

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

UNITED STATES

v.

Kurt ANDRAE  
et al.

Case

No. 000-50-37

REVIEW AND RECOMMENDATIONS  
OF THE DEPUTY JUDGE ADVOCATE  
FOR WAR CRIMES

15 April 1948

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REVIEW AND RECOMMENDATIONS

I. TRIAL DATA: The accused were tried at Dachau, Germany, during the period 7 August 1947 to 30 December 1947, before a General Military Government Court, appointed by paragraph 17, Special Orders No. 144, Headquarters, European Command, APO 757, 5. August 1947.

II. CHARGE AND PARTICULARS:

CHARGE: Violation of the Laws and Usages of War.

Particulars: In that Kurt ANDRAE, Erhard BRAUNY, Otto BRENNLIS, Otto Georg Werner BRINKMANN, Emil Otto BUEHRING, Heinz Georg Alfred DETTMERS, Josef FUCHSLOCH, Kurt HEINRICH, Oscar Georg HELBIG, Rudolf JACOBI, Georg Wilhelm KOENIG, Paul MAISCHEIN, Hans MOESER, Stephan PAL-KOW, Georg Johannes RICKHEY, Hans RITZ, Albin SAWATZKI, Heinrich SCHMIDT, Wilhelm SIMON, Walter ULBRICHT, Richard VALENTA, WILH ZWIENER, and divers other persons, German nationals or persons acting with German nationals, during various periods between the 1st of June, 1943, and the 8th of May, 1945, at or in the vicinity of Nordhausen, Germany, acting in pursuance of a common design to commit the acts hereinafter alleged, did, wrongfully encourage, aid, abet and participate in the operation of Nordhausen Concentration Camp, also known as Dora Labor Camp and as Mittelbau Concentration Camp, and its subcamps and outdetails, which operation included the wrongful 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 names of the accused Kurt ANDRAE, Erhard BRAUNY, Heinz Georg Alfred DETTMERS, Oscar Georg HELBIG and Rudolf JACOBI, are, respectively, Arthur Kurt ANDRAE (R 6, 14), Erhard Richard BRAUNY (R 6), Heinz Georg Alfred DETTMERS (R 7, 17), Oskar Georg HELBIG (R 8) and Rudolf Ewald Otto JACOBI (R 9).)

The charge and particulars were amended on 18 July 1947 by including the name of accused Josef KILIAN (R 39). The original charge and particulars with the amendment were served 18 July 1947 upon all the accused, except Otto BRENNEIS, Stephan PALKOW, Haas RITZ and Abin SAWATZKI who were not served and whose names were withdrawn by the prosecution (R 1).

All of the accused pleaded not guilty to both the charge and the particulars.

### III. FINDINGS AND SENTENCES:

The Court announced the following findings (R 770-7782) and sentences (R 7783-7788). (The numbers preceding the names are those assigned by the Court to the respective accused (R 34). These numbers will be used hereinafter to facilitate reference to the various accused.)

No.	Accused	Plas Findings	Sentences
1.	Arthur Kurt ANDRAE	NG G	20 years, commencing 10 August 1946
2.	Erhard Richard BRAUNY	NG G	Life imprisonment
3.	Otto Georg Werner BRINK-MANN	NG G	Life imprisonment
4.	Emil Otto BUIHRING	NG G	Life imprisonment
5.	Heinz Georg Alfred DET-NG MEKS	NG G	*7 years, commencing 17 January 1947
6.	Josef FUCHSIOCH	NG NG	Acquitted
7.	Kurt HEINRICH	NG NG	Acquitted
8.	Oscar Georg HELBIG	NG G	20 years, commencing 20 May 1945
9.	Rudolf Ewald Otto JACOBI	NG G	Life imprisonment
10.	Josef KILIAN	NG G	Life imprisonment

No.	Accused	Plas Findings	Sentences
11.	Georg Wilhelm KOENIG	NG G	Life imprisonment
12.	Faul MAISCHEIN	NG G	5 years, commencing 2 August 1946
13.	Fans MOESER	NG G	Death by hanging
14.	Georg Johannes MCKHEY	NG NG	Acquitted
15.	Feinrich SCHMIDT	NG NG	Acquitted
16.	Wilhelm SIMON	NG G	Life imprisonment
17.	Walter ULBRICHT	NG G	5 years, commencing 14 August 1945
18.	Richard WALENT	NG G	20 years, commencing 6 March 1946
19.	Wili ZWIENER	NG G	25 years, commencing 5 May 1945

\* (See No. 5, accused DETMERS, p. 2) This sentence is to be served concurrently with the sentence to imprisonment imposed upon the accused in United States v. Piotrowski, et al., Case No. 600-50-2-23 (R 773, 7784). The accused was sentenced therein to imprisonment for 15 years. However, it was reduced to five years, commencing 17 January 1947, by the Reviewing Authority.

### IV GENERAL STATEMENT OF EVIDENCE:

A. FOR PROSECUTION: (Unless otherwise indicated, an item hereinafter referred to as a "Statement" is in the form of extrajudicial sworn testimony.)

1. *Organization:* Labor camp Dora was established as a subcamp of Buchenwald Concentration Camp in August 1943 under the command of SS Major Focrschner. It was not until 1 October 1944 that Dora was made an independent camp by order of the SS Economic and Administrative Department in Berlin with the designation of Concentration Camp Mittelbau, under command of SS Major Focrschner. Prior to the time that Dora was made an independent camp, a number of subsidiary camps had been established in the vicinity of Dora, all of which were incorporated in and became subcamps of Mittelbau Concentration Camp (R 43, 44, 75, 4581, 6417, 6679, 6902; D-Ex 21 P.3, D-Ex 22 p. 1, D-Ex 34 pp. 1, 2, P-Ex 91 A). Irrespective of the time element, the primary facility sometimes called Dora will hereinafter be referred to as the "main camp" and the entire system, i. e., the main camp and camps subsidiary thereto will be hereinafter referred to as the "Nordhausen Concentration Camp" or "Nordhausen".

The function of the main and subcamps was to supply inmate labor to the various civilian firms engaged in tunneling and preparation of an

underground factory for V-weapons and other production and, upon completion of the factory, to supply labor for the production itself. For the manufacture of V-weapons the Armaments Office, Ltd., had created a business organization entitled the Mittel Werke. This business enterprise, as well as the Nordhausen Concentration Camp, was under the supervision of SS Major General Kammler who was chief of works and building in the SS Economic and Administrative Department in Berlin and special deputy to Himmler for the production of V-weapons (R 110, 121, 143, 6754, 6767, 6850, 7517, 7521, 7623; D-Ex 23A pp. 2, 3; D-Exs 24, 29A p. 1; D-Ex 31A p. 3; D-Ex 47A pp. 1, 4, 5, 7; D-Ex 66A p. 1).

Nordhausen Concentration Camp was organized into six departments as follows: SS personnel section, protective custody camp leader's department, administration, political department, labor commitment, and medical department. The SS personnel section, which at different times was under accused Nos. 5 and 7, was concerned mainly with the administration of matters pertaining to the SS personnel and had nothing to do with inmate personnel matters. The other five departments were concerned with various phases of the operation of the inmate camps. The protective custody camp leader's department was responsible for the security and the internal organization of the camps and the discipline of the inmates. The administration department was responsible for supply of food and clothing, billeting and storage of inmate effects. The allocation of inmates to the various work details, the classification of inmate workers according to their skills and training, and the billing of civilian firms for the cost of inmate labor was under the labor commitment department in which accused No. 16 was the deputy leader. Among other functions, the political department investigated attempts to escape. The medical department was responsible for the operation of the inmate and the SS dispensaries and the convalescent res blocks, assignment of inmates and SS medical personnel, medical supply and the operation of the camp crematory. Each of these five departments functioned independently of the others under the camp commander, SS Major Foerschner, except the medical department which was directly under the SS Medical Department in Berlin (R 234, 286, 6417, 6754, 6850, 6857, 6968, 7010, 7608, 7623, 7628; D-Ex 21 p. 1; D-Ex 23A pp. 3, 4; D-Ex 29A pp. 4, 6; D-Exs 30, 35 p. 9; D-Ex 36 p. 1; D-Ex 51A pp. 1, 4, 5; D-Ex 66A pp. 2, 3; D-Ex 74A).

Because of the importance which V-weapons constructions was considered to have upon victory for Germany and its secret nature as the most recent development of the armament industry in Germany, security measures were of paramount importance. Each inmate and SS man was considered the bearer of a secret, and stringent security regulations were administered by many agencies, among them being the SD (Security Service), Gestapo, special plant protection police and an internal network of spies. An area of 30 kilometers surrounding

the underground construction was designated as being off limits, and no one was allowed in this area without permission of the counter-espionage office of the SD. About the first of June 1944 this off limits area became "SS post Mittelbau" by order of SS Major General Kammler. SS Major Foerschner was assigned as commander thereof in addition to his other duties and responsibilities as camp commander of Nordhausen and as one of the four managers of the Mittel Werke (R 6417, 6754, 6850, 7010, 7521, 7608, 7632; D-Ex 21 p. 6; D-Ex 23A p. 2; D-Ex 29A pp. 1, 4, 5; D-Ex 36 p. 3; D-Ex 47A p. 15; D-Ex 51A p. 1; D-Ex 82A pp. 1, 2).

2. Subcamps: Nordhausen Concentration Camp at its peak consisted of the main camp and 31 subcamps (R 40; P-E: 20A). The main camp was established in August 1943 as a Buchenwald Concentration Camp subcamp. On 1 October 1944 it and the several camps subsidiary thereto were given an independent status (R 43 321, 322, 4581; P-Ex 91A).

The following subcamps are mentioned in the record of trial: Elbrich, also referred to as Erich (R 209, 327, 950, 1130, 4566, 4567, 4690, 4704, 4934); Harzungen, also referred to as Hans (R 209, 248, 317, 950, 4670, 4692, 4704, 4934); Kottleberode (R 517, 4670, 5538); Foelke Kaserne (R 200, 4357, 4530, 4532, 4640, 4646, 4935); Woffleben (R 4910, 5017); Ilfeld (R 5017); Wieda (R 83, 85); Mackeroede (R 83); Nixei (R 83); Osterhagen (R 83); Niedersachswoerzen (R 4910); and Blankenburg (R 315, 327).

3. Inmates: The inmates of Nordhausen Concentration Camp and its subcamps were of almost every nationality, including Russian, Polish, Czech, Hungarian, Yugoslav, Rumanian, Dutch, French, Italian, Belgian, English, Danish, Norwegian, Turkish, Spanish, Swiss, Canadian and American. In all, 26 nationalities were represented (R 144, 145, 328). There were professional criminals, political prisoners, intellectuals, Jews, priests, and ministers. Also among the inmates were Russian, Italian, French, Canadian, British and American prisoners of war, including several high ranking officers (R 145, 190-193, 455, 456, 458, 459, 4033). There were only a few juveniles, the majority of the inmates being adult males (R 6908, 6912, 6913, 7136).

Prosecution Exhibit 69A shows the official strength of Nordhausen Concentration Camp and its subcamps by nationalities as of 1 April 1945. It indicates there were 40,202 inmates. Of the eleven nationalities specifically mentioned, the Russians and Poles comprised the largest groups. There were 343 inmates of undisclosed nationalities (R 4564; P-Ex 69A). On 1 November 1944 the inmate strength was 32,475 (R 4564; P-Ex 68A).

4. Special Features: Some of the outstanding special features of Nordhausen Concentration Camp were the camp prison, commonly known as the "bunker" (R 70, 132, 343, 728-733, 4327, 4525); the

stone quarry (R 70, 100, 1141, 416); the punishment detail "Netzkater" (R 553, 554); detail "110" (R 573); the crematory, (R 6963; P-Ex 120A p. 7); the inmate canteen (R 1758, 1759, 1777, 5130; D-Ex 5 p. 1); and the brothel (R 650, 711, 715).

5. *Housing:* On 1 April 1945 the inmate population of Nordhausen Concentration Camp was 49,202. The majority of the inmates were in the main camp and the principal subcamps of Ellrich, Harzungen and Boelke Kaserne. They were distributed as follows: main camp, 15,733; Ellrich, 6,539; Harzungen, 4,707; and Boelke Kaserne, 5,713 (R 4564; P-Ex 69A). At that time, 6,532 inmates lived in the old dilapidated buildings of a limestone factory at sub-camp Ellrich, which had inmate accommodations for only 4,000 and which during the peak in November 1944 had an inmate population of approximately 8,000 (R 6968; D-Ex 35 p. 2).

When the first group of 300 inmates came to the main camp (then Don) from Buchenwald Concentration Camp in August 1943, they were housed in plywood tents. By September 1943, there were 800 to 1,000 inmates living in the main camp in 25 to 30 tents (R 44, 6347; D-Ex 20, p. 1). Shortly thereafter the inmates were moved into the tunnels, where at first they had to sleep on the damp stone floor without bedding under the most primitive conditions. There was only one dim electric light every 100 meters in the tunnels. The dust was so thick the inmates could scarcely see (R 44-46). One tunnel, designated "B" extended completely through the mountain and had been built before the war, whereas a second tunnel, designated "A", paralleled "B" and was in the process of construction (R 41, 47, 48; P-Ex 21A). Each tunnel was designated a block. In each 1024 beds were built (R 42, 49; P-Ex 23). The beds were built of boards were four tiers high and crowded together so closely that the aisles were only one meter wide with the vertical space between the bunks being only 60 centimeters, making it impossible for an inmate to sit up in bed (R 57). The mattresses were of paper stuffed with straw. They soon became filled with lice and vermin as a result of the indescribably filthy and unsanitary conditions in the tunnel; and the lack of facilities for delousing (R 143, 253, 294, 419, 420).

The inmate strength of the main camp rapidly increased from 3,900 in October 1943 to 8,154 in November 1943 and 9,977 in December 1943 (R 4564; P-Ex 67A). Consequently, even though two more blocks equipped with bunks were later added to the original two, the overcrowding was so great that there were two or three inmates for each bed (R 49, 50, 53). The inmates worked on 12 hour shifts and each shift alternated in the use of the bunks (R 112, 113, 296, 416). The beds never got cold because as soon as one inmate got up to go to work another went to bed in the same bunk (R 143). There was not even one blanket for each bed and some inmates had to cover themselves with their coats (R 296). Ninety nine percent of the inmates were still living, eating, sleeping and working in the tunnels in January 1944.

It was not until the late summer of 1944 that all of the inmates were able to sleep in barracks outside the tunnels (R 193, 194, 295). When the beds were taken out of the tunnels to the barracks in the spring and the summer of 1944, dead bodies of inmates, some of them in a state of decomposition, were found in water underneath the wooden floor boards of the inmate block in tunnel "B-2" (R 42, 58, 125, 426, 421; P-Ex 23).

Misting of rock for additional tunnels went on day and night causing continuous clouds of dust and gasses. The dust settled on the beds. The dust and the gasses had a pernicious effect upon the eyes and the lungs of the inmates. The noise of the blasting interfered with what little opportunity the inmates had to sleep (R 113, 416, 417).

There was no water in the tunnels for either washing or drinking and inmates lived and worked for as long as four months without an opportunity to wash their hands or bathe (R 54, 295, 6963; P-Ex 120A p. 1). Some inmates, in desperation, urinated in their hands in order to wash the calcium dust from their faces (R 143). One pipe line containing water ran through the tunnel, but inmates who tried to wash themselves with the water leaking from this pipe were beaten by the SS guards (R 295, 338). There were no toilet facilities in the tunnels, except for latrine buckets made by cutting old gasoline drums in half (R 52, 56, 295, 6963; P-Ex 120A p. 4). These latrine buckets were so inadequate in number and quality that there was human excrement throughout the tunnels (R 143).

In a Statement, accused No. 16 stated that he was horrified at conditions in the main camp on his arrival there and that half of the inmates lived and worked in the tunnels and were scarcely ever permitted outside for fresh air (R 6754; D-Ex 23A). In a Statement, accused No. 5 confirmed that the conditions in the tunnels were very bad and that in December 1943 most of the inmates were working, living and sleeping in the tunnels (R 6850; D-Ex 29A p. 1). The hygienic and sanitary conditions were terrible at the main camp, both outside and inside the tunnels. When it rained the camp outside the tunnel was a sea of mud (R 208, 6968; D-Ex 35 p. 1).

Subcamp Rottleberode was overcrowded, particularly near the end in 1945 when 1900 inmates crowded into the camp which was intended for only 1000 (R 5902; D-Ex 10 p. 1).

5. *Food:* The inmates in the main camp received one fourth of a liter of so-called coffee in the morning, one liter of soup made from potatoes and turnips at noon, and for the evening meal 300 to 400 grams of bread, 25 grams of margarine and 25 grams of wurst or 50 grams of sausage. In summer the sausage was frequently spoiled and toward the end the total ration became considerably less (R 47-430, 1183). Occasionally there was a salad of yellow turnips or other vegetable in the evenings, but the vegetables were very often spoiled (R 136, 137).

About March 1944 there was an extra ration for a short period of time for heavy workers, consisting of about one third more bread, margarine and sausage. However, this was only for a few of the labor details (R 137, 1184).

The total ration never exceeded 800 to 1000 calories daily, although the work required of the inmates would normally necessitate at least 2500-3000 calories (R 336, 734, 735). At a meeting of the department heads of the main camp, the medical officer complained that, of the 2000 calories authorized daily for each inmate, they actually received only about 800 calories. The balance was stolen by the SS and administrative personnel to be sold on the black market to civilian workers in the towns (R 4354, 4675-4679). The diet was seriously deficient in albumin for the muscles and sugar heavy labor. Consequently, many inmates suffered from muscular weakness, particularly of the heart muscles, and other inmates looked like skeletons covered with skin (R 735, 736).

The water supply at the main camp was deficient and there was no water in the tunnels. Consequently, the inmates suffered from thirst. On a few occasions inmates working in the tunnels were given a little mineral water, coffee, or tea and rum as a substitute for coffee (R 93, 1782, 1786).

The food situation at subcamp Wieda was worse than at the main camp (R 114).

At subcamp Harzungen the food situation was extremely bad and was partially the cause of the high death rate. From August 1944 to January 1945 there was only one loaf of bread daily for four inmates and from January 1945 to April 1945 the bread ration was reduced to a loaf for seven or eight inmates daily (R 1909, 2000, 2030; P-Ex 38A pp. 6-8). Accused No. 19 testified that while he was at Harzungen the daily ration consisted of coffee in the morning and evening, a liter of turnip soup at noon, 350 grams of bread and 15 grams of margarine daily, and about twice weekly, 30 grams of sausage (R 5235, 5286).

At subcamp Elrich in September 1944 the inmates received one liter of soup, one third of a loaf of bread, and 20 grams of margarine daily and about twice weekly a piece of sausage the size of the little finger (R 1131). This meager ration steadily decreased until there was only one tenth of a loaf of bread daily and no margarine or sausage (R 1131). The food situation became so bad at Elrich that in March 1945 there was at least one definite case of cannibalism. It was discovered that flesh had been cut from a body which was among a stack of corpses outside a barracks. The next night a young Polish inmate was caught who admitted that he had eaten flesh from this body (R 1192, 1193, 5285).

Supplementary food which the inmates might have received from Red Cross and other packages systematically stolen in the post office at the main camp and distributed to the SS and to some inmates in

favorable positions. However, the inmates were told the contents of these packages were being used to improve the food ration (R 152-154, 464-468, 774, 940, 1361, 4587-4590; P-Ex 56 p. 6).

There was an inmate canteen at the main camp where the inmates could buy some food occasionally, but very few of the inmates had any money, at least not enough to pay the high prices charged. Jewish inmates were not permitted to purchase anything (R 1758-1761, 1777, 1778, 5:30; D-Ex 5 p. 1).

7. *Clothing*: The initial 300 inmates who came to the main camp (then Dora) from Buchenwald Concentration Camp in August 1943 had only one pair of trousers, one jacket, one shirt, one hat, one pair of shoes and one pair of socks. They received no other clothing until 1944. During this period there was no water available for washing clothing (R 60, 81, 82, 423, 424). Few inmates had underwear and many of them had to wear their wooden shoes without socks (R 139). It was cold in the tunnels and their clothing was not sufficient to keep them warm. Inmates who wrapped old paper cement bags around themselves in lieu of underwear were declared guilty of sabotage and punished severely (R 298, 415). There was no winter clothing at the main camp until January 1944 (R 6417; D-Ex 21 p. 2).

At subcamp Elrich the clothing situation was even worse. In December 1944 there were hundreds of inmates without any clothing (R 6417; D-Ex 21 p. 4). It was stipulated that between 7 and 19 December 1944, the number of inmates at subcamp Elrich who were unable to work because they were without clothing and shoes ranged from a low of 533 on the 20th and 22nd to a high of 1,242 on 14 December 1944 (R 1263, 1264). It was impossible to obtain any clothing at Elrich until January 1945 and the condition of inmates clothing was catastrophic (R 6968; D-Ex 35 p. 4). Another witness testified that clothing at Elrich was so scarce that the night shift of workers had to wear the clothing of the day shift and some inmates remained naked in the blocks (R 327).

At subcamp Harzungen the clothing shortage was so extreme that many inmates walked barefooted to the construction site where they worked, which was five kilometers from the camp. Other inmates worked wearing only underwear during winter weather (R 2030, 5286, 5287; P-Ex 38A p. 2).

A report of inspection indicated that at one time in the main camp there was a shortage of 8,000 blankets as well as considerable shortage of jackets, trousers, caps, shirts, stockings and shoes (R 4556; P-Ex 61A). When the camp physician at the main camp complained about the insufficiency of clothing, he was told, "We have nothing". In April 1945 when the camp was evacuated, the clothing warehouse was opened and there were thousands of pairs of new shoes, new suits and other articles of clothing (R 141, 1806, 1807, 4355). The inmates were prohibited from receiving any items of clothing from either Red Cross or other packages (R 4526, 4527).

8. *Suppression of Religious Worship:* Priest and minister inmates were not allowed to administer religious ceremonies to other inmates (R 463). The camp commander advised priest inmates that they would be hanged at the least sign of religious activity. One priest was killed by an SS man for administering the last rites to an inmate (R 1082).

9. *Medical Treatment.* The hospital at the main camp was only a tent with 10 or 12 beds in the beginning. In October 1943 when the inmate physician had 30 to 40 patients daily, hospital accommodations consisted of only two tents. It was not until many months later that a barracks was provided, although in the meantime the number of patients had increased to 200 to 300 daily (R 331). In January and February 1944, the first barracks were constructed for the hospital at the main camp with a total of about 600 beds, but by that time there were about 1,500 sick inmates. Consequently, two to three patients were in each bed, usually lying naked with only one blanket (R 159, 160, 333). Conditions improved somewhat for a short period of time during the summer and fall of 1944 until the arrival of large inmate transports from Auschwitz and Gross Rosen in December 1944 and January 1945. Many of these inmates were dead upon arrival and many others seriously ill (R 4268, 4272-4274, 4366, 4368). The overcrowding with two and three patients to a bed commenced again. In one block, which was a so-called convalescent block, the inmates slept on the bare floor, most of them without blankets (R 4459, 4460).

In a Statement, accused No. 19 stated that only so-called prominent inmates received good treatment in the hospital. Inmates were required to undress completely outside the dispensary and to wait there naked until the doctors were ready to look at them. The doctors were indifferent and the medical treatment was of poor quality. At times dead bodies remained two or three days in front of the dispensary. Sick inmates in block 15 which was called a rest or convalescent block lay on the floor. Only a few of them had blankets and many appeared to be near death, but received no medical care (R 5130; D-Ex 5 pp. 1, 2).

The inmates suffered principally from pneumonia, tuberculosis, diarrhea, "phlegmon" and edema, induced by malnutrition, hard work, mistreatment and filthy living conditions. Medical treatment was seriously hampered by lack of proper diet in the hospital, scarcity of medical supplies, poor medical treatment and nursing service, overcrowded condition in the hospital, lack of proper sanitary facilities, and the fact that sick inmates were not admitted until disease was in an advanced stage (R 115, 333-335, 337-340, 1195, 1231). For example, there was only one male nurse for every 50 patients, whereas, there should have been a nurse for every 10 to 15 (R 341). There were 500 patients suffering from tuberculosis in the infectious stage in one room equipped with only 200 beds (R 335, 393).

