (P-Ex 38A p. 1)

Evidence: One witness testified that he saw the accused and other camp personnel go to the German Armament Works on several occasions following September 1941. They took inmates with them. After a few minutes shots were heard and a little later inmates were seen carrying dead bodies to the crematory. The witness did not personally view the shootings (R 1188, 1192). In one of his Statements, the accused admitted that he served as a rifleman ten times in the years 1942 and 1943 on an execution detail at the target range of the German Armament Works. The victims were mostly Poles wearing inmate clothing. They were brought by the Gestapo. The execution orders always contained the phrase "On order of the Reichsführer" and stated the infractions to be train robbery or house breaking during a blackout. The execution orders contained nothing concerning trials. Altogether there were 15 to 30 victims at these ten executions (R 1744; P-Ex 39A pp. 1, 2).

The accused admitted in another Statement that he was in charge of the crematory at Buchenwald from March 1943 to May 1944. One of his tasks in that position was to act as the official executioner for Buchenwald. However, he did not specifically state that he had responsibility for executions at the horse stables by detail 99. In the years 1941 and 1942, between 3000 and 4000 inmates were shot in the horse stables. While the accused was in charge of the crematory there were about 500 executed at the horse stables (R 1743; P-Ex 38A pp. 1, 2). When an inmate was hanged the accused put the loop around the inmate's neck and adjusted the other end of the rope on a hook (R 1743; P-Ex 38A p. 6). The accused hanged about 250 inmates (R 1743; P-Ex 38A p. 11). Among the inmates who were cremated were Poles, Russians,

Dutch and French. On about ten occasions a body without a head came to the crematory from the pathological department, located next to the crematory, with an accompanying letter stating, "The head of the body (so and so) will be kept for scientific purposes." The gold was extracted from the teeth in the pathological department (R 1743; P-Ex 38A pp. 11, 12). The accused also executed six inmates by hanging at subcamp Wernigerode in August 1943, i. e., three Polish and three Russian inmates. The accused put the loop around the necks of the six inmates (R 1425, 1426, 1743; P-Ex 38A pp. 3, 5).

The accused's version of these six hangings is corroborated by a witness who was standing about 12 feet from the gallows (R 1425-1426). All of the eight inmates who worked in the crematory received cartons containing food, coffee and foreign cigarettes two or three times a month (R 1743; P-Ex 38A pp. 6, 7). The first witness referred to above testified that the accused received the extra ration of cigarettes and liquor distributed to members of execution details (R 1190, 1191, 1203, 1204).

Sufficiency of Evidence: The Court was warranted from the evidence as to the extent and nature of his participation, particularly that concerning his being in charge of the crematory and many executions, in its findings of guilty. The sentence is not excessive.

Sentence: Death by hanging.

Petitions: A Petition for Review was filed by defense counsel, Major Carl Whitney, 3 October 1947.

Recommendation: Approval of findings and sentence.

13. EDWIN KATZEN ELLENBOGEN

Nationality: Unknown
Age: 65

Connection with Buchenwald:

- a) Period: September 1943 — April 1945 (R 4204, 4291)
- b) Status: inmate (political) (R 511, 556, 4203, 4204)
- c) Position: Chief doctor of small camp (R 558, 4789)

Evidence: One witness testified that he accused held the position of chief doctor of the small camp and doctor in the small camp hospital in November 1943 (R 556). The small camp was located immediately behind the main camp. It was originally a tent camp. Later the inmates built wooden structures without windows (R 260, 261). The accused slapped and beat inmates of various nationalities including French, Belgian, Luxembourg, Polish, Russian and Czech (R 558, 613). During his stay in Buchenwald, the accused represented himself to be a psychiatrist (R 558).

A second witness testified that the other inmate doctors concluded

that the accused was a doctor, but there was some question about his qualifications as such (R 899). His psychiatric reports were well written, using the customary professional terminology (R 898). The accused was consulting psychiatrist at Buchenwald. He examined at least 60 Polish inmates to determine whether they were mentally qualified to be Germanized. He approved all of them thereby saving their lives because insane inmates were promptly eliminated (R 897). The accused always recognized a surgical case and sent it to the hospital in time (R 916). He lived in a room in the small camp hospital (R 904, 907). The accused was favored by the SS (R 905). He was an SS agent in France prior to coming to Buchenwald (R 527, 556, 898). If inmates did not have cigarettes, food or other gifts for the accused, he would not treat them. The Danish Red Cross sent parcels containing medicine, meat, eggs and butter to Copenhagen policemen, who were inmates in the small camp. The accused induced them to pay for his services with the contents of these parcels (R 559, 898, 910).

A third witness testified that the accused wore a red triangle without an "A", although he maintained that he once lived in America and had his first naturalization papers. The accused was a privileged inmate and was permitted to have good clothes (R 511). A fourth witness testified that when asked by inmates why he refused to treat certain inmates, the accused answered, "You are here in a concentration camp and not a sanatorium. You are just like your comrades, here to die like a dog and not be cured" (R 614). A fifth witness testified that the accused savagely beat inmates with his fists and kicked them (R 708). A sixth witness testified that in May 1944 the accused pulled a sick French inmate from a third tier bunk to the floor fracturing his skull on the side of the bed and causing blood to run down his shirt. The accused then said, "You Frenchmen can all croak." The victim did not regain consciousness and the accused did not give him medical aid. The next evening this inmate died (R 1625-1627).

The second prosecution witness, former chief inmate physician in the main camp, testified that he never saw or heard of the accused beating inmates of the small camp (R 905). A seventh prosecution witness, an inmate from June 1943 to April 1945, never saw or heard of mistreatment of inmates by the accused, although he saw him almost daily (R 1493, 1503, 1504).

The accused testified that he was born in a part of Poland which was at that time under Austrian rule. He studied medicine and received his degree as a doctor of medicine. He established a residence in the United States in 1905, and in 1910 he was naturalized as an American citizen (R 1194, 4195, 4196). He left the United States in 1915 and never returned for permanent residence (R 4200). (It clearly appears from his testimony that he was never in the United States after 1933.) Upon preliminary questioning by the Court, the accused stated, "I was an American citizen but since I have been more than five years away from there, I suppose I have lost my citizenship" (R 24). In 1941 he was

arrested in Paris, France, by a German counter intelligence organization. In 1943 he was sent to Buchenwald as an inmate (R 4201, 4204). In Buchenwald he was assigned as a doctor in the small camp (R 4214). In October 1944 he was transferred to the hospital in the main camp where he treated children, helped in the dispensary and did scientific research. Thereafter he had no connection with the small camp (R 4228).

The accused further testified that in December 1944 the accused was held in the camp prison for about three weeks on a charge of having smuggled letters out of the camp (R 4230). The accused treated the chief doctor of Buchenwald as a patient and had some influence over him. He used this influence to obtain the appointment of inmate doctors for each block and not for the purpose of jarning other inmates (R 4238, 4239, 4245, 4387). The accused treated as patients and was on familiar terms with the SS personnel at Buchenwald (R 4240 4241, 4244). The illegal camp administration at Buchenwald was in the hands of inmates who were German communists and, as the accused was not diplomatic, he was in conflict with them constantly (R 4261—4263). The supply in the camp being insufficient, the accused caused drugs to be purchased outside of camp. He administered these drugs gratuitously to those who had no money. He sold them at cost, plus ten percent, to those who had money (R 4226, 4274, 4388). The accused made false reports about the sanity of Polish inmates to save them from being gassed at extermination camps (R 4271). The accused also testified that he did not pull a sick French inmate from a third tier bunk resulting in a fracture of his skull and death (R 4288—4290).

Six defense witnesses, all former inmates, some of whom were inmates of the small camp, testified that they never saw or heard that the accused beat or killed inmates (R 2297 2323, 2649, 2657, 2695, 4790). One of them added that the accused sometimes shook the inmates a little and spoke rudely to them (R 4700). The accused treated one of these witnesses during off duty hours and did not ask payment for his services or for the drugs (R 2318, 2321). The accused was disliked and distrusted by the inmates because of his relationship with the SS doctors (R 2647, 2651, 4791, 4794). One of these witnesses, a French doctor who was an inmate in Buchenwald from January 1944 to April 1945 and a doctor in the small camp hospital, never heard of the incident in May 1944 when the accused was alleged to have dragged an inmate from his bunk resulting in his skull being fractured. The witness testified that he would probably not have heard about such an incident because he was not permitted to go to the barracks (R 4791).

Sufficiency of Evidence: It is clear that the accused, although an inmate, co-operated with the SS personnel managing the camp and participated in the common design. It is also clear that he beat and otherwise mistreated inmates. However, it is not satisfactorily established that illegal killings resulted from his acts or the acts of others at his direction. The Court was warranted from the evidence concerning

the extent and nature of the accused's participation in its findings of guilt. However, it is not believed that the extent and nature of his participation warrants imprisonment for life. For discussion of the jurisdiction by the Court of the person of the accused, see Section V, A, 3, supra. The sentence is excessive.

Sentence: Life imprisonment.

Petitions: A Petition for Review was filed by defense counsel, Major Carl Whitney, 3 October 1947. A Petition for Clemency was filed by Olga Pilat, 20 September 1947.

Recommendation: Approval of findings and sentence, but that the sentence be reduced to imprisonment for 15 years, commencing 24 October 1945.

14 JOSEF KESTEL

Nationality: German
Age: 42

Connection with Buchenwald:

- a) Period: October 1940 — September 1942; 29 March 1945 — 11 April 1945 (P-Ex 46A p. 1)
- b) Status: SS, Master Sergeant (R 2453 P-Ex 46A p. 1)
- c) Position: Block leader; stone quarry detail leader (R 2424; P-Ex 46A p. 1)

Evidence: One witness testified that the accused was the stone quarry detail leader (R 1555). In the beginning of 1941 the accused beat a Polish inmate to death with a spade handle in the stone quarry (R 1596, 1597). The accused held the witness' head between his knees while a capo gave him 13 blows with a thick cane or club (E 1597). Beatings by the accused in the stone quarry very often caused the victims to bleed and lose consciousness (R 1597). A second witness testified that in the stone quarry in May or April 1941, the accused took rocks which were too small for requirements away from Dutch inmates and threw the rocks at them (R 969, 970, 1031).

Three additional witnesses testified that as punishment inmates were sent to the severe labor stone quarry detail. Weak and undernourished inmates were forced to perform this labor at double time. Many inmates died from abuses there (R 77, 243, 772—775). Two defense witnesses testified that there were killings and beatings in the stone quarry while the accused was detail leader there (R 2989, 4880). One of them said that sometimes the accused was in the quarry while beatings were administered (R 4863).

In his Statement, the accused admitted that he knew that his subordinate chief capo as well as other capos beat inmates with sticks 70 centimeters long and about one finger thick. The accused was stone

quarry detail leader from the first of February 1941 to January 1943. After the inmates were beaten they were required to continue working regardless of their condition. The chief capo lost his temper easily and was very much feared by the inmates. The inmates worked 10 to 12 hours each day carrying stones, pushing lorries, and loosening and breaking stones. The whole situation in the quarry was one of horror because the inmates were required to perform labor beyond the capabilities of human beings. The stone quarry detail was comprised of 400 to 500 inmates who worked from 0600 hours until 1800 hours. The accused never turned in a written report against any of the inmates (R 1760; P-Ex 46A pp. 1, 2).

The accused testified that the stone quarry detail consisted of inmates from the punishment company (R 2425). When the accused took over the detail he found that two capos were mistreating the inmates. He stopped the beatings. He increased the number of inmates working on each car from 16 to 30 (R 2426). The accused admitted that he might have slapped some of the inmates because of infractions of the rules (R 2431). However, he denied that he ever beat an inmate to death or into unconsciousness; that he threw rocks at inmates; or that he ever held the head of an inmate between his legs while a capo beat him (R 2426, 2433). The accused admitted that the capos in the quarry were responsible to him (R 2441).

