

IX. OPINION AND JUDGMENT

The constitution, powers, jurisdiction, and functions of this Tribunal are fully stated in the judgment of the International Military Tribunal and the following subsequent cases: The United States of America *vs.* Brandt, et al, Case No. 1; the United States of America *vs.* Altstoetter, et al, Case No. 3; and the United States of America *vs.* Pohl, et al, Case No. 4. We deem it sufficient to say that this case was submitted to this Tribunal, and the trial conducted, in accordance with the law and rules of procedure applicable to the Tribunal.

When it is considered that the oral and documentary evidence in this case consists of approximately 10,000 pages, it becomes readily apparent that any effort to even summarize the evidence would be impracticable. We shall, in the main, therefore record here our findings. Those interested in the details of evidence must be referred to the record.

During the course of the trial several witnesses, including some defendants who made affidavits that were offered as evidence by the prosecution, testified that they were threatened, and that duress of a very improper nature was practiced by an interrogator. The affidavits referred to were excluded from the evidence and have not been considered by the Tribunal.

Considerable evidence on the part of the defense was adduced to the effect that certain functions, actions, and measures taken, were Party matters while others came under the competency of offices of the government. In our opinion this attempted differentiation of spheres of competency makes no difference. In practice the Nazi Party and the Government in Germany under Hitler were one and the same thing. In fact, the law in Germany under date of 1 December 1933 declared the unity of the Nazi Party and the German State.

The indictment in this case is framed in three counts. The first and second counts charge the commission of crimes against humanity and war crimes, respectively. Count one alleges, in substance, that between September 1939 and April 1945, all of the defendants—

“were principals in, accessories to, ordered, abetted, took a consenting part in, were connected with plans and enterprises involving, and were members of organizations or groups connected with atrocities and offenses, including but not limited to murder, extermination, enslavement, deportation, imprisonment, torture, persecutions on political, racial, and religious

grounds, and other inhumane and criminal acts against civilian populations, including German civilians and nationals of other countries, and against prisoners of war."

Count one further alleges that these—

"Acts, conduct, plans and enterprises * * * were carried out as part of a systematic program of genocide, aimed at the destruction of foreign nations and ethnic groups, in part by elimination and suppression of national characteristics. The object of this program was to strengthen the German nation and the so-called 'Aryan' race at the expense of such other nations and groups by imposing Nazi and German characteristics upon individuals selected therefrom * * * and by the extermination of 'undesirable' racial elements. This program was carried out in part by—

- (a) Kidnaping children.
- (b) Abortions.
- (c) Taking away infants of Eastern workers.
- (d) Punishment for sexual intercourse with Germans.
- (e) Preventing marriages and hampering reproduction of enemy nationals.
- (f) Evacuating enemy populations from their native lands by force.
- (g) Forced Germanization of enemy nationals.
 - (1) Slave labor.
- (h) Plunder.
- (i) Persecution of Jews."

Count two, which charges the defendants with war crimes, alleges that all the defendants between September 1939 and April 1945—

"Were principals in, accessories to, ordered, abetted, took a consenting part in, were connected with plans and enterprises involving, and were members of organizations or groups connected with atrocities and offenses against persons and property constituting violations of the laws or customs of war, including but not limited to plunder of public property, murder, extermination, enslavement, deportation, imprisonment, torture, and ill treatment of and other inhumane acts against thousands of persons. These crimes embraced, but were not limited to 'the ten specifications made in count one,' and were committed against prisoners of war and civilian populations of countries and territories under the belligerent occupation of, or otherwise controlled by, Germany."

The fourteen defendants in this case were, in various capacities, connected with four organizations, namely, Reich Commissioner for Strengthening of Germanism, Staff Main Office (commonly

known as the "Staff Main Office of RKFDV", and hereinafter referred to by that designation); the Repatriation Office for Ethnic Germans (commonly known as VoMi, and so referred to hereafter); the SS Race and Resettlement Main Office (commonly known as RuSHA, and hereinafter so designated); and the Well of Life Society (commonly known as Lebensborn, and so referred to hereinafter). The organizations were under the supervision and direction of Reich Leader SS Himmler, as Reich Commissioner for the Strengthening of Germanism. Each organization had certain well-defined tasks, which after 1939 were modified or expanded as the recent war progressed. The organizations worked in close harmony and cooperation, as will later be shown in this judgment, for one primary purpose in effecting the ideology and program of Hitler, which may be summed up in one phrase: The two-fold objective of weakening and eventually destroying other nations while at the same time strengthening Germany, territorially and biologically, at the expense of conquered nations.