As bad as conditions were in the main camp, the situation at subcamp Boelcke Kaserne was even more appalling. In late 1944 and early 1945

the Boelcke Kaserne was used mainly as a hospital to which very seriously sick inmates were evacuated from the main camp. Ellrich and Harzungen, without any preparation being made to receive them (R 2071, 2073-2076, 2083, 3037, 4025, 4026, 7609; D-Ex 52A p. 2). There were no medicines or medical supplies (R 2080, 7609; D-Ex 52A pp. 1, 2). Of one group of 1,692 sick inmates from subcamp Ellrich, 550 died soon after their arrival at the Boelcke Kaserne (R 2077). In a block containing tubercular patients there were no beds and it was so crowded the inmates had to lie on their sides on the excelsior covered floor without any blankets (R 1891, 2081, 2082). In blocks 6 and 7 there were about 1,000 sick Russian, Polish, Czech and Dutch patients who had to lie on the shavings covered floor. Most of them were suffering from malnutrition and diarrhea (R 1852, 1853, 1855). About 10 to 15 died daily in each block (R 860). About 70 percent were so sick they were unable to walk to the latrine and lay in their own waste for days before the shavings were removed and burned (R 1865, 2028, 3029; P-Exs 49, 50). Dead bodies were carried away by a detail. On one occasion a Dutch priest was carried away. He recovered consciousness later to find himself lying naked in a pile of corpses (R 1866).

During delousing in March 1945, all the inmates in subcamp Boelcke Kaserne were required to undress and their clothing was taken away from them for disinfection. Those inmates who were too sick to move were left in the block lying naked on the cement floor. All doors and windows were opened and all inmates were sprayed with a solution. They were forced to remain naked for 14 hours before their clothing was returned. The next day 74 inmates were found dead in one block (R 3000-3006).

There was virtually no food for the sick inmates in subcamp Boelcke Kaserne (R 1854, 1855, 3008, 3009). Large numbers of inmates were suffering from malnutrition and were beyond ordinary medical remedies. They could have been helped by an improved diet, but efforts made by the camp physician to obtain additional food were unsuccessful (R 7609; D-Ex 52A pp. 3, 4, 6). Medical supplies such as medicines, bandages and surgical instruments were seriously lacking and efforts to obtain these were not successful (R 1856, 2080, 7609; D-Ex 52A pp. 1-4). Surgical operations were performed without narcotics or anesthetics and, if the patient yelled too loudly, he was beaten (R 4633). An inmate physician testified that he was not permitted to sterilize his instruments (R 764).

There were so many deaths that only three causes of death were shown on death certificates, viz., (1) tuberculosis (2) general weakness or exhaustion and (3) heart failure. Actually many inmates died from starvation, mistreatment and the complete lack of conditions conducive to recovery (R 2097, 2098, 3088, 4001, 4537).

A climax came on the 3rd or 4th of April 1945 when there were several Allied air raids on Boelcke Kaserne, there being no markings on the buildings to indicate they were used as a hospital. The sick in-

mates were locked in the blocks and those who tried to escape during and after the air raids were shot. More than 3,000 inmates were killed by air raids, by shooting, and by neglect of the sick and wounded after the raids (R 3009—3012, 3016, 3019—3022, 3024, 3029, 3037, 7600; P-Exs 39, 40, 41, 42, 44, 46, 47, 48; D-Ex 52A, pp. 6, 7).

At subcamp Ellrich the dispensary was at first located in an attic without light or air. There were only ten beds to accommodate the 300 inmates who reported daily for sick call. There was not enough room and every few days patients occupying the beds were thrown out to make room for other patients. Consequently, many died a few days after being forced to leave the hospital. After January 1945 the hospital was moved to a clean barracks, but this did not alleviate the situation appreciably because there were three patients for every bed (R 1190). About 150 inmates, suffering from such diseases as tuberculosis, typhus and diphtheria, were grouped together in one place, lying naked on straw mattresses. Each day eight or ten died (R 1133). Many inmates died at Ellrich from lack of medicine. Others were sent to the main camp so they would not die at Ellrich. Orders were received in January 1945 from the main camp prescribing that only patients who had a chance for recovery would be sent there (R 1195, 1197, 1198). From September to November 1944 a former baggage carrier from the Cologne railroad station performed such surgical operations as amputations. He performed these operations on a wooden table without sterilizing the instruments (R 1189, 1190). Inmates in the hospital received less food than inmates who worked and many died from malnutrition (R 1191).

10. *Killings and Mistreatment.* The principal methods of killing used at Nordhausen Concentration Camp were shooting, hanging, strangulation, beating, starvation, exposure, deprivation of medical attention and overwork (R 9, 134, 178, 184, 194, 276, 299—301, 313, 341, 342, 348, 374, 375, 423, 427, 433, 434, 438, 441, 443, 476, 477, 684, 685, 722, 735, 736, 749—752, 758, 766, 1082, 1133, 1141—1145, 1148, 1149, 1189—1191, 1135, 1565, 1860, 1917—1920, 1922, 1953, 1954, 1978, 2030, 2077, 2093—2095, 2097, 2098, 3090—3095, 3010, 3011, 3050, 3051, 3088, 4034, 4035, 4158, 4161, 4212, 4247, 4327, 4328, 4477, 4484, 4537, 4675, 4693, 4699, 5146—5148, 5292, 5293, 5832, 6968; P-Ex 38A pp. 1—4, 6—8, P-Ex 54 pp. 5—7, D-Ex 17 pp. 2, 4, 5, D-Ex 35 p. 3).

The inmates were also beaten with iron bars, rubber hoses, rubber covered cables, wooden clubs and heavy boards. The beatings were administered by SD men, SS men, capos, block elders, foremen and even by civilian employees working in the tunnels (R 338, 343, 463, 464, 531, 583, 752, 757—763, 767, 1564, 1565, 1589—1592, 1917, 1920, 1921, 1978, 1979, 1981—1983, 2030, 2093—2095, 3051, 3051, 4247, 4268, 4272, 4488, 4492, 4493, 4576, 4681; P-Exs 30, 38A, P-Ex 54 pp. 5, 6, P-Ex 84A).

The conditions under which the inmates worked, lived and slept in

the tunnels during the first phase of operations at the main camp, i. e., while the tunnels were being constructed and preparations were being made for the manufacture of V-weapons, made life almost intolerable. The inmates worked 12 hour shifts seven days a week; additional work such as unloading wagons and cleaning up was frequently required; roll calls took from one to four hours; and they had to wait for their food, all of which resulted in the inmates receiving only five or six hours of sleep daily (R 55, 56, 66, 112, 113, 122, 140, 194, 296, 337, 431, 4583, 4584, 7517; D-Ex 31A p. 3).

There were blasting operations in the tunnels day and night creating dust and gasses, which coated the inside of the noses and mouths of the inmates. This condition was aggravated by there being little water for washing or drinking. The blasting was carried on without regard for the safety of the inmates, many of whom were killed and injured (R 113, 114, 143, 411—417, 722, 751, 831—833). Many inmates became so thirsty and dirty from the dust that they attempted to drink urine or use it for washing. Many of the inmates who did so were beaten to death by the SS personnel (R 143, 416). Many others acquired pneumonia from the dust and dampness, which developed into tuberculosis because of the exposure and undernourishment (R 333, 342, 736, 6963; P-Ex 120A p. 2).

The inmates were required to carry stones weighing as much as 30 to 40 kilograms and were beaten, if they were too weak to lift them (R 752). On one occasion a group of SS men, among them being accused Nos. 9 and 11, beat 40 inmates with heavy boards in the tunnel so severely that four of these victims died within three days from injuries to the kidneys (R 564, 1565, 1589—1592).

During the second phase of operations at the main camp, mistreatment decreased slightly. This phase involved largely the training of the inmates and other preparations for the production of V-weapons. The work was much lighter. There was little production during this second phase (R 19, 4583, 4584). By this time most of the inmates had been moved out of the tunnels into barracks. The living conditions were better and the hospital facilities were improved (R 122, 756).

The second phase was of short duration. Berlin ordered that the tempo of production be increased. Thus, the third and final phase began (R 250, 4583). The camp physician testified that he was instructed by Berlin before he was sent to the main camp that the production program must be carried out without regard to whether it cost the lives of 1000 or 10,000 inmates (R 4673, 4680). In the summer of 1944 an order was read at roll call in the main camp on three successive days authorizing the capos to kill Russian inmates who failed to work diligently, it being suspected that the Russians were making passive resistance in order to slow down production (R 188, 197). The work tempo was increased by working inmates without rest periods until they collapsed. When an inmate collapsed another took his place (R 5284). Inmates were beaten, if they were not able to maintain the work tempo, and many



died from complete exhaustion (R 710, 756—758). The inmates were forced to keep moving, even if not working. An inmate found sitting down or standing idle was punished, the punishment ranging from slaps in the face to confinement in the camp prison (R 1934, 4525).

During this third phase many inmates were hanged for sabotage. Such minor matters as using a piece of scrap rubber to repair the sole of a shoe, using a scrap of leather or rope to make a trouser belt, making a ring or a spoon out of a scrap of aluminum, or using a discarded paper cement bag in lieu of underwear were considered sufficient acts of sabotage to justify hanging (R 102, 103, 115, 116, 179, 298, 425, 426, 4427). Altogether 120 inmates were hanged for such trivial matters (R 426, 684).

Inmates were daily delivered to the hospital at the main camp with injuries from beating by the SS personnel, block elders, capos and civilians working in the tunnels (R 4488). In the beginning some beatings were on a purportedly official basis. The inmates were given 25 lashes pursuant to orders from the Reichs Security Head Office. This punishment consisted of 25 blows with a whip on the nude body in the presence of and after examination by a doctor. However, beatings soon became purely informal. Inmates were beaten at work on the way to and from work, and in the blocks. They were grateful, if they were beaten rather than reported for sabotage (R 463, 464, 581, 583, 4492, 4493; P-Ex 30). Even the camp physician at the main camp complained to the camp commander about the beating of inmates by the SS personnel (R 4681).

The camp prison was the special province of the SD where inmates suspected of sabotage or those who had been denounced by the SS authorities were confined and interrogated in the process of which they were beaten, sometimes until they died (R 132, 343, 728—730, 732, 749, 4327, 4328, 5832; D-Ex 17 pp. 2, 4, 5). Inmates to be publicly hanged were prepared in the camp prison by having a piece of wood placed in their mouth and secured by a wire behind the head, apparently to prevent screaming (R 454, 1361; P-Ex 36 pp. 6, 7). Inmates were also secretly hanged in the camp prison (R 433, 766, 4477). In the summer of 1944 accused Nos. 2, 3, and 13 were frequently seen marching inmates from the camp prison to the little quarry behind the camp hospital; shots were then heard, following which a detail from the hospital carried the dead bodies from the quarry to the crematory (R 70—73, 100).

There was an SS dog section at the main camp and many inmates were bitten by these dogs necessitating treatment at the hospital (R 201, 202). At subcamp Rotlieberode there were two extremely vicious dogs which on one occasion in the summer of 1944 attacked a Ukrainian inmate who had fallen asleep at work and tore him to pieces (R 198, 1945, 1946).

At subcamp Rotlieberode there was an out-detail, called "Stampeda", composed mainly of Jewish inmates. Between November 1944 and February 1945 a process of systematic extermination by beating and mistreatment was carried out, with the result that only 150 of the 500 in the Stampeda detail survived (R 1919, 1922, 4247; P-Ex 54 pp. 5, 6).

At subcamp Harzungen the inmates were beaten continuously by the SS men and capos, both in the camp and while working on details. Many of them were so severely beaten that they had to be carried to the dispensary (R 1978, 1979, 1981—1986). Many inmates died from the beatings or collapsed and died from overwork, long roll calls, long marches to the places where they worked, and undernourishment (R 1978, 4705, 5388—5290). In a Statement, a witness who was in Harzungen following 1 August 1944, stated that 50 to 60 inmates were killed by beatings and undernourishment (R 3030; P-Ex 38A pp. 2—4). Conditions at sub-camp Ellrich were similar to those existing at Harzungen with respect to mistreatment and the life of the inmates was one of continuous misery. These conditions resulted in high death rates (R 4704, 4705, 6968; D-Ex 35 p. 3).

Russian, Jewish and gypsy inmates were more severely mistreated than other inmates (R 188, 4247, 4358, 5265, 5266; P-Ex 54 pp. 5, 6).

At subcamp Boelke Kaserne during air raids on 3 and 4 April 1945, the inmates were locked in the blocks. Those who tried to escape during and after the raid were shot, resulting in the deaths of more than 3,000 inmates from the shooting and the air attack (R 3010—3013, 3016, 3019—3022, 3024, 3038; P-Exs 39, 40, 41, 42, 44, 46).

11 Executions. Hangings at the main camp took place on the roll call square, in the camp prison and at the lumber or wood yard. Hangings were also carried out on at least two occasions in the tunnels (R 178, 300, 313, 4163, 4164). All together, about 310 inmates were hanged at the main camp and of this number about 120 were hanged for so-called acts of sabotage (R 426, 694). The victims were of many nationalities, including Poles, Czechs, Rumanians, Turks, Yugoslavs, Russians, Greeks, Belgians, Frenchmen and Dutchmen. They also included two Englishmen and one American and one Hindu (R 454, 455).

For the hangings which took place on the roll call square, the inmates were prepared in the camp prison by placing a piece of wood in the mouth, securely held in place by a wire behind the head. They were then marched to the roll call square. There were three gallowses, one for six persons, one for three or four persons and a single gallows (R 434). All inmates were assembled to witness the hangings in the roll call square (R 434, 4161). As many as 57 inmates were hanged on one occasion in the roll call square in March 1945 (R 130, 427, 1361; P-Ex 36 pp. 2, 3, 6, 7). On this occasion 10 inmates were hanged at a time on the three gallowses with accused No. 10 acting as the chief hangman. Inasmuch as some of the victims were still alive when they were cut down from the gallowses, this accused smashed in the heads of several with a footstool. Accused No. 3, the protective custody camp leader, intervened to prevent this spectacle. He then proceeded to shoot three of four victims, who were still alive, in the back of the head (R 1148, 1149).

During the hangings in the tunnel all work was stopped and the inmates were required to watch. The ropes around the necks of the victims were attached to a bar which was then slowly raised by an electric crane. The

victims writhed and strangled for about 10 minutes; after which the bodies were let down. Mercy shots were then given by SS personnel to those still alive. In this manner, on one occasion in February 1945 nine were hanged and on another occasion 16 were hanged (R 274, 300, 313, 441-443, 1149, 1150, 4484).

During the forefront of the period, orders were read reciting that the inmates to be hanged were guilty of sabotage and sentenced to be hanged, but later no orders were read (R 433, 684, 686). No trial of inmates preceded the hanging and no execution orders were published. However, and interrogation by SD personnel or a legal officer usually preceded the hanging (R 169, 170, 267, 268, 433, 44, 4320; P-Ex 56A p. 7).

The hangings in the camp prison were secret and were usually for political reasons (R 433). An SS camp physician at the main camp testified that he was present at four hangings in the camp prison. Representatives of the Gestapo, the camp administration and a member of the court section who read the sentences were also present (R 4476, 4477). Another witness testified that there were at least 10 hangings in the camp prison between 10 January 1945 and 1 March 1945 (R 766).

Seven Russian inmates were hanged at subcamp Rottleberode for attempting to escape. Four Russian comrades of the victims were required to perform the hanging, while all Russian and Polish inmates watched (R 4247; P-Ex 54 p. 5).

Inmates were also killed by formula shooting. Seven Italian prisoners of war, some of whom were still in uniform, were shot by a firing squad in December 1943 for alleged refusal to work. Accused Nos. 2, 5, 9, and 13 were members of this squad, which was commanded by accused No. 11. He personally killed the seventh Italian, who was so ill he had to be carried on a stretcher to the stone quarry, which was the execution place (R 348, 374, 375, 141-1145, 1170, 4164, 4165, 4168). In the summer of 1944 there were frequent shootings of inmates from the main camp prison. On these occasions the block leaders drove all the inmates from the vicinity of the stone quarry. Accused Nos. 2, 3 and 13 were seen marching inmates from the camp prison to the quarry, shots were heard, and bodies were carried to the crematory by a detail from the hospital (R 70-73, 100).

The participants in executions received special bonuses of liquor, cigarettes, sausage, and white bread (R 1145, 4267, 4487, 6850; D-Ex 29A p. 7).

**12. Outgoing Transports.** Three transports of sick and invalid inmates were sent from the main camp on about 5 January, 8 February, and 25 March 1944. Each of these transports consisted of about 1,000 inmates, the first two destined for Lublin, Poland, and the last for the Belzen Concentration Camp (R 335, 4168, 4169, 4253, 4708).

The inmates to be sent away on these "invalid transports" were selected by accused No. 16 from the patients in the hospital and from other inmates no longer fit for work. The physical condition of the inmates

selected for these transports was pitiful beyond description. Their arms and legs were bandaged and many had arms or legs partially or completely amputated. Before leaving the main camp, the clothing and shoes of these inmates were taken away from them. They were given only old drawers or trousers to wear, and some were naked. Accused No. 11 was in charge of the loading of one of the transports and ordered that 50 inmates be loaded into each railway car. When the inmate loading detail attempted to load the inmates gently, accused No. 11 ordered the detail to speed up and forced them to throw the inmates into the cars as if they were sacks of coal. In order that the total in this transport would be an even 1000, some naked corpses, apparently from the crematory, and some half dead inmates from the hospital were loaded. The cars were boarded up after being loaded, despite the cries of the inmates suffering from lack of air. The inmates were not furnished with food, water or blankets. Accused No. 2 and 11 were present at the loading of another transport and it was said that 287 out of 1,000 inmates died before they could be loaded onto the train (R 60-63, 335, 336, 4169-4171, 4253-4259).

In the fall of 1944 three inmates, who had been on the transport which left the main camp in March 1944 destined for Lublin, returned to the main camp and stated that only 146 of the 1,000 inmates on the transport reached Lublin alive (R 751, 829). A French inmate, who returned to the main camp from one of these transports, told another inmate that many of the sick on the transport were killed by injections and that only 66 survived, the rest either died or were killed (R 304, 306). An inmate physician spoke to a Polish inmate who came back from one of these transports and was told that there were few survivors (R 335).

A former SS camp physician testified that he was shown a top secret order in January, presumably 1945, to the effect that mortally ill inmates and those who were sick and could not be expected to recover in a reasonable length of time were to be transferred to Buchenwald. The order bore a code number indicating that these inmates were destined for the gas chamber (R 4323, 4325, 4330, 4331).

**13. Execution Marches.** About ten days before Easter 1945, an order was relayed from Buchenwald Concentration Camp which directed that no living inmate was to be allowed to fall into the hands of the enemy. A copy of this order, which was signed by Himmler, was brought to Nordhausen by General Kammler the following day. The camp commander of Nordhausen Concentration Camp held a meeting at the main camp a day or two later attended by all officers, including the commanders of the subcamps, at which this order was announced (R 574, 4332-4334).

It appears that the original plan by which the order was to be executed contemplated systematic extermination of all the inmates of the main and subcamps by sealing them in the tunnels and gassing them. In preparation therefor a wall was constructed at one end of one of the tunnels (R 269, 4335, 4336). For reasons not quite clear, possibly because the commanding officer was wounded in an air attack it was ordered

that the inmates be evacuated. Most of them were to be sent to Belsen Concentration Camp (R 4336, 4337).

The evacuation of the main camp began on 4 April 1945. The last transport consisted of 4,000 inmates under the command of accused No. 13. It left on 6 April 1945 (R 350, 584, 589, 792). Each inmate was supposed to receive a loaf of bread and one tin of meat before leaving the main camp, but many received no food whatsoever. As many as 80 to 120 inmates were packed into each of a variety of open and closed railway cars (R 350, 583, 584).

When this last transport arrived at the railway station in the town of Ellrich on the morning of 7 April 1945, a boarded-up railway car was found containing inmates from subcamp Ellrich. This car had been left behind by accused No. 3, who was in charge of the transport from subcamp Ellrich. The inmates in this car were screaming. They had not received anything to eat or drink. Many were already dead and some who were alive were eating the flesh of their dead comrades. The SS guards proceeded to kill all 29 of the inmates who were still alive. The bodies were buried near the railroad tracks in the town of Ellrich (R 584, 585, 783).

The transport was delayed a day and one half at Tettenborn by air attacks. During the night 26 inmates in one railway car were shot and killed and the buried near the tracks (R 350, 585—587, 793, 794, 796, 797). Two days later at Osterode the train was abandoned because of air attacks. While the weakened inmates were attempting to leave the train, 35 inmates were shot and killed (R 350, 587, 588, 794, 795). At this point about 400 inmates who were unable to march were left behind and the balance of the evacuees proceeded by foot (R 350, 587, 588). On the first day of the march, between Osterode and Ocka, 72 inmates were shot (R 589, 591).

The situation at Belsen Concentration Camp was one of complete confusion and chaos when the transports from Nordhausen Concentration Camp reached there. One transport which arrived on 11 April 1945 had been en route since 5 April 1945 and many were already dead. These who could not march from the railway station to the camp were shot by the SS guards (R 1046). The route from the station to the camp was lined with the dead and dying (R 4337). There was no provision for food or water and the inmates, who were already starved, rushed like wild animals to any place where anything was edible was found (R 4047, 4337). The guards shot indiscriminately into the crowd of inmates from morning until night (R 4047, 4338). When a supply of 6,400 loaves of bread was received, it was found to contain finely ground glass excelsior. If this had not been discovered, the inmates would have died a miserable death (R 4337, 4338).

A transport left subcamp Ellrich on 5 April 1945 and after a trip lasting 11 days reached the Henkel Factory near Oranienburg. The dead, the dying and the living were packed 80 to 120 to the car. About half of the inmates on this transport died from starvation or were killed by the SS

guards. There was one loaf of bread and one tin of sardines for four persons for the 11 days and no water (R 1134, 1139).

The inmates of subcamp Harzungen were evacuated by foot on 4 April 1945. At the start the inmates were issued a loaf of bread for each four prisoners and some tins of meat. For the next three days, they received only 250 grams of bread and, on one occasion, some coffee. Those who were unable to walk were shot when the inmate evacuation march left Harzungen. In addition 80 to 90 were shot and killed during the first three days, because they were unable to keep up with the column (R 595—599).

On 4 April 1945 the inmates at subcamp Rottleberode, about 1,700 in all, were marched to the main camp under the command of accused No. 2. About 400 reached the main camp the next day, where they were loaded on a train containing inmates from the main camp. On 9 April 1947 the evacuation transport reached the town of Mieste where it remained for two days. When accused No. 2 received information that the Americans were only 13 kilometers distant, all inmates who could walk were ordered to proceed to a forest a few kilometers from Mieste, leaving behind 200 or 300 inmates who were sick. The march column was dispersed by an air attack, some inmates returning to Mieste where they found that all the sick inmates who had been left there had been shot and killed. The column was reformed and continued to march until evening, during which time the guards shot inmates who tried to obtain some bets from a pile alongside the road. The SS guards disappeared during the night of 11 April 1945. The inmates were free from then until they were again rounded up on 12—13 April 1945 by units of the Wehrmacht, Volkssturm and Hitler Youth and taken to a kaserne in the town of Gardelegen (R 500—503, 538, 1420—1424, 1446—1450, 6170; P-Ex 110A pp. 1, 3, 4).

By 13 April 1945 about 1,000 inmates, mainly non-Germans, had been assembled in the kaserne of a remount school at Gardelegen, the German inmates having been previously separated. The guard commander from Rottleberode testified that he was called to the telephone, in the absence of accused No. 2 who was still in command, and ordered to shoot this group of inmates, which he refused to do. This telephone call was from Thiele, the Kreisleiter of Gardelegen. Later in the day the witness received a second call from Thiele ordering him to kill these inmates, which he again refused to obey. He then received a third call from Thiele ordering him to remove the inmates from the kaserne to a brick barn standing in an open field about 15 minutes marching time from the kaserne. This order was carried out, the inmates arriving there about 1000 hours (R 512 1426, 6170; P-Ex 25 pp. 9—11, P-Ex 110A pp. 4—6).