Two defense witnesses, formerly inmates on the stone quarry detail, testified that they never saw the accused beat or kill anyone and never heard that he did so (R 2983, 2984, 4818, 4859).

Sufficiency of Evidence: The Court was warranted from the evidence as to the extent and nature of his participation, particularly that relating to the deaths in the stone quarry which were traceable directly or indirectly to the accused, in its findings of guilty. The sentence is not excessive.

Sentence: Death by hanging.

Petitions: A Petition for Review was filed by defense counsel, Major Carl Whitney, 3 October 1947. A Petition for Clemency was filed by accused's wife, Else Kestel, 21 August 1947; and by Hans Moederl, 24 October 1947.

Recommendation: Approval of findings and sentence.

15. ILSE KOCH

Nationality: German
Age: 40

Connection with Buchenwald:

- a) Period: September 1939 — June 1943 (R 68, 1354-3697)
- b) Status: Civilian (R 3708)
- c) Position: Wife of camp commander (R 3497)

Evidence: The accused was the wife of Camp Commander Koch. One witness testified that in the beginning of the year 1941 he issued an order to the effect that orders by her were to be obeyed to the same extent as if he had given them (R 1367). The accused stayed at the camp after her husband left, i. e., until June 1943 (R 1353, 1354). Two witnesses testified that Camp Commander Koch left Buchenwald in January or February 1942 (R 68, 463). A fourth witness testified that in June 1940 the accused reported him to the camp commander because he drank a glass of wine. As punishment the witness was "called to the gate" where he was beaten and forced to run across a pile of rocks several times. He also received 25 lashes with a stick. Later he was taken to the camp prison and was hanged by his arms for three hours (R 1233).

One of the witnesses mentioned above and a fifth witness testified that in the fall of 1941 the accused told her husband, "This dirty Jewish pig dared to look at me". Koch then beat the inmate so severely that it was necessary to carry the victim away. The accused was present the entire time (R 44, 462, 1661). A sixth witness testified that in the spring of 1941 Koch beat an Austrian inmate severely with a riding crop and kicked him in the presence of the accused after she said, "Have a look at this dirty Jewish swine off there, too lazy to work. I don't want to see him any more. All he does is stare at you anyway" (R 986). She ordered the SS lieutenant in charge of the detail to put a stop to it at once. The SS lieutenant then overworked the inmate for about one hour resulting in his collapse. According to a death report received in the witness' block, the victim died the next day (R 987, 988, 1016).

A seventh witness testified that in summer of 1942 the accused complained that a detail of 11 inmates working near her house had picked berries. As punishment five of the inmates received the "25 lashes" punishment. The balance received five blows on their nude bodies (R 1113, 1114, 1120, 1121). An eighth witness, who often worked at the Koch house, testified that in the summer of 1942 he saw, while proceeding to the Koch house, the accused hit a Jewish inmate in the face and on the body with a stick (R 1337, 1344).

The first witness mentioned above, testified that in the beginning of 1940 he and a Czech chaplain were digging a deep ditch. They looked up and saw the accused standing astride the ditch. She wore a short skirt but no underwear. She inquired, "What are you doing looking up here?"; following which she beat them with her riding crop causing the Czech chaplain to bleed from the face and nose (R 1360, 1361, 1381, 1382). In 1941 or 1942 columns of Jewish inmates were forced to carry heavy rocks from the stone quarry to the accused's house. These inmates were weak and could not run. The accused hit some of them with her riding crop causing a number of them to fall and knock others down. Many severely injured Jewish inmates were carried into camp in the course of the day (R 1366).

The fourth witness, above mentioned, testified that there were two

lamp shades in the bunge of the home of the accused, said to have been made from human skin. One appeared to have tattoos on it (R 1257-1259). The accused had a photo album, a brief case and a pair of gloves made from tattooed skin (R 1362, 1363, 1385). In the summer of 1940 a French or Belgian inmate named Jean, was waking without his shirt. He had some excellent tattoos, including a colored cobra winding all the way up his left arm (R 1363) and an especially cleanly tattooed sailboat with four masts on his chest. The accused rode over and said to him, "Let's work faster, faster", then she took his number. This inmate was called to the "gate" at evening formation and was not seen again. The witness asserted that six months or more later he saw in the pathological department a skin with the same sailboat he had seen on Jean (R 1364). He asserted that later he saw this same skin on an album belonging to the accused (R 1365, 1389, 1390, 1393). A ninth witness testified that in 1941 he heard that a lamp shade of tattooed human skin was delivered to the accused (R 375, 400, 406). It was common knowledge in the camp that after the accused saw tattooed inmates they were called to the hospital and killed in order to obtain their tattooed skin (R 375).

A tenth witness, who conducted an investigation at Buchenwald in 1943 of the affairs of Colonel Koch, testified that in the course of his investigation reports were made to him that this accused was responsible for having inmates beaten (R 2740, 2829).

The accused testified she never rode horseback alone and never carried a riding crop (R 3639). She wore complete riding dress including riding pants, boots and jacket (R 3698, 3719). In October 1941 she fell from a horse and did not ride thereafter (R 3698, 3699). She never entered the protective custody camp (R 3705). The accused admitted that she reported two inmates to the camp commander. She reported her house orderly who smashed glassware and bottles of wine, broke open a cabinet, scattered her clothes, and was found lying in the basement completely drunk (R 3707, 3708). She also reported another inmate who had been missing for a day and whom she found in her basement (R 3709). In each case she called the camp commander but she did not suggest the punishment to be given the inmates (R 3709). She could not have beaten Jewish inmates in the face with a riding stick in the summer of 1942 because she was absent from Buchenwald from May to October 1942 (R 3719). The accused never beat inmates (R 3720).

The accused further testified that she had no lamp shades made of tattooed human skin in her house. She never heard of a lamp of that kind at Buchenwald and never ordered one made (R 3701, 3702, 3717). She never had gloves, a photo album, or a family chronicle made of human skin (R 3702, 3718). As to the operation of the camp, neither the work nor the internal matters concerned her. She was a housewife with three children and was occupied at home (R 3706, 3707). She never told her husband how Buchenwald should be run nor how inmates should be treated (R 3711). The accused also testified that she had no power or

authority as to Buchenwald either before or after her husband left in October or November 1941 (R 3711, 3712).

Accused No. 21 and three defense witnesses, who searched the house of the accused in 1943 during the criminal police investigation of Colonel Koch, testified that they found no lamps or other articles made from tattooed human skin (R 1947, 2002, 2003, 2805, 2928). Two other defense witnesses, a sister-in-law and a brother-in-law of the accused, who visited in the Koch house occasionally during 1941-1943, denied seeing such articles (R 2969, 2973). Three of the above mentioned defense witnesses, two of whom were former inmates and the third who made an investigation at Buchenwald, testified that they never saw the accused beat inmates or heard that she did so (R 1965, 2001, 2007), but two of them had heard that the accused reported inmates, who were beaten as a result (R 1968, 2807, 2830). A sixth witness, who often accompanied the accused on rides prior to June 1941, never saw her stop at a work detail and take down the numbers of inmates (R 3161).

Sufficiency of Evidence: The evidence establishes that the accused reported inmates for infractions and violations of camp regulations on several occasions; that she knew severe punishments were customarily administered in similar cases; and that some of the inmates she reported were severely punished. The accused personally beat an inmate on at least one occasion. The Court was warranted from the evidence in concluding that the accused encouraged, aided and participated in the execution of the common design. However, the extent and nature of her participation do not warrant imprisonment for life. The sentence is excessive.

Sentence: Life imprisonment.

Petitions: A Petition for Review was filed by defense counsel, Major Carl Whitney, 3 October 1947. A Petition for Clemency was filed by defense counsel, Major Carl E. Whitney, 18 September 1947.

Recommendation: That the findings and sentence be approved, but that the sentence be reduced to imprisonment for four years, commencing 18 October 1945.

16. EICHARD KOEHLER

Nationality: German
Age: 31

Connection with Buchenwald:

- a) Period: November 1944 — April 1945 (R 4056, 4068)
- b) Status: SS Sergeant (R 4084; P-Ex 42A p. 1)
- c) Position: Railway unloading detail leader at subcamp Ohrdruf; guard on inmate evacuation transport (R 4056; P-Ex 42A pp. 1-3)

Evidence: The accused admitted in his Statement that he was a railroad unloading detail leader at subcamp Ohrdruf from November 1944 to

April 1945 and that he aided in an inmate evacuation transport (R 1756, 4053; P-Ex 42A pp. 1-3). One witness testified that subcamp Ohrdruf was organized in November 1944 and that the accused came there in January 1945 (R 1566). The accused was a detail leader in the subcamp and during a period of several weeks the witness saw him beat inmates to death almost daily (R 1563, 1564). On about 10 January 1945, the witness saw the accused strike a French doctor inmate on the head with a shovel causing his death in the presence of the witness about 20 minutes later (R 1564, 1565, 1585, 1588). A second witness testified that the accused was seen beating the inmates in the formation square almost every day. During a period of three weeks the witness saw the accused beat 20 to 30 inmates including Poles, French, Russians, Italians, Czechs and Hungarians (R 1530, 1532). In the roll call square, the accused beat an inmate on the head until he fell to the ground in a pool of blood and then kicked him (R 1531).

In his Statement, the accused stated that throughout the period of his assignment to Ohrdruf he was detail leader and guard leader of railroad unloading details at Arnstalt and Krawinkel. In Arnstalt he supervised six to eight guards and 50 to 60 inmates. In Krawinkel he supervised 10 to 14 guards and 100 to 150 inmates. The inmates loaded and unloaded construction materials. In these details were Poles, Russians and a few Germans (R 1756; P-Ex 42A p. 1). The accused went to Buchenwald about 5 April 1945. On about 14 April 1945 he left Buchenwald with a transport of about 1200 inmates which reached Flossenbürg Concentration Camp about three days later. The inmates were unloaded at Tachau and proceeded by marching. The accused shot eight to twelve of these inmates because they were not able to march any further (R 1756; P-Ex 42A pp. 1-3).

The accused testified that he did not beat inmates in the formation square; that he did not beat the 20 to 30 inmates of various nationalities; and that he did not beat an inmate, on the formation square, and kick him as he lay in a pool of blood (R 4056, 4057). The accused was never inside the subcamp because members of the guard company were not allowed to enter (R 4057, 4058, 4109). His duties were to pick up inmates outside the camp gate (R 4109). The accused did not beat a French doctor inmate to death (R 4058, 4059).

The accused further testified that he left Buchenwald on a transport to Flossenbürg on 3 April 1945. On 10 April 1945 the transport was bombed by the Americans and the inmates suffered from gas poisoning when nearby cars of poison gas were hit (R 4068, 4069). The inmates were unbaded at Tachau (R 4075). Several days after the bombing the accused found four inmates lying on the ground at Schoenwald, blue in the face with froth at their mouths, suffering from gas poisoning. Most of the inmates had marched on towards Flossenbürg. Two of these four were still conscious and begged the accused to give them mercy shots. The lieutenant in charge ordered him to do so, adding that the inmates could "not be saved". When the accused hesitated the lieutenant again

directed the accused to shoot adding that it would make it easier on the inmates. Thereupon, the accused shot the four inmates in the lieutenant's presence (R 4075, 4077, 4078). The accused did not shoot eight to twelve inmates on the march as appears in his Statement.

The accused further testified that his Statement was not true in some respects and was made by him only because he had been beaten and threatened by former inmates of Buchenwald in the presence of an American commander in the town of Natterberg during an interrogation about two years before (R 4079-4081). The accused asserted that the American interrogator who took his Statement (P-Ex 42A) made veiled threats of violence, if he did not state what the interrogator desired (R 4098, 4101). The investigator denied all such assertions (R 532, 5533).