In the execution of this broad program, Hitler selected Himmler, the notorious leader of the SS. The decree issued by Hitler on 7 October 1939, appointing Himmler, states, in part—

"The consequences which Versailles had on Europe have been removed. As a result, the greater German Reich is able to accept and settle within its space German people, who up to the present had to live in foreign lands, and to arrange the settlement of national groups within its spheres of interest in such a way that better dividing lines between them are attained. I commission the Reich Leader SS with the execution of this task in accordance with the following instructions:

"Pursuant to my directions the Reich Leader SS is called upon—

1. to bring back those German citizens and racial Germans abroad who are eligible for permanent return into the Reich.

2. to eliminate the harmful influence of such alien parts of the population as constitute a danger to the Reich and the German community.

3. to create new German colonies by resettlement, and especially by the resettlement of German citizens and racial Germans coming back from abroad."

Himmler lost no time in promulgating measures to be applied in effectuating the Germanization program. Poland had just been overrun by the Nazis; and by a Hitler decree territories in Poland had been annexed to the Reich. These territories, in numerous decrees, were referred to as "the Incorporated Eastern Territories". The balance of Poland was known as the "Government General".

As early as 25 November 1939, Himmler had received a forty-page treatise entitled, "The Problem of the Manner of Dealing with the Population of the Former Polish Territories on the Basis of Racial-Political Aspects," which had been compiled by the Racial-Political office of the NSDAP (Nazi Party). A few excerpts from this lengthy treatise are sufficient enlightenment as to the proposed manner of "dealing with the former Polish territories". After lengthy quotations of statistics on the population of these territories, the treatise states:

"It follows from these statistics, that in the districts until now under Polish sovereignty, there were 86 percent Poles and 5 percent Jews, compared to only 7 percent Germans. Consequently, the necessity arises for a ruthless decimation of the Polish population and, as a matter of course, the expulsion of all Jews and persons of Polish-Jewish mixed blood.

"If the transfer of Poles from the Reich territory is not effected in a ruthless manner, it has to be feared that the Polish population will increase more or less at the same rate as before the war and up till now."

With reference to a classification of the population and their treatment, the treatise states:

"Who is a German?

"A German is [one] who, in folkdom, custom, and family community, lives as a German, if he is of German or related blood. These Germans are to be included in a German People's List.

"We have to have such an awe and respect for the blood witnesses since 1918 and the distress of these Germans who were conscious of their people that we will not be unnecessarily generous.

"All Germans, beyond doubt established as German nationals, are to be registered in a German People's List. They received the German citizenship. Only these Germans have the right to be Reich citizens.

"All other persons are not entitled to the right to be Reich citizens and therefore have no political rights.

"In the future Germans are to carry exclusively German names; that is, family names which in their root and etymology are of German origin. Names which are only Germanized in the written form, but show their Slavonic origin, cannot be regarded to be German names. They, too, are to be changed.

"The official language of all authorities, including courts, is exclusively German.

"Economy and culture.

"Poles cannot be business owners. The real estate, also the

farms they possessed up to now, are being expropriated. Poles are not permitted to exercise an independent trade and cannot be masters of a trade; all existing apprentice contracts are annulled; promising Polish apprentices can be taken to Germany proper as apprentices.

"As to the treatment of the population remaining in the Eastern territories—mainly of the Polish and the German-Polish mixed population—it is constantly to be born in mind that all measures of the legislature and administration have but one purpose, namely, to achieve a Germanization of the non-German population by all means and as quickly as possible. For this reason a continuation of a national Polish cultural life is definitely out of question. The Polish orientated population, in as far as it cannot be assimilated, is to be deported, the remainder to be Germanized. Therefore, a basis for a national and cultural autonomous life must no longer exist. In future there will be no Polish schools in the Eastern territories. In general there will be only German schools with emphasis on National Socialist racial teachings. Poles and members of the German-Polish mixed population who are not yet completely Germanized are not permitted to attend German universities, trade schools, or high and secondary schools. Children of the members of this part of the population are only admitted if they are members of the Hitler Youth and are reported by it.