At the barn were SS guards, soldiers from the Wehrmacht and Luftwaffe, members of the Hitler Youth, and armed civilians. The inmates were then ordered into the barn and the doors were closed. A fire was started near the door in the straw that covered the floor. In a few

minutes this fire was extinguished by the inmates. A second fire was also extinguished. When a group of Russian inmates tried to rush the door of the barn, they were met with a hail of machine gun and rifle fire and soon there was a heap of bodies at the door. Grenades and incendiaries in the meantime were being thrown into the barn from the outside, starting many fires in the straw upon which gasoline had been poured. It was impossible to extinguish the fires and the interior of the barn was soon a raging inferno. Inmates who attempted to dig out under the sides of the barn were shot whenever any portion of their bodies protruded out from under the barn. However, about 18 to 20 inmates succeeded in escaping in this manner in the darkness. They were hunted by the SS guards with dogs. By 2400 hours the massacre was finished, there being about four survivors of this deliberate slaughter. On 14 April 1945 at 1800 hours the town of Gardelogen was captured by American troops. The bodies of 1,016 victims were recovered from the barn and an adjacent trench. The bodies of the victims were reburied by the population of Gardelogen in a military type cemetery under the supervision of American troops (R 469, 504-506; 512, 515, 539-544, 1426-1430, 1440, 6170; P-Ex 25 pp. 11, 12, P-Ex 25A-J, P-Ex 110A pp. 7-11).

14. *Death Rates.* During the period from the summer of 1943 to April 1945 there were about 15,000 recorded deaths in Nordhausen Concentration Camp. However, the actual number of deaths was between 18,000 to 20,000, which figure does not include deaths during the evacuation (R 288, 738).

The death rate was especially high at the main camp from the summer of 1943 to March 1944. Prior to 4 January 1944, when the crematory at the main camp began operations, 150 to 200 corpses were sent to Buchenwald Concentration Camp for cremation every second or third day. During this period the camp population was only 8,000 to 10,000. This was during the first phase, when the inmates were living in the tunnels and while the work was mainly the construction of tunnels. There was a detail of 10 inmates whose sole job was to remove the bodies of inmates from the tunnels. From October 1943 to April 1944 this detail removed a minimum of 30 to 40 bodies daily. It was estimated that at least 8,000 inmates died during this period (R 149-151, 200, 355, 835, 1078, 1125, 1571-1568).

The death rate decreased substantially from April 1944 to September 1944 largely because of better living conditions when the inmates were removed from the tunnels, improved medical treatment and the lighter character of the work. However, the death rate was still 500 to 800 monthly. Perhaps the most important factor in lowering the death rate at this time was the shipment of about 3,000 sick and invalid inmates from Nordhausen, many of whom would have died had they remained. Another witness who was a camp physician testified he lowest monthly death rate for this period was two percent of the camp population of 13,000, i.e., 260, whereas the normal mortality rate in Germany is six to eight deaths per 1,000 yearly (R 200, 835, 836, 4348, 4692).

The death rate began to increase again in September 1944, jumped sharply with the arrival of the transports from Auschwitz and Gross Rosen in December 1944 and January 1945, and remained high from then until the evacuation in April 1945. As many as 15 percent of the inmates died monthly during part of this period. The greatest number of deaths was in the 20 to 45 age group, which is directly contrary to the mortality rate of the civilian population. The number of deaths for February and March 1945 was 3,000 and 4,500, respectively, according to one witness. Camp records for this period indicate 2,092 deaths between 21 January 1945 and 20 February 1945; 2,391 in March; and 5,231 in the first quarter of 1945 (R 200, 1095, 4343, 4570-4572, 4693, 4698; P-Ex 77A, 78A, 79A).

It was stipulated that the deaths at subcamp Eilrich were as follows: 153 in November 1944; 494 in December 1944; 878 in January 1945; 742 in February 1945; and 1,347 in March 1945 (R1262-1266). There were so many bodies in March 1945 it was necessary to construct a funeral pyre to supplement the crematory (R 1193, 1194).

The death rate at subcamp Boelke Kaserne was 100 to 120 daily in March 1945. About 51 percent of the inmates in this subcamp died between 20 January 1945 and 11 April 1945 (R 4405, 4406, 4573; P-Ex 81A).

## B. FOR DEFENSE

1. *Introduction:* In August 1943 after heavy Allied air raids on plants manufacturing V-weapons at Peenemuende, Wiener-Neustadt and Friedrichshafen, it was decided by Hitler that the assembly of these weapons would be carried out in underground factories. The tunnels already constructed in the Bohemian mountains near Nordhausen, used as a storage place for gas and oil, were selected as the site for a factory. Pursuant to this decision inmates from the Buchenwald Concentration Camp were sent to the site of the tunnels in August 1943 to establish labor camp Dora as a subcamp of Buchenwald (R 43, 44, 517, 7531; D-Ex 38A p. 1, D-Ex 47A p. 7).

Because of the high urgency of the V-weapons project, inmates arrived in numbers from the very beginning far in excess of those who could be cared for in the existing accommodations. This main camp (Dora) was originally planned to accommodate 5,000 inmates, but as more and more inmates were sent there by order of SS Major General Kanmker, the contemplated number was greatly exceeded (R 6850, 6902, D-Ex 29A p. 1, D-Ex 34 p. 1).

2. *Housing:* When accused No. 2 arrived at the main camp on 28 August 1944, shortly after it was activated, there were only temporary shelters for the housing of inmates and SS personnel. Both the inmates and the SS personnel willingly worked long hours setting up barracks. The barracks were prefabricated and separate parts arrived almost daily by railway (R 6680, 6681). Construction proceeded as rapidly as possible

and by December 1943 there was housing for 2,000 inmates in the camp outside of and in addition to the tunnels. All of the inmates were able to move from the tunnels into barracks in April 1944. In addition there was a dispensary occupying 11 barracks, a bath house, adequate sanitary facilities, and a washroom where inmates could wash their clothing. The roll call square, streets and walks were paved with cement (R 6902; D-Ex 34 pp. 1, 2).

While latrine facilities in the tunnels were at first rather primitive and consisted of only pits, there was a detail whose sole job was to keep the pits empty and to clean them with a chemical disinfectant. To supplement these, a latrine and bath house was constructed just outside of tunnel "B", the facilities of which were available to all inmates working and living in the tunnels. Complete sanitary facilities had been installed in the tunnels by April 1944 (R 6929, 6930).

In the beginning there was no water in the tunnels, although there was a pipe carrying compressed air for the operation of equipment. This pipe sweated through the process of evaporation, but inmates were not allowed to drink this moisture because it was impure (R 6981). An inmate witness who began to work in the tunnels in November 1943 testified that the inmates received coffee to drink every day until January 1944, when mineral water was made available in whatever quantities the inmates desired (R 6336, 6337).

For the housing and comfort of the inmates, the Mittel Werke purchased and gave to the main camp thousands of beds and straw sacks; complete washing, shower and toilet installations; equipment for an inmate laundry and the necessary pipe and other material to enable installation of all this equipment (R 7521; D-Ex 47A p. 32).

The camp commander at sub-camp Rottleberode insisted upon the greatest cleanliness possible, improved the living quarters and provided sufficient fuel to keep the quarters warm. As a result the inmates felt very much at home there and few tried to escape (R 6691, 6692).

3. *Food.* The food ration at the main camp was the same as that of German civilian workers engaged in heavy labor and was equal to that served the civilians working in the tunnels (R 6754, 7517; D-Ex 22A p. 1, D-Ex 39A p. 3). Sufficient food was prepared daily in the inmate kitchen to provide each inmate with a daily ration containing between 2,800 to 3,200 calories (R 6550, 6552). Quantities of foodstuff from undeliverable packages were sent from the post office to the inmate kitchen where it was used mainly to supplement the diet of sick inmates in the dispensary (R 6551, 7632; D-Ex 82A p. 3, 4).

While the amount of the food ration was prescribed by higher authority, every effort was made at sub-camp Harzungen to assure equal distribution. Inmates were permitted to work on adjoining farms during their spare time and to sell their handcraft products in exchange for additional food. To insure the bread ration of 500 gram daily, a bakery was established in December 1944. In addition to the bread ration the inmates at Harzungen received one liter of soup daily, which sometimes

contained meat; 50 grams of margarine daily; and frequent rations of potatoes, marmalade, cheese and sausage. The food was well prepared and was adequate for a person of normal appetite. A roster was maintained of inmates who did not receive packages from outside sources and undeliverable packages were given to these inmates. Sick and weak inmates received additional rations (R 4974, 4975, 6899, 6900, 7635, 7620; D-Ex 31A pp. 1, 2, D-Ex 32A p. 3, D-Ex 50A pp. 5, 6, D-Ex 62A p. 2).

The food at sub-camp Rottleberode was good and in sufficient quantities. From May 1944 until the evacuation in April 1945 the inmates received the special ration for heavy laborers. The first four months after sub-camp Rottleberode was established the food ration was not so good, but afterwards the daily ration consisted of 500 grams of bread, a soup containing 600 grams of potatoes, 900 grams of vegetables, and 110 grams of fruits with pods. There was also a weekly ration of 860 grams of fat, sausage or meat. On Wednesdays and Sundays the inmates received an additional 250 grams of bread as a special ration. Jewish inmates received the same amount of food. A special ration was given all inmates at Christmas 1944, consisting of 1,500 grams of bread, 75 grams of margarine, and 150 grams of canned meat. When transports of half starved inmates from Gross Rosen arrived, they could not tolerate the increased diet to which they were not accustomed. Diarrhea resulted from which some died (R 5205-5207, 5223, 5603, 6692; D-Ex 10 p. 1).

At sub-camp Elrich the inmates received about 700 grams of bread daily, because they were considered heavy workers. The daily ration of warm soup, on the average, contained 40 grams of meat, 12 grams of fat, 400 to 600 grams of vegetables, 600 to 1,000 grams of potatoes, and other ingredients to improve the taste. Each day, in addition, the inmates received one of the following: 100 grams of sausage, 100 grams of fried meat, 100 grams of cheese, or 100 grams of marmalade (R 6408, 6409).

4. *Clothing.* In January (presumably 1944) most of the inmates in the main camp had been provided winter clothing such as sweaters and overcoats, although requisitions submitted to Berlin were only partially approved. Inmates working in the tunnels or in heated rooms were not furnished overcoats. The sub-camps brought in clothing weekly for exchange and received clothing which had been deloused, washed and repaired. To handle the repair of clothing, the main camp had a tailor shop with 60 sewing machines operating with two shifts capable of repairing several thousands of pieces of clothing weekly (R 6417; D-Ex 21 p. 2).

The clothing supply was jeopardized in late 1944 when clothing that had been allotted to the main camp (Dora) was destroyed in air raids on Buchenwald. In January 1945 Berlin stated that it would be impossible to furnish 40,000 pairs of shoes already allotted because of shortage of raw materials. From then on shortages of materials and transportation difficulties prevented the SS Economic and Administration Department from delivering much of the clothing which had been

requisitioned and approved. Despite these difficulties every inmate of the main camp was provided with a pair of shoes, a pair of trousers, a jacket, a sweater and an overcoat, unless the inmate worked in a heated tunnel and did not need an overcoat. The Mittel Werke supplemented the clothing supply by giving the inmates thousands of suits, shoes and underwear. Inmates were prohibited from receiving civilian type clothing in packages from the outside, because of the possibility that such clothing might be utilized to assist escape (R 6417, 7605, 7632; D-Ex 21 pp. 3-5, D-Ex 50A p. 7, D-Ex 82A p. 3).

Individual shortages of clothing were largely the result of theft and black marketing. Many inmates stole the clothing of others and sold it to civilians working in the tunnels. Other inmates sent their own clothing to the tunnels with comrades for black marketing with civilians. Some inmates, particularly the Russians, hid their clothing and reported it as stolen in order to keep from going to work. As one example of these activities, 5,000 shirts and trousers of a particular type were issued to the inmates at the main camp, and when a check was made, 12 or 14 days later, only 2,000 shirts and 2,800 trousers could be located. The rest had disappeared in black market channels (R 6417; D-Ex 21 p. 5).

In November 1944 there was a considerable storage of clothing and shoes at subcamp Ellrich, largely the result of black market activities on the part of the inmates themselves and large scale thefts by capos and other prominent inmates. This was alleviated by sending all the clothing in the warehouse at the main camp to Ellrich and by giving this subcamp a priority on incoming supplies. Shortly thereafter the inmates at Ellrich were adequately clothed as a result of these measures (R 6417, 6968; D-Ex 21 p. 4, D-Ex 35 p. 2-4).

The inmates at subcamp Harzungen had adequate clothing, including overcoats, gloves, sweaters and ear protectors for the winter time. The clothing and footwear of the inmates were inspected daily. No one was sent to work without proper clothing and shoes. There was some black marketing by the inmates, particularly with shoes. Some inmates deliberately ruined their shoes in order to stay away from work (R 4872, 6889, 6900, 7605; D-Ex 31A p. 2, D-Ex 32A p. 3, D-Ex 50A p. 7).

5. *Special Features.* A variety of recreational facilities were made available to the inmates of the main camp and subcamps. These facilities included movies, radio programs and musical shows produced and staged by the inmates. For those who preferred sports, there were boxing contests, soccer games and other sports events. There was a library with several thousand volumes for the inmates at the main camp (R 1821, 4992, 5648, 5754, 6878, 6876, 6900, 6502, 7605, 7620; D-Ex 23A p. 2, D-Ex 32A p. 4, D-Ex 34 p. 2, D-Ex 30A p. 11, D-Ex 62A p. 4).

6. *Suppression of Religious Worship.* A priest was permitted to conduct a mass at subcamp Harzungen during Christmas 1944, although such services were forbidden by higher authority (R 4984, 4985, 7605; D-Ex 50A pp. 10, 11).

7. *Medical Treatment:* Barracks to house the camp dispensary were among the first buildings erected at the main camp. Four such barracks were completed by December 1943. In April 1944 the dispensary consisted of 11 barracks and a building for the delousing of inmates. The health conditions among the inmates at the main camp were such that the camp medical officer reported at a conference in the summer of 1944 that there was no danger that the production of V-weapons would be unfavorably influenced by sickness among the trained inmate workers. The doctor further stated the health figures for the inmates were better than for the civilian workers employed on the same project (R 6902, 7521; D-Ex 34 pp. 1, 2, D-Ex 47A p. 27).

Among the inmate physicians, who were largely left in charge of the dispensary by the camp physician, there was a lively forbidden activity in regard to convalescent block assignments. Some inmate physicians favored their countrymen to the extent they were able to spend months in the dispensary or the convalescent rest blocks, although perfectly well and able to work. Some inmate physicians accepted bribes for assignments to the rest blocks. Many inmates forged certificates which permitted them to stay in the convalescent block or to receive only light camp duties. Inmates who were actually ill were never arbitrarily removed from the rest blocks and required to work, although many inmates were forced to return to work when it was found that their certificates were forged or an examination by a physician indicated they were not actually sick (R 6754, 6788; D-Ex 23A pp. 6, 7, D-Ex 37A).

Until the unannounced arrival of two groups of sick inmates at subcamp Boelke Kaserne on 18 and 25 March 1945, the general hygienic conditions were satisfactory. With regard to the delousing of inmates near the end of March 1945, the disinfection was carried out by the inmates according to customary procedures. The inmates retained a blanket while their clothing was being disinfected and, when their clothing was returned, the blankets were deloused. In the meantime, the inmates were sprayed with the disinfectant solution. An inmate who was present testified that he saw no inmates who died as a result of this delousing process (R 5997, 5998, 7609; D-Ex 52A pp. 2, 3).

The Allied air raids on 3 and 4 April 1945, which partially destroyed subcamp Boelke Kaserne, also destroyed other hospitals in the city of Nordhausen. It was impossible to display the Red Cross on the hospital at Boelke Kaserne, because the same building also housed offices and billets. The placing of the Red Cross on the building would have been a violation of international conventions and would most likely have been ineffective in any event. Every effort was made to give first aid to inmates as well as civilians injured in the first air raid until the second raid, which followed soon thereafter and virtually destroyed all facilities (R 7605; D-Ex 52A pp. 5-7).

At subcamp Harzungen a medical officer was present and checked details leaving for work. Inmates who were ill were sent to the dispen-

sary. Some inmates in an effort to avoid work made themselves ill by drinking water mixed with chewing tobacco or by eating potato peelings, although they had been warned by the doctor of the possibly serious consequences. Inmates who came to Harzungen from Auschwitz Concentration Camp were afraid to report themselves sick in fear of being put to death by injection. It was necessary to force all of these inmates to undergo a medical examination to determine their physical condition (R 4865, 7605; D-Ex 50 A pp. 8, 9).

8. *Killings and Mistreatment.* Punishment for violations of regulations or for minor crimes was administered by two methods at the main camp. Either a formal punishment recommendation report was submitted to Berlin, where the nature and extent of the punishment were determined, or punishment was administered immediately and informally after a hearing before the protective custody camp leader. Most inmates preferred, and in many instances requested, that they be punished informally inasmuch as no record of such punishment was placed in their personal file. Punishments ordered by the protective custody camp leader ranged from reprimands for minor violations, such as laziness or smoking at work, to as much as 15 strokes for thefts and black marketing with civilians. Many reports of infractions of the regulations by inmates found their way into the waste basket. In many instances caps and block leaders were punished, when it was found by investigation that they had turned in false reports of violations by other inmates (R 6968; D-Ex 35 pp. 9, 10).

Reports of sabotage by inmates were handled either by the prison compound office (protective custody camp leader's office) or by the Gestapo and SD, depending on the seriousness of the charge. In those instances where the investigation was conducted by the prison compound office, the record of interrogation of the inmate with a suggested beating punishment was forwarded to the SS Economic and Administrative Department in Berlin for approval. The camp physician was required to check the inmates' physical condition to determine whether he could be given the suggested punishment. Inmates received only beating punishment for acts of sabotage as serious as building complete radio sets, electrical heaters, and stoves out of V-weapons parts. Inmates who made small articles such as rings, cigarette cases, lighters and cooking pots were not usually reported, or if reported, were not interrogated and received no punishment (R 6010-6012, 7050-7052, 7056, 7057).

The work being done by the inmates in the main camp was said by many generals to be the most important work in the German war program. The production of V-weapons did not involve heavy labor and belonged to the classification of "light machine work". From one to three months' training was necessary to train an inmate to perform the precision work involved, whereupon he became an expert and could not be easily replaced. Precision work of this type could not be performed at a killing pace, nor could the rate of production be increased by

beatings. Consideration had to be given to the inmate workman, or else he would have produced waste, which could not be tolerated in view of the scarcity of raw materials and the importance of the production program (E 6850, 7113, 7114, 7517, 7521; D-Ex 29 A p. 4, D-Ex 39 A p. 3, D-Ex 46 A p. 3, D-Ex 47 A pp. 9, 10, 29).

The underground factory of the Mittel Werke had a modern system of air conditioning, as well as temperature and humidity controls. The machines were largely automatic and heavy or bulky parts were moved by electric cranes and other mechanical devices. The working hours of armament plants were fixed by Berlin in 1944. Civilian employees worked the same number of hours and under the same conditions as the inmate workers (R 6754, 7114, 7517, 7521; D-Ex 23 A p. 5, D-Ex 38 A p. 5, D-Ex 46 A p. 3, D-Ex 47 A pp. 4, 28).

Subcamp Harzungen was one of the best concentration camps. Inmates were not kicked, beaten or tormented. They were allowed sufficient rest and roll calls were short. The inmates worked eight hours and only had to march for three quarters to one hour to reach their work. Sometimes they were transported by railway. It was forbidden for the guards to beat inmates. These regulations were repeatedly read and announced to the guards, Capos, foremen, and block eldets who beat inmates were punished by the camp commander (R 4377, 6754, 6899, 6900, 7605, 7620; D-Ex 23 A p. 2, D-Ex 31 A p. 1, D-Ex 32 A pp. 2-4, D-Ex 50 A p. 4, D-Ex 62 A p. 3).

9. *Executions.* When inmates were executed at the main camp, it was by an order from the Reichs Security Head Office in Berlin. The court officer and camp physician had to be present at all executions. The order directing the death sentence was read and, if necessary, translated to the inmate being executed. A report signed by the camp physician was made to Berlin indicating the time, place and name of the person executed. The orders from Berlin sometimes specified where the execution would take place, such as designating the roll call square in many instances. The allowance of one fifth of a liter of alcohol to official participants in an execution to counteract emotional shock was a generally authorized practice and applied in the Wehrmacht as well as in concentration camps (R 3130, 5357, 6066, 6067, 6641, 6643, 6644, 6850, 7010; I-Ex 5 p. 5, D-Ex 9 p. 1, D-Ex 29 A pp. 3, 6, 7, D-Ex 36 p. 2).

The SD (Security Service) was the agency which handled the investigation of serious sabotage cases and of escapes by inmates where SS personnel were not involved. The SD reported directly to the Reichs Security Head Office in Berlin. Inasmuch as these matters were handled exclusively between these two agencies, the headquarters at the main camp had no knowledge of executions to be held until receipt of an information copy of a teletyped execution order from Berlin to the SD. These teletyped orders from the Reichs Security Head Office were marked "secret" and were signed by either Kaltenbrunner or Mueller. Under the laws existing at that time, it was legal under German law

to condemn a person to death on the basis of an administrative determination of guilt by the Reich Security Head Office. Such findings in accordance with existing law were legal. Any SS man who refused to obey would himself have been subject to court-martial and a possible death sentence. It was not illegal to witness such executions (R 6012—6014, 6024, 6061, 6062, 6241, 6243, 6251, 6252, 6260, 6514—6519, 6422, 6658—6660).

Acts of sabotage for which inmates were executed were those which seriously threatened vital aspects of the V-weapons operation. A group, principally composed of Russian inmates, planned a mass escape attempt for November 1944. If possible, the entire V-weapons project was to be sabotaged unless the army to which it would be turned over intact was the Russian Army. This group had acquired weapons and ammunition and had also secretly stored explosives stolen during the time when the tunnels were being constructed. This plot was revealed to the SD and about 300 inmates were arrested in connection therewith. Of this number about 100 who were the leaders and who investigation indicated were definitely involved in the plot were ordered executed. The first group of seven to nine inmates were hanged in the tunnels in January 1945. A second group of 16 to 18 were hanged in the tunnels in the middle of February 1945. Another group of 50 were hanged on the roll call square in March 1945. Because it took so long to hang these 50, the chief of the Gestapo, SS Lieutenant Colonel Bischoff, ordered that eight other inmates who were to be hanged be executed by shooting instead. This order was carried out in the camp prison by members of the SD. On 17 March 1945, 15 other members of the resistance movement who were in the camp prison at the main camp awaiting execution attempted escape. Twelve of these were shot and killed by SS personnel during the attempted escape. Three escaped from the camp prison. Two of these three were recaptured the next morning, while the third committed suicide (R 5892, 6572—6577, 7036, 7038—7041, 7044—7046, 7049—7055, 7057—7059; D-Ex 17 p. 5).

The execution of six Italian inmates in December 1943 was in compliance with an order from Berlin, sentencing them to death for mutiny and refusal to work. The camp commander of the main camp, the court officer, the camp physician and other official witnesses were present. A court-martial sentence was read before the firing squad shot. The camp commander told accused No. 2 that the Italians had been tried by court-martial (R 6947, 6663, 6679, 6754, 6902; D-Ex 20 p. 2, D-Ex 23 p. 1, D-Ex 24 p. 8, D-Ex 44 p. 4).

There were no executions at subcamp Harzungen (R 6900, 7605; D-Ex 32A p. 2, D-Ex 50A p. 2). According to the testimony of witnesses who came to subcamp Rotlieberode in November 1944, there were no executions of inmates there (R 5550, 6893).

10. *Evacuation Marches*: The evacuation transport commanded by accused No. 13 well illustrates the difficulties existing at that time in connection with the evacuation of Jorchausen. Before leaving the main

camp, sufficient food for four days was distributed to the inmates and two additional railway cars full of supplies were also taken along. There was ample food for normal travel time to the destination of the transport which was Neuenhamme. The train was several times abandoned by the train crew who detached the locomotive. Additional locomotives were secured with great difficulty and after long delays. Allied planes were constantly overhead and there was continuous fear of air attack. During a delay at Tattenborn an inmate physician reported that some of the inmates were suffering from typhoid fever and should be sacrificed in the interests of all, which suggestion accused No. 13 refused to entertain (R 796, 797, 6544—6546, 6810, 6811, 6655, 7010; D-Ex 36 pp. 3, 4).

Because it was impossible to proceed further from Osterode by train, the sick inmates were left behind. Those who were able to march proceeded on by foot toward Goslar about 40 kilometers distant. The destination had to be changed while en route because of the presence of American armored columns. At Ocker a new train was secured and the evacuation transport eventually reached Ravensbrück Concentration Camp nine days after leaving the main camp. To have dissolved the transport and turned loose 3,000 inmates behind the German lines could not even be considered. The result would have been pilfering and acts of violence by the inmates against the civilian population who would have retaliated by killing the inmates. The only alternative was to keep the transport together and proceed as quickly as possible to the destination even though some inmates died (R 6447—6550, 6655, 7010; D-Ex 36 pp. 4, 5).