Sufficiency of Evidence: The accused's testimony is vague as to threats by an interrogator at Dachau. The interrogator denied all such assertions. It was for the Court to determine whether the accused was interrogated in an improper manner and whether the accused was induced to state truths therein. The accused's testimony as to the methods used in the interrogation is not persuasive. In any event the accused by his testimony admitted the illegal killings.

Relative to the killing of the four injured inmates, the accused contended that he was forced to do so by his lieutenant. It appears that the lieutenant urged or commanded the accused, as a sergeant, to shoot the inmates. The accused in conformity therewith shot the inmates in the presence of his superior. The evidence as to the circumstances, including the discussion as to putting the victims out of their misery, shows that the accused did not shoot unwillingly. The accused's desire to co-operate with and please superiors was more important than other considerations. He did not act under immediate compulsion and failed to meet the burden of proof as to superior orders required by the pertinent authorities discussed in Section V, supra.

The Court was warranted from the evidence as to the nature and extent of his participation, especially that relative to illegal killings, in its findings of guilty. The sentence is not excessive.

Sentence: Death by hanging.

Petitions: A Petition for Review was filed by defense counsel, Major Carl Whitney, 3 October 1947. Petitions for Clemency were filed by accused's mother-in-law, Charlotte Kabasch, 19 August 1947, Fritz Kabasch, 19 August 1947; accused's father, Reinhold Lszurtzig, 1 September 1947; and accused's wife, Gertrud Koehler, 21 September 1947.

Recommendation: Approval of the findings and sentence.

17. HUBERT KRAUTWURST

Nationality: German

Age: 23

Connection with Buchenwald:

- a) Period: 17 January 1942 — 10 April 1945 (R 3540, 3541)
- b) Status: SS Sergeant (R 169, 3547)
- c) Position: Gardening detail member or leader (R 3541)

Evidence: The accused in his testimony admitted that in January 1942 he was assigned to the fourth guard company, during which time he did temporary duty with the gardening detail (R 3540, 3541). One witness testified that the accused was leader of the gardening detail and that he saw the accused kick and beat inmates on several occasions (R 169, 170). A second witness testified that in the spring of 1942, while he was working on the gardening detail, the accused gave him a heavy blow on the back with a club because he was not working fast enough (R 1953, 1054, 1057, 1060). A third witness, who worked on the gardening detail which was a punishment detail, testified that on 1 May 1942 or 1943, the witness definitely remembering it was "May Day", the accused kicked out the eye of a French inmate who died the same day (R 1107, 1108, 1111, 1113). The same day the accused killed two Polish inmates and one Russian inmate by dumping dirt upon them. The witness helped haul the bodies of the four victims away (R 1107, 1111, 1113). A fourth witness, who was a doctor in the main hospital, testified that at least five seriously injured inmates who came to the hospital for treatment said they had been injured by the accused (R 848, 860, 895). A fifth witness testified that the accused beat inmates with a club (R 971). He pushed an inmate into a vat filled with manure and stepped on the inmate's hands when he attempted to get out. The inmate was dead soon after he was removed from the vat (R 971). As punishment the accused made inmates on the gardening detail kneel on iron chicken wire with loose bricks under their toes. Often their knees became infected (R 971, 972, 935).

The accused testified that he was on the gardening detail at Buchenwald (R 3540, 3541). When inmates violated the camp rules by stealing from each other or running away from the detail, he punished them with slaps in the face but not hard enough to cause them to need medical attention (R 3542, 3544, 3551). If he had reported them, they would have received the "25 lashes" as punishment (R 3544, 3551). The accused denied that he beat inmates to speed their work (R 3542); that he buried them under dirt (R 3549); that he kicked out the eye of an inmate (R 3550); or that he caused an inmate to fall into a settling pond (manure vat) and drown (R 3546). The accused secured leftover food from the kitchen for the inmates of his detail (R 3551). The accused also testified that the witnesses against him testified out of national hatred and because of mistaken identity (R 3552, 3554).

One of the prosecution witnesses mentioned above testified that the accused gave him and other Jewish inmates a heavy laborer's ration for good work (R 1036 1037).

A defense witness who had been in charge of the construction of the settling pond testified that he never heard of a man drowning in it (R 5944).

Sufficiency of Evidence: The Court was warranted by the evidence concerning the extent and nature of his participation, including that relating to his position and particularly that as to his killing inmates, in its findings of guilty. The sentence is not excessive.

Sentence: Death by hanging.

Petitions: A Petition for Review was filed by defense counsel, Major Carl Whitney, 3 October 1947. Petitions for Clemency were filed by accused's mother, Hildegard Krautwurst, 21 August 1947 and 2 September 1947; and by Hans Moederl, 34 October 1947.

Recommendation: Approval of the findings and sentence.

18 HANS MERBACH

Nationality: German
Age: 37

Connection with Buchenwald:

- a) Period: December 1939 — May 1941; October 1941 — 15 May 1942; October 1942 — December 1942; 31 January 1945 — 7 April 1945 (R 3200, 3203, 3204, 3206, 3207).
- b) Status: SS, First Lieutenant (P-Ex 43A p. 1)
- c) Position: Adjutant of guard company; commander of guard company; second prison compound commander; commander of evacuation transport (R 3200, 3204, 3207, 3208)

Evidence: The accused admitted in his testimony that he served as adjutant of the guard company, as commander thereof, as second in charge of the camp prison, and as commander of an evacuation transport which marched to Weimar and entrained at that point (R 3203, 3204, 3206, 3207). One witness testified that in the spring of 1940 the accused beat two inmates, who were working on a detail with the witness, with a stick or spade handle until they collapsed unconscious. He said he beat them because they were working too slowly. By the time they were taken to the camp, they were dead (R 1592, 1593).

A second witness testified that the accused was the leader of the evacuation transport which left Buchenwald on 7 April 1945 (R 1462; P-Ex 30A). About 300 to 350 dead inmates who had been shot to death lay along the side of the road from Buchenwald to Weimar; a distance of 12 kilometers. The accused shot ten of them. The victims were French, Russian, Hungarian, Romanian and Jewish (R 1457). The transport went to Dachau (R 1455, 1460). The inmates were loaded in box cars

at Weimar (R 1457). Beyond Pilsen the accused shot 40 of the inmates to death in the presence of the witness (R 1458). He ordered French inmates, filling three cars, to leave the train and with the help of the other SS personnel he shot them to death (R 1459). The transport ended at Dachau Concentration Camp on 28 April 1945. Of the 5000 inmates who left Buchenwald on this transport, only 1100 arrived at Dachau. The witness weighed 35 kilos when he arrived there (R 1460).

A third witness testified that the accused told the guards on the transport that, if an inmate fell even one pace out of line, he was to be shot (R 1473). They buried 1500 to 2000 bodies from this transport near Munich where they stopped for several days (R 1481, 1487, 1488). Following this mass burial the SS personnel shot 30 to 40 of the inmates, mostly Russians and Poles, who had been helping to bury the bodies (R 1483). The witness did not see the accused at the scene of this shooting (R 1482). During the first two or three days of the transport, the inmates received potatoes. During the next five or six days, they received bread distributed on the basis of one loaf weighing two kilograms to be divided among 20 inmates. The inmates received nothing to eat during the following ten days (R 1483).

The accused testified that as adjutant of and later as commander of the guard company, he had nothing to do with the work details (R 3201). He was not present at nor did he beat inmates in a work detail in 1940 (R 3213, 3203). The accused admitted that he had charge of an evacuation transport containing 4000 to 4500 inmates, which left Buchenwald on 7 April 1945 for Flossenbürg Concentration Camp. The inmates marched to Weimar, about nine kilometers, and then proceeded by train (R 3208). The accused saw about 15 dead inmates on the road to Weimar. He did not shoot inmates or hear any shots fired. He assumed that the bodies came from transports which had been coming from subcamps to Buchenwald, since the second of April 1945 (R 3210, 3211).

The accused further testified that his transport was to spend 24 hours on the train (R 3208). Rations for each inmate consisted of 500 grams of bread, a kilogram of potatoes, 25 grams of margarine, and 50 grams of meat products (R 3212). While en route, the accused learned that the transport would go to Dachau Concentration Camp instead of Flossenbürg Concentration Camp (R 3213). The accused telephoned Buchenwald for additional rations and was told that, as much as there was barely enough bread left there, he would have to get food from army ration dumps en route (R 3214). As the transport proceeded, the accused sought food wherever possible. He was refused at the economics office in Zeitz, as there was barely enough for the civilian population (R 3214). He was unable to obtain food at the army ration office in Leipzig. In Dresden there were too many refugees (R 3214). He secured 300 loaves of bread and 3000 pieces of cheese in Pilsen (R 3219). At Deggendorf he obtained army canned soup. At Kamering he procured two tons of potatoes from farmers (R 3219).

After a delay of six or seven days the train was divided into three sections (R 3226). At that time there were 3550 inmates left. Between 400 and 450 inmates had escaped; about 15 were shot while trying to escape; and 400 to 480 had died a natural death (R 3223—3225). The section of the transport accompanied by the accused arrived at Dachau Concentration Camp on 26 April 1945 (R 3222). The accused had no control over the route of the train, which was in the hands of the Reichs Railroad Company (R 3215). The accused also testified that he did not shoot or mistreat inmates (R 3217).

Three defense witnesses testified that the accused, as adjutant of the guard company, had nothing to do with the inmates nor the supervision of work details (R 3156, 3175, 3189). One of these witnesses and three additional witnesses testified that the accused was a quiet, decent man (R 3009, 2608, 3157, 3171).

Sufficiency of Evidence: The Court was warranted from the evidence as to the extent and nature of his participation, especially that concerning the deaths at his hands and the innumerable killings on the transport in his charge, in its findings of guilty. The sentence is not excessive.

Sentence: Death by hanging.

Petitions: A Petition for Review was filed by defense counsel, Major Carl Whitney, 3 October 1947. Petitions for Clemency were filed by accused's father, Paul Merbach, 28 August 1947; Wilhelm Hanewinkel 1 September 1947; accused's wife, Katho Merbach, 3 September 1947 and 3 September 1947; 188 inhabitants of the town of Siebleben 2 September 1947; and by William W. Rasch, 19 September 1947.

Recommendation: approval of the findings and sentence.

1. PETER MERKER

Nationality: German

Age: 57

Connection with Buchenwald:

a) Period: September 1939 — 27 February 1945 (R 3329, 3330)

b) Status: SS, Technical Sergeant (R 2555, 3348)

c) Position: Supply sergeant of guard company; block leader; commander of subcamp Gustloff Works, October 1943—February 1945 (R 711, 1665, 3329, 3330)

Evidence: The accused admitted in his testimony that he served as supply sergeant of the guard company, as block leader, and, during the period October 1943 to February 1945, as labor detail leader at the Gustloff Works (R 3329, 3330). He had charge of the subcamp and his

position was the equivalent of a subcamp commander (R 3333, 3352, 3353). One witness testified that in February 1944 there were 800 inmates at subcamp Gustloff Works and later the subcamp contained 2000 inmates (R 1670). There were two camps for inmates at the Gustloff Works, one known as the old camp and the other known as the new camp (R 5610, 5611). The accused severely mistreated inmates (R 1665). When inmates broke parts to their machines, the accused punished them by 25 strokes on the back with a stick or rubber hose (R 1666, 1674).

A second witness, a French air force colonel, testified that inmates were locked in barracks during air raids at subcamp Gustloff Works on 9 February 1945. After the first bombs fell some of the inmates escaped from the barracks and entered the underground shelters (R 5615). The accused smiled when he saw bodies being taken from air raid shelters which had been hit by bombs (R 5615, 5616, 5620). He kicked some of the wounded inmates, including the witness, while they were lying lined up on the ground (R 5617, 5620, 5595; P-Ex 112A). The witness also told about an inmate being beaten in the presence of the accused. A guard knocked him to the ground with a spade, causing him to bleed (R 5585, 5612; P-Ex 112A). The first witness and a third witness testified that the accused was camp commander of subcamp Gustloff Works (R 711, 1665).