"Any religious service in Polish is to be discontinued. The Catholic and even the Protestant religious service are only to be held by especially selected German-conscious German priests and only in German. Considering the political importance and the danger of the Catholic-Polish church connected with it, one could get the idea to outlaw the Catholic church entirely. However, one has to keep in mind that the population is strongly attached to the church and that such a measure could perhaps result in the opposite of a Germanization. Specially selected, German-minded Catholic priests could probably gain not unimportant a success for the Germanization by a clever influence on the Catholic-Polish part of the population. The probability that especially Catholics of German extraction who were Polonized in the past centuries could, with the help of suitable German priests, be brought back to the German people is very great. In case of the Protestant church, the priests who during the Polish time, especially during the last year, tried to betray the German people in a hatefulness which can hardly be described (under the leadership of their bishop Bursche), are ruthlessly to be removed as enemies of any national conviction and of National Socialism. Polish church holidays are to be

abrogated. Only the holidays of both denominations permitted in the Reich are to be observed.

"In order to prevent any cultural or economic life, Polish corporations, associations, and clubs cease to exist; Polish church unions are also to be dissolved.

"Polish restaurants and cafes as centers of the Polish national life are to be closed down. Poles are not permitted to visit German theaters, variety shows, or cinemas. Polish theaters, cinemas, and other places of cultural life are to be closed down. There will be no Polish newspapers, nor printing of Polish books, nor the publishing of Polish magazines. For the same reasons Poles must not have radios and should not possess a phonograph.

"The aim of the policy in the East.

"The aim of the German policy in the new Polish territory in the East must be the creation of a racial and therefore intellectual-psychical as well as national-political uniform German population. This results in the ruthless elimination of all elements not suitable for Germanization.

"This aim consists of three interwoven tasks:

First, the complete and final Germanization of the population which seems to be suitable for it.

Second, deportation of all foreign groups which are not suitable for Germanization; and

Third, the resettlement by Germans.

"Our Germanization policy has the aim to extract the Nordic groups from the remaining population and to Germanize them, and, on the other hand, to keep the racially foreign Polish strata on a low cultural level and to deport them from time to time to central Poland.

"Treatment of the mixed population.

"These thoughts make it most recommendable to transfer these persons, who were not included in the German People's List but who live in a racial mixed marriage with Poles or who are of mixed German-Polish descent, to Germany proper, if they were not especially active for the Polish ideology. The final Germanization can be achieved in Germany proper. Children from such German-Polish racial mixed marriages have, whenever possible, to be educated in Germany proper and in German surroundings (educational institutions). The influence of the Polish parent must be excluded to the greatest possible extent.

"Germanization of the Polish population.

"Probably only a small part of the Polish population within the new Reich territory can be Germanized; the easiest way will be to transfer them, and especially their children, to Ger-

many proper, where, as a matter of course, a collective employment or settlement is completely out of question.

"Special treatment of racially valuable children.

"A considerable part of the racially valuable groups of the Polish people, who, on account of national reasons are not suitable for Germanization, will have to be deported to the rest of Poland. But here it has to be tried to exclude racially valuable children from the resettlement and to educate them in suitable educational institutions, probably like the former military orphanage at Potsdam, or in a German family. The children suitable for this are not to be over 8 to 10 years of age because, as a rule, a genuine ethnic transformation, that is, a final Germanization, is possible only up to this age. The first condition for this is a complete prevention of all connections with their Polish relatives. The children receive German names which etymologically are of accentuated teutonic origin, their descendant certificate will be kept by a special department. All racially valuable children whose parents died during the war or later will be taken over in German orphanages without any special regulation. For this reason a decree prohibiting the adoption of such children by Poles is to be issued.

"Any keeping of biologically healthy children in church institutions is prohibited.

"Children of such institutions, if no older than approximately 10 years, are to be transferred to German educational institutions.

"Poles with a neutral attitude, who are willing to send their children to German educational institutions, do not need to be deported to the rest of Poland.

"As already related, the final aim must be the complete elimination of the Polish national spirit. Those Poles who cannot be Germanized must be deported to the remaining Polish territory.