Subcamp Rotlieberode was evacuated on 4 April 1945, accused No. 2 being the transport commander. The train finally reached the town of Mieste on 10 April 1945 after having been under constant air attack by Allied planes causing deaths among both the inmates and the guard personnel. From Mieste it was impossible to proceed further by train. On 11 April 1945 the evacuation continued on foot. The column reached the town of Gardelegen on the morning of 13 April 1945, where the inmates were quartered in a kaserne. The Kreisleiter of Gardelegen advised accused No. 2 the next day that inmates who had escaped from other transports were looting property and attacking women and that it would be best to shoot the inmates in the kaserne. Accused No. 2 discussed this conversation with the commander of the guards and it was agreed they could not shoot the inmates. Subsequently, in the absence of accused No. 2, the guard commander had several telephone conversations with the Kreisleiter, who ordered him to kill the inmates which the guard commander refused to do. Then the Kreisleiter ordered the guard commander to march the inmates from the kaserne to another building, a large barn located about 15 minutes marching time distant. Not being able to locate accused No. 2 who had not returned, the guard commander marched the inmates to the barn and left them there with some young soldiers from the kaserne as guards. Neither the guard



commander nor accused No. 2 was present at the burning and shooting of the inmates which occurred later the same night (R 6170, 6679, 6689, 6700; D-Ex 22 p. 2, 3, P-Ex 1:0A pp. 1-10).

Before the evacuation of subcamp Harzungen on 4 April 1945, each inmate received a loaf of bread (1500 grams) and for every five inmates there was a can of sausage containing 800 grams. Two transports proceeded by train and one transport composed of volunteers proceeded by foot. An inmate who escaped on 6 April 1945 testified that he did not see or hear of any inmates being killed during the time he was with the column. The camp eldest reported on the evening of 6 April 1945 that an SS sergeant had shot inmates at the rear of the march column. The transport commander relieved this sergeant immediately and issued orders that there would be no shooting. Inmates who became sick were transported in requisitioned automobiles to the nearest civilian hospital (R 6900, 7605; D-Ex 32A p. 4, D-Ex 30A pp. 11, 12).

11. *Death Rates*: The death rates at subcamps Harzungen, Ellrich and Rottleberode were low prior to the arrival of transports of sick inmates from Auschwitz and Gross Rosen (R 6407, 6731, 7605; D-Ex 50A p. 8, P-Ex 118A p. 6). There were only 25 or 26 deaths among the inmates at subcamp Rottleberode between January 1945 and the evacuation in April 1945. Fifteen of these were sick Jewish inmates from the eastern transports (R 5602, 7616; D-Ex 10 p. 1, D-Ex 55A p. 6). The air raids on Boelke Kaserne on 3 and 4 April 1945, in which over 1,000 inmates were killed, were the primary cause of the high death rate at this subcamp (R 7609; D-Ex 53A p. 11).

## V. QUESTIONS OF LAW:

### A. JURISDICTION:

1. *Common Design as Separate Substantive Crime*. Following the close of the case for the prosecution, the defense moved to strike the phrase "acting in pursuance of a common design" and the phrase "commit the acts hereinafter alleged" from the particulars under the charge (R 4843). It urged that the Court was without jurisdiction, inasmuch as the charge and particular allege a common design as a separate substantive crime. The defense relied upon an order by Military Tribunal III, Nurnberg, Germany (R 4843, 4844).

The order referred to is a ruling on the defendants' motion attacking Count I of the indictment in Case No. 3, Military Tribunal III, The United States of America v. Josef Altstoetter, et al. The pertinent part of this order reads 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 encourage, aid, abet and participate in the operation of Nordhausen Concentration Camp \*\* which operation included the wrongful sub-jector of \*\*\* (certain persons) \*\*\* to killings, beatings tortures \*\*\*", etc. Thus, the particulars in this case charge as an offense participation in the execution of a common design to commit described unlawful acts. They do not allege a common design as a "separate substantive crime".

The import of the ruling relied upon by the defense is clarified by the next to 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 motion was properly overruled (R 4845).

2. *Universality of Jurisdiction over War Crimes*. At the close of the prosecution evidence, the defense moved for findings of not guilty as to all accused on the ground that all the acts of accused established by the evidence occurred in territory never occupied by United States Forces. The motion was properly denied by the Court (R 4843).

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, 2 Hudson World Court Reports 23). 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

beat, or killed one or more nationals of a country which was then a co-belligerent of Germany demonstrates the character of his participation and establishes that he, through example by such acts, encouraged others to commit similar acts of cruelty against inmates without regard to nationality. He thus maintained and furthered the overall objectives of the operation. The same would be true, if the evidence showed that the participant as an incident of the execution of the common design tortured, beat, or killed one or more German nationals. Accordingly, it would have been appropriate for the Court to have considered such evidence even in the absence of the phrase "and other non-German nationals" in the particulars.

However, the question actually presented by the motion of the defense is whether criminal acts by German national participants in the Nordhausen operation directed at inmates of the camp who were nationals of nations then co-belligerents of Germany constitute war crimes. International law is comprised of that body of rules and principles which govern the conduct of nations in their relations and intercourse with each other. The law of war constitutes a portion of that body of law. A violation of the law of war is a war crime. For an illegal act to be a war crime certain elements must be present, viz., (1) the act must be a crime in violation of international law; (2) there must be disparity of nationality between the perpetrator and the victim; and (3) the criminal act must have been committed as an incident of war.

It is obvious, in view of the disparity of nationality of the accused and such victims as may have been nationals of nations then co-belligerents of Germany, that an international crime is involved. Whether such violations of international law constitute war crimes depends upon whether the crimes were committed as an incident of war. The particular allegation that the victims were inmates of Nordhausen Concentration Camp. The evidence establishes that these inmates were being used as slave laborers in the production of V-weapons. It is clear that the slave labor program formed a part of the Nazi concept of waging total war ("International Military Tribunal, Nuremberg", Volume I, pages 232-238); that the production of V-weapons was an incident of war; and that the crimes committed against such slave labor inmates of Nordhausen constituted war crimes.

Thus, it is clear, in view of the doctrine of universality of jurisdiction over war crimes discussed, supra, that the Court had jurisdiction of the persons of the accused and of the subject matter.

#### B. SEVERANCE:

The Court did not abuse its discretion in denying the motion on behalf of accused No. 19 for severance (R 5348, 5352). Severance is not a right or a privilege of the accused. The applicable rule is that such a motion is addressed to the sound discretion of the Court. Under the procedure applicable to the trial of war crimes, the test is whether an injustice would result to an accused and not whether purported substan-

of the United States which confers upon Congress power "to define and punish offenses against the law of nations", (Windrop, "Military Law 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 or the non-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 41-43, 103; United States v. Klein, et al., (Mademar Murder Factory Case), opinion DJAWC, February 1946; United States v. Weiss, et al., (Dachau Concentration Camp Case), opinion DJAWC, March 1946; United States v. Becker, et al., (Flossen-burg Concentration Camp Case), opinion DJAWC, May 1947; United States v. Brust, opinion DJAWC, September 1947; and United States v. Otto, opinion DJAWC, July 1947.) A British Court sitting in Singapore tried Tomono Shitruo of the Japanese army and sentenced him to death by hanging for illegally killing American prisoners of war at Saigon, French Indo-China (Law Reports, Volume II, page 128).

3. *Co-belligerent of Germany as Victims.* The defense made a motion to strike from the charge and particulars the phrase "and other non-German nationals" and to substitute therefor the phrase "and other non-German nationals who were then and there at war with the then German Reich or were neutrals", to describe the nationality of the victims in addition to those nationalities specifically named in the particulars. The defense contended in effect that the phrase "other non-German nationals" included citizens of co-belligerents of Germany and could result in the Court trying the accused for illegal acts directed at nationals of a country which was at the time a co-belligerent of Germany; that such acts are not war crimes; and that the Court did not have jurisdiction of such crimes. The Court properly overruled the motion (R 4850).

It is emphasized that the charge alleges the execution of a described common design and not the commission of a single dissociated illegal act.

As to the universality of jurisdiction over war crimes, reference is made to paragraph 2, supra. Jurisdiction of the subject matter attaches in the instant case for the reason that one of the dominant objectives of the operation of the concentration camp was the subjection of nationals of the United Nations, as well as nationals of neutral nations and stateless persons, to killings, beatings, tortures, etc. Evidence showing that a particular participant in the execution of the common design tortured,

tial rights of an accused would be violated, if the motion were denied, because an accused has no right in this connection (United States v. Alfuldich, et al., (Mauthausen Concentration Camp Case), opinion D.J.A.W.C., February 1947).

#### 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 were compulsorily deported from occupied territory to Germany for work. The illegal killing of these deported Allied nationals was a war crime (Law Reports, Volume I, page 53). 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. ADMINISTRATIVE DETERMINATION OF GUILT, BEATINGS AND HANGINGS:

The evidence discloses that over 300 inmates were hanged, some for alleged sabotage. There were also killings by shootings. Nearly 20,000 inmates met their death at Nordhausen Concentration Camp. There is evidence that a degree of formality surrounded some of the so-called executions by shooting and hangings. Some of the accused asserted without offering any substantial basis therefor that the purported executions were legal.

There is considerable evidence about punishment recommendation reports to "Berlin" and "Oranienburg", i. e., to the SS Economic and Administrative Department of the Reich Security Head Office, and punishments after receipt of orders from that office.

Accused Nos. 3, 11 and 16 participated in a somewhat formal execution by shooting of about six Italian prisoners of war. Accused No. 2 asserted that an order from Berlin was read stating that the shootings were in accordance with the wishes of the German and Italian governments. Accused No. 11 asserted that witnesses and a physician were present and that an order was read. Accused No. 16 stated that a sentence by a "summary courts-martial" was read and that SD (Security Service) men were present. As to the hangings in which accused No. 10 participated, he stated that in each instance an order from Berlin was read and that Gestapo men and a physician were present. Accused No. 13 stated that the hangings in which he participated were initiated by the Reich Security Head Office, a sentence was read, and a physician was present. Particularly during mass hangings, many of those hanged were still alive when removed from the gallows and death was effected by clubbings and mercy shots.

The Chief Defense Counsel in his final argument emphasized that

there was testimony by a German legal expert "that punishments ordered by the Reich Security Head Office through the administrative determination of guilt were perfectly valid under the German codes of justice and the constitution as they existed at the time" (R 6514, 6515, 6522, 6525, 6526, 7725). It appears that the German legal expert and the Chief Defense Counsel had in mind operations pursuant to the "Night and Fog Decree" issued by Hitler, 7 December 1941, and discussed by the "International Military Tribunal, Nuremberg", Volume I, pages 232, 332, whereby punishment power was vested in the Gestapo. Under the procedure therein prescribed, punishment orders were issued after receipt of files and reports from local Gestapo agents. The defense urged (1) that beatings and hangings following administrative determination of guilt were legal under German law, and (2) that the burden of proof was on the prosecution to prove that punishment by beating and hanging following administrative determination of guilt was illegal (R 7725, 7726, 7728).

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, "International Law", Sixth Edition, pages 361, 456, 457; Article 39, Annex to Hague Convention No. IV of 18 October 1907 and Article 2 of the Geneva (Prisoners of War) Convention of 2 July 1929, both set forth in TM 27-251, War Department, U. S. Army, "Treaties Governing Land Warfare", 7 January 1944; Volume 2, Wharton'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 Ahmed 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 of 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 defenses 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 rests 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, where a person has been killed by the infliction of a wound or by some other means calculated to produce death, the accused must assume 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" (36 American Jurisprudence 352).

This mass atrocity involved thousands of concentration camp inmates. Hundreds of the inmates daily were subjected to beatings, tortures, starvation and other abuses and indignities. Killings by various methods were numerous and were 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 beatings and the killings in general or in particular were justifiable.

Thus it appears (1) that the beatings and the hangings following administrative determination of guilt were illegal; (2) that the defense failed to meet its burden of going forward with the evidence to establish that such beatings and hangings were legal; and (3) that none of the accused believed they were legal.

#### E. SUPERIOR ORDERS:

As indicated in Section VI, post, accused Nos. 1, 2, 9, 10, 11, 13, 14 and 19 sought to justify at least part of their actions as being 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, 4th Congress, 2nd Sess., House of Representatives, Ex. Doc. No. 23, page 812; Volume II, Sixth Edition, Oppenheim, "International Law", paragraph 253, page 453; Llandovery 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, paragraph 148).

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 wrongful 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 sentences 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", supra, and the Llandovery Castle Case cited therein; "Manual for Courts-Martial", supra; "Report to the President of the 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 53, "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. Bech, et al., opinion DJAWC, December 1946; Elossenburg Concentration Camp Case, supra; and United States v. Stroop 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. CONCURRENT SENTENCES** At the time of its findings of guilty the Court was clearly informed as to the fact that accused DETMERS had been sentenced to imprisonment for 15 years in the war crimes case of United States v. Piorowski, et al., Case No. 000-50-2-23 (R 773). The Court in the instant case, sentenced accused DETMERS to imprisonment for seven years "commencing 17 January 1947", and stated that it was "the intent of the court that this sentence be served concurrently with the one which the prisoner is already serving" (R 7784).

It appears that the Court must have contemplated that accused

DETMERS would be confined for 15 years. Obviously, it could not have anticipated that the Reviewing Authority in the Piotrowski case would subsequently reduce DETMERS' sentence therein to imprisonment for five years. While not applicable as such to war crimes trials, the rule as to sentences in American municipal criminal law is that, to be cumulative, the sentence must clearly so provide and no presumption will be indulged in favor of sustaining a sentence as cumulative (15 American Jurisprudence 123). It is also stated therein:

"While there is some authority to the effect that sentences imposed by different courts run successively even though the later sentence does not so state, ordinarily, where a person under sentence for a crime is convicted and sentenced for another offense in a different court, the sentences run concurrently unless the judgment in one stipulates that imprisonment shall commence at the expiration of imprisonment upon the other conviction or a statute provides a different rule.

"Sentences are not cumulative merely because the imprisonments thereunder are made successive in point of time, if the prisoner is convicted of separate offenses under separate information and receives a separate definite sentence for each offense" (15 American Jurisprudence 126, 127).

Even though the result probably intended by the Court will not be effected, the language which it used in imposing the sentence is clear and should be given effect.

#### G. CONDUCT OF TRIAL:

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. Fullright 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 four 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. 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 all Petitions for Review and Petitions for Clemency, if any, which have been received up to and including 15 April 1948, 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.

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

If the witness whose testimony is being dealt with was not a former inmate of the main camp or the subcamp, at which a particular event occurred in which the accused was involved, an indication to that effect is made. Any other distinctive qualifications of a witness are noted in treating his testimony.

#### 1. ARTHUR KURT ANDRAE

Nationality: German

Age: 44

Connection with Nordhausen:

- a. Period: May 1944 to March 1945 (D-Ex 82A p. 1)
- b. Status: SS Master Sergeant (D-Ex 82A p. 1)
- c. Position: Chief of inmate post office main camp; accompanied evacuation transport to Belsen (R 1212, 4937; P-Ex 55A p. 6).

*Evidence.* In his Statement, the accused stated that he was an SS master sergeant in charge of the inmate post office at the main camp from May 1944 to March 1945 (R 732; D-Ex 82A p. 1).

A colonel of the French Army, a former inmate who frequently repaired electrical equipment in the main camp post office, testified that SS personnel who worked for the accused in the post office opened all packages addressed to inmates, ostensibly for censorship purposes. The witness received only about 25 percent of the packages sent to him. Coffee, sugar, chocolate, tinned food, cigarettes and clothing were removed from packages and converted to the use of the SS personnel. The witness saw packages from the French and the Belgian Red Cross looted, including 2,300 packages in February 1945 containing much needed underclothing. All such looted items were appropriated by the SS personnel (R 1209, 1212-1217).

A second witness, a former Belgian officer, testified that the accused struck him in the face on two occasions when he protested about not receiving packages (R 1549-1552).

A third witness, a capo in the inmate canteen, testified that articles of food were sent to the inmate canteen from the post office for resale to inmates (R 1715, 1760, 1768, 1769). A fourth witness testified that the accused gave tobacco and food taken from inmate Red Cross packages to capos and to persons working for the SD (Security Service) (R 1812). A fifth witness, who worked as an inmate employee in the main camp post office, testified that the accused converted articles from Red Cross and private packages addressed to inmates to his own use. He delivered only a fraction of the contents to the inmate addressees and bartered the remaining contents (R 4587-4589). A sixth witness, an Englishman,

testified that the accused was responsible for distributing packages to inmates, who were not allowed to receive aspirin or tinned products. Packages containing foodstuffs and medicine were pilfered before delivery to the inmates. On one occasion while working as a carpenter in the post office, the witness saw the accused open packages and remove the contents. If an inmate complained of these actions, he was reported by the accused to the roll call leader and punished at roll call (R 44, 79-81).

A seventh witness, an inmate physician, testified that the accused was partially responsible for the undernourished condition of the inmates, because he pilfered large quantities of food from their parcels (R 845, 347). An eighth witness, also an inmate physician, testified that he saw essential medicinal products arrive in French Red Cross packages, but at his dispensary he had only aspirin. Medicines designed for treating streptococci were pilfered from packages while numerous inmates died from such infections. The witness also testified that inmate surgical cases did not heal well, because the patients did not receive food in proper kind and quantity. If during the convalescent period Red Cross packages had been available, many more of the witness' patients would have recovered.

The eighth witness further testified that a young French inmate whom he had treated for a fractured jaw told him that his injury resulted from a blow by the accused when the inmate inquired about a package at the post office. The witness called in the SS camp physician who made a plaster cast and plaster helmet for the victim (R 718, 773, 818). This incident was corroborated by a ninth witness, the SS camp physician, who testified that he was told by the victim that the accused had fractured his jaw (R 4673, 4713, 4730).

A tenth witness testified that, on an evacuation transport of inmates from the main camp inmates were shot at a point between the Bergen railroad station and Belsen Concentration Camp on 5 April 1945. Those shot were sick and unable to keep up with the march. The accused was wearing a pistol and was present at the time of the shooting (R 4097, 4038, 4085, 4087).

In his Statement, the accused stated that he was assigned to the main camp post office on 5 May 1944. From 1 June 1944 to the end of August 1944 he was hospitalized. He was relieved of his duties at the end of February 1945, following the escape of a number of prisoners. It was suspected that the inmates had received prohibited articles in their packages and had traded them for civilian clothing to effect their escape.

The accused set up a system for distribution of parcels by blocks. The very stringent regulations governing mail resulted from the secret nature of the operations at the main camp. Until the main camp became an independent camp in 1944, regulations concerning mail were prescribed by Buchenwald Concentration Camp. Those written regulations were passed to the accused. An SS technical sergeant assigned by the camp commander was in charge of the censorship of packages. Prohibited items were underwear and clothing, pointed articles such as knives, needles or

scissors, and all bottles and medicines. Cans and jars were probed with a sharp instrument to make certain they contained no contraband. Most of the food from undeliverable packages was sent to the inmate kitchen. All of the tobacco and chocolate and part of the food was sent to the protective custody camp leader by order of the camp commander. Some items were given specially to inmates who presented a certificate from a department chief. Red Cross parcels formed about 10 percent of the volume, were ordinarily addressed to individual inmates, and were handled the same as ordinary packages. On one occasion, when a shipment of Red Cross parcels from Denmark arrived, the protective custody camp leader distributed the parcels to his favorite inmates. The accused complained of this, but received no satisfaction. The accused admitted the possibility of block elders removing articles or demanding tribute before landing packages to the addressees. A customs tax was levied on all packages from foreign countries. The duties were high and when the inmates were not able to pay the duty, the customs office kept the articles. Repeated efforts to change this system with the permission of the camp commander were to no avail. If the accused had desired to convert articles to his personal use, it would not have been necessary for him to do so in the presence of inmates. He had a room adjoining the post office and could have entered at any time (R 7632; D-Ex 82A pp. 1-10).

Accused No. 3 testified that he neither saw nor heard of the accused beating inmates in the mail room. The act assigned to the accused of injuring the jaw of an inmate was committed by a block leader named Boch or Block R 6986, 6987).

In an unsworn pretrial statement, signature illegible, a post office employee at Saengerhausen stated that many packages addressed to the main camp arrived in a damaged condition with their contents spoiled (R 7628; D-Ex 76A). One defense witness testified that at Flossenburg Concentration Camp the accused had a reputation for treating the inmates well (E 5803). This was corroborated by the unsworn pretrial statement of a former inmate of Flossenburg who stated that he never heard of the accused beating or mistreating any inmate (R 7628; D-Ex 75A).

A second defense witness, a former mayor of Flossenburg, testified that the accused possessed army discharge papers after the war and that the accused told him that he was assigned to the army as punishment for smuggling letters out of the main camp (R 5745, 5746).

In an unsworn pretrial statement, a former SS first lieutenant stated that in May 1939 the accused was reduced to a private and expelled from the Waffen SS for having insulted and slandered superior SS officers (R 7626; D-Ex 77A).

*Sufficiency of Evidence.* The Court was warranted from the evidence concerning the nature and extent of his participation, especially his diverting essential food and medicine belonging to the inmates which

was a matter of life and health to them, in its findings of guilty. Moreover, in view of the very important and highly secret nature of the V-weapons operation the position of the accused was relatively important in and of itself. It is established that he personally mistreated a few inmates. The accused sought to justify at least part of his actions by offering evidence to show that he was acting in compliance with superior orders. 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.* Imprisonment for 20 years, commencing 10 August 1946 *Petitions.* A Petition for Review was filed by Major Leon B. Poullada, defense counsel, 8 January 1948. No Petition for Clemency was filed. *Recommendation.* Approval of the findings and sentence.

## 2. ERHARD RICHARD BRAUNY

Nationality: German

Age: 33

Connection with Nordhausen:

- a. Period: August 1943 to April 1945 (D-Ex 22 pp. 1, 2)
- b. Status: SS Master Sergeant (D-Ex 23 p. 1)
- c. Position: Roll call leader and detail leader main camp; camp commander subcamp Rottleberode; commander of evacuation transport from Rottleberode to Gardelegen (R 6679 D-Ex 23 pp. 1, 2)

*Evidence:* In his Statement, the accused stated that he was an SS master sergeant. He was roll call leader and detail leader at the main camp from August 1943 to November 1944. Following that time he was camp commander of subcamp Rottleberode until April 1945, when he commanded a transport of 600 inmates from subcamp Rottleberode to Gardelegen (R 6679; D-Ex 22 pp. 1, 2).

Two witnesses testified that in the main camp about December 1943 the accused participated as a member of the firing squad in an execution of seven Italian prisoners of war (R 1625, 4164-4167). In his Statement, the accused admitted that he participated in the execution of six Italians (R 679; D-Ex 22 p. 1). Accused No. 11 testified that the accused, together with accused Nos. 9 and 16, did the actual firing at the execution of the six Italians (R 6369). A fourth witness testified that almost daily from November 1943 to April 1944 the accused beat inmates with clubs and sticks (R 1825, 1836). Two witnesses testified that the accused beat inmates on the roll call square. One of the foregoing witnesses also testified that, principally in 1942, the accused gave inmates 25 lashes. He severely beat them with a whip or cable. Flesh wounds resulted to

some and others had to be carried to the dispensary (R 64, 1145, 1146, 1171).

Two witnesses testified that the accused beat inmates with cudgels to speed their work in the construction of inmate barracks at the main camp. The victims were French, Russian and Italian. Some required medical treatment as a result of the beatings (R 940, 979, 989, 991). A ninth witness testified that the accused beat inmates with a rubber hose at the exit of the camp (R 1073). A tenth witness, a Dutch physician in the inmate hospital, testified that during the first five months at the main camp inmates who had temperatures of 40 degrees centigrade, pneumonia or tuberculosis were forced to work in the tunnels. Many deaths resulted. The witness protested this practice. The accused ignored the protest (R 329, 330, 347). An eleventh witness testified that the accused ordered an SS man to beat a sick inmate. In compliance the inmate was beaten with a shovel handle and had to be taken to the dispensary. The witness believed that the victim died. When the witness remonstrated with the accused, the latter hit him in the face and kicked him (R 1784-1788).

Accused No. 12 stated in his Statement that the accused kicked an inmate who had tried to escape (P-Ex 136A p. 10). A twelfth witness, an inmate physician, testified that the accused was a brutal person who in the spring of 1945 kicked inmates. However, the witness never treated any inmate who had been beaten by the accused (R 720, 774).