The accused testified that from his arrival at Buchenwald until February 1943 he was supply sergeant for the guard battalion (R 3339). He was then made block leader of blocks 4 and 10, where only German habitual criminals were quartered (R 3329). In October 1943 he was sent to subcamp Gustloff Works at Weimar and remained there until 27 February 1945 (R 3330). As senior noncommissioned officer he was in charge of security and all other matters at the subcamp (R 3353, 3354). At the time of the air raid in February 1945 there were about 2000 inmates at Gustloff, including German, Russian, Polish, Czech, Belgian, Dutch, French and Yugoslav (R 3336). From October 1943 until this air raid there were only two deaths, both from natural causes, in the subcamp (R 3333). Two inmates never had to sleep in one bed (R 3339). On about eight or ten occasions the accused administered punishment to inmates, consisting of standing by the gate for two hours, extra work for three or four hours, or, for a third offense, 10 or 15 blows on the buttocks (R 3337, 3338, 3361, 3362). Such punishment occurred only after sabotage action started in October 1944, destroying valuable machinery (R 3337, 3338). Inmates guilty of sabotage requested punishment by the accused in order to avoid being reported to Buchenwald, where they would have been punished more severely (R 3337, 3338, 3361, 3362).

The accused further testified that when an air raid alarm sounded the caps and foremen had orders to march the inmates to slit trenches on the double (R 3340). There were no slit trenches in the new camp but the rear gate was open and the guards had orders to move back 1000 meters and allow the inmates to disperse in an area of low ground

(R 3341). The camp eldest, the block eldest and other inmate administrative personnel were responsible for removing the inmates to this area (R 3342, 3368). At the time of the air raid on 9 February 1945, the accused was away from the subcamp (R 3342, 3343, 3370). On his return he learned that two bombs had fallen into the air raid shelter in the old camp, killing 307 and seriously wounding 187 inmates (R 3345). Five SS men were also killed (R 3346). The accused also testified that the doors and windows of the barracks were not locked during the air raid (R 3368) and that he did not kick wounded inmates after the raid (R 3371).

Sufficiency of Evidence: The evidence establishes the accused was camp commander of subcamp Gustloff Works during which time inmates therein were beaten and mistreated by him and at his direction. The Court was warranted from the evidence concerning the extent and nature of his participation in its findings of guilty. However, it is not established that he was responsible for the deaths resulting from the air raid or that the nature and extent of his participation were such as to warrant the death sentence.

Sentence: Death by hanging.

Petitions: A Petition for Review was filed by defense counsel, Major Carl Whitney, 3 October 1947. A Petition for Clemency was filed by Anna Schwetje, 9 October 1947; and by the accused, 19 October 1947.

Recommendation: Approval of the findings and sentence, but that the sentence be commuted to imprisonment for twenty years, commencing 1 May 1945.

20 WOLFGANG OTTO

Nationality: German
Age: 35

Connection with Buchenwald:

- a) Period: 1 September 1939 — 11 April 1945 (R 4475; P-Ex 45A p. 1)
- b) Status: SS Sergeant (P-Ex 45 A p. 1)
- c) Position: Guard; pay clerk summer 1940 — November 1941; clerk in camp headquarters November 1941 — summer 1943; acting first sergeant of headquarters staff 1943—1945 (R 4475, 4476)

Evidence: Two witnesses testified that the accused, as acting first sergeant, coordinated the activities of detail 99 (R 1370, 1683). A third witness testified that from 1943 to 1945 the accused served as a rifleman on an execution detail about five times (R 1304, 1305). In his Statement, the accused admitted that he participated in about 50 executions and was present when about 200 foreign inmates were executed. He acted

as recorder for some executions. The victims were in about the proportion of one German inmate to nine foreign inmates. The foreign inmates were largely from eastern countries (R 175); P-Ex 45A pp. 4, 5). In 1943 or 1944 the accused acted as recorder at the hanging of 21 Polish officer inmates (R 1769; P-Ex 55A pp. 1-3). Accused No. 25 stated in his Statement that this accused was present at the execution of 20 Russian prisoners of war by detail 99 at the horse stables in 1943 (R 1766; P-Ex 52A pp. 1-3).

The accused testified that as acting first sergeant of headquarters staff he had no authority over inmates (R 4477). He was required to be present at executions as a recorder (R 4477, 4508). In that capacity he took part in 35 to 50 executions (R 4513). It was his duty to notify those who were to participate and to record the proceedings (R 4508, 4510). The individuals executed were not inmates of Buchenwald. They were criminals brought in from the outside, from civil life (R 4477). The sentences read to the victims were for murder, rape and sabotage (R 4478). The accused served as a rifleman on several execution squads (R 4477, 4508). He distributed whiskey, cigarettes, and sausage to the members of execution details on several occasions (R 4498). The accused also testified that on one occasion he was present at an execution by detail 99 but had no assigned task in connection with it (R 1481, 4482).

Sufficiency of Evidence: It is clear that the extent and nature of his participation were such that the Court was warranted in its findings of guilty. The sentence is not excessive.

Sentence: 20 years, commencing 20 June 1945.

Petitions: A Petition for Review was filed by defense counsel, Major Carl Whikney, 3 October 1947.

Recommendation: Approval of the findings and sentence.

21. HERMANN PISTER

Nationality: German

Age: 63

Connection with Buchenwald:

a) Period: 21 January 1942 — 11 April 1945 (R 1802, 1831)

b) Status: SS Colonel (R 1792; P-Ex 36A p. 1)

c) Position: Camp commander (P-Ex 35A p. 1)

Evidence: The accused admitted in his Statement that he was camp commander following February 1942 (R 1735; P-Ex 35A p. 1). One witness testified that in February 1942 the accused ordered that all blocks of inmates fall out in the morning one half hour earlier than previously and do calisthenics. The extra exertion was harmful to all the inmates because of their undernourishment (R 985). This calisthenics program lasted about two months (R 1017). A second witness testified

that in the summer of 1942 the accused gave an order that blows would be struck on the nude body (R 1118, 1114). In November 1944 the accused required 27 inmates to work all night after having already worked from 0730 to 1700 hours that day (R 1109, 1118-1119).

A third witness testified that the accused was at the horse stables in June 1942, while Russian prisoners of war were being executed (R 1386). Accused No. 12 stated in his Statement that in 1943 this accused was present at the hanging of four Polish officer inmates at the crematory by order of the Reichsführer (SS). These victims had escaped from an officer camp (R 1743; P-Ex 38A pp. 8, 9, 10). A fourth witness testified that in August 1944 the accused beat a French inmate on the neck and back of the head with a rubber hose about one inch thick and almost two feet long (R 1627, 1628). A fifth witness testified that in February 1945 the accused kicked a Polish inmate after putting his dog on him because he was not walking fast enough (R 1612, 1613).

Accused No. 29 stated in his Statement that this accused was present when a transport arrived in Buchenwald with 100 deer (R 1767; P-Ex 54A p. 17). In April 1945 the accused ordered the whole camp to fall out on the formation square for evacuation. The inmates, realizing that any evacuation would probably be tantamount to death, had made up their minds not to obey the order. At the direction of the accused four resisting inmates were shot to death on that day (R 1705, 1706). Accused No. 1 stated in his Statement that this accused knew that inmates sent to Buchenwald for execution on orders from Berlin had not had the benefit of a trial. This matter was discussed by the two of them in 1944 (R 1745; P-Ex 40A pp. 14, 15). A sixth witness testified that the accused, by virtue of his inspections of subcamp Dora, was aware of the horrible physical condition of the inmates sent there from Buchenwald. His response to remarks about their physical condition was merely a shrugging of his shoulders (R 1511).

A prosecution witness testified that the accused attempted to eliminate a large number of abuses (R 317). Under the former camp commander the inmates spent about two hours at the evening formation. Under the accused it was reduced to about 45 minutes (R 319). The witness, a former inmate, never heard of or saw him mistreat anybody personally (R 328).

The accused admitted in his testimony that as camp commander he was responsible for the care and custody of the inmates in Buchenwald and its subcamps (F. 2064). However, he asserted that he corrected abuses that had existed under his predecessor. He issued an order, which he required to be read and signed by all headquarters personnel, to the effect that there would be no more mistreatment of inmates (R 1831, 2098). The supervisory personnel were forbidden to carry sticks (R 1833). The number and length of roll calls were reduced (R 1833, 1834). Inmates were allowed to eat their noon meal at the work site instead of returning to camp (R 1833, 1834). No distinction was made between

Christians and Jews. Contrary to orders, the accused allowed the Jewish inmates to receive the additional ration for heavy workers (R 2188).

The accused further testified that he did not know that deadly injections were given inmates in block 61 (R 1881). Likewise, he did not know that the inmates who were sent on transports to Auschwitz and Lublin Concentration Camps because they were unfit for work would be killed (R 1879, 2085). While the accused knew of the medical experiments with typhus, they were not under his control. They were performed by the hygienic institute which was directly under the Reichsführer of the SS in Berlin (R 1886). As a result of protests by the accused, inmates were no longer used for the experiments and men were furnished directly from the Reichs Criminal Police (R 1887). The accused had no control over the camp doctors (R 1822).

The accused denied that he ever set his dog on inmates, that he beat a French inmate with a rubber hose, or that he forced inmates to work all night as punishment (R 1899—1901). He was never present at a cremation or at medical experiments in block 61 (R 2101, 2106). The accused was present on one occasion as a spectator when Polish officer inmates were executed. He attended one killing by detail 99 (R 2104, 2125). The accused did not sentence and did not order Russian prisoners of war to be killed (R 2133). He merely passed on orders he received from his superior headquarters (R 2133). The accused made no recommendations to Berlin that inmates of Buchenwald be executed (R 1912). The accused had no authority to order corporal punishment on the bare buttocks and such punishment was administered at Buchenwald only when ordered by higher authority (R 2073). Many inmates died at Buchenwald because they arrived in such state of inanition that it was impossible to keep them alive (X 2085, 2163). The accused also testified that when transports arrived from the east without being previously reported, he protested because the camp was overcrowded. Nevertheless he was ordered to accept the transports (R 1864, 1865).

These defense witnesses testified that under the accused's administration conditions at Buchenwald improved and the mistreatment of inmates decreased (R 2174, 2864, 2877, 2922, 3076). Two of these witnesses testified that whatever killings and beatings took place were in direct violation of the orders of the accused and without his knowledge (R 2811, 2977, 2992). A fourth witness testified that when the accused inspected the camp prison and found an inmate chained to the wall, he caused the inmate to be taken to the hospital (R 3017). Two of the above mentioned witnesses testified that conditions in the camp prison were much improved by the accused (R 3004, 3071).

Sufficiency of Evidence: The Court was warranted from the evidence concerning the extent and nature of his participation in its findings of guilty. The sentence is not excessive.

Sentence: Death by hanging.

Petitions: A Petition for Review was filed by defense counsel, Major Carl Whitney, 3 October 1947. No Petitions for Clemency were filed.
Recommendation: Approval of the findings and sentence.

2. EMIL FLEISSNER

Nationality: German
Age: 33

Connection with Buchenwald:

- a) Period: September 1939 — February 1943 (P-Ex 44A p. 1)
- b) Status: SS, Master Sergeant (P-Ex 107A p. 1)
- c) Position: Block leader from 1938 — March 1942; worked in crematory from March 1942 — February 1943; (P-Exs 44A p. 1, 107A pp. 1, 3)

Evidence: One witness testified that the accused was one of three detail leaders who had keys to the "rose garden" where Polish inmates were starved to death (R 787, 788). The accused delivered cabbage poisoned with strychnine to about 35 Polish inmates causing their deaths (R 789, 790, 815). The witness did not know by whom this cabbage which was prepared in the regular kitchen, was poisoned (R 812, 814). A second witness testified that in January 1940 the accused beat and kicked an inmate for not standing at attention, causing an open wound in his head which never completely healed. This wound opened up two years later causing his death in Auschwitz Concentration Camp in November 1942 (R 981, 1011).