"In all cases of eviction of classes which are racially equivalent to us and valuable, the possibility of a retention of the children and their special education is to be considered.

"If the Eastern territories are to be Germanized it is necessary that all the land, also land which was handed down from generation to generation by its Polish owners, be expropriated in favor of the German settlers. Thereby the Polish peasant loses the basis of his existence and is therefore to be deported to the remainder of Poland, if he cannot be Germanized.

"Jews, regardless whether they are Jews by creed or baptized, are to be deported to the remainder of Polish territory by cancellation of all their obligations ruthlessly and as soon as possible.

"Persons of mixed Polish-Jewish blood, regardless of their degree, are to be placed on the same level, without any exceptions and under all circumstances, as Poles and Jews who are to be deported."

Dealing with the problem of resettling the area from which the Polish were to be transported, the treatise states:

"Efforts are to be made to repatriate all Germans without exceptions from the remainder of Poland and the territories falling to Russia into our new Eastern territories.

"With reference to Germans overseas and their settlement, this question can only be solved after the war, in view of transportation facilities, if for no other reason."

Under the subhead "The treatment of Poles and Jews in the remaining Poland," the treatise states:

"Independent of the not yet published future solution of the problem regarding the legal state structure of the remainder of Poland, one must start from the fact that the remainder of Poland will also in the future be under the ruling influence of the Reich.

"The population of this territory is composed of Poles and Jews and, in addition, of a large number of Polish-Jewish half breeds. A part of the population must be considered as definitely of alien blood from a racial point of view, at any rate as unsuitable for assimilation. Under the circumstances it must be stated in principle that the German Reich is in no way interested in raising the Polish and Jewish parts of the population of the remainder of Poland to a higher racial and cultural level or in their education.

"The inhabitants of the remainder of Poland must be given their citizenship. However, they are not to have any independent political parties and associations which might provide a possible nucleus for a future national concentration must be forbidden. Nonpolitical clubs should not be allowed either, or only from very special points of view. Cultural associations, for instance, vocal societies, clubs for the study of the home-country, gymnastic and sport clubs, social clubs, etc., can by no means be regarded without misgivings, as they can easily promote nationalism among their members. In particular, the gymnastic and sport clubs also lead to a physical strength of the population in which we are not interested.

"Medical care on our part should be confined to preventing epidemics from spreading to the Reich territory.

"All measures serving birth control are to be admitted or to be encouraged. Abortion must not be punishable in the remaining territory. Abortives and contraceptives may be publicly

offered for sale in every form without any police measures being taken. Homosexuality is to be declared as not punishable. Institutes and persons who make a business of performing abortions should not be prosecuted by the police. Hygienic measures from a racial point of view should not be encouraged in any way.

"It will be the task of the German administration to play up the Poles and Jews against each other."

From the quoted excerpts it may be seen that in the very beginning the Germanization program envisioned certain drastic and oppressive measures, among them: Deportation of Poles and Jews; the separation of family groups and the kidnapping of children for the purpose of training them in Nazi ideology; confiscation of all property of Poles and Jews for resettlement purposes; the destruction of the economic and cultural life of the Polish population; and the hampering of the reproduction of the Polish population. This policy was put into practice in all of the countries, twelve in number, as they were ruthlessly overrun by Hitler's armed forces.

Following receipt of the treatise quoted, Himmler issued a directive, entitled "Reflections on the Treatment of Peoples of Alien Races in the East," which stated:

"Within a very few years—I should think about 4 to 5 years—the name of the Cashubes, i.e., must be unknown, because at that time there won't be a Cashubian people any more (this also goes especially for the West Prussians). I hope that the concept of Jews will be completely extinguished through the possibility of a large emigration of all Jews to Africa or some other colony.

"Within a somewhat longer period, it should also be possible to make the ethnic concepts of Ukrainians, Gorale, and Lemken disappear in our area. What has been said for those fragments of peoples is also meant on a correspondingly larger scale for the Poles.

"A basic issue in the solution of all these problems is the question of schooling and thus the question of sifting and selecting the young. For the non-German population of the East there must be no higher school than the fourth-grade elementary school.

"The sole goal of this school is to be simple arithmetic up to 500 at the most; writing of one's name; the doctrine that it is a divine law to obey the Germans and to be honest, industrious, and good. I don't think that reading should be required.