A thirteenth witness testified that the accused was responsible for all that happened at subcamp Rottleberode, including the burning of 1,600 inmates in a barn at Gardelegen during the evacuation of Rottleberode (R 470). A fourteenth witness testified that inmates at subcamp Rottleberode arose at 0330 to 0400 hours. They were required to make their beds, wash and be ready for coffee in a matter of minutes. Roll call lasted from 15 to 30 minutes, after which the inmates walked more than three kilometers to work. The working hours were from 0600 to 1200 hours, at which time the inmates stopped for a rest period. No lunch was served. Work was resumed at 1245 hours and continued until 1800 hours when, after another roll call, the inmates marched back to subcamp Rottleberode (R 495, 496).

The witness further testified that during the morning roll call Jewish inmates were selected for out-detail Stampedes. There they were placed in cold water and beaten to death by SS personnel. Between 100 and 150 inmates died from this treatment. The witness feared that this treatment was ordered by the accused. On their return from work the inmates carried these corpses to a "cool room" at subcamp Rottleberode (R 483-487). Many inmates who suffered from diseases, such as typhus, dysentery and tuberculosis, were forced to work each day in the tunnels (R 488). Inmates died from overwork and undernourishment. The food and clothing situation was worse than in the main camp (R 492, 493). Jewish inmates at subcamp Rottleberode were refused light duties. They were slapped by a camp doctor, merely because they admitted being

Jewish (R 488, 489). The victims who died in the subcamp were mainly Jewish, although Russian inmates were also killed (R 500). The witness also testified that the accused came to the tunnels in the out-detail Stampeda and, if inmates admitted they were Jewish, he beat them with a club (R 488).

A fifteenth witness testified that out-detail Stampeda was under the control of subcamp Rottleberode (R 1938). In the fall of 1944 the accused and his deputy came to Stampeda and drove the inmates to work with heavy clubs. Inmates, mostly Jewish, were chased into a brook, which was 50 to 70 centimeters deep, by the SS personnel throwing rocks at them. On one of these occasions the accused beat inmates with a stick. Inmates were taken out of this brook dead or half dead from having been hit with rocks and beaten with shovels. On one occasion the accused knocked an inmate into the ditch and encouraged others to beat him to death (R 1916—1918, 1939).

A sixteenth witness testified that the accused was particularly brutal toward Jewish inmates whom he frequently beat (F 1405, 1406). The witness heard that Jewish inmates on the Stampeda out-detail were beaten frequently with rubber hoses and clubs. In January and February 1944 when a Jewish inmate became weak, he was put into a stream of water for 10 to 15 minutes, after which he was beaten. The witness heard that the accused was present on these occasions (R 1406, 1408).

Accused No. 17, the administrative clerk at subcamp Rottleberode, stated in his Statement that the accused was the commander of the subcamp. There were no medical supplies other than a little aspirin and some paper bandages. After the arrival of the accused conditions in the subcamp became worse. The accused constantly attempted to cut the rations of the Jewish inmates. Inmates worked from 0300 to 1900 hours. Inmates working in the tunnels had no dust masks. The accused was often drunk and fired his pistol in the camp at night. The accused was in command of a transport which left Rottleberode on 4 April 1945 and went to Gardelegen (R 4247; P-Ex 54 pp. 1, 4—7).

A defense witness testified that the accused ordered two hangings at subcamp Rottleberode on his own responsibility and without waiting for an order from Berlin (R 5208, 5235). The sentence, read to the victim in his native language, stated that it was an order of a court (R 5234). The witness also saw inmates on the Stampeda out-detail bringing dead bodies back to subcamp Rottleberode (R 5210). The accused was present when SS detail leaders beat inmates at subcamp Rottleberode (R 5225).

The accused testified that in December 1943 he was ordered by the camp commander to participate in the execution of six Italian inmates who were sentenced to death for refusing to work and being involved in a mutiny and riot. An order from Berlin, which stated that the execution was in accord with the wishes of the German and Italian governments,

was read and translated to the Italians. The accused would have been shot had he refused to obey the order (R 6683, 6684, 6710).

The accused further testified that when the barracks were being erected in the main camp he often found 10 to 15 inmates working on a job where six were sufficient. He admitted that on these occasions he boxed the ears of the inmates, but denied that he used a club or a stick (R 6687). During his service in the tunnels the accused often went into the dispensary and always found a crowd of inmates. Many were there to avoid working. He pulled out of the line only those inmates who had been working immediately prior thereto (R 6686, 6687, 6712).

The accused further testified that on 20 November 1944 he became camp commander of subcamp Rottleberode (R 6690, 6691). The accused obtained sufficient stoves and fuel to heat the inmate barracks, insisted on the greatest possible cleanliness in the camp, and obtained an automobile with which to procure supplies, exchange laundry and carry corpses to the main camp (R 6691, 6697). He improved the inmate quarters. The food was very good and sufficient in quantity. Few attempted to escape. There was no Sunday work other than the voluntary work on the camproad (R 6692). There were no executions at Rottleberode while the accused was there (R 6693). He heard that Sergeant Lampe often beat inmates on the Stampeda out-detail. However, he had to refrain from Lampe, because the latter was a good friend of the camp commander of the main camp. He denied that an inmate was beaten in his presence at the Stampeda out-detail (R 6693, 6694). He denied firing a weapon in the camp when drunk (R 6694). He also denied that there were beatings at evening roll call at Rottleberode. He never reported inmates to the main camp for punishment, but punished them by forcing them to stand at the camp gate for two hours or by forbidding them to smoke (R 6695). He denied ever beating an inmate with a shovel or ordering that Jewish inmates be put to death (R 6697, 6698).

The accused denied any discrimination against Jewish inmates (R 6698). He relieved a sergeant from duty who set a dog upon an inmate, because it was difficult to replace the inmate's clothing which was torn by the dog (F 6699). He stated that he left Gardelegen, to which point he had commanded an evacuation transport from Rottleberode, because he did not wish to follow the order of the Kreisleiter that the inmates on the transport be shot (R 6699, 6700). One witness, the deputy commander of the transport from Rottleberode to Gardelegen in April 1945, testified that the accused was not present at the time of the Gardelegen massacre (R 512, 6147, 6153; P-Ex 35 pp. 11, 12).

A second defense witness testified that there were no executions at Rottleberode after the arrival of the accused and that the accused did not order the killing of Jewish inmates (R 5630, 5651). This was corroborated by the testimony of accused No. 17 who further testified that at Christmas 1944 a stage show and extra food were provided for the Rottleberode inmates (R 5632—5634, 5648). A third witness testified that in 1939 and 1940 when the accused was at Bichenwald Concentration



Camp his reputation as to the treatment of inmates: was good (R 5704—4706).

*Sufficiency of Evidence:* The Court was warranted from the evidence concerning the nature and extent of his participation in its findings of guilty. The accused contended that he participated in the execution of the six Italian prisoners of war in compliance with superior orders. However, it appears that his desire to please superiors was more important 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:* Imprisonment for life

*Petitions:* A Petition for Review was filed by Major Leon B. Poulkda, defense counsel, 8 January 1948. No Petition for Clemency was filed.

*Recommendation:* Approval of the findings and sentence.

### 3. OTTO GEORG WERNER BRINKMANN

Nationality: German

Age: 37

Connection with Nordhausen:

- a. Period: January 1944 to April 1945 (R 6969, 6980, 6981)
- b. Status: SS Master Sergeant (R 403)
- c. Position: Roll call leader main camp; protective custody camp leader subcamp Ellrich (R 6980, 6981; D-Ex 35 p. 1)

*Evidence:* In his Statement, the accused stated that he was roll call leader at the main camp from January 1944 to November 1945. His duties consisted of conducting morning and evening roll calls; supervising the work of inmates inside the camp; supervising the cleanliness, order and discipline of the inmates; checking the work details inside and outside of the protective custody camp; and assigning duties to and supervising block leaders. In November 1944 the accused was transferred to subcamp Ellrich as protective custody camp leader. He was responsible for the work and discipline of the inmates and supervised the roll call and block leaders (R 6968; D-Ex 35 p. 1).

One witness testified that he saw the accused beat inmates and saw him at hangings in the main camp (R 1624, 1655). A second witness testified that he saw the accused at hangings in the camp lumber yards (R 4159). A third witness testified that he saw the accused assisting in hangings at the main camp. He placed nooses around the necks of the victims and kicked the chairs out from under them (R 1566, 1567). Accused No. 10 stated in his Statement that he saw the accused at a hanging in the main camp (R 1961; P-Ex 36 pp. 1, 5). A fourth witness testified that in February or March 1945 in the main camp the accused

shot inmates who had been hanged, but still showed signs of life. The accused beat inmates indiscriminately (R 1811). A fifth witness testified that the accused was present at hangings of inmates (R 1053). He made the roll calls in rain and snow unnecessarily long, thereby causing the deaths of hundreds of overworked inmates (R 1062).

The fifth witness also testified that the accused ordered and supervised punishment calisthenics which lasted for three to four hours, resulting in exhaustion and death of some inmates (R 1064, 1068). A sixth witness testified that the accused forced inmates to participate therein for two hours after work and kicked those inmates, who became exhausted in the back and ribs.

On 10 to 15 occasions the witness saw the accused beat inmates of various nationalities (R 987, 989). A seventh witness testified that on one occasion the accused exercised inmates on the roll call square of the main camp for five hours, making them roll, hop and jump around. The inmates were weakened by this exercise. Some remained lying on the ground (R 7, 78). An eighth witness testified that he heard that one Czech and three Polish inmates died of internal bleeding after the accused compelled them to roll around on the roll call square for hours (R 470—473). He also testified that the accused daily beat inmates with cables, clubs and his hands (R 474, 475). A ninth witness also testified as to the practice of having punishment exercises at the main camp (R 1767).

A tenth witness testified that the accused was a terror in the main camp as a roll call leader. Virtually every day the witness heard the cries of inmates being beaten in the office of the accused and saw them come out of the office bent over with pain (R 1217). An eleventh witness, an inmate physician in the main camp, testified that in the block leader's room the accused beat inmates with 70 or more blows until their skin was in rags, their buttocks bleeding and their bodies blue from the knees to the neck (R 720, 761, 762). A twelfth witness testified that the accused beat inmates in the camp prison on four or five occasions and that he beat the witness with a stick. The accused directed that 25 lashes be given to those inmates who were reported for infractions of regulations (R 1826, 1827, 1844). A thirteenth witness testified that the accused removed 20 French inmates who were ill with pneumonia from their beds to the floor in order to search their straw sacks and then left these ill inmates lying on the floor. A number of these inmates died from the exposure (R 4700). A fourteenth witness testified that the accused removed all political inmates from their positions as capos, because they did not beat the inmates severely enough. He appointed criminal inmates in their places (R 1153, 1154).

The accused stated in his Statement that he made extraordinary efforts to improve the conditions at subcamp Ellrich. However, he further stated that when he arrived at the subcamp it consisted of dilapidated factory buildings where inmates lived in foul smelling small rooms with 8,000 inmates cramped into space for only 4,000 inmates.

The dispensary was in similar buildings. The 1,000 patients had either inadequate clothing or none. The disease rate was very high. There was a great deficiency of clothing. The number of inmates who could not work because of lack of clothing constantly increased. Many of the inmates did not have jackets. Only a few had adequate underwear. The underwear had not been laundered for months. The lack of water in the camp resulted in extensive uncleanness. The work of excavating tunnels at subcamp Ellrich was very arduous and was performed under extremely unfavorable working conditions. Deaths were caused by general living conditions, vermin, absence of hygienic facilities and medical supplies, lack of clothing and blanket, and the extremely arduous nature of the work in the tunnels. The principal reason for the high death rate was that diseased inmates from the tunnels at the main camp were transferred to work on the tunnels at the subcamp Ellrich (R 6968; D-Ex 35 pp. 2, 3). The eleventh witness also testified that while the accused was at subcamp Ellrich it was the "hell" of the entire Nordhausen Concentration Camp system. It had the highest death rate, particularly from beatings (R 775). The third witness also testified that when the accused was at subcamp Ellrich he put political inmates in the camp prison, the usual comment being, "I don't want to see this man any more." On one occasion after such comment by the accused the camp eldest caused the inmate to be beaten to death or drowned. The accused was not present at the time of the killing (R 1567, 1568, 1599, 1606).

A fifteenth witness testified that in November 1944 at subcamp Ellrich he saw he accused beat a Russian inmate until the victim collapsed. He kicked him in the abdomen, pushed him into the barbed wire, dragged him four to five meters by the collar, unleashed two dogs on the victim and then continued to beat him. The witness heard that the victim died without regaining consciousness (R 2067-2069, 4022-4025). On another occasion the accused beat the witness and three other inmates by playing cards. He forced them to stand in the snow at attention and without clothing for more than an hour (R 2068, 2069).

A sixteenth witness, formerly employed in the labor statistics office, testified that he accused, as camp commander of subcamp Ellrich, watched the details leave camp each morning. He sent very sick inmates to work. During December 1944 and January 1945, between 80 and 1,500 inmates had scarcely any shoes or clothing (R 1259-1264).

A seventeenth witness testified that he saw the accused shoot a Jewish inmate, who he presumed died. He heard that the accused shot other inmates. In 1945 at subcamp Ellrich the witness saw the accused shoot a French inmate and presumed that the victim died. The accused saw present when three Slovak inmates were hanged. The witness saw the accused beat and kick two Rumanian Jewish inmates on the roll call square, after which they were carried to a place where dead bodies were stacked (R 1376-1378).

An eighteenth witness testified that in March 1945 at subcamp

Ellrich a young inmate was discovered by the accused eating human flesh which the inmate had cut from a dead body. The witness was present and saw he accused make the inmate eat more flesh, including the testicles from another corpse. The accused then incited other inmates to beat this inmate to death (R 1192, 1193). The accused admitted in Court that after a Russian inmate had been discovered eating human flesh he required him to eat the testicles of a corpse (R 6994-6996).

A psychiatric examination of the accused conducted by a United States Army medical officer established that at the time of his participation in the execution of the common design and at the time of the trial the accused was sane, capable of distinguishing between right and wrong and of adhering to the right (R 1336, 1336).

The accused admitted in his testimony that he was present at several hangings. He led to the stone quarry inmates who were to be hanged. However, he denied that he was ever a hangman. Only inmates served as hangmen. He also denied administering mercy shots at hangings (R 6971); that he ever mistreated, beat or kicked an inmate at the main camp; and that he ever beat an inmate with a shovel handle. He asserted that, if inmates were beaten, it was by capos and block eldests. He admitted beating inmates in the roll call leader's office, but testified that witnesses could not have seen these beatings. He admitted the possibility of his slapping an inmate once or twice, but asserted that he never struck an inmate with an instrument (R 6969, 6970). He denied beating inmates in the main camp prison (R 6973) or entering the main camp dispensary to remove patients from their beds (R 6979). When the accused gave "drill exercises" to inmates, it was intended to warm the inmates who enjoyed the drills and sometimes asked for more (R 6969, 6970). The accused denied any responsibility for conditions at subcamp Ellrich, inasmuch as he was merely a noncommissioned officer working under an SS captain who was always preoccupied with his private affairs (R 6977, 6978). He denied ever shooting or beating to death any inmate of subcamp Ellrich (R 6974) or causing the death of an inmate by stating that he did not want to see the inmate any more (R 6973). He admitted beating inmates at Ellrich on some occasions (R 6992, 6993), but denied beating inmates for playing cards or chasing inmates into a wire fence by setting dogs on them. He further testified that he would not have chased inmates into the wire fence, because it was electrically charged (R 6978).

In his Statement, the accused stated that he attempted to make the main camp habitable by planting gardens, painting furniture and securing warm clothing for inmates. At subcamp Ellrich he improved the condition of the roads and the roll call square. He tried to devise a method of heating the barracks and to procure more food for sick inmates. He secured clothing for inmates at Ellrich in January 1945 and set up machines for repairing clothing. He made the rooms habitable and warm and set up a stage for variety shows in the camp (R 6968; D-Ex 35 pp. 4, 5). In March and April 1944 he made numerous sugges-

ons to the camp commander for the betterment of the moral and physical condition of the inmates (R 6968; D-Ex 35 pp. 5, 6). He tried to avoid having roll calls at the main camp which lasted longer than one or one and a half hours and to avoid roll calls at subcamp Ellrich which lasted longer than 15 minutes (R 6968; D-Ex 35 p. 8).

Accused No. 5 testified that at the main camp the accused suggested many improvements to the camp commander, such as the segregation of homosexual inmates, the installation of a movie, the erection of a stadium, the installation of radio equipment, and the improvement of the roll call square. The last three suggestions were carried out (R 6875, 6876). This testimony was corroborated by accused No. 16 who also testified that the accused arranged for inmates to write letters frequently and permitted them to read newspapers (R 6838, 6839).

In his Statement, accused No. 8 stated that the accused applied to him for clothing for the inmates in subcamp Ellrich and that thereafter two truck loads of clothing were sent to Ellrich (R 6417; D-Ex 21 p. 4).

Accused No. 13 testified that, prior to the arrival of the accused at subcamp Ellrich in October 1944, the conditions there were catastrophic (R 5869, 5873).

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

*Sentence:* Imprisonment for life.

*Petitions:* A Petition for Review was filed by Major Leon B. Poulkha, defense counsel, 3 January 1948. No Petition for Clemency was filed.

*Recommendation:* Approval of the findings and sentence.

#### 4. EMIL OTTO BUEHRING

Nationality: German

Age: 44

Connection with Nordhausen:

a. Period: January 1944 to April 1945 (P-Ex 132A pp. 1, 11)

b. Status: SS Staff Sergeant (P-Ex 123A p. 1)

c. Position: Sergeant SS guard company subcamp Niedersachsswerfen; guard main camp tunnels; assistant at interrogations main camp prison; guard evacuation transport to Ravensbruck (P-Ex 123A pp. 1-4)

*Evidence:* In his Statement, the accused stated that he came to the 14th Security Company as an SS staff sergeant in January 1944 and did guard duty in the tunnels until Christmas 1944. From January to

April 1945 he worked as an assistant in the interrogation of inmates in the camp prisons at the main camp and at subcamp Niedersachsswerfen. The accused testified that he was assigned to work for Sanders, Chief of the SD, in these interrogations (R 7035, 7120). In April 1945 he served as a guard on an evacuation transport to Ravensbruck (R 7145; P-Ex 123A pp. 1-4, 11).

One witness, an inmate physician, testified that the accused broke the spine of the witness during an interrogation in November 1944, resulting in the witness being in a 50 percent invalid condition since that date (R 720, 763). He set dogs upon the witness while the latter was in the lavatory washing the blood from his wounds (R 764). The accused beat an inmate in the camp prison on about 20 January 1945 (R 767). The accused was the "hunting dog" of the Gestapo. He severely beat inmates during many interrogations. The witness was told by at least 15 inmates in the main camp dispensary about such beatings (R 776). The witness saw the accused kick a Russian inmate in the face (R 776). He beat inmates with a piece of wood or a cow hide whip (R 777). He prepared inmates for and attended hangings. He tortured and bedeggered inmates in order to obtain their confessions [apparently nearly all of this witness' testimony was based upon hearsay] (R 777).

A second witness, a French school teacher, testified that the accused was present when inmates were hanged. He put the wooden blocks into the mouths of those to be hanged. [The record does not clearly indicate whether the witness personally observed this.] The witness saw the accused beat inmates in the main camp prison (R 1043, 1056). A third witness testified that the accused attended public hangings on the roll call square. The witness saw the accused chase the victims up on the gallows by kicking and pushing them in order to complete the hangings as speedily as possible. He brought them in groups to be hanged (R 445-446). The accused also administered "mercy shots" (R 451, 452). A fourth witness, a block chief at the main camp, testified that on one occasion the accused pulled a Russian inmate from a roll call formation and that several days later he saw this inmate being brought to the tunnels with about 15 to 20 other inmates. The witness was later told to take the name of this inmate from his list. He heard from other inmates working in the tunnels that this Russian had been hanged in the tunnel (R 1781, 1786).

A fifth witness, an inmate interpreter for the SD (Security Service), testified that the accused participated in beatings at the SD office where inmates who attempted to escape were interrogated. The witness did not see any of the beatings, but heard of them from other inmates. The accused was known as one of the most severe beaters (R 1619, 1623, 1624). The witness translated orders at many hangings. The witness saw the accused, members of the SD, and other members of the camp staff present at these hangings (R 1652, 1653). A sixth witness testified that almost daily he saw the accused beat inmates during interrogations in order to obtain confessions from them (R 1828). A

seventh witness testified that he heard that the accused was present during interrogations and beat and tortured inmates as instructed by the head of the SD. On the occasion of an attempted escape by Russian inmates the witness and other inmates in the camp prison were forced by the SD to run between two lines of SS personnel who beat the victims. The accused was in these lines (R 4036, 4111). An eighth witness testified that the accused was known in the camp prison at the main camp as a beater. Two Russian inmates were said to have died as a result of beatings by the accused (R 487).

Accused No. 10 stated in his Statement that he saw he accused beat inmates during interrogations in the camp prison. The accused attended all executions (R 186; P-Ex 36 pp. 3, 5).

A ninth witness testified that during October 1944 he was sent into the tunnels to help control the inmates working there and that he saw the accused on this occasion beat two Russian inmates into unconsciousness with a shovel handle. The witness was told the same evening that these victims had died (R 1560-1564).

A tenth witness, the camp physician at the main camp, testified that the accused participated in searching the straw mattresses in the dispensary. During this search 20 French inmates who were pneumonia patients were removed from their beds and placed naked on the floor. As a result of this exposure four or five died within two days (R 4673, 4700, 4701). An eleventh witness testified that the accused slapped inmates for not taking off their caps quickly (R 940). A twelfth witness testified that the accused beat inmates with a shovel handle and that some of the victims required medical treatment (R 996).

In his Statement, the accused admitted that he beat inmates, but only on the buttocks as directed by his superior. He stated further that he interrogated the inmates merely out of curiosity (R 7149; P-Ex 123A pp. 5, 6). The accused admitted in his testimony that he and another beat the first prosecution witness with an ox-tail whip and a piece of wire cable, but insisted that the witness was not injured. The accused further testified that he was secretly ordered to beat the witness because he witness had conspired to take the accused's gun. He did not remember the exact number of blows he struck. However, the accused asserted that the witness' injured spine was caused by a previous beating at subcamp Boelk-Kaserne (R 7092, 7093, 7171, 7172). He admitted slapping inmates occasionally for minor infractions to avoid reporting them officially (R 7114). He could not remember every inmate whom he had beaten, but could recall that he did not beat any inmate six times (R 7184). The accused further testified that, except on these admitted occasions, he never carried a club or a whip; that he never beat or struck inmates; that he never ordered a beating; that he never ordered nor had the authority to order executions; that he never placed blocks of wood in the months of condemned men; that he never fired mercy shots at hangings; and that he never conducted an interrogation. He protested being assigned to work for Saunders, the chief of the SD.

However, the protest was to no avail because he was familiar with the work in the tunnels (R 7035, 7190). He was not a member of the SD or the Gestapo and was only present at interrogations as a guard (R 7121, 7123, 7124). He was not the principal assistant to Saunders and made arrests only pursuant to orders by Saunders (R 7139, 7141). He denied that he was at the main camp at the time when he is alleged to have removed pneumonia patients from their beds in the dispensary. He also denied that the witness who so testified knew him at the time of the incident (R 7104, 7105). When the accused discovered moldy bread being served to inmates, he reported and corrected this condition (R 7116).

One defense witness, a former SS sergeant who worked with the accused in the tunnels, testified that although he heard that the accused beat inmates, he never saw or heard of the accused otherwise mistreating inmates (R 6743, 6744, 6746). On one occasion the accused reported that inmates were being served moldy bread and this never occurred again (R 6748).

In an unsworn pretrial statement, 10 individuals stated that they had never heard of the accused injuring inmates of other political beliefs (R 7183; D-Ex 37A p. 4).

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

*Sentence:* Imprisonment for life.

*Petitions:* A Petition for Review was filed by Major Leon B. Poullada, defense counsel, 8 January 1948. No Petition for Clemency was filed.

*Recommendation:* Approval of the findings and sentence.