In his Statements the accused admitted that he was in charge of the crematory in March 1942. It is not clear how long he remained in charge, but he worked there until February 1943 (R 1738, 5585; P-Exs 44A p. 1, 107A pp. 1, 2). The accused was present at two hangings in the crematory but insisted that he had no functions to perform in connection therewith (R 5585; P-Ex 107A pp. 3, 4). The accused shot at two executions at the German Armament Works, once in 1941 and once in 1943 (R 5588; P-Ex 107A p. 4). He also admitted that he was present as a member of detail 99 at approximately 15 executions; that he participated in two by shooting; and that he received liquor, cigarettes and food after each execution (R 5585; P-Ex 107A pp. 6—8, 10). A third witness testified that the accused received the extra ration of cigarettes, liquor and meat issued to members of execution details (R 1190, 1191).

A defense witness knew the accused as a block leader from 1940 to April 1943 (R 4992) and never saw or heard of the accused mistreating inmates (R 4995). On one occasion the accused procured a piano and dishes and pots for the inmates (R 4994).

Sufficiency of Evidence: The Court was warranted from the evidence as to the extent and nature of his participation, particularly that as to his assignment in charge of the crematory and participation in many executions, in its findings of guilty. The sentence is not excessive.

Sentence: Death by hanging.

Petitions: A Petition for Review was filed by defense counsel Major Carl Whitney, 3 October 1947. Petitions for Clemency were filed by Hermann Haertel, 31 March 1947; Alfred Jahn, 1 April 1947; Heinrich Gebhardt, 2 April 1947; Georg Hauenstein, 3 April 1947; Fritz Lindner, 3 April 1947; John van Haaren, 9 May and 25 September 1947; Wilhelm Mirul, 23 August 1947; Wilhelm Nicol, 2 August 1947; accused's mother, Elise Pleissner, 23 August 1947 and 25 August 1947; Richard Pleissner, 30 August 1947; accused's sister, Christa Pleissner, 31 August 1947; Johann Drechsel, 8 September 1947; Willy Pleissner, 8 September 1947; Friedl. Tieb, 8 September 1947; accused's sister, Johanna Fischer, 9 September 1947; Emil Pleissner, 9 September 1947; Max Pleissner, 10 September 1947; Linda Nohr, 12 September 1947; Irmgard Reh, 12 September 1947; Georg Soergel, 12 September 1947; Elise Brecheis, 15 September 1947; Anton Drechsel, 15 September 1947; and by the accused, 16 October 1947.

Recommendation: Approval of the findings and sentence.

23. GUIDO REIMER

Nationality: German

Age: 46

Connection with Buchenwald:

- a) Period: 1 September 1939 — December 1944 (R 4892)
- b) Status: SS, First Lieutenant (R 1387)
- c) Position: Acting first sergeant for guard battalion; commanding officer of guard company; adjutant of guard battalion (R 4892); alternate guard-battalion leader September 1938 — May 1944 (P-Ex 51A p. 1)

Evidence: One witness testified that the accused beat inmates several times and was generally feared. He issued instructions to shoot any inmate who approached within five paces of a guard (R 1368, 1418). After a bombing attack on Buchenwald on 24 August 1944, the accused, with the approval of the camp commander, founded the so-called club guard. This club guard consisted of men specially selected by the accused to beat the inmates in all details, when in the opinion of the guards a detail was not working fast enough (R 1368, 1369, 1405, 1407, 1418). In his Statement, the accused stated that he heard very often, from 1939 to 1942, about the guards shooting inmates

while "attempting to escape", but later such cases became very rare (R 1364; P-Ex 50A p. 2).

The accused admitted in his Statements that he was commanding officer of the second company of the guard battalion from February 1942 to August 1942. He was adjutant of the guard battalion from August 1942 to December 1944. During the period September 1943 to May 1944, he was also acting commanding officer of the battalion (R 1764, 1765, P-Ex 50A pp. 1, 2, 4, 51A p. 1). One of the functions of the guard battalion was to prevent inmates from escaping from the camp. The commanding officer of the battalion often attended conferences with the camp commander and high ranking members of his staff. The great portion of the inmates who were shot while trying to escape were shot at the stone quarry. These inmates could not bear life any longer (R 1765; P-Ex 51A pp. 1, 2).

The accused admitted in a Statement that his second company, apparently while he was commanding officer thereof, did guard duty at the stone quarry (R 1764; P-Ex 50A p. 2).

Two additional witnesses testified in effect that the stone quarry detail was considered the worst detail in Buchenwald; that inmates, many of whom were sent there as punishment, were forced to do extraordinarily heavy work at great speed; that the work included carrying heavy stones and pushing cars loaded with rocks up the incline leading from the quarry; that many inmates were beaten and shot to death on this detail and that the death rate on this detail was very high in comparison with other details (R 77, 243).

The accused testified that he and the guard battalion had nothing to do with the inmates (R 4901, 4914). He never had anything to do with the protective custody camp (R 4904). He never beat inmates (R 4909). He did not incite the guards to be particularly rough to inmates. No so-called club guard ever existed in the guard battalion (R 4909). The guard battalion had nothing to do with the execution of inmates or with detail 99 (R 4910).

Two former members of the guard battalion testified that the guard orders were dated 1938 and were not changed later. When an inmate approached the guard chain the guard was required to call, "Halt" three times. If the inmate continued, the guard was required to use his weapon (R 4840, 4889). It was not the duty of the accused to form a special club guard to drive inmates at their work. The witnesses never heard of a club guard (R 4843, 4871). One of these two witnesses for the accused testified that he never saw the accused beat an inmate or heard of his doing so (R 4847).

Sufficiency of Evidence: The accused occupied one of the more important positions at Buchenwald and the SS guards under his command furnished guard service through the main camp making it impossible, in general, for the inmates to escape from the camp, as well as making it impossible for them to avoid specific cruel and inhuman punishments and assignments. The Court was warranted from the evidence concerning

the extent and nature of his participation in its findings of guilty. However, it is not believed that the extent and nature of his participation were such as to warrant the death penalty.

Sentence: Death by hanging.

Petitions: A Petition for Review was filed by defense counsel, Major Carl Whitney, 3 October 1947. Petitions for Clemency were filed by accused's parents, Karl and Johanna Keimer, 27 March 1947, 26 July 1947, 10 September 1947, 15 September 1947, 1 October 1947, and 27 October 1947.

Recommendation: Approval of the findings and sentence, but that the sentence be commuted to life imprisonment.

24. HELMUT ROSCHER

Nationality: German
Age: 29

Connection with Birkenwald:

- a) Period: March 1940 — October 1942 (R 5132, 5140)
- b) Status: SS, Sergeant (R 1124, 5134)
- c) Position: Detail leader to April 1942; second roll call leader; block leader (R 5134, 5139, 5140, 1124)

Evidence: One witness testified that in March 1940 the accused ran him and two other inmates around in circles in the garage for 45 minutes. When the witness suffered a long hemorrhage and fell, the accused kicked him in his side and ordered a bucket of water poured on his face. The accused said, "After this Jewish swine has rotted take him away" (R 978). In March or April 1941 the accused beat and kicked the witness causing an open wound on his chin and the loss of a tooth (R 980, 1009). A second witness testified that in April 1941 the accused was his block leader. In that month he saw the accused kick a Czech inmate in the abdomen, causing him to moan and collapse. That evening the witness went to the hospital to inquire about the victim and was told that he had died and that his body had been taken to the morgue in the crematory (R 1124).

A third witness testified that in early 1941 the accused beat him with a stick and kicked him in the ribs because he did not finish his job of plumbing in one half hour. Immediately thereafter the accused went into other rooms where members of the plumbing crew were working. The witness heard yells and was told by two of the crew that they had been beaten by the accused. The face of one of the fellow crew members bled. The job would normally require three or four weeks to finish (R 1340, 1341). A fourth witness testified that in 1940 or 1941, the accused ordered a Jewish inmate to jump in the latrine. It was so deep that only his forehead protruded (R 1428). The accused said to other

inmates, "Go help your comrade" (R 1430). Then four more Jewish inmates were forced to jump into the latrine, supposedly in order to save their comrade, and in three or four minutes all five men perished (R 1438, 1429, 1445, 1446). On many occasions during the period 1940 to 1941, the accused put his foot on the neck and abdomen of Russian, Polish, Jewish and German inmates at roll call and stood there until they died (R 1429, 1446).

The accused testified he did not participate in executions (R 5148). He beat some inmates or infractions of the camp regulations (R 5148). He beat them with his hand, but never used a club or other weapon. No inmate beaten by him needed hospitalization or died as a result of the beating (R 5149). If he had reported the infractions instead of punishing the inmates himself, the punishment reports would have remained in the inmates' personnel files and delayed their possible release (R 5149). The accused made an inmate run in circles until he was dizzy and then poured water on him because he found him drunk and sleeping (R 5151). He did not kick or trample the inmate (R 5152, 5153). The accused denied that he ever put his foot on the throat and abdomen of an inmate and stood there until he was dead. He also denied that he ordered a Jewish inmate to jump into a latrine (R 5155). The accused treated the inmates severely but justly. The accused also testified that he never participated in the killing of inmates (R 5184.)

A defense witness, formerly in the building construction department at Buchenwald, testified that the only open latrines there were about 60 to 80 centimeters wide and of the same depth. The ground was very rocky. That was probably the reason the latrines were not made deeper. It was impossible for a man to drown in such latrines (R 5039, 5040). A second witness testified that he never saw accused beat inmates in the roll call square (R 4705).

Sufficiency of Evidence: The Court was warranted from the evidence concerning the extent and nature of his participation in its findings of guilty. However, it is not satisfactorily established that his acts resulted in the deaths of inmates. The extent and nature of his participation do not warrant the death penalty.

Sentence: Death by hanging.

Petitions: A Petition for Review was filed by defense counsel, Major Carl Whitney, 3 October 1947. Petitions for Clemency were filed by Ilse Roscher, 20 September 1947; accused's father, Hermann Roscher, 21 September 1947; and by Hugo Schreimer, 24 September 1947, 13 October 1947 and 31 October 1947.

Recommendation: Approval of the findings and sentence, but that the sentence be commuted to life imprisonment.

25. IANS SCHMIDT

Nationality: German
Age: 47

Connection with Buchenwald:

- a) Period: November 1941 — 11 April 1945 (P-Ex 89A p. 1)
- b) Status: SS, First Lieutenant (R 1306; P-Ex 56A p. 3)
Adjutant of guard battalion, April 1942 — September 1942; camp adjutant and legal officer, September 1942 — April 1945 (P-Ex 89A, p. 1)
- c) Position:

Evidence: One witness, a former inmate, testified that in the spring of 1945 he was knocked down by a blow from behind and kicked in the abdomen and on the leg and the head by a person whose name he did not know. Upon inquiry of the inmates who helped him up he was told that his assailant was the accused. The witness thought that probably the accused kicked him because he was lame and could not march as fast as the others. He had not seen the accused before nor thereafter prior to the trial (R 1154—1157). Accused No. 21 stated in his Statement and a second witness testified, that all executions except those performed at the horse stables were carried out by this accused as adjutant and legal officer, including the giving of the order to fire (R 1306, 1755; P-Ex 35A p. 16). In his Statement, accused No. 22 placed this accused at several executions (R 5585 P-Ex 107A pp. 3, 4).