"Apart from this school there are to be no schools at all in the East. Parents who from the beginning want to give their children better schooling in the elementary school as well as

later on in a higher school must take an application to the Higher SS and the Police Leaders. The first consideration in dealing with this application will be whether the child is racially perfect and conforming to our conditions. If we acknowledge such a child to be as of our blood, the parents will be notified that the child will be sent to a school in Germany and that it will permanently remain in Germany.

"The parents of such children of good blood will be given the choice of either giving away their child (they will then probably produce no more children so that the danger of this subhuman people of the East obtaining a class of leaders which, since it would be equal to us, would also be dangerous for us will disappear) or else the parents pledge themselves to go to Germany and to become loyal citizens there. The love towards their children whose future and education depends on the loyalty of the parents will be a strong weapon in dealing with them.

"Apart from examining the applications made by parents for better schooling of their children, there will be an annual sifting of all children of the General Government between the ages of six and ten in order to separate the racially valuable and nonvaluable. The ones who are considered racially valuable will be treated in the same way as the children who are admitted on the basis of the approved application of their parents."

It might be well to remember that these measures, in the early days of the war, were among the first of many to be adopted and laid down in hundreds of decrees and directives; and as the ferocity of the war quickened, more drastic decrees and barbaric policies were adopted. For instance, as will be subsequently shown, the solution of the question of dealing with the so-called "racially inferior" population was solved not so much by deportation as by the adoption of extermination measures, thus bringing about a speedier elimination of undesirable foreign elements by death.

Besides Hitler, Himmler entrusted knowledge of his directive to only a very select group of persons, including the defendant Greifelt. That Himmler was fully aware of the diabolical nature of the proposed program is evidenced by the fact that on 28 May 1940, in a handwritten memorandum, Himmler said:

"On Saturday, 25 inst., I handed my report on the treatment of peoples of alien races in the East to the Fuehrer. The Fuehrer read the six pages and considered them very good and correct. He directed, however, that only very few copies should be issued, that there should be no large edition, and that the report is to be treated with utmost secrecy.

"One copy was given to the chief of my office, SS Brig. General Greifelt in his capacity as Reich Commissioner for the

Strengthening of Germanism. I shall give him the order to inform in turn all chiefs of the Main Offices. The notification to the chiefs of the Main Offices shall be effected by an SS leader who will have to wait until the concerned chief of the Main Office has read the report and has acknowledged it by his signature. At the same time everyone has to confirm that he has been informed of the fact that this is to be considered as a directive, but that it shall never be laid down in an order of one of the Main Offices; neither in form of a mere excerpt nor from memory.

"Moreover SS Brig. General Greifelt is authorized to bring the contents of the report to the attention of the town mayor Winckler and his own main collaborators; the latter he shall suggest to me."

Prior to the distribution of his directive, and shortly after his appointment, Himmler had entrusted to Greifelt the responsibility of carrying out tasks connected with the Germanization program by a decree, reading in part:

"1. By the Fuehrer decree, dated 7 October 1939, I have been appointed Reich Commissioner for Strengthening of Germanism.

"2. For the direction and promulgation of general orders and directives and for the execution of certain tasks which can only be dealt with centrally, I establish the office of the Reich Commissioner. I have placed SS Oberfuehrer Greifelt in charge.

"3. I wish to mention particularly some of these tasks as well as the institutions and agencies which are charged with the solution and execution of these tasks.

a. VoMi and Foreign Organizations bring in the Germans and ethnic Germans.

b. Reich Health leader and RuSHA examine all Germans from the Reich and abroad in the new areas in town and country.

c. The Security Police in cooperation with the chief of the Civil Administration establishes and takes care of foreign elements dangerous to the German Folkdom."

Immediately after his appointment as RKFDV, and prior to the issuance of the directive on the treatment of Peoples of Alien Races in the East, Himmler had already inaugurated certain measures. One of the first steps was an order marked "urgent decree" issued on 16 December 1939, concerning confiscation, and reading:

"1. To strengthen Germanism and in the interest of the defense of the Reich, all articles mentioned in section II of this decree are hereby confiscated. This applies to all articles located

in the territories annexed by the Fuehrer's and Reich Chancellor's decree of 12.10.39 and in the General Government for the occupied Polish territories. They are confiscated for the benefit of the German Reich and are at the disposal of the Reich Commissioner for the Strengthening of Germanism. Provided always that this does not apply to articles which are fully or for more than 75 percent the property of German citizens or persons of German race. In particular are confiscated all articles mentioned in section II which are in archives, museums, public collections, or in the private possession of Poles and Jews if their protection and expert safekeeping is in German interest.