#### 5. HEINZ GEORG ALFRED DETMERS

Nationality: German

Age: 28

Connection with Nordhausen:

a. Period: December 1943 to November 1944 (D-Ex 29A pp. 1, 4)

b. Status: SS First Lieutenant (P-Ex 29A p. 1)

c. Position: Liaison officer between main camp and headquarters Oranienburg; investigating officer main camp; legal officer main camp; adjutant SS post Mittelbau (D-Ex 29A pp. 1, 4)

*Evidence:* In his statement, the accused stated that he came to the main camp in December 1943 as liaison officer between the main camp and the headquarters of Department D of the SS Economic and Administrative Department at Oranienburg (R 6850; D-Ex 29A pp. 1, 2). In February 1944 he was assigned to investigate offenses by SS personnel

at the main camp (R 6850; D-Ex 29A p. 2). On 1 May 1944 he was assigned as legal officer at the main camp. His duties consisted of interrogating SS men and the making of miscellaneous reports. He forwarded reports to Berlin on all executions at the main camp. Either he or his clerk were required to be present at all executions to certify to the execution orders. He admitted attending four or five executions (R 6850; P-Ex 29A pp. 2, 3). At the end of May 1944 he was assigned as adjutant of SS post Mittelbau. In that position he was in charge of all SS personnel matters and the SS motor pool. In November 1944 he became ill and left the main camp (R 40, 6850; P-Ex 20A, D-Ex 29A p. 4). He also admitted in his Statement that he struck inmates with his hand when they stole or were rude to him (R 6850; D-Ex 29A p. 7).

One witness testified that the accused was always present at general roll calls which lasted a long time, inasmuch as the accused was drunk and could not add correctly. He recommended sentences for inmates which were always accepted by the Gestapo (R 551, 552). The witness heard that the accused conducted interrogations until the time when the Gestapo office moved to the main camp (R 690, 691). The witness also testified that he had heard that the accused signed the orders which directed that inmates be beaten or imprisoned (R 631). A second witness testified that he heard that the accused interrogated inmates and beat them with a cow hide whip. On one occasion he beat an inmate named Polajow so severely that the victim required surgical treatment (R 761, 79, 829). The inmates were forced to sign confessions and then were hanged on the strength thereof (R 778).

A third witness testified that the accused was present at all executions as the court officer (R 1155). A fourth witness testified that he saw a noose by the accused ordering that two Russian inmates be hanged. The witness later heard that the two Russians had been hanged. On another occasion in August 1944 the witness heard that the accused told the camp commander that sabotage should be punished by death; that he, the accused, would take the responsibility; and that the accused and the camp commander then signed a paper in several copies. The witness later saw this file which contained a list of names of inmates with the notation "dead" written after each name (R 1457-1462). On another occasion about Easter 1944 the accused ordered two Russian inmates to be hanged for having made shoes out of leather. These hangings were accomplished two hours later in the camp lumberyard (R 1463, 1469).

A fifth witness testified that the accused was present when a group of Gestapo men questioned nine inmates to determine whether they were members of a resistance movement (R 4153, 4154). The interrogation was accompanied by severe blows which were administered with a stick by the accused (R 4155). The witness further testified that the accused was chief of the Gestapo at the main camp (R 4155, 4160). The accused was present when seven Italian prisoners of war were shot

in December 1943 at the main camp (R 4164-4167). He was present at all hangings, including the hangings in the main camp lumberyard (R 4158, 4159). A sixth witness, a French inmate, testified that he delivered to the accused the special rations which were issued to participants in hangings (R 4267). A seventh witness testified that the interrogations of inmates by the accused were accompanied with beatings. The accused continued to beat even after being requested by the camp physician to refrain (R 4681, 4713).

An eighth witness, an inmate interpreter for the SD (Security Service), testified that the accused was known and feared as a beater. The witness testified that accused No. 10 told him that the accused signed death sentences (R 1324). The witness was not beaten or mistreated when interrogated by the accused (R 1673). A ninth witness testified that he saw the accused beat four to six inmates with his riding crop (R 1766). A tenth witness testified that on two or three occasions he saw the accused slap the faces of inmates who had attempted to escape (R 1829).

In his Statement, the accused stated that he was merely a liaison officer for Berlin in December 1943 and January 1944. In February 1944 he was assigned to investigate offenses of SS personnel, but that he never interrogated inmates. From the end of March 1944 to 20 April 1944 he investigated violations of security by civilians. His job as legal officer at the main camp consisted of consolidating punishment reports against SS men, interrogating SS men and forwarding copies of the record to higher authority. The only cases he handled were violations of the military code and the German Penal Code. As legal officer he had nothing to do with inmates. His presence, or that of his clerk, at all executions was ordered by the camp commander. His job as legal officer was confined to SS personnel on duty at the main camp (R 6850; D-Ex 29A pp. 2, 3).

The accused further stated in his Statement that in September 1944 he was sick for three weeks. Toward the end of October 1944 he was hospitalized on suspicion of tuberculosis. After his hospitalization he reported to Berlin (R 6850; D-Ex 29A p. 4). The accused denied that he was ever an employee of the Gestapo or that he had any connection with inmates unless SS personnel were at fault in permitting inmates to escape (R 6854; D-Ex 29A p. 5). He denied ever beating an inmate or participating in an interrogation of inmates involved in a resistance movement (R 6850; D-Ex 29A, p. 7).

The accused testified that he did not know inmate Pottapow whom he is alleged to have interrogated. He never signed a death sentence, but merely certified that execution reports were true copies (R 6868).

One defense witness, the secretary to the camp commander, testified that the accused had no connection with the Gestapo or the SD (R 6009). In sabotage cases the Gestapo received a teletype from Berlin directing that the inmates involved be executed. Copies of these teletypes were certified by the accused and forwarded to interested offices in the main

camp. After the execution a printed form indicating that the execution had been completed was sent to the chief of the SS Economic and Administrative Department in Berlin and the Reichs Security Head Office was informed by teletype (R 6014). The accused became ill in September 1944. Later he returned for a very short time. In October 1944 he was transferred to Berlin (R 6017). No inmates were barged in compliance with orders by the accused. He did not sign death sentences without permission from Berlin. The witness further testified that she never heard of the accused interrogating inmates or having anything to do with them (R 6007, 6026).

A second witness, former secretary of the accused at Nordhausen, testified that the accused as an officer of Post Mittelbau received incoming mail and handled SS personnel matters (R 5071, 6079). The accused had nothing to do with inmate affairs (R 6096, 6097).

A third witness, an SS employee of the accused in the legal section, testified that the accused interrogated inmates as possible witnesses against SS personnel (R 6636, 6638). The witness never saw the accused beat during interrogations (R 6639). The accused was not a member of the Gestapo (R 6647). The accused attended executions in his position as legal officer (R 6641, 6642).

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

*Sentence:* Imprisonment for seven years, commencing 17 January 1947. [The Court expressed its intention that this sentence be served concurrently with the sentence of imprisonment which was then being served by the accused. The accused was sentenced to imprisonment for 15 years in the war crimes case of United States v. Porzowski, et al., Case No. 004-50-2-23 (R 7775, 7784). The sentence as to the accused in that case was reduced by the Reviewing Authority to imprisonment for five years, commencing 17 January 1947.]

*Petitions.* A Petition for Review was filed by Major Leon B. Poulada, defense counsel, 8 January 1948. No Petition for Clemency was filed. *Recommendation.* Approval of the findings and sentence.

6. JOSEF FUCHSLOCH

This accused was acquitted (R 7774).

7. KURT HEINRICH

This accused was acquitted (R 7774).

8. OSKAR GEORG HELBIG

Nationality: German

Age: 34

Connection with Nordhausen:

- a. Period: 5 December 1944 to 6 April 1945 (D-Ex 21 p. 1)
- b. Status: SS Technical Sergeant (D-Ex 144A p. 1)
- c. Position: Chief of inmate supply store and troop supply store; bookkeeper and clerk, clothing department (R 554, 1811; D-Ex 21 p. 1)

*Evidence.* In one of his Statements, the accused admitted that he was at the main camp from 5 December 1944 until 6 April 1945. He stated that he was in charge of the supply room (R 6417, 6443; D-Ex 21, p. 1, P-Ex 114A p. 2).

A former British inmate, who was at the main camp from August 1943 to August 1944 (R 43, 44) and at a subcamp following the latter date (R 111, 112), testified that inmates seeking a change of clothing at the clothing store were beaten by the accused with a stick, which resulted in the weak inmates being knocked to the ground (R 83, 85). This witness saw these beatings on occasions when he returned to the main camp on details (R 109, 111, 113).

A second witness, a former Greek inmate of the main camp from November 1943 to April 1945, testified that about September 1944 the accused beat him and three other inmates with a piece of rubber hose (R 1268, 1275, 1276, 1321, 1322). A third witness testified that about Christmas 1944, when there were sufficient supplies of clothing in the inmate clothing store, he heard that the accused prohibited the issue of clothing to inmates (R 1808, 1809, 1811, 1812, 1816, 1817).

A fourth witness testified that in January 1945 the accused chased inmates away from the clothing store with a stick. As a result an Italian inmate was forced to work barefooted. The witness saw the accused beat inmates of unknown nationality with a club about one meter long and about six centimeters in diameter (R 1959, 1961, 1965, 1966). A fifth witness, a Czech doctor who was an inmate from February 1944 to April 1945 (R 718, 719, 724), testified that at the time the typhus epidemic broke out in the main camp the clothing supply store was full of clean shirts and that if they had been issued by the accused, the epidemic would have been overcome much earlier (R 780).

A sixth witness, a Czech masseur, testified that on 15 April 1945, after the arrival on 9 April 1945 of the evacuation transport at Belsen Concentration Camp, he saw from a distance of 15 to 20 meters the accused and other SS men firing their weapons into groups of inmates. Some of them had sought to take potatoes from a cellar. Many inmates were thus killed. Among them were two French Jews who were shot twice in the abdomen by the accused with his pistol from a distance of three paces. A doctor determined that they were dead. [The record does not clearly show that the victims were evacuees from Nordhausen.] The witness also testified that at Belsen Concentration Camp on 14 April 1945 the accused assembled 60 inmates, including some from the Nordhausen transport,

and marched them out of the camp. He was later told that their clothing was taken from them by the SS men and that 143 of them were shot. One of the survivors was a French national (R 1453, 1463-1467).

A seventh witness, a German inmate, testified that he was on the transport from Nordhausen to Belsen. He was in the group of 150 inmates which, after arrival at Belsen, were marched therefrom to an air field for bomb disposal work. The accused was on the Nordhausen transport and was also with the group which marched to the air field. The accused escaped at that point wearing inmate clothing. The witness escaped to the American troops [The witness did not disclose what became of the group of 150 inmates] (R 1795-1797).

In his Statements and in his testimony, the accused asserted that he personally did not issue or exchange clothing. This was done by inmates under the supervision of an SS sergeant. However, the accused requisitioned the inmate clothing which arrived about the first of January 1945. All of the inmates had a jacket, a pair of trousers, a pair of shoes and a raincoat. Except for those working in heated buildings, all had over coats at that time. In the latter part of March 1945, 3,000 pairs of socks and leather shoes were distributed. A requisition for 40,000 pairs of shoes was not filled due to the lack of raw materials. The accused denied beating any inmate with a stick, but admitted slapping the faces of three German inmates as punishment for stealing. He gave his inmate employees cigarettes and food. He denied shooting any inmate at Belsen Concentration Camp, but admitted that he fired his pistol into the air to frighten inmates who were pilfering a store-room (R 6417, 6433, 6443, D-Ex 21 pp. 2, 3, 6, 7, P-Ex 114A pp. 2, 4, 5, 7).

Two defense witnesses testified that the accused had no authority to issue clothing without the permission of the administrative leader. One of these witnesses conceded, however, that the rule did not apply to single item replacements, but only to large quantities (R 6292, 6388, 6396). A third witness asserted that he accused did not allow inmates who had no shoes to join work details (R 6402). He further testified that the accused was instrumental in obtaining clothing repair machinery for subcamp Ellrich (R 6403). Accused No. 3 stated in his Statement that the accused filled requisitions for much needed clothing for the inmates at subcamp Ellrich, although previous requisitions had been rejected (R 6368, D-Ex 35 p. 4).

*Sufficiency of Evidence:* The Court was warranted from the evidence concerning the nature and extent of his participation in its findings of guilty. However, wrongful acts which he may have committed at Belsen Concentration Camp after the arrival of the Nordhausen Concentration Camp evacuation transport therein were not acts in connection with the operation of Nordhausen. In any event, the evidence does not satisfactorily establish that he committed any wrongful acts at Belsen. That he had administered severe beatings, encouraged or directed others to do so, or indulged in a continuous course of violence is not proved.

However, it is proved that he beat some inmates. The sentence is excessive.

*Sentence:* Imprisonment for 20 years, commencing 20 May 1945.

*Petitions:* A Petition for Review was filed by Major Leon B. Foullada, defense counsel, 8 January 1948. No Petition for Clemency was filed.

*Recommendation:* Approval of findings and sentence, but that the sentence be reduced to imprisonment for 10 years, commencing 20 May 1945.

#### 9. RUDOLF EWALD OTTO JACOBI

Nationality: German

Age: 37

Connection with Nordhausen:

a. Period: September 1943 to April 1945 (P-Ex 120 A p. 1)

b. Status: SS Master Sergeant (P-Ex 120 A p. 1)

c. Position: Barracks construction supervisor; charge of carpenter shop, main camp (P-Ex 120 A p. 1)

*Evidence:* In his Statements, the accused stated that from September 1943 to April 1945 he was assigned to the Wfo, a civilian construction firm, as supervisor of the construction of barracks and in charge of the carpenter shop in the main camp (R 6902, 6963; D-Ex 34 p. 1, P-Ex 120 A p. 1).

Six witnesses saw the accused frequently beat inmates of the main camp with a club, cudgel or stick for minor infractions. The severity of the blows often caused his victims to collapse. One of these witnesses testified that he saw the accused strike inmates on the buttocks five or more times with a board eight to ten centimeters wide and one and a half centimeters thick. Another, a physician, testified that he was a victim of a beating by the accused and that he treated others in the dispensary (R 187, 349, 398, 940, 994, 995, 1486, 1625, 1674, 1786, 1790, 1791).

A seventh witness, a British inmate, testified that in the early part of 1944 at an evening roll call in the main camp a Russian inmate was severely beaten by the accused with the edge of a board two centimeters thick and 2) centimeters wide. The inmate collapsed and was left lying on the roll call square. The next morning at roll call the witness saw the victim's body still lying there. The witness, a member of the carpenter detail, prepared a box in which to send the body to Buchenwald Concentration Camp for cremation (R 44, 63, 64, 96, 107).

An eighth witness, an inmate of the main camp from the fall of 1943 to April 1945, testified that the accused was a severe beater and described the force of his blows as being sufficient to knock over an ox. The witness saw the accused in the roll call place near the tunnels severely beat a Polish inmate with a board over the head, shoulders

and chest with a board. While in the dispensary about 10 to 12 days later, the witness inquired about the Pol and was told that he was dead. On another occasion a Russian inmate attempting to evade some work at a barracks near the dispensary was struck by the accused with a piece of wood. [Apparently the witness saw the attack and later heard that the victim had died.] (R 556, 557).

Two more witnesses testified that about June 1944 they saw the accused in charge of a detail of about 100 Hungarian Jews, who were required to carry heavy panels which were being used in the construction of the barracks. Some children, 12 to 14 years old, were in this group. The inmates were forced to work at double time and were beaten with rubber hoses by the capos of the detail. One of these witnesses testified that the accused, using a cudgel, struck those inmates in this detail whose work did not satisfy him. It was common knowledge that about half of those beaten died (R 1219, 1220, 1287). He also saw the accused beat an inmate to a state of collapse that evening the accused ordered that the victim be taken to the crematory. However, the victim was taken to the dispensary where he died the next day. [It is not clear whether the witness saw the dead body or was told that he had died] (R 1287).

An eleventh witness, an inmate surgeon in the main camp dispensary from February to November 1944, testified that in the summer of 1944 the accused kicked a Russian inmate so severely that his kidneys were smashed and bleeding. The witness operated on the inmate, but he died. The death of the inmate was directly attributable to the kicking (R 759). A former SS camp physician testified that in the fall of 1944 he treated an inmate who had been beaten by the accused. This victim died four weeks later as a result of the blows (R 4700).

A thirteenth witness, a Belgian engineer, testified that a French inmate was given 25 blows with a piece of wood by the accused which reopened a wound. The witness was told by another inmate that the victim died from the beating (R 1676, 1679, 1680). This incident was seen by the witness from a distance of 25 to 30 meters (R 1680).

Three witnesses testified that the accused marched with the execution detail which was armed with rifles and which "liquidated" seven Italian prisoners of war in December 1943 (R 946, 947, 1625, 4164-4167). Accused No. 11 testified that the accused, together with accused Nos. 2 and 16, did the firing (R 6369, 6370).

In his Statements, the accused admitted punishing a few inmates by slapping them, but asserted that the inmates preferred this to being reported. The accused stated further that inmates volunteered for his detail; that it was considered a desirable detail; and that he secured additional warm food and coffee for them. He opposed all mistreatment of inmates. He admitted participating in the execution of the Italian prisoners of war, but stated that he was ordered to do so (R 6902, 6963; D-Ex 34 pp. 1-5, P-Ex 120A p. 7).

One defense witness testified that the accused's reputation among the

inmates was good. The accused had no control of the transportation of barracks materials. No juvenile inmates were used in these transportation details (E 5724, 5725, 5728). Two witnesses testified that they never saw or heard that the accused mistreated inmates (R 6235, 6489). Accused No. 4 testified that he was present on one occasion when the accused stopped another SS man who was abusing inmates (E 7063, 7064).

The accused testified that he was under the control of and received his orders from Wifo, a civilian construction management company, until October 1944. Thereafter he received his orders from the construction leader. He never had more than 50 to 60 inmates in his detail (E 6907). The accused categorically denied all accusations against him, stating that most of the witnesses were prejudiced (R 6908-6915).

*Sufficiency of Evidence:* The Court was warranted from the evidence concerning the nature and extent of his participation, especially that relating to numerous severe beatings and killings, in its findings of guilty. The accused contended that he participated in the execution of the Italian prisoners of war in compliance with superior orders. However, it appears that his desire to please superiors was more important 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 pertinent authorities discussed in Section V, supra. The sentence is not excessive.

*Sentence:* Imprisonment for life.

*Petitions:* A Petition for Review was filed by Major Leon B. Boullada, defense counsel, 8 January 1948. No Petition for Clemency was filed.

*Recommendation:* Approval of the findings and sentence.

#### 10. JOSEF KILIAN

Nationality: German

Age: 37

Connection with Nordhausen:

a. Period: December 1943 to April 1945 (D-Ex 9 p. 1, P-Ex 36 p. 1)

b. Status: Inmate (criminal) (D-Ex 9 p. 1)

c. Position: Block orderly; janitor camp prison; official hangman main camp (D-Ex 9 p. 1, P-Ex 36 p. 1)

*Evidence:* In his Statement the accused stated that he arrived at the main camp about December 1943 and was a block orderly until June or July 1944. He was then appointed official hangman and performed executions until April 1945. In addition to his duties as hangman he was a janitor in the camp prison (R 1361, 6357; D-Ex 9 p. 1, P-Ex 36 pp. 1, 2). A former inmate stated in his Statement that the accused



was a capo of the camp prison until about November 1944 when he volunteered to act as hangman (R 5920; P-Ex 104 p. 6).

One witness testified that on the Sunday after Easter 1944 the accused and accused No. 19 volunteered to hang three inmates on the roll call square in the presence of the assembled camp after two other inmates had refused to participate in the hangings (R 4180, 4161). Two more witnesses testified that the accused volunteered to act as camp hangman (R 1048, 1686). One of them testified that he saw the accused hang 60 Russian and Polish inmates on the roll call square. He was told that the accused hanged 80 inmates in the tunnels (R 1686). The other testified that he saw the accused hang approximately 250 inmates. The accused prepared the gallows, adjusted the noose around the neck of the victim and kicked the bench from under his feet (R 1049, 1050). After a hanging, music, liquor and cigars were provided the participants (R 1050). A fourth witness, who saw the accused perform hangings both at the roll call square and in the tunnels, testified that the accused was often seen drunk after hangings (R 1626, 1627, 1652). A fifth witness, an inmate physician at the main camp from August 1943 to April 1945, testified that on one occasion he saw the accused hang 50 inmates (R 330, 351, 371).

The second, third and fourth witnesses testified that, if a hanged victim was not dead when he was taken down from the gallows, the accused killed him by beating him with a piece of wood or by kicking him (R 1049, 1050, 1626, 1686). The second witness testified that during the hanging of 60 Russian and Polish inmates, they were hanged at the rate of one every two or three minutes. Because of speed it often happened that the necks of the victims were not broken. The accused then killed such victims with a stool (R 1686). The third witness testified that he saw the accused kick at least ten victims who were not yet dead (R 1049, 1053).

A sixth witness testified that about 15 or 20 March 1945 he witnessed a mass hanging of 50 to 57 inmates at the main camp. The inmates were brought to the roll call square with blocks of wood wired in their mouths. They were hanged 14 at a time. The accused placed the ropes around their necks and pushed the stools from beneath their feet. If a victim still moved after being hanged for approximately 10 minutes, the accused beat his skull in with a stool (R 1220, 1221, 1247). A seventh witness testified that on two occasions he saw the accused kill victims by hitting them on the head with a stool after they were taken down from the gallows and found to be alive (R 443, 447, 448). Most of the victims hanged by the accused did not die until shot in the neck by SS soldiers (R 449, 685). An eighth and a ninth witness also testified that the accused killed victims by beating them when they were found to be alive after being taken down from the gallows (R 942, 943, 1827). Four additional witnesses testified in considerable detail as to various hangings in which the accused participated: (R 184, 766, 767, 782, 999, 1148, 1149, 1150, 1160).

In addition to acting as hangman the accused also participated in beating inmates. A fourteenth witness testified that on one occasion the accused joined with SS men in beating a group of inmates who were forced to run a gauntlet (R 4036). Four of the foregoing witnesses testified as to instances of severe beatings by the accused, some of which resulted in death (R 330, 397, 781, 1054, 1057, 1058, 1624).

A report of a psychiatric examination of the accused, 4 September 1947, by an officer of the Medical Corps of the United States Army was read into the record by the Chief Defense Counsel. The examiner concluded that the accused is, and was at the time of the alleged offense, sane and able to differentiate between right and wrong, to adhere to the right, to understand the nature of the proceedings against him and to aid in preparation and conduct of his defense (R 1336, 1337).

In his Statements and his testimony, the accused asserted that he was an orderly in the camp prison. It was his duty to keep it clear and to obtain food from the inmate kitchen (R 1361, 5357, 5386; D-Ex 9 p. 1, P-Ex 3f p. 3). He admitted participating in hangings which took place in the roll square, the tunnels, the wood yard and the camp prison. He hanged a total of 167 inmates (R 1361, 5357, 5367, 5379, 5380; D-Ex 9 p. 1, P-Ex 36 p. 3). He was ordered to be a hangman and would be executed had he refused (R 5357; D-Ex 9 p. 1). In each instance orders from Berlin were read. An SS physician and Gestapo men were present. He was not permitted to take a victim down from the gallows until he had been pronounced dead by the physician (R 1361, 5357, 5367, 5379; D-Ex 9 p. 1, P-Ex 36 p. 3). He denied striking any inmate with a stool, but asserted it might have been possible for a witness to get such an impression, as he threw the stools down from the platform to make room for the victims when they were taken down (R 5357; D-Ex 9 p. 1). The accused asserted that he knew of hangings which took place at night without orders, but he did not participate in them (R 1361, 5382; P-Ex 36 p. 3). He admitted that on one occasion he beat inmates at the delousing station, but only for the purpose of keeping male inmates away while the first women inmates to arrive at the main camp were being deloused (R 5357, 5358).

*Sufficiency of Evidence:* It is clear that the Court was warranted from the evidence concerning the nature and extent of his participation in its findings of guilty. The evidence tending to establish that he acted unwillingly and pursuant to superior orders has no persuasive force. The sentence is not excessive.

*Sentence:* imprisonment for life.

*Petitions:* A Petition for Review was filed by Major Leon B. Poulada, defense counsel, 8 January 1948. No Petition for Clemency was filed.

*Recommendation:* Approval of the findings and sentence.

#### II. GEORG WILHELM KOENIG

Nationality: German

Age: 36

Connection with Nordhausen:

- a. Period: 15 September 1943 to 6 April 1945 (D-Ex 20 pp. 1—3)
- b. Status: SS Master Sergeant (P-Ex 113A p. 1)
- c. Position: Roll call leader; chief of motor pool (D-Ex 20 pp. 1, 2)

*Evidence:* In his Statement, the accused stated that he arrived at the main camp about 15 September 1943 and was appointed temporary roll call leader. He was reassigned on 7 January 1944 and placed in charge of the camp motor pool until the evacuation on 6 April 1945 (R 6347; D-Ex 20 pp. 1—3).