In his Statement, the accused admitted that he officiated at many executions of inmates and SS personnel, including the execution of former Camp Commander Koch. At most or all of them he gave the order to fire (R 1766, P-Ex 52 pp. 6—11). Accused No. 20 stated in his Statement and a third witness testified, that this accused received the extra ration of cigarettes, liquor and meat issued to members of execution details (R 1191, 1204 1759; P-Ex 45A p. 5). Accused No. 11 stated in his Statement that by order of the camp commander this accused sent inmates who were to be shot or hanged to the camp prison for "special treatment" (R 1770, P-Ex 56A p. 3).

Four former inmates testified that they knew the accused at Buchenwald and never saw him beat or mistreat inmates or heard of his doing so (R 1963, 1971, 1981, 1997). One of these and a fifth witness testified that as legal officer it was the duty of the accused to be present at executions at the German Armament Works (R 1359, 2014) but not at the horse stables (R 1950).

Sufficiency of Evidence: The Court was warranted from the evidence concerning the nature and extent of his participation, particularly that concerning his supervision of executions, in its findings of guilty. The sentence is not excessive.

Sentence: Death by hanging.

Petitions: A Petition for Review was filed by defense counsel, Major Carl Whitney, 3 October 1947. Petitions for Clemency were filed by Josef Gieseemann, 31 July 1947 and 19 August 1947, J. Willemisen 2 August 1947; Willi Klangwarth, 3 August 1947 and 18 August 1947; Schibemann, 17 August 1947; accused's mother, Katha Schmidt,

20 August 1947; accused's wife, Margot Schmidt, 15 September 1947; and by 46 residents of Loxter, 23 September 1947.

Recommendation: Approval of findings and sentence.

26. MAX SCHOBERT

Nationality: German

Age: 41

Connection with Buchenwald:

- a) Period: January 1940 — 11 April 1945 (R 4115)
- b) Status: SS, Major (R 4115)
- c) Position: Protective custody camp leader (R 4116)

Evidence: The accused testified that he was deputy commander of Buchenwald and took charge in the absence of accused No. 21, once for a period of several weeks (R 4171, 4172). One witness testified that the accused beat and kicked inmates (R 303). A second witness testified that the accused set his dog on the inmates when, in his opinion, they did not work hard enough (R 523, 524). A third witness testified that in April 1945 the accused beat five or six Jewish inmates to the ground with a stick or iron bar because they did not march fast enough (R 950). A fourth witness testified that in 1940, in the vicinity of the stone quarry, he accused set his dog on an elderly Polish inmate. The dog tore off the inmate's clothes and pieces of flesh from his body causing him to bleed to death (R 973, 974, 983, 994, 1000). A fifth witness testified that in June 1943 the accused strangled a Jewish inmate for about one minute and then threw him to the ground (R 1338, 1348).

Accused No. 13 stated in his Statement that in November 1943 two Polish inmates and two Dutch inmates attempted to escape from a work detail in Weimar. They were recaptured and punished with 25 strokes. Four days later this accused announced over the loud speaker that these four inmates would be publicly hanged by order of Himmler as an example to the other inmates. The accused caused roll calls to be prolonged excessively, particularly in the evenings. He often kicked, slapped, and hit inmates with a dog whip. One time, when a new transport of inmates arrived at the Buchenwald railroad station after they had travelled several days without food or water, the accused ordered that the dogs be released on them to hasten the disembarkation from the train. The next day accused No. 19, who served as a doctor, saw severe dog bite wounds (apparently on nine inmates). The accused beat an inmate on the head with the iron knob of his dog whip resulting in concussion of the brain (R 1734; P-Ex 34 pp. 2—4).

Accused No. 21 stated in his Statement that this accused was in charge of executions at the horse stables by detail 99 (R 1755; P-Ex 35A

p. 16). A sixth witness testified that the accused received the extradition of cigarettes, liquor and meat issued to members of execution details (R 1191, 1204). Accused Nos. 20 and 21 stated in their Statements that when the camp commander was absent from Buchenwald for more than 24 hours he placed this accused in charge. On such occasions the accused, due to lack of experience, depended largely upon the adjutant (R 1735, 1759; P-Exs 35A pp. 2, 3, 45A p. 3). In his Statement, the accused admitted that he was present at about 300 executions by shooting in the horse stables by detail 99. These inmates were not told that they had been sentenced to death or that they were to be executed (R 1763; P-Ex 48A p. 2).

The accused testified that as a protective custody camp leader he was responsible for everything inside the barbed wire including order, discipline, and cleanliness (R 4116). He controlled the daily life of the inmates, subject only to the order of the camp commander (R 4158). The accused was present at executions in the German Armament Works, but only as a witness. The men executed were members of the SS and police force. Sentences were read to them before the execution (R 4130, 4131). He attended executions both at the horse stables, by detail 99, and at the crematory merely as a witness (R 4132). The victims at the execution were not inmates, but were brought to Buchenwald in execution by the secret state police (Gestapo) (R 4132, 4133). The accused had a dog, but it never bit inmates. The accused never set his dog on inmates (R 4134, 1172). His dog did not bite an inmate causing his death (R 4134). The accused denied that he strangled a Jewish inmate (R 4135). Foremen who had mistreated other inmates and inmates whom he discovered stealing food from their fellows were lashed by him with a whip (R 4135, 4136). He did this in a favor to them rather than send in delinquency reports, which would have remained in their records (R 4137). The accused also testified that no inmate ever died as a result of a beating by him (R 4136).

A defense witness testified that he never saw the accused beat anyone with his hands and never heard that the accused killed inmates. He considered the accused one of the best leaders at Buchenwald (R 2000, 2001).

Sufficiency of Evidence: It is clear that the extent and nature of his participation were such that the Court was warranted in its findings of guilty. The sentence is not excessive.

Sentence: Death by hanging.

Petitions: A Petition for Review was filed by defense counsel, Major Carl Whitney, 3 October 1947. Petitions for Clemency were filed by Hans Marx, 21 August 1947; accused's sister, Viktoria Katzenberger, 23 August 1947; Adolf Noth, 24 August 1947; Ernst Dohling, 27 August 1947; and Gregor Martin, undated.

Recommendation: Approval of the findings and sentence.

27. ALBERT SCHWARTZ

Nationality: German
Age: 42

Connection with Buchenwald:

- a) Period: October 1942 — 11 April 1945 (R 4961)
- b) Status: SS, Lieutenant (R 4960, 4961)
- c) Position: Labor allocation leader (R 4961)

Evidence: Accused No. 31 stated in his Statement that this accused was present at the initial assembly of work details (R 1763; P-Ex 49A p. 2). Accused No. 13 stated in his Statement that this accused knew the working conditions at subcamps; that the accused saw 80 to 100 dead returned from subcamp Dora daily; and that he knew that inmates sent to work at subcamps Ohrdruf and Magedeburg were doomed to perdition. The accused complained that the SS doctors exempted too many inmates from the work details (R 1734; P-Ex 34 pp. 4, 5). One witness testified that the accused gave an inmate about five blows with the butt of his rifle just prior to liberation of the camp (R 950, 961, 964).

The accused testified that he was responsible for selecting the required types of laborers for subcamps. He was also responsible for seeing that the necessary quarters and furniture existed in the subcamps (R 4889). In 1942 Buchenwald had eight to ten subcamps. Later about 90 were added (R 4970). Approximately two thirds of the inmates for these subcamps came from Buchenwald (R 4970). The accused was not responsible for and had no control over the local conditions existing at subcamp Dora (R 4979, 4980). During a short visit to subcamp Dora in October 1943, the accused found the inmates quartered in tunnels under very bad conditions (R 4975, 4977). He sent a report as to the conditions to the headquarters at Oranienburg (R 4976). On a second visit in May 1944 he found conditions much improved (R 4977). The accused knew nothing of and had no control over the general living and working conditions at subcamp Ohrdruf (R 482, 4983). The accused had nothing to do with a large transport of invalids sent to Belsen Concentration Camp. It was processed exclusively by the inmate hospital (R 4985). The accused did not hit Jewish inmates with a rifle butt during the evacuation of Buchenwald (R 4987). The accused also testified that he never beat inmates (R 4988).

A witness testified that the accused had nothing to do with transports comprised of Jewish inmates or transports comprised of invalid inmates, inasmuch as there were no applications for labor in such instances (R 4643, 4644). Accused No. 26 testified that this accused did not beat inmates with a rifle butt when the evacuation transport left Buchenwald (R 4154).

Sufficiency of Evidence: The Court was warranted from the evidence concerning the extent and nature of his participation, particularly that

relating to his occupying a very important managerial position which vitally involved the daily lives of the inmates for more than two years, in its findings of guilty. However, it is not believed that the extent and nature of his participation were such as to warrant the death penalty.

Sentence: Death by hanging.

Petitions: A Petition for Review was filed by defense counsel, Major Carl Whitney, 3 October 1947. Petitions for Clemency were filed by accused's wife, Johanna Schwartz, 30 August 1947 and 18 September 1947; Ilse Becker 11 September 1947; Dora Hesse, 19 September 1947; Hedwig Fischer, 20 September 1947; and Wilhelm Kayser, 26 September 1947.

Recommendation: Approval of the findings and sentence, but that the sentence be commuted to life imprisonment.

38. WALTER WENDT

Nationality: German

Age: 40

Connection with Buchenwald:

a) Period: April 1945 (R 2349)

b) Status: Civilian (SA Lieutenant) (R 2342, 2343)

c) Position: Chief of department for foreign civilian workers at Erla Machine Factory (R 2343)

Evidence: The accused admitted in his testimony that he was responsible, as a representative of his factory which employed the inmates in subcamp Leipzig Thekla, for supplying the inmates thereof with equipment and bedding during its operation (R 2346—2348). Immediately after the initial evacuation of the subcamp the accused requested his factory manager to be relieved of all responsibility in connection with clearing out the subcamp. This was refused. Upon the suggestion of the accused, he and the manager induced the local Gestapo to assume responsibility for the subcamp and the remaining inmates, which responsibility the Gestapo agreed to accept (R 2351).

The accused admitted being at the subcamp three times on the day following the initial evacuation. Two of these occasions followed the agreement with the Gestapo. He was also there on one or two other occasions prior to the destruction of the subcamp by an explosion and fire approximately four days later. He also admitted giving instructions to some of the remaining SS personnel and to factory personnel in connection with things to be done at the subcamp and for the inmates (R 2354—2360). The accused admitted being at a conference between directors of the factory and a Lieutenant Koch on the day preceding the explosion and fire. The accused asserted that the subject of the conference was to assure that the inmates of the subcamp were not "liquidated" as a rumor indicated they would be (R 2368—2370).

The accused also admitted that he was at the subcamp for several hours commencing a few hours after the explosion and fire (R 2372—2374).

Two witnesses saw the accused on 15 April 1945 at subcamp Leipzig Thekla when he came to the barracks with four or five guards. He carried a submachine gun and the other men carried rifles (R 665, 676, 677, 688). He was dressed in civilian clothes (R 677). He gave no aid to a Polish inmate who had been shot in the abdomen (R 688—690, 5490, 5494). One of these witnesses testified that he appeared to be in charge of the partially evacuated subcamp (R 665, 666, 667, 678). A third witness saw the accused at this subcamp on four occasions in April 1945 (R 686, 687, 690). The accused was seen in the office of labor statistics of Buchenwald for 10 minutes in September 1944 (R 952, 953, 956, 960).

A fourth witness saw accused in civilian clothes and armed with a submachine gun at subcamp Leipzig Thekla on 13 April 1945. He was assembling inmates to be sent away, most of whom left the next day. The witness saw the accused next on 16 April 1945 in front of the dispensary. The witness saw the accused the third time ten minutes before the camp was set on fire 18 April 1945 (R 5476, 5477, 5481). The SS men shot at the witness when he escaped from the burning barracks (R 5483). The witness heard that the accused was a member of the Gestapo and "saw" that he was giving orders and apparently taking over the role of commander of the subcamp (R 5484, 5485, 5496). A fifth witness saw the accused at this subcamp on Sunday, 15 April 1945, separating the invalids from the able bodied men (R 5490, 5491). On 18 April 1945, one or two hours after the fire, an air corps soldier shot three Polish inmates at this subcamp in the presence of the accused. Many other inmates were killed on that day by the burning and shooting (R 644, 649, 5494—5496; P-Exs 16—26).