II

"1. Historical and prehistorical articles, documents, books, which are of interest for questions of cultural value and of public life, specially for the question of the German share in the historical, cultural, and economic development of the country, and documents which are relevant for the history of present events.

"2. Articles of art of cultural value, e.g., pictures, sculptures, furniture, carpets, crystal, books, etc.

"3. Furnishings and jewelry made of precious metal.

IV

"All confiscations made before this decree by authorities of the Reich Leader SS and Chief of German Police and the Reich Commissioner for the Strengthening of Germanism are hereby confirmed. They are to be regarded as made for the benefit of the German Reich and are at the disposal of the Reich Commissioner for the Strengthening of Germanism."

On 11 June 1941, Himmler, in his capacity as RKFDV, changed the name of the office of the RKFDV to the Staff Main Office of the RKFDV, with the defendant Greifelt remaining as its chief. At the same time Himmler provided that the Staff Main Office and VoMi, with the defendant Lorenz as chief of that office, should be "on an equal level with the Main Offices" of the SS Supreme Command.

Many orders and instructions were issued concerning the spheres of activity of the four offices charged with the execution of the Germanization program. It would serve no practical purpose to quote extensively from the various decrees; but, briefly, it may be stated that the four organizations involved were charged with, and participated in, the following activities:

According to an ordinance issued by Himmler on 28 November 1941—

"The task of the Staff Main Office comprises the whole plan-

ning of settlement and development in Germany and in the territories under German supremacy as well as the realization of that planning. It includes also the cultural and administrative planning and the propaganda for the idea of settlement. The Staff Main Office is thus in charge of all questions of allocation of German people for settlement in Germany and in territories under German supremacy including all questions of an administrative and economic character connected with settlement.

"As far as economic questions arise in connection with resettlement the Staff Main Office deals with them."

The Staff Main Office was actually the directing head of the whole Germanization program, coordinating the activities of the other organizations. Before the end of the war, the activities of the Staff Main Office involved, among other things, the expulsion and deportation of whole populations; the Germanization of foreign nationals; the deportation of foreigners to Germany as slave labor; the kidnapping of children; and the plundering and confiscation of property of enemy nations.

The defendant Greifelt was chief of the Staff Main Office; Creutz was his deputy; Meyer-Hetling was head of the Planning Office of the Staff Main Office; and Schwarzenberger was chief of the Finance Office of the Staff Main Office.

As to the competency of VoMi, the ordinance stated:

"The VoMi carries out the whole ethnical work for the Strengthening of Germanism in Germany and in the territories under German supremacy. This work includes also the accomplishment of measures for the reception of persons and of foreign nationals considered fit for Germanization (German Ethnical Register 3 and 4) into the German racial community.

"Under its supervision is placed the evacuation within the framework of eventual resettlement of ethnical Germans from their former homes and the whole administration and care of the camps."

VoMi came into existence prior to the commencement of the war, and after Himmler's appointment as RKFDV he utilized this office primarily as an agency charged with the evacuation of ethnic Germans, as well as foreigners of non-German blood, from their former countries and the transportation of these persons to collecting camps, known as VoMi camps. In the course of these activities, VoMi became directly or indirectly involved in the forced expulsion of the populations of various countries; conscription of enemy nationals for the SS and the armed forces; compulsory Germanization of enemy nationals; the utilization of

foreigners as slave labor in the Reich; and the kidnaping of alien children.

The defendant Lorenz was chief of VoMi; and the defendant Brueckner was head of Amt VI—Safeguarding of Germanization of the Reich.

As to RuSHA, the ordinance provided:

"The RuSHA is an advisory and executive office for all questions of racial selection. It has to handle the examination of the racial Germans who are to be resettled in Germany as well as the examination of the settlers in the East coming from Germany. The RuSHA also has to carry out the racial selection of the groups of foreign nationals with regard to the fitness for Germanization of single families and persons and the racial examination for marriages with foreign nationals."