Seven witnesses testified that the accused beat inmates on many occasions, sometimes with a square slat or a thick club (R 64, 349, 560, 941, 948, 1,556, 1625, 1651, 1652, 1826). An eighth witness, an inmate physician in the dispensary testified that the accused mistreated a 20 year old inmate in his detail, resulting in a complicated fracture of the skull and an open wound in the cheek. [The method of mistreatment is not shown.] Meningitis developed which caused the death of the victim (R 72, 759, 760). The witness further testified that the accused required inmates to stand at attention and then hit them on the neck with the edge of the palm of his hand. In one instance an inmate who was struck in this manner suffered hemorrhages (R 790, 791).

A ninth witness testified that he accused beat French, Russian and Italian inmates with a cudgel to speed up their work. On one occasion he shot a French inmate in the leg. He forced inmates to carry barracks construction materials after 12 hours work in the tunnels. He beat the witness with a rubber hose and kicked him on the shin, resulting in severe injuries. Some inmates beaten by the accused required medical treatment at the dispensary. One of them died of a hemorrhage of the lungs (R 979, 981, 989, 991).

A tenth witness, a former French inmate dental assistant and now a reserve major and commercial advisor to the French Ministry of National Defense, testified that he saw the accused present at hangings in the lumber yard (R 4159). The accused and other SS men came into the tunnels in 1943 and ordered some French inmates to beat two other Frenchmen who had attempted to escape. The accused participated in this beating. The next Sunday he again severely beat the two victims in the roll call square. Thereafter they were required to remain on the roof of the guard barracks at the entrance to the tunnels for several days. One of these victims was refused medical attention. He died about 15 days later from his injuries (R 4171—4173). On another occasion in November 1943 the accused severely beat another French inmate, a major in the French army, who had exhorted other inmates not to lose hope. After the beating the victim bled from the mouth and said he could breathe only with difficulty. The witness further testified that

this victim died two days later in his block where he slept side by side with the witness (R 4173, 4174).

An eleventh witness, a Belgian engineer, testified that in November 1943 he escaped, but was recaptured and taken to the orderly room where the accused and another SS man beat him with a rubber covered electric cable. He received about 50 blows and was then sent to the tunnels. On the way the accused continuously beat him on the head and back and kicked him in the testicles (R 1680, 1681, 1695, 1699, 1700). The witness sustained back injuries which required treatment for 18 months after the liberation (R 1696, 1715). The witness further testified that the accused was one of the official leaders at the main camp during the period from October 1943 to February 1944 and held public beatings of escaped inmates on the roll call square after Sunday afternoon roll calls. During one of these Sunday spectacles in December 1944, two French inmates were each given 25 blows. One of them who received severe wounds was refused medical attention and developed gangrene from which he died 11 days later (R 1682, 1683, 1700, 1701). A Dutch doctor examined this inmate a week after the beating; but, because gangrene had set in, he was unable to treat him. He died two or three days later (R 1705).

Two of the foregoing witnesses testified that they saw the accused marching with the detail which killed seven Italian prisoners of war in December 1943. One of them saw the accused return and was told that he issued the order to fire (R 946, 947, 1625).

In his Statement, the accused stated that the beatings administered by him were in compliance with orders by the camp commander. They were administered in the presence of the camp physician, who first examined the inmate to determine whether he physically was able to endure the punishment. None were so severely beaten as to require treatment at the dispensary.

The accused admitted therein that he participated in the execution of the six Italians as ordered by the camp commander. He was the leader of the detail of eight noncommissioned officer and gave the order to fire. Witnesses were present, a physician was in attendance, and the sentences to death were read and then interpreted to the inmates (R 6347; D-Ex 30 pp. 2, 3).

In another Statement, the accused denied that he beat any inmate or saw or heard of any mistreatments (R 6377; P-Ex 113A pp. 2—5). He testified that he never used a club on inmates, but admitted slapping some with his open hand. The camp eldest beat inmates, but after the accused forbade it there were no beatings by the camp eldest (R 6352). He denied having anything to do with the roll calls at the tunnels and the beating of the two French inmates (R 6354). He also denied beating an inmate, a major in the French army, who had been bolstering the hopes of the other inmates (R 6355).

Accused No. 8 stated in his Statement that the accused allocated trucks for the procurement of clothing and shoes for the inmates (R

6417; D-Ex 21 p. 3). A former SS private testified that he talked with Czech inmates working in the motor pool; that none made complaints about the accused; and that he never heard of the accused beating inmates (R 6324, 6326).

*Sufficiency of Evidence:* The Court was warranted from the evidence concerning the nature and extent of his participation in its findings of guilty. The accused's contention that he was an unwilling participant in beatings and executions and did so only under compulsion of superior orders is not persuasive. In this connection he failed to meet the burden or proof required by the pertinent authorities discussed in Section V, supra. The sentence is not excessive.

*Sentence:* Imprisonment for life.

*Petitions:* A Petition for Review was filed by Major Leon B. Poulada, defense counsel, 8 January 1948. No Petition for Clemency was filed.

*Recommendation:* Approval of the findings and sentence.

## 12. PAUL MAISCHEIN

Nationality: German

Age: 35

Connection with Nordhausen:

a. Period: 5 January 1944 to 4 April 1945 (D-Ex 55A pp. 1, 6)

b. Status: SS Corporal D-Ex 55A p. 1

c. Position: Medical assistant troop dispensary main camp and subcamp Rottleberode (D-Ex 55A pp. 1, 4)

*Evidence:* In his Statements, the accused stated that he arrived at the main camp on 5 January 1944. He was assigned to the SS troop dispensary as a medical assistant until 28 December 1944, when he was transferred to subcamp Rottleberode. At this subcamp he was charged with the sanitation and medical care of the SS troops, supervision of the inmate dispensary and the preparation of medical reports on the troops and inmates. He left subcamp Rottleberode on 4 April 1945 with the evacuation transports which eventually arrived at Gardleget (R 4616, 7630; D-Ex 55A pp. 1, 4, 6; P-Ex 136A pp. 1, 3).

One witness testified that he saw the accused at the main camp directing the removal of gold from the teeth of dead inmates in the morgue (R 4240, 4242, 4243). Accused No. 19 testified that he heard that at night the accused changed into inmate clothing and went to the main camp crematory to remove teeth from the mouths of dead inmates (R 5136, 5241, 5242).

A second witness, an inmate of the main camp from January 1944 to April 1945 (R 127), testified that he saw official orders directing the accused to proceed at night to the camp prison. It was

commonly understood that by this order the accused was to participate in the killing of inmates, the secret cremation of their bodies, and the preparation of a report showing that the inmate committed suicide (R 173, 174). A third witness testified that about 5 January 1945 he saw three SS men enter the main camp prison from which they returned in about 20 minutes carrying a large package, which he assumed to be a dead body wrapped in a blanket. They took it to the crematory. The witness was later told by a friend in the crematory that the accused was one of the three SS men and that the body which was cremated was that of inmate Kunze (R 1721, 1722, 1730).

A Czech witness, an inmate of the main camp from January 1944 to April 1945 (R 4539), testified that he was placed in the SD (Security Service) prison at subcamp Boelke Kaserne about 3 November 1944. The next night two men were placed in the same cell. They appeared to be American fliers. They were wearing zipper combination coveralls. One of them wore a gold ring initialed "U.S.A." (R 1469—1474). Thereafter, the two were removed from the cell by the accused and another SS man (R 1475, 476, 1494). In January 1945 the witness was informed by the capo at the crematory that on a night near the Christmas holidays accused ordered him to leave the crematory (R 1478, 1495) and gave him the combination coveralls (R 1479). The capo further told him that the fliers had been secretly cremated in the presence of the accused and that their dental gold and rings had been turned over to the camp commander. This delivery included the gold ring worn by one of the Americans (R 1480, 1481, 1494—1496). The witness also testified that in the latter part of November 1944 he saw this gold ring on the hand of the camp commander (R 1471, 1472, 1490, 1512, 1513).

A fifth witness, an inmate at subcamp Kottleberode from November 1944 to April 1945, testified that it was common knowledge that the accused forbade inmate physicians in the dispensary to give medical treatment to Jewish inmates (R 1495, 1418, 1419, 1433). A sixth witness testified that at subcamp Rottleberode he saw the accused and a negro beat a Jewish inmate until he collapsed and was carried away. He was told that the accused ordered that injections be given to Jewish inmates, following which they were taken to the mortuary. The witness also testified that the accused beat him with a stick on one occasion when he went to the dispensary for treatment (R 1921, 1922, 1925, 1927, 1928, 1951).

In his Statement, the accused denied taking any gold teeth from dead bodies and also denied all knowledge of an incident involving American fliers. The accused further stated that on his arrival in Rottleberode the inmate dispensary lacked medical supplies and that he took immediate steps to procure them (R 7616; E-Ex 55A pp. 2—6).

Two defense witnesses, former inmates of the main camp, testified that they never saw or heard that the accused mistreated inmates (R 989, 6318). Another witness testified that the accused obtained extra supplies from the SS dispensary to be used in the inmate dispensary.

He permitted Jews to be treated there (R 5201—5202). A fourth witness testified that there was no discrimination toward nationalities in the inmate dispensary at subcamp Rottleberode (R 5554).

Accused No. 4 stated that the cremation of Albert Kunze at the main camp in January 1945 was carried out by Master Sergeant Schulz and Corporal Goeben and that the accused was not connected with the incident (R 7058A, 7059). Accused No. 18 testified that accused No. 19 told him during the trial that he was going to testify as to the accused's extracting gold teeth from dead bodies even though such testimony would not be truthful (R 5880, 5881).

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

*Sentence:* Imprisonment for five years, commencing 2 August 1946.  
*Petitions:* A Petition for Review was filed by Major Leon B. Poulada, defense counsel, 8 January 1948. Petitions for Clemency were filed by R. Gandar, 15 December 1947; the accused, undated; and a German lawyer, Dr. Aheimer, 31 March 1948.

*Recommendation:* Approval of the findings and sentence.

### 3. HANS MOESER

Nationality: German

Age: 41

Connection with Nordhausen

- a. Period: 1 May 1944 to April 1945 (R 307; D-Ex 36 p. 1)
- b. Status: SS First Lieutenant (P-Ex 55A p. 6)
- c. Position: First protective custody camp leader; second protective custody camp leader (D-Ex 36 pp. 1, 6)

*Evidence:* In his Statement, the accused stated that he arrived at the main camp on 1 May 1944; that he spent two months familiarizing himself with the duties of a protective custody camp leader; and that in July 1944 he took over that position. He was responsible for discipline, sanitation, and inmate strength reports (R 7010; D-Ex 36 pp. 1, 2). His only superior was the camp commander (R 189).

One witness, an SS camp physician, testified that the accused approved the beating of inmates. Frequently inmates were brought to the office of the accused for interrogation. Screams of the victims were heard emanating from his office, where they were being beaten while a group of other inmates awaited their turn to enter his office (R 4675, 478). The accused was primarily responsible for the inmates receiving a starvation diet of 800 calories daily instead of the authorized 2,000 calories (R 4673, 4678, 4679). Inmate food was stolen by the SS personnel.

The accused, when requested to stop this practice, replied that the inmates received too much to eat (R 4679).

A second witness testified that the accused ordered 25 lashes or imprisonment in the camp prison for inmates brought before him on charges of stealing or of doing insufficient work (R 1637). A third witness testified that the accused was a sadist and enjoyed the suffering of the inmates (R 1683). A fourth witness testified that the accused participated in beating inmates who arrived on a transport from subcamp Weida. Each victim received five to ten blows with a stick (R 1827). A fifth witness testified that he heard that the accused beat inmates (R 998).

The third witness testified that, in February 1945 at the hanging of 60 Russian and Polish inmates, the accused shot and killed one of the victims who had been hanged, but was still alive when taken from the gallows (R 1684, 1710). Recaptured inmates, who attempted escape, were brought by the accused to a gallows in the small quarry where they were hanged (R 1683, 1684). A sixth witness testified that early in 1945 the accused fired two or three shots at inmates, who had been hanged, after they had been taken from the gallows. The hanged men were probably dead at the time (R 1763, 1764). The fourth witness testified that the accused shot victims of hangings, who were still alive after being taken from the gallows (R 1827). A seventh witness testified that in March or April 1945 the accused gave mercy shots to hanged victims on the roll call square; and that 40 to 50 inmates were hanged on this occasion. The witness saw the accused give a mercy shot to two victims of the hanging. Their bodies were subsequently taken to the crematory (R 1755, 1756).

Accused No. 10 stated in his Statement that the accused shot inmates who did not die immediately after being hanged on the roll call square. He also shot several inmates who had refused to step up to the gallows (R 136; P-Ex 36 p. 4). The fifth witness and an eighth witness testified that on 10 or 11 March 1945 the accused shot inmates who had been hanged, but were still alive when taken from the gallows (R 943, 1926). The ninth, tenth, eleventh and twelfth witnesses testified as to the accused giving mercy shots to victims who had been hanged in various described hangings, but who were still alive when shot (R 443, 447, 448, 1053, 1285, 1286, 1573, 1574). One of the hangings participated in by the accused was witnessed by 7,000 to 8,000 inmates (R 1285, 1286). The accused told the twelfth witness that it was a pleasure to give the mercy shots, like shooting deer (R 448). A thirteenth witness testified that the accused received "hanging bonuses". This bonus was given to participants in a hanging. It consisted of one-third liter of schnapps, 250 grams of special sausage and one package of cigarettes (R 4677). A fourteenth witness saw the accused shoot and kill an inmate in the main camp prison in January 1945 (R 4365, 4366, 4443).

The second witness testified that he heard that the accused had shot and possibly killed several inmates during a riot in the clothing store where the inmates were drawing clothing to take with them on

a transport. The witness testified that he heard this from an eye witness (R. 1627).

The eleventh witness testified that he was in the vicinity of the kitchen in July or August 1944 and saw the accused come out with an SS sergeant and both of them were drunk. A number of inmates were near the kitchen door. The accused shot five or six times at this group, killing two. The witness testified he was in charge of the dead body carrier detail and that this detail carried the two victims to the dispensary where they were reported to be dead (R. 1570-1573).

A fifteenth witness testified that the accused was in charge of the last evacuation transport to leave the main camp on 5 April 1945 destined for Neuegumme, but which actually went to Ravensbruck (R. 1156). At the first stop at Tettenborn, which lasted two or three days, about 30 inmates were buried (R. 1156, 1157). On 8 April 1945 the inmates were removed from the train at Osterode and the transport proceeded by foot march. They were removed because the railway was bombed. About 30 to 40 inmates who could not march were shot in the presence of the accused (R. 1157). The accused refused to permit the requisitioning of a wagon to carry food. From the main camp to Oeka during a period of 10 days, there was nothing to eat (R. 1157, 1158). About 45 kilometers from Oeka, about 200 inmates were shot by SS personnel and criminal inmates. The latter had been armed and were acting as guards (R. 1158). A mass burial of inmates who had died on the train from exhaustion or from shooting took place at Magdeburg (R. 1159). Many others were dead upon reaching Ravensbruck (R. 1159). The accused was no only present when the inmates were shot at Osterode, but he chased other inmates away from the scene with a pistol (R. 1179).

The sixth witness testified that the accused was a transport leader during the evacuation of the main camp and that on 7 April 1945, when the train was stopped, shots were fired into one of the railway cars. The next day Red Cross men carried dead bodies from the railway car and buried them. Later the inmates left the train and walked to Oeka. Every 15 to 20 meters bodies of inmates were seen who had been shot or clubbed to death along the route of the march (R. 1764, 1765). The twelfth witness testified that near Osterode on the evacuation march the accused shot a Polish inmate through the head, the victim falling into a ditch (R. 588). The witness testified that the SS personnel accompanying the inmate evacuation march from Osterode to Oeka killed 72 inmates and the accused was one of the SS men who shot them (R. 589).

In his Statement, the accused stated that he was required to report to the camp commander on the roll call square every evening and that he was responsible for the correctness of the strength report. He admitted participating in executions in compliance with orders. To maintain discipline, he reprimanded all wrongdoers, but forbade beatings. He was lenient to such an extent that it resulted in lawlessness on a large scale. His commanding officer told him that his methods caused anarchy and that, in view of the importance of the V-weapons operation,

this could be interpreted as sabotage because it reduced the work efficiency. Because of this the accused was forced to take more stringent measures. Deprivation of food as punishment was insufficient, inasmuch as the experienced inmates merely stole from other inmates. Arrest was not successful, inasmuch as the camp prison was too small and the services of an inmate were lost to the work details when he was arrested (R. 7010; D-Ex 36 pp. 1, 2). A proper request for punishment to Department D of the SS Economic and Administrative Department of the Reich Security Head Office at Oranienburg was not successful, inasmuch as it involved lengthy paper work for which no clerical help was available. Therefore, the camp commander, on his own authority, ordered beatings of only five lashes on the buttocks. No inmates were seriously harmed by the beatings. The executions to which the accused was ordered were promulgated by the Reich Security Head Office in Berlin and a doctor was always present. Had the accused refused to participate, he would have been subject to court-martial and a possible death sentence for having refused to perform military duty (R. 7010; D-Ex 36 p. 3).

The accused denied shooting two inmates in front of the inmate kitchen or shooting two inmates in front of the clothing store. He further denied that any executions took place in the roll call square between his arrival in May 1944 and October 1944 (R. 7010; D-Ex 36 p. 2). At the mass hangings the sentence was read and interpreted. Although he did not know whether the victim was alive or dead, on one occasion he fired two shots at the head of a hanged man, because he was confused by thoughts of the torture and the possible changing of the victim if he gained consciousness (R. 7010; D-Ex 36 pp. 2, 3).

The accused also stated in his Statement that the evacuation transport of which he was in charge included sick inmates selected by the camp physician as able to march. The accused procured food for the inmates on the evacuation transport. The transport was very long and difficult to supervise. Allied fliers were constantly overhead, locomotive engineers took off without notice, and confused orders resulted in inmates getting off the train and being shot. If the accused had disbanded the transport, he would have been subject to court-martial. As a German he would not release 3,000 inmates behind the lines and set them loose upon his fellow countrymen (R. 7010; D-Ex 36 pp. 3-6). He further stated that he never tolerated unjust treatment of the inmates. He obtained a library, motion pictures, a football field and two orchestras for the inmates. He overlooked petty thefts by inmates (R. 7010; D-Ex 36 pp. 6, 7). The accused further stated therein that since his imprisonment he has been beaten by the British and Americans and had suffered from malnutrition (R. 7010; D-Ex 36 p. 7).

The accused testified that he never had a conversation with a camp eldest in which he expressed pleasure in killing (R. 7014, 7015). He reiterated his denial of the killing of two inmates near a kitchen in the main camp and the killing of some inmates who attempted to get some

clothing at the supply room (R 7015). He also denied shooting a Polish inmate in Osterode (R 7017). He explained that the inmates who died on the transport did so as a result of illness, lack of food and perhaps air attacks (R 7017, 7018).

He further testified that on one occasion three inmates managed to each other were led to the gallows to be executed in the courtyard of the camp prison. After the sentence of execution was read to them and the handcuffs removed one of the inmates ran to a wall. The accused shot him dead. The second inmate ran toward the accused, whereupon the accused shot him. The third inmate was hanged. The physician present pronounced the three inmates dead (R 7012-7014).

In his testimony, the accused denied arming criminal inmates on the evacuation transport. He testified that about a dozen of them had old rifles they had picked up in the tunnels, but no ammunition, which fact he ascertained by inspection (R 7016, 7017). The accused admitted that inmates were shot at Osterode and asserted that one of the inmates gave the order to shoot the other inmates. As the inmates had no ammunition, the accused testified that some inmate probably influenced an SS man to shoot (R 7027).

One witness, the wife of the accused, testified that she went on the evacuation transport with her husband. She testified that the accused armed over 100 inmates (R 6610, 6614). She testified further that the accused was in his railway car most of the time and had many quarrels with railway officials concerning the train (R 6613, 6614).

Accused No. 3 testified that the accused was generally well liked and never gave instructions to beat inmates (R 6986).

Two other witnesses testified that the accused never beat or mistreated inmates in the main camp. He had a reputation for treating the inmates well (R 6469, 6543).

*Sufficiency of Evidence:* The Court was warranted from the evidence concerning the nature and extent of his participation in its findings of guilty. The evidence as to the accused acting under the immediate compulsion of superior orders and the evidence tending to prove that he believed any of the beatings were legal carries no persuasiveness. The sentence is not excessive.

*Sentence:* Death by hanging.

*Petitions:* A Petition for Review was filed by Major Leon B. Poullada, defense counsel, 8 January 1948. No Petition for Clemency was filed.

*Recommendation:* Approval of the findings and sentence.

14. GEORG JOHANNES RICKHEI

This accused was acquitted (R 7778).

15. HEINRICH SCHMIDT

This accused was acquitted (R 7778).

16. WILHELM SIMON

Nationality: German

Age: 47

Connection with Nordhausen:

- a. Period: 1 December 1943 to April 1945 (D-Ex 23A pp. 1, 4)
- b. Status: SS Technical Sergeant (P-Ex 110A p. 1)
- c. Position: Deputy labor allocation leader (P-Ex 119A, p. 1)

*Evidence:* In his Statement, the accused stated that he was at the main camp from 1 December 1943 to April 1945. His duties consisted of maintaining labor statistics and card indexes as to the occupational specialties of the inmates, allotting inmates for work to various firms, and preparing accounts of inmate work (R 6754; D-Ex 23A pp. 1-4).

One witness testified that the accused had the authority to designate the place where each inmate worked (R 171). He was responsible for obtaining the utmost use of the inmates (R 184, 187). In order to gain his goal, he allotted inmates to hard labor who had been classified by the camp physician as capable of light work only (R 234, 235). The second, third, fourth and fifth witnesses corroborated the testimony that the accused took convalescent alphas away from the inmates and assigned them to hard labor details (R 566, 592, 593, 734, 846, 847, 953, 4361, 4352).

The sixth, seventh and eighth witnesses testified that as labor allocation leader he accused considered only the output of work regardless of the cost in lives and exercised complete control over labor allocations of inmates (R 1223, 1621, 1634, 4070, 4077, 4078, 4080, 4197). A ninth witness, the SS camp physician, testified that on one occasion he isolated several blocks of typhus patients for a period of three weeks. The accused broke the quarantine by ordering the inmates to work (R 4714).

A tenth witness testified that the accused sent daily for inmates to come to the labor statistics office where they were given 25 to 50 blows, because they were reported by the capos for not working as hard as required (R 1287, 1288). The sixth witness testified that the accused was brutal. He kicked and hit inmates whenever he came to the roll call square or inside the camp (R 1223, 1224). The third witness testified that about once a week he personally saw the accused beat inmates in the labor allocation orderly room with a wooden cudgel or a leather whip (R 941). On cross-examination the witness admitted that he did not know whether anyone died or was severely injured by these beatings (R 971).

The first witness testified that the accused punished inmates for not working hard enough by making them stand outdoors on a large heap

of stones during rain, snow, wind and storm for 24 hours, after which they were sent to the dispensary suffering from pneumonia. The camp physician told the witness that because three inmates had died as a result of this punishment he was going to make a report in order to eliminate this punishment (R 145-147). The camp physician testified that inmates told him they had been punished by the accused by being forced to stand outside. The witness succeeded in having this kind of punishment stopped, but he had three cases of pneumonia in the dispensary as a result of this punishment and these three inmates died (R 4701, 4702).

An eleventh witness testified that he received 25 blows in the presence of the accused for working on the wrong detail and that the accused personally beat him twice (R 996, 1042). A twelfth witness testified that early in 1944 the accused beat with bars or sticks inmates returning to the tunnels (R 1813). The accused frequently beat his victims with the butt of his pistol because he believed they failed to work properly (R 1814, 1815). In 1945 at the labor statistics office, the accused struck sick inmates 10 to 15 times with the butt of his pistol (R 1810, 1811). A thirteenth witness, a German national, testified that he saw the accused beat inmates two or three times and once kick an inmate. The accused also ordered one inmate to beat another inmate (R 1824, 1834). The accused frequently beat with his hands inmates whose work did not satisfy him (R 1831, 1832). The second witness testified that a capo beat a Russian inmate to death in the tunnels and afterwards the accused gave him two leaves of bread and a pound of margarine (R 567). The fifth witness heard that the accused beat many inmates to such an extent that they required treatment in the surgical department for bleeding wounds on their backs, buttocks and heads (R 759, 785, 848, 849). A fourteenth witness, a cleric, testified that he was beaten by the accused while on a detail because he did not work hard enough (R 1066).