The accused testified that he was an employee of the Erla Machine Factory and in charge of 24 camps of foreign civilian workers for his company (R 2343). The Erla Machine Factory also employed inmate labor from two camps, i. e., subcamps of Buchenwald (R 2344, 2345). These inmate camps were evacuated by the SS on 13 April 1945. At the request of the factory manager, the accused inspected these two subcamps the next day (R 2349). At subcamp Leipzig Thekla, he found an SS sergeant and about 300 inmates who were sick or unfit for marching and who were left behind (R 2350). On reporting this to the factory manager, the accused was told to see that the camps for foreign civilian workers, the inmate camps, and the factory were turned over to the approaching American Army in an orderly manner (R 2351). Later that day, the 14th of April 1945, the accused returned to subcamp Leipzig Thekla and entered one of the barracks where he saw an inmate who had been shot in the abdomen. The accused turned away in horror but not in disrespect (R 2359). He drove to the sick room at the factory to get an ambulance, but was told later that no ambulance was needed as the inmate was already dead (R 2360).

The accused testified that he did not search the barracks at the subcamp or issue orders there. He had no power of command over either the SS or the inmates (R 2364). He spoke to the inmates about feeding them and ordered 600 loaves of bread for them (R 2367). Just before the American Army arrived on 18 April 1945, the accused was in his office asleep when the explosion occurred. He was awakened by others, went outside and saw a column of smoke in the direction of the subcamp. The accused immediately went there and found one barracks burned down and dead bodies lying near the fence (R 2371, 2372). The accused denied that he was ever in this subcamp armed with a submachine gun (R 2409). He asserted that, if he had participated in burning the barracks, he would have fled from the American troops with the SS men (R 2410). He was never in Buchenwald (R 2348).

Two defense witnesses testified that accused was in charge of the welfare and supply for the foreign worker camps of Eria Machine Factory and also of the supply of furniture and equipment for the inmate subcamp Leipzig Thokla. He had nothing to do with the rations for the inmates or inmate labor allocation (R 2198, 2238, 2239). A third defense witness testified that he accompanied the accused to this subcamp on 14 April 1945 and that accused looked over the food supply of the camp and made arrangements to feed the inmates from a nearby civilian workers camp (R 2260, 2263, 2263).

Sufficiency of Evidence: The evidence establishes that the accused on behalf of his factory was connected with the operation of the subcamp in a minor way for many months prior to the initial evacuation. It also establishes that, in the four days following the evacuation of all the inmates, except for the approximately 300 sick, and preceding the explosion and fire, the accused was materially involved in directing operations at the subcamp and in handling the inmates. However, the accused's participation in the "liquidation" of the inmates, by the Gestapo, by means of the explosion and fire, is not satisfactorily established. The Court was warranted from the evidence concerning the extent and nature of his participation in its findings of guilt. The sentence is excessive.

Sentence: 15 years, commencing 28 May 1945.

Petitions: A Petition for Review was filed by defense counsel, Major Carl Whitney, 3 October 1947. A Petition for Clemency was filed by Colonels Gilbert E. Ackerman, Harry R. Pierce and William W. Robinson, members of the Court, 22 September 1947, recommending a reduction of the sentence from 15 years imprisonment to 5 years imprisonment. Clemency was recommended because the witnesses against accused had not known him prior to the fire, had only fleeting glimpses of him, and because of changes in his appearance, there was a high probability of mistaken identity. Further, accused had a definite alibi for the time of the fire and he did not flee from the vicinity with the SS. A Petition for Clemency was filed by the accused, 24 August 1947.

Recommendation: That the findings and sentence be approved, but that the sentence be reduced to imprisonment for five years, commencing 28 May 1945.

39. FRIEDRICH WILHELM

Nationality: German

Age: 57

Connection with Buchenwald:

a) Period: September 1939 — 12 April 1945 (P-Ex 54A p. 1)

b) Status: SS, Master Sergeant (R 4404)

c) Position: First sergeant in inmate hospital January 1941 — April 1945 (R 4404)

Evidence: One witness testified that it was common talk among the inmates who worked in the hospital that the accused killed inmates in the hospital by means of injection (R 303). A second witness, who was an inmate doctor in the hospital following 1943, testified that the accused, each morning, worked in block 61, which was organized in December 1941 to handle dysentery cases. According to rumor he injected the sick with potassium cyanide for the purpose of killing them (R 366, 507, 584, 585). A small cart was needed each day to take the bodies away. Among the victims were French, Belgian, Polish and Russian inmates (R 567).

A third witness, who was block eldest of block 61, testified that there was a special room in block 61 marked dispensary. Each morning during the first quarter of 1945, the accused and three others went to that room at 0900 hours, locked the doors to the block, and for a period of about one hour injected inmates of various nationalities with what was thought to be ysol. These injections resulted in 30 to 60 deaths daily (R 1494—1500). This was corroborated by a fourth witness (R 609, 632). Accused No. 35 stated in his Statement that this accused was present at the execution of 20 Russian prisoners of war at the horse stables in 1943 (R 1766; P-Ex 52A pp. 1, 3, 4).

The accused testified that he acted as first sergeant in the inmate hospital from January 1941 until April 1945 (R 4404). He spent most of each day signing papers (R 4406). In the afternoon, he went to Weimar to do shopping for inmates (R 4407). He never abused an inmate even verbally, he never beat an inmate, and he never killed an inmate (R 4431). He took sick inmates to the Jena University Clinic and arranged for them to meet relatives on the way (R 4420). He hid four or five Jewish inmates who were scheduled to be sent on a transport to Auschwitz Concentration Camp, using them as inmate male nurses (R 4423).

The accused further testified that he visited block 61 in February or March 1945. He found that inmates were being given injections. When he reported this action to his superior, the camp physician, he

was told that there was nothing he could do about it because they had permission from Berlin (R 4409-4413). The accused, by his own hand, did not cause the death of inmates by injections, but he could not prevent injections authorized by higher headquarters (R 44-6, 4418). He did not give orders for injections nor did he help with the selection of inmates for injections (R 4440, 4464). The accused went to block 61 to see that no more inmates were killed than was absolutely necessary and that injections were given only to those already near death (R 4418, 4419, 4443). The purpose of the injections was to make room in the crowded hospital for others who had a chance to live (R 4412, 4435). The accused did not consider it a crime from a medical point of view. He further testified that he would do the same today (R 4441).

Accused Nos. 5 and 6 testified that this accused did not mistreat inmates (R 3139, 3810).

Sufficiency of Evidence: The Court was warranted from the evidence concerning the extent and nature of his participation in its findings of guilty. Defense counsel in the Petition for Review contends that the accused acted under the superior orders of the camp physician. However, it appears that his desire to please superiors was stronger than other considerations. There is no indication that he acted unwillingly or under immediate compulsion. As to superior orders, the accused failed to meet the burden of proof required by the pertinent authorities discussed in Section V, supra. The sentence is not excessive.

Sentence: Death by hanging.

Petitions: A Petition for Review was filed by defense counsel, Major Carl Whitney, 3 October 1947. A Petition for Clemency was filed by Emilie Wilhelm, undated.

Recommendation: Approval of the findings and sentence.

30. HANS WOLF

Nationality: German

Age: 45

Connection with Buchenwald:

a) Period: End of 1942 — 12 April 1945 (R 3642, 3665)

b) Status: Inmate (probably criminal) (R 3642, 3651, 3666—3668)

c) Position: Capo railway detail, 1943 — 1944; camp eldest at subcamp Gleina, May 1944 — 12 April 1945 (R 3650)

Evidence: A witness, who was chief physician at subcamp Gleina, testified that the accused was camp eldest of the subcamp during the time the witness was there, August 1944 to the evacuation in April 1945; that he saw the accused beat inmates; that almost every day inmates

came to the hospital reporting that they had been beaten by the accused; and that ten of these inmates died from the injuries they told the witness were inflicted by the accused. The inmates whom the witness saw beaten by the accused did not die (R 1078-1080). A second witness, who worked in the hospital at subcamp Gleina, was beaten by the accused. The witness saw the accused beat two inmates who died soon after in the hospital. The witness viewed the dead bodies within one or two hours after the beatings. About 40 additional inmates, who asserted that they had been beaten by the accused, died in the hospital as a result of such injuries (R 1092-1096).

A third witness, a British wing commander, testified he was an inmate in subcamp Roehmsdorf (Gleina) from November 1944 to April 1945 (R 135 157, 158); that the accused was camp eldest at this subcamp (R 157, 161, 166); and that on many occasions he beat inmates severely for no particular reason (R 162, 186). The accused flew into tremendous rages and beat the inmates with his fists. In many instances the beatings injured the inmates so severely that they were unable to work for a considerable time. In some instances the victims died because they were too weak from other causes to endure beatings (R 162, 185, 186). There were Hungarian, Romanian, Polish, Russian, Italian, French, Yugoslav, and Greek inmates in this subcamp (R 163).

The wing commander further testified that two blocks of the hospital were full of sick inmates, most of them reduced to almost skeletons. On the final evacuation in April 1945, about 2000 inmates clad only in shirts were carried from the hospital in open trucks, although it was very cold in the foothills of the Bohemian mountains (R 158, 167). They lay in the trucks, side by side, most of them incapable of doing anything for themselves. They were suffering from dysentery or enormous carbuncles, with legs swollen to six times their normal size (R 168). This camp for Jewish inmates, although it had no gas chamber, was in effect an extermination camp because of hard work and starvation (R 157). The conditions in the hospital were appalling (R 159). From 9 November 1944 to April 1945 this witness carried out of the hospital at least 1000 dead bodies. They no longer resembled human beings and could have been used as exhibits in a museum to show just how far a human body can shrivel. The bodies had suffered sores, fractured skulls, and broken legs and arms (R 160, 161). In many cases inmates were hit either with rifle butts by guards or with pick handles by capos (R 162). The camp was the filthiest the witness had ever seen (R 163, 186). The food was insufficient because capos and camp eldests stole food from the other inmates. The accused had potatoes, wine and about 10 rations of margarine while the other inmates had none (R 184, 185).

A fourth witness testified that in March 1944 the accused as a capo on a railroad construction detail beat him with a shovel handle on four occasions. However, he failed to definitely identify the detail or the accused (R 751-753, 757-761).

The accused testified that he was an inmate on the stone quarry

Connection with Buchenwald:

- a) Period: June 1941 — April 1945 (R 3288)
b) Status: SS, Sergeant (R 3291)
c) Position: Guard; clerk; block leader; labor service leader, November 1943 — April 1945 (R 3289, 3291)

Evidence: In his Statement, the accused stated that he was "labor commitment leader". However, in describing his duties therein he describes those of a labor service leader (R 1763, 4728; P-Ex 49 p. 1). By his testimony the accused described his duty as labor service leader following November 1943 (R 3291). One witness testified that during inspections in 1943 or 1944, the accused beat members of the details working outside the camp. The witness, who served as inmate runner, also testified that the accused was in detail 99, which carried out executions by shooting in the horse stables. The witness saw the accused at the horse stables on several occasions (R 1240).

A second witness testified that the accused stood at the gate each day and beat the inmates, either because they were not lined up properly or because they were carrying rocks smaller than required (R 1369). A third witness testified that on two or three occasions in 1943 the accused beat inmates of various nationalities until they collapsed. These beatings were with a pick handle (R 1431). A fourth witness testified that the accused very often beat inmates severely with a stick and with his fists (R 1723). The witness saw the accused beat a French inmate until he bled, because the victim did not come fast enough when he was called (R 1723, 1724).

The accused testified that as block leader he had no incidents with the inmates (R 3290). As labor service leader following November 1943, he took care of the labor service slips at his desk behind the gate when the work details marched out. He had nothing to do with counting or lining up the inmates (R 3291, 3294). He did not move the details out or inspect the work of inmates (R 3301). He did not organize transports (R 3300). The only time he ever mistreated an inmate was to give one a slap for smuggling bread (R 3302, 3303). He never carried a club (R 3303). The accused also testified that he never heard of detail 99 at Buchenwald and never took part in any executions (R 3304, 3322).

Five defense witnesses, including two former inmates who saw the accused often, testified that they never saw him beat or mistreat an inmate, nor did they hear it rumored that he did (R 1967, 1974, 3281, 3062, 3062). One of these witnesses further testified that the accused, as labor service leader, had nothing to do with lining up or counting the inmates on work details, and further, that the accused had nothing to do with the selection of inmates for transports (R 3275, 3278, 3279). Accused Nos. 20 and 36 testified that this accused was never a member of detail 99 (R 4144, 1145, 4514).

detail at Buchenwald; that he was subjected to typhus experiments in block 46; that he was capo on a railroad construction detail; and that in May 1944 he was sent to subcamp Gleina (Roehmsdorf) as capo and camp elder (R 3643, 3647, 3650). The accused beat inmates in the morning when they all rushed to get on a good detail. He beat them when they stole from each other (R 3650, 3651). He beat them only with his hands, never with a stick, shovel or club (R 3650, 3652, 3650). The accused permitted about 100 Jewish inmates to celebrate a religious holiday by letting them stay in camp. Inasmuch as they fasted he held their food for them until the next day (R 3652). He secured additional potatoes and beets from farmers for the inmates (R 3653). The accused slapped an inmate doctor because he was found in bed while inmates were in need of treatment (R 3655). The accused furnished civilian clothes to aid the escape of two Americans from a nearby prisoner of war camp (R 3664). The accused was frequently beaten by the SS camp commander (R 3665). The accused denied that either 10 inmates or 40 inmates died from injuries received from him (R 3660).

Three defense witnesses, former inmates at subcamp Gleina, testified that the accused frequently beat inmates for bad behavior such as stealing, but only with his hands. They further testified that no inmate was injured or died from such treatment (R 2508, 2509, 2538, 2544, 2545, 3332, 3384). Force was necessary to maintain order in the camp (R 3394). The accused was beaten by the SS guards for refusing to beat inmates (R 2516, 2547). He allowed the Jews to hold religious services even though it was forbidden (R 2511, 3393). He opened the camp gate to let out inmates during the first air raid (R 3387). Two physicians, one being accused No. 13, who examined the accused testified that he suffered from epilepsy (R 3636, 4306) and from an injury to his skull (R 3637). This resulted in a marked irritability and excitability (R 3638, 4326) but had nothing to do with his ability to adhere to the right (R 4326, 4327).

Sufficiency of Evidence: The Court was warranted from the evidence as to the extent and nature of his participation in its findings of guilt. The Court was within its prerogative and was warranted by the evidence in concluding that the accused's mental capacity was such that he was capable of distinguishing right from wrong and of adhering to the right. The sentence is not excessive.

Sentence: Death by hanging.

Petitions: A Petition for Review was filed by defense counsel, Major Carl Whitney, 3 October 1947. No Petitions for Clemency were filed.

Recommendation: Approval of the findings and sentence.

31. FRANZ ZINECKER

Nationality: German

Age: 47

Sufficiency of Evidence: The Court was warranted from the evidence concerning the extent and nature of his participation, especially that relating to his service in his important position as labor service leader and that concerning his severely beating inmates, in its findings of guilty. The sentence is not excessive.

Sentence: Life imprisonment.

Petitions: A Petition for Review was filed by defense counsel, Major Carl Whitney, 3 October 1947. A Petition for Clemency was filed by Colonel Gilbert E. Ackerman, Harry R. Pierce, and William W. Robinson, members of the Court, 22 September 1947, recommending a reduction of the sentence to 10 years imprisonment. Clemency was recommended because the accounts of the accused having beaten inmates are not believable. A Petition for Clemency was filed by the accused's wife, Frida Zineclaf, 28 October 1947.

Recommendation: Approval of the findings and sentence.

VII. CONCLUSIONS:

An examination of the entire record of trial fails to disclose any error or omission which resulted in injustice to the accused. The evidence is legally sufficient to support the findings of the Court. Accordingly, it is recommended that the findings of the Court be approved as to all the accused; that the sentences to death by hanging as to accused BERGMEIER, EISELF, GROSSMANN, HEIGEL, HELBIG, KESTEL, KOEHLER, KRAUTWURST, MERZACH, PISTER, PLEISSNER, SCHMIDT, SCHOBERT, WILHELM and WOLF be approved and ordered executed; that the sentences to death by hanging as to accused BARNEWALD, GEIMM, HACKMANN, REIMER, FOSCHER and SCHWARTZ be approved, but commuted to imprisonment for life and as commuted ordered executed; that the sentence to death by hanging as to accused MERKER be approved, but commuted to imprisonment for twenty (20) years, commencing 6 May 1945, and as commuted ordered executed; that the sentences to life imprisonment as to accused ZU WALDECK and ZINECKER be approved and ordered executed; that the sentences to life imprisonment as to accused GREUNUSS, ELLENBOGEN and KOCH be approved, but reduced to imprisonment for twenty (20) years, commencing 3 July 1945, fifteen (15) years, commencing 24 October 1945, and four (4) years, commencing 18 October 1945, respectively, and as reduced ordered executed; that the sentence to imprisonment for twenty (20) years, commencing 20 June 1945, as to accused OTTO be approved and ordered executed; that the sentence to imprisonment for fifteen (15) years, commencing 6 December 1946, as to accused DIETZSCH be approved and ordered executed; that the sentence to imprisonment for fifteen (15) years, commencing 23 May 1945, and as reduced ordered executed; that the sen-

tence to imprisonment for ten (10) years as to accused BENDER be approved, but reduced to three (3) years, commencing 6 May 1945, and as reduced ordered executed.

Legal Forms Nos. 13 and 16 to accomplish these results are attached hereto, should it meet with approval.

HAROLD E. KUHN
RICHARD A. SCHNEIDER
Attorneys
Post Trial Branch

Having examined the record of trial, I concur, this day
of 1948.

C. E. STRAIGHT
Lieutenant Colonel, JAGD
Deputy Judge Advocate
for War Crimes

ACTION BY APPROVING AUTHORITY

All sentences were approved by the approving authority on 8 June 1948, except the death sentences in the case of Otto BARNWALD, Phillip GRIMM, Heinrich HACKMANN, Peter MERKER, Guido REIMER, Helmut FOSCHER, and Albert SCHWARTZ were commuted to imprisonment for life, and the sentences to imprisonment for life in the case of Josias WALDECK and Werner GREUNUSS were reduced to twenty years, and the sentence to imprisonment for life in the case of Edwin FRIEDRICH-ELLENBOGEN was reduced to fifteen years, and the sentence to imprisonment for life in the case of Ilse KOCH was reduced to four years, and the sentence to fifteen years imprisonment in the case of Walter WENDT was reduced to five years, and the sentence to ten years imprisonment in the case of August BENDER was reduced to three years.

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DONAUZEITUNG

SCHWARZBISCHHE

DONAUZEITUNG

3. Jahrgang / Nummer 58

Für Stadt- und Landkreis Ulm und die Kreise Neu-Ulm, Heidenheim, Aalen

Ulm, Dienstag, 20.

Letzter Appell zur Ernährungsfrage

Ansprache J. Newmans - Erklärung General Clays - Stellungnahme der Regierungen und Gemeindefürsorge

FRANKFURT, 19. Mai (dema). Ueber Radio Frankfurt hielt der amerikanische Militärgouverneur für Hessen, Dr. J. Newman, eine bedeutungsvolle Ansprache über die kritische Ernährungslage an die Bevölkerung Hessens. In der er dringliche Maßnahmen gegen unberechtigte Störungen des Wirtschaftslebens ankündigte. Das hessische Kabinett beschloß in einer Sonder Sitzung, alles zu tun, um die an der Ernährungsfrage Schuldigen schnell der verdienten Strafe zuzuführen.

Ausgehend von der Feststellung, daß die Sorgen und Probleme der deutschen Ernährung auch die sein würden, wenn und er die volle Mitarbeit der Bevölkerung erwartete, rief der Gouverneur das Volk auf, Geduld, Mut und Fleiß zu beweisen. Es solle nicht seine Sache durch Streiks, Streikandrohungen und andere Untriede schaden während die USA alle Anstrengungen machen, um den Mindestbedarf für die Ernährung sicherzustellen, denn schon beständen im Kongreß Neigungen, keine weiteren Geldmittel mehr für Deutschland zu bewilligen.

Indem der Gouverneur daran erinnerte, daß die Unterstützung der verbündeten Politik des Nazismus gegen die zivilisierte Welt die Abhängigkeit Deutschlands von der Großart der Siegerstaaten bewirkt habe, teilte er mit, daß Präsident Truman veranlaßt, monatlich 300 000 Tonnen Erzeugnisse an die vereinigten Zonen zu liefern und größere

folge des strengen Winters verloren. Es seien aber umfangreiche Schiffs-Lieferungen über den unzugänglichen Bedarf hinaus nach Europa unterwegs.

Der Vorsitzende des Freien Gewerkschaftsbundes wies in einer Entgegnung darauf hin, daß man die richtigen frühzeitig auf die Schwächen der Arbeiterschaft wisse um den Mehrverbrauch der Bauern und anderer Schichten die weit besser lebten, als für normale Lebensbedürfnisse notwendig sei. Die Gewerkschaften seien gegen Streiks, nannten sie ihnen aber die Gewilligkeit ein, daß alle notwendigen Maßnahmen zur Behebung der Krise getroffen würden.

Ein Vertreter des amerikanischen Gewerkschaftsbundes AFL besprach mit bayerischen Gewerkschaftsführern die deutsche Ernährungsfrage, während er den Hoover-Plan erläuterte, während er ihn über das Lohn-Preisstop-Problem unterrichtete, das dahin geführt habe, daß der Arbeiter nicht einmal mehr die knappen Rationen bezahlen könne.

Auf einer Beschränkte- und Funktionärskonferenz der Fuhrgrößen wurde ein Sofortprogramm zur Reorganisation der deutschen Wirtschaft

Einsetzung eines Wirtschafts-

Berlin, 19. Mai (dema-DFP). Der britische Außenminister Ernest Bevin hat die Kompromißvorschläge für die wirtschaftliche Verwaltung der wirtschaftlich verdrängten britischen und amerikanischen Zonen angenommen, wie von amerikanischer Seite mitgeteilt wurde. Die Verbarungen seien gemeinsame Anleihen zur Ankerbelung der deutschen Wirtschaft, eine genaue Festlegung der Befugnisse der bizonalen Aemter, sowie die Einsetzung eines Wirtschaftsrates vor. Die Vorschläge wurden vom Militärgouverneur General Lucius D. Clay und General Robertson ausgearbeitet. Durch dieses Dreipunkteprogramm der amerikanischen und britischen Besatzungsbehörden werden gewisse Regierungsbestimmungen gewisse Regierungsbestimmungen wirtschaftlicher Natur in die deutsche Hand gegeben und die zentrale Lenkung der Wirtschaft beider Zonen ermöglicht.

Der Wirtschaftsrat soll sich nach dem Übereinkommen aus Delegationen zusammensetzen, die von den einzelnen Ländern im Verhältnis zu ihrer Bevölkerungszahl ernannt werden sollen.

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Bidault: „Ein Krieg kommt nicht in Fr-

Der französische Außenminister zu politischen Tagesfragen

Paris, 19. Mai (dema-DFP). Der französische Außenminister zu politischen Tagesfragen