RuSHA, which existed long prior to the war, was originally concerned primarily with checking on candidates for admission to the SS, as well as marriage applications of SS members, the purpose of these functions being to safeguard the SS against alien blood and the making of the SS into a Nazi aristocracy. But with the advent of the war, the original aims of RuSHA were largely abandoned; and entrusted to that organization was the task of screening millions of people in carrying out the Germanization program. RuSHA conducted, through racial examiners, racial examinations in connection with Germanization, the transfer and expulsion of populations, abortions, slave labor, persecution of Jews and Poles, punishment for sexual intercourse between Germans and non-Germans, and the kidnaping of foreign children. The racial examination determined the treatment to be accorded the person to be examined.

The defendant Hofmann was chief of RuSHA from July 1940 to April 1943. When Hofmann left that office in 1943, the defendant Hildebrandt took over and continued as chief until the end of the war.

In connection with the re-Germanization of Poles, a field office was set up in 1940 in the incorporated territories of Poland with the defendant Schwalm in charge. He became chief of the branch office at Lodz in January 1941 and remained in that capacity until September 1941. Also, during this period, he was chief of the RuSHA agencies in the EWZ. After a term of military service, Schwalm became staff leader of the RuSHA, serving in that capacity from 1 March 1943 until February 1945.

The defendant Huebner was RuSHA field leader in the Warthegau, with headquarters in Poznan, and was chief of the resettlement staff Poznan as well as labor staffs.

The Lebensborn society existed long prior to the outbreak of

hostilities. This society was primarily a maternity home. Included in its activities, before and during the war, was the placing of children born in the maternity homes in foster homes.

Evidence produced by the prosecution discloses that since the cessation of hostilities, IRO, an agency engaged in tracing foreign children brought into Germany, has located approximately 10,000 foreign-born children in the American Zone of Germany. Of this number, according to the prosecution's evidence, Lebensborn had been connected with only 340 in any manner.

Sollmann was managing director of Lebensborn; Tesch was Sollmann's deputy and head of the Main Legal Department; Ebner was head of the Main Health Department; and Viermetz was in charge of the department dealing with homes and adoptions as well as the employment department, and later, Main Department A.

We have attempted to give an over-all picture of the organizations charged with participating in the Germanization program. We shall now deal with the specific crimes charged in the indictment, and the participation or nonparticipation of each organization in the crimes charged; and, in part, we shall discuss the role played by certain defendants in the Germanization program and in connection with particular crimes.

KIDNAPING OF ALIEN CHILDREN

The Nazis, soon after the invasion of Poland, began an extensive campaign of kidnaping foreign children. Although at first these kidnappings were confined, principally, to so-called ethnic Germans, it soon became apparent that sufficient children were not being secured to satisfy the Nazi aims; and the program was therefore extended to include all children of "good racial characteristics"; that is, physical appearances, such as blond hair and blue eyes, indicating that the child might have some "Nordic" blood or might make a good German. Racial examiners of RuSHA performed these examinations to determine whether the child was of good or inferior blood.

Himmler, in a speech to Party comrades, outlined his aims. He said:

"* * * Closely linked to this problem 'children and people' for this coming and now shaping great empire which has recently been much enlarged by the addition of the Eastern territories and which gradually becomes an empire of Germanic greatness which has been created for us by the Fuehrer; linked to this problem is now a second problem, that is my task as Reich Commissioner for Strengthening of Germanism. Here,

too, this task is one which deals with the question, how we can add to the victory of the sword the victory of the blood, of the blood of our kind. How will the organization be carried out, after the victory over the enemy, the real Germanization of the land, how will the real occupation of the new provinces from the racial point of view be carried out. I have received orders to carry out this task on October 7th, from the Fuehrer, as Reich Commissioner for Strengthening of Germanism.

"We must see to it that at least in the Provinces which belong to Germany now, the problem of a Polish minority is liquidated and eliminated, the problem must be liquidated.

"We have to see to it that now, in these days when we are strong, people who are of our blood will be brought back to us, as much as is in our power and that we see to it that none of our blood is ever lost to the outside world * * *. The manner in which this is to be achieved