A fifteenth witness, a former inmate, stated in his Statement that the accused beat inmates at the main camp (R 7585; P-Ex 132 p. 2). Another former inmate stated in his Statement that, on the roll call square, the accused beat inmates who had slips relieving them from work because of illness (R 5920; P-Ex 104 p. 8). The first witness and the fifteenth witness testified that the accused put pressure on his subordinates to accomplish more work (R 237, 2353).

The second witness and the fourteenth witness testified as to the accused's withholding food from inmates sometimes for substantial periods of time because they did not work to suit him (R 460, 461, 566, 595, 1067).

The fourteenth witness further testified that the accused was present at four to eight hangings (R 1052, 1087). A sixteenth witness testified that the accused received "hanging bonuses" which were issued to SS personnel who participated in hangings (R 4267). The accused was overheard to say that hangings should take place every day in order to get more such bonuses (R 4267). The bonus consisted of one third liter of

schmapps, 250 grams of special sausage, and one package of cigarettes (R 4267).

The seventh witness testified that in December 1943 seven Italian prisoners of war inmates refused to work, saying that it was against international law to make prisoners of war work on war production. The witness heard the accused say that the Italians should be executed for this refusal. A few weeks elapsed, and then the seven prisoners of war were killed by shooting. The accused was a member of the so-called execution detail (R 1621, 1625, 1636, 1637, 1663, 1664). The third witness testified that he saw the accused and others following the seven Italians to an execution place on 15 December 1943, heard shots, and saw the accused return with the execution squad (R 946, 947). The seventeenth witness also testified that the accused was present at the killing of the seven Italians and that he signed the order for preparation of the bodies. The killing took place in December 1943 at the main camp near a quarry (R 4164, 4167).

The seventh witness testified that in early 1944 many inmates were too ill to work. The hospital was full. Three transports of ill inmates were sent to other camps. Two were sent to Lublin, Poland, and one to Belsen Concentration Camp. The accused took part in the selection. A Russian inmate on one of the Lublin transports returned. He reported that upon arrival at Lublin only 160 to 180 inmates were alive and that some died later (R 1621, 1622, 1632, 1633). The second witness corroborated the evidence that the accused controlled the selection of inmates for the Lublin transport in February 1944, Lublin being known as a "liquidation camp" (R 566).

An eighteenth witness testified that in April 1945 a transport of over 350 inmates left the main camp for Gmunden and Ebensee, with the accused in charge of second in command (R 1722, 1734). Two railway cars containing Jewish women were added to the transport. These cars were sealed (R 1358). There was an air raid on the train. When someone opened the cars, the SS men shot and killed eight of the women and several of the men (R 1723). The nineteenth witness testified that he was on the transport of 5 April 1945 to Ebensee, of which the accused was in charge (R 1739). When an air raid was directed at the train, everyone sought shelter in the woods, but the women could not leave their sealed cars which were hit by bullets. The general talk was that it was prohibited to open the cars (R 1741). The accused also forbade the inmates to accept food from the Czechs, although the inmates who were on the train for 11 days had been given food for only two days. About 18 inmates died from starvation (R 1742, 1743, 1746).

The accused stated in his Statement that he never beat or killed an inmate nor caused one to be beaten or killed (R 6805; P-Ex 118A p. 2). In another Statement, he stated that he had no independent authority, but executed the orders of his superiors. The accused stated that all his work was of an administrative nature and that he signed all correspondence with "By order of" or "In behalf of". Inasmuch as the labor

commitment leader, a commissioned officer, was away from the office much of the time the inmates were under the mistaken impression that the accused was the labor commitment leader (R 6754; D-Ex 23A pp. 5, 6).

In one of his Statements, the accused further stated that many inmates fraudulently procured convalescent slips. The camp commander made a spot check and ordered those inmates in good health back to work. He denied that 20 inmates died as a result of the convalescent slips being taken away from them (R 6754; D-Ex 23A p. 6). The accused denied sending ill inmates to work, stating that the precision work required could not be performed by ailing inmates (R 6754; D-Ex 23A p. 6). He also denied that he ignored by his actions a typhus quarantine. He denied participation in hangings, except for the execution of the Italian prisoner of war inmates. As to this execution, he stated he was ordered to take part and that a sentence of a "summary court-martial" was read by an SD member. The accused asserted that the execution was legal (R 6754; D-Ex 23A pp. 7, 8).

The accused testified that he arranged with the Mittel Werke for the inmate night shift to get extra food (R 6777). He helped inmates whenever he was able to do so. He requisitioned bread for them (R 6773). He never did anything unfair at the main camp and never knowingly used weak inmates for heavy labor (R 6771). He never beat an inmate with a riding crop, rubber club, stick or any other object, although he admitted slapping three inmates with his open hand and ordering one inmate beaten (R 6811).

The accused further testified that the railway cars on the evacuation transport containing the female inmates were sealed as a result of orders issued by another SS sergeant. The accused took care of the sick inmates on the transport, buried the dead and released the inmates by giving them temporary release certificates (R 6791, 6792).

One defense witness testified that he employed about 13 inmates in her automobile repair shop in the town of Nordhausen from November 1943 to March 1945. The accused was in her place frequently to ascertain whether the welfare of the inmates was being properly observed (R 5707-5712). Another witness testified that the accused came often to her office in 1944 and early 1945 accompanied by inmates with whom he was apparently on friendly terms (R 5731). A third witness testified that he worked in the tunnels for 14 months and that the accused was instrumental in transferring him to less arduous work upon his request (R 5811). He testified further that he never saw or heard of the accused beating anyone (R 5814).

In two unsworn pretrial statements, two former inmates stated that the accused treated inmates humanely, interceded for them and protected their interests (R 6782, 6788; D-Ex 25A p. 1, D-Ex 27A p. 1).

Seven witnesses testified and three former inmates and a retired burgermeister stated in unsworn pretrial statements that the accused was decent and humane toward the inmates throughout his service

(R 6131, 6136, 6137, 6140-6144, 6178, 6207, 6208, 6210, 6276, 6282, 6284, 6322, 6325, 6327, 6364, 7628; D-Exs 7(A), 7(A), 7(A), 78A, 80(A)).

*Sufficiency of Evidence:* The Court was warranted from the evidence concerning the nature and extent of his participation in its findings of guilt. The evidence to the effect that the accused believed the executions to be legal and the evidence tending to show he acted unwillingly and under the immediate compulsion of superiors is not persuasive. He failed to meet the burden of proof as to both these issues as required by pertinent authorities discussed in Section V, supra. The sentence is not excessive.

*Sentence:* imprisonment for life.

*Petitions:* A Petition for Review was filed by Major Leon B. Poulada, defense counsel, 8 January 1948. No Petition for Clemency was filed.

*Recommendation:* Approval of the findings and sentence.

#### 17. WALTER ULBRICHT

Nationality: German

Age: 43

Connection with Nordhausen:

a. Period: 13 March 1944 to 4 April 1945 (P-Ex 54 p. 1)

b. Status: Inmate (criminal) (P-Ex 54 p. 1)

c. Position: Clerk subcamp Rottleberode (P-Ex 54 p. 1)

*Evidence:* In his Statement, the accused stated that from 13 March 1944 to 4 April 1945 he was an inmate of subcamp Rottleberode where he worked as a clerk. He was in charge of labor reports and statistics, clothing, tools, exchange of laundry, collection and distribution of inmate mail and Red Cross packages. He admitted beating inmates with his bare hands for stealing and also admitted beating Russian inmates in self defense (R 4247; P-Ex 54 pp. 1, 2, 8).

One witness testified that the accused was reported to be a spy for the camp commander of subcamp Rottleberode. He particularly hated Jews and conducted special roll calls for them. During the night he often chased barefooted inmates out of their barracks. He was especially fond of using a rubber hose, with which in the winter of 1944-1945 he beat a Jewish inmate to death. In January or February 1945 the accused participated in beating to death with a rubber hose and a board a young inmate named Dubrovsky. This inmate was beaten by the accused several times during a period of five days and was finally killed (R 1919-1921).

A second witness testified that the accused refused to permit Jewish inmates to go to the third floor storeroom at subcamp Rottleberode to exchange clothing or shoes. When the accused found a Jewish inmate there, he licked and knocked him down the steps. The witness saw about 10 such incidents and heard of many others (R 1409-1416). On three occasions the witness himself was beaten with a rubber hose by the accused (R 1416). The accused also forced Jewish inmates to



march up and down a stairway in order to exhaust them (R 1408, 1409). The accused beat an inmate with a rubber hose, pursued and continued to beat him until the victim collapsed. The witness heard later that the victim died (R 1409, 1410).

The accused testified that occasionally it was necessary for him to slap inmates in order to maintain discipline and to prevent stealing and black marketing (R 5614-5618, 5643). He denied causing the death of Dubrovsky, stating that this inmate died in the camp dispensary a few days after receiving a beating at the hands of six Polish inmates (R 5607-5611). The accused denied all other killings and mistreatments testified to by prosecutor witnesses (R 5612, 5613, 5620, 5621). In his Statement, the accused stated that he gave additional food and parcels to sick inmates, acquired a gramophone with loud speaker to play music, and arranged a snack bar and a laundry for their use (R 5692; D-Ex 10 pp. 3, 4).

One defense witness testified that the accused did not assist in killing Jewish inmates (R 5543) and that he had no heard that he was connected with the death of Dubrovsky (R 5541-5543). He further testified that the accused had a good reputation among the inmates, aided them in every way he could and went out of his way to obtain supplies for them (R 5547-5549). This witness, as well as a second one, testified that they had not heard of the accused being an informer for the SS authorities (R 5543, 5576, 5590).

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

*Sentence:* Imprisonment for five years, commencing 14 August 1945. *Petitions:* A Petition for Review was filed by Major Leon E. Poullada, defense counsel, 8 January 1948. No Petition for Clemency was filed.

*Recommendation:* Approval of the findings and sentence.

#### 18. RICHARD WALENTA

Nationality: German

Age: 35

Connection with Nordhausen:

- a. Period: May 1944 to April 1945 (D-Ex 17 p. 1)
- b. Status: Inmate (political) (R 5847, 5850; D-Ex 17 p. 1)
- c. Position: Block eldest and camp eldest subcamp Ellrich; orderly camp prison main camp (D-Ex 17 p. 1)

*Evidence:* In his Statement, the accused stated that as an inmate he was block eldest and later camp eldest at subcamp Ellrich from May to October 1944. His duties consisted of maintaining order and discipline, distributing food, lining up inmates for roll call, and supervising mail distribution. In the middle of October 1944 the accused was sentenced

to six weeks confinement in the main camp prison. About the first of December 1944 he was assigned as orderly in the camp prison. As orderly his duties consisted of recording personal data of inmates confined in the camp prison, maintaining sick lists and strength reports, exchanging prisoners' clothing, distributing food, and escorting prisoners to interrogations (R 5832; D-Ex 17 p. 1).

One witness, a German inmate at the main camp testified that the accused betrayed fellow inmates to the Gestapo. The witness was told by another orderly in the main camp prison that the accused beat inmates there with a stick (R 127, 177, 178, 182). A second witness, a Dutch doctor, testified that he was told by an inmate that he had been beaten by the accused in the prison (R 329, 397). A third witness, a criminal inmate and camp eldest, testified that the accused wore neither an inmate triangle nor an inmate number and was considered by other inmates as a spy for the Gestapo. The accused told the witness that he had been discharged from his status as an inmate, but could not leave the camp because of his knowledge of secret matters (R 466, 636, 701). A fourth witness, a Czech inmate/doctor in the main camp dispensary, testified that the accused gathered information about inmates and reported it to the Gestapo (R 718, 768, 769, 783). The accused urged inmates to organize a secret society to effect their escape, but all inmates who volunteered for the plan were later arrested and hanged (R 768). A fifth witness, a Czech inmate, testified that the accused was an informer and had the power of arrest (R 933, 945). A sixth witness testified that the accused worked for the SD (Security Service) and that on one occasion the accused came into the camp dispensary and handcuffed and removed an inmate. The inmate was never seen again. Inmates who were denounced by the accused for sabotage were never seen again (R 1147, 1148). A seventh witness, as well as the fourth witness, testified that the accused boasted to them of having beaten Russian inmates to death in the camp prison on 9 March 1945 following an attempted escape by Russian prisoners (R 771, 783, 1037). An eighth witness testified that the accused was an agent for the Gestapo not only denounced inmates, but beat them severely (R 1389).

A ninth witness, a former inmate interpreter for the SD, testified that he heard that in the main camp prison the accused participated in beating inmates who attempted to escape. On one occasion he saw the accused severely beat a Russian inmate (R 1619, 1624, 1628, 1644). The witness was told that the accused organized a plan to free Russian inmates from the camp prison and that, when the Russians agreed to the plan, he reported them to the Gestapo (R 1629). The witness was required to translate a death order to two Russian inmates in advance of their being hanged. At the time of the reading these two inmates were lying motionless, bloody and wounded, near the execution place in the camp prison. They had been beaten (apparently hearsay) by the accused and others after a long investigation into their membership in a communistic organization in the main camp (R 1630, 1631, 1674).

The witness also heard that the accused had bragged of killing two Russian inmates who had attempted to escape (R 1644).

A tenth witness testified that he saw the accused beat inmates with sticks, clubs and with his hands during interrogations (R 1829). An eleventh witness testified that the accused was an informer of and a collaborator with the SD. While in the camp prison, ostensibly as an inmate, the accused gained the confidence of other inmates and later informed on them, resulting in their being shot or hanged (R 4636). The witness was in a group of inmates who were forced to run through a double line comprised of the accused and SS men, who beat them (R 4036). In his unsworn pretrial statement, a former inmate stated that the accused was a very brutal and sadistic person in subcamp Ellrich. He frequently beat inmates at roll calls. Some died from these beatings (P-Ex 105A p. 1).

The accused testified that in September 1940 he was interned in Dachau Concentration Camp for insulting Hitler, spreading propaganda, and violations of the insidious conduct law (R 5851). While in Dachau he was the subject of three investigations by the Gestapo (R 5833). In the middle of December 1944 after six weeks confinement in the Nordhausen camp prison, he remained in the camp prison as an orderly (R 5838). The accused admitted that in the main camp prison he escorted prisoners to the door of the interrogation room, but he denied being present at the interrogations (R 5840). He denied imprisoning inmates, as this power lay only with the roll call leader, the prison compound leader and Gestapo personnel (R 5859). He denied the testimony of witnesses who said that he wore neither an inmate number nor a triangle (R 5851). He could not have reported sabotage of V-weapons to the SD, inasmuch as he lived in the camp prison and could only have heard such information by living in other places in the main camp (R 5867). He denied aiding in quelling the inmate rebellion in the camp prison. He explained that he was knocked unconscious at the outset and remained so during the entire incident (R 5857).

He also testified that in March 1945 he learned that he was to be executed. Therefore, he escaped to the American lines on 9 April 1945 (R 5844). In his Statement, the accused stated that because he led inmates to the interrogation room and carried handcuffs with which to make arrests witnesses must have assumed that he personally was responsible for interrogations (R 5832; D-Ex 17 p. 3).

One defense witness, a former capo at subcamp Ellrich, testified that the accused wore a red triangle (insignia of a political inmate) at Ellrich. The accused behaved decently and kindly at subcamp Ellrich and reported capos who had mistreated inmates (R 5117-5119). The witness admitted that he heard, after leaving subcamp Ellrich, that the accused became a spy for the Gestapo and that he had been instrumental in bringing about the hanging of some Russian and Polish inmates (R 5120). A second witness, a former SS man, testified that he took charge of the main camp prison in September 1944. In October or November 1944

he appointed the accused as janitor thereof (R 5557-5561). The accused acted as interpreter for accused No. 4 in the orderly room during preliminary interrogations the purpose of which was to obtain personal data. Sander conducted the formal interrogations. The accused was not present as Sander had his own interpreter (R 6569, 6570). The witness also testified that the accused wore civilian clothing in the camp prison and sometimes wore no prison number (R 6563, 6564).

Accused No. 10 testified that the accused escorted inmates to interrogations in the camp prison, but was not allowed in the room where the interrogations were conducted (R 5969). Accused Nos. 4 and 10 testified that during an attempted escape of inmates from the camp prison, the accused was knocked unconscious at the beginning of the incident and remained so throughout (R 5969, 5970, 7082, 7086). Accused No. 10 never considered the accused to be a spy (R 5971).

Accused No. 4 testified that the accused acted as interpreter in a few instances when accused No. 4 was obtaining personal data from inmates. He did not consider the accused very useful, because the accused was more interested in the witness' female stenographer than in the work. The accused was not present at the principal interrogations (R 7071, 7072). On one occasion the accused arrested an inmate in the main camp dispensary, but did so pursuant to instructions (R 7077). In an unsworn pretrial statement, an official of the Social Democratic Party certified that the accused was an active member of the Social Democratic Party prior to 1933 and active in its fight against nazism (R 7628; D-Ex 79A).

*Sufficiency of Evidence:* The Court was warranted from the evidence concerning the nature and extent of his participation, particularly that relating to his severely beating inmates and his secretly gathering information which he knew was to be used by the camp authorities as a predicate for punishments and deaths, in its findings of guilty. The sentence is not excessive.

*Sentence:* Imprisonment for 20 years, commencing 6 March 1946.

*Petitions:* A Petition for Review was filed by Major Leon B. Poulada, defense counsel, 8 January 1948. A Petition for Clemency was filed by a war crimes investigator, Joseph Kirschbaum, 30 March 1948.

*Recommendation:* Approval of the findings and sentence.

#### 19. WILLI ZWIENER

Nationality: German

Age: 39

Connection with Nordhausen:

a. Period: February 1944 to April 1945 (R 5129)

b. Status: Inmate (criminal) (E. 183)

c. Position: Labor allocation clerk, main camp; camp eldest, main camp; labor allocation clerk, subcamps Ellrich and Harzungen (R 5132, 5133)

*Evidence:* The accused testified that he arrived at the main camp as an inmate in February 1944. He was labor allocation clerk in the tunnels for one month. From March to June 1944 he was camp eldest at the main camp. From October 1944 to April 1945 he was labor allocation clerk at subcamps Elrich and Harzaugen (R 5130-1133; D-Ex 5 pp. 1, 4).

One witness, a colonel in the French army and former inmate of the main camp from March 1943 to April 1945, testified that the accused was very brutal and never lost an opportunity to beat inmates (R 1209, 1222). In March 1944 when the witness was in quarantine, having just arrived at the main camp, the accused came into the crowded quarantine barracks and like a midman started beating inmates with a rubber hose. Many of the inmates jumped out of the windows to escape the blows (R 1222, 1223). The only mistreatment or beating the witness ever personally received from the accused while in Nordhausen was a blow while in the quarantine barracks (R 1256). Another witness testified that at the main camp the accused made ruthless use of his power as camp eldest and was a willing tool of the SS authorities. He walked through the camp with a club or cudgel in his hand and beat inmates indiscriminately when he considered they were not working sufficiently. The victims included French, Belgian, Dutch, Czech, Polish, Russian and Italian nationals. Some of the victims were treated in the dispensary for as many as 14 to 21 days after a beating by the accused (R 183, 184).

A third witness testified that at the main camp he saw the accused beat inmates (R 1624, 1449). Another witness testified that at the main camp the accused, a criminal inmate, was more a beast than a man and seriously mistreated inmates. He often stationed himself at the exit gate of the camp and beat inmates marching out on the head, back and shoulders with a rubber hose. On several occasions the accused entered the barracks and beat convalescent inmates, who were authorized to be sick in quarters (R 1684, 1685). On one occasion the witness had to jump out of the window in the barracks to avoid being struck by the accused (R 1710). Another witness, a Czech surgeon in the inmate dispensary, testified that many inmates were treated at the main camp dispensary who had been beaten by the accused. The SS camp physician reprimanded the accused for beating the inmates (R 718, 720, 905). A sixth witness, a German criminal inmate, testified that the accused was relieved as camp eldest at the main camp and sent to the camp prison because he had beaten a German inmate to death. The victim had been a camp interpreter (R 572, 701).

A seventh witness, a German national, testified that in the spring of 1944 all the inmates of the main camp were ordered to witness a hanging. However, the two camp eldests refused to perform the hanging. When the camp commander, an SS major, called for volunteers to hang the inmates, the accused stepped forward and hanged the inmates (R 4033, 4034, 4039, 4109). The accused hereafter received many privileges from the camp authorities, such as food, tobacco and a special

permit granting him the "run of the camp." The two camp eldests were relieved and the accused was appointed as camp eldest (R 4033-4035). The first, third, and fourth and three additional witnesses corroborated his volunteering to act as hangman (R 67-69, 96, 97, 1248, 1628, 1646, 1684, 1685, 1710, 4159-4162, 4673, 4675).

An eleventh witness, a cleric, testified that the accused after becoming the camp eldest at the main camp presided over all hangings (R 1043, 1055). He presided over the hanging of at least five inmates near Easter 1944 in the roll call square (R 1112, 1113). On one occasion he beat with a footstool an inmate who had been hanged. On another occasion he tugged on the legs of an inmate being hanged when the victim tried to grasp the rope (R 1052). A twelfth witness testified that he saw the accused participate in a hanging of inmates in the spring of 1944 (R 999). He heard that the accused had hanged eight to ten Russian and Polish inmates (R 944). Another witness testified that the accused was the hangman at the main camp. The witness saw him hang about 15 inmates during the summer of 1944 (R 1150-1152).

In his Statement, the accused admitted that he beat inmates, but denied using a club or weapon. He could not get results by the use of words alone. He admitted participation in hangings as the hangman, but asserted that he did not know that the hangings were illegal. He did not volunteer, but was ordered to act as hangman (R 5130; D-Ex 5 pp. 3-5).

The accused also admitted in his Statement that he participated in the hanging of 10 to 12 inmates, one of whom was a Czech. The others were Russian and Polish inmates. He was threatened with death if he refused to participate. The accused further admitted being an informant for the Gestapo, but denied giving any information of value (R 1362; P-Ex 37 pp. 1, 2).

The accused further testified that he was constantly threatened with incarceration in the camp prison, receiving 35 lashes, being sent to the crematory or being returned to Buchenwald Concentration Camp, if he did not cooperate with the SS authorities. Once he was punished by being sent to the camp prison (R 5135). He testified that during the time he was camp eldest he kept the criminal inmates from positions of authority; that he was instrumental in improving the distribution of food; and that his plans for a convalescent block to alleviate the bad conditions in the dispensary were unsuccessful, because they were opposed by the SS camp physician (R 5143-5145).

One witness, a former block leader at the main camp who was convicted as a war criminal in the case of United States v. Mueller, Case No. 000-Nordhausen-2, testified that the accused did not take part in the execution performed on 12 March 1944. The witness saw the hanging from nearby and testified that it was inmate Schoerer who volunteered when the two camp eldests refused (R 6675-6677). The witness testified that he never heard of the accused beating anyone and that the accused had a good reputation among the inmates (R 6676).

Accused No. 3 testified that the accused was selected by him to be hanged sometime after the camp eldest had refused to perform a hanging. The accused raised no objections and carried out the executions (R 6987).

*Sufficiency of Evidence:* The Court was warranted from the evidence concerning the nature and extent of his participation in its findings of guilty. The evidence tending to show that the accused thought any of the executions were legal and the evidence tending to show that he acted unwillingly and under the immediate compulsion of superiors is not persuasive. He failed to meet the burden of proof as to both these issues as required by pertinent authorities discusses in Section V, supra. The sentence is not excessive.

*Sentence:* Imprisonment for 25 years, commencing 5 May 1945.

*Petitions:* A Petition for Review was filed by Milton M. Crook, defense counsel, 1 January 1948. No Petition for Clemency was filed.

*Recommendation:* Approval of the findings and sentence.

#### VII. CONCLUSIONS:

An examination of the entire record of trial fails to disclose any error or omission in the conduct of the trial which resulted in injustice to the accused. The evidence is legally sufficient to support the findings of the Court. It is also sufficient to sustain the sentences of the Court except as to accused HELBIG. Accordingly, it is recommended that the findings of the Court be approved; that the sentences of the Court be approved, but that the sentence as to accused HELBIG of imprisonment for 20 years be reduced to imprisonment for 10 years, commencing 20 May 1945; and that the sentences be ordered executed.

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

HAROLD E. KUHN

JOSEPH L. HAEFELE  
Major, CMP

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 25 June 1948, except the sentence to twenty years imprisonment in the case of Oskar

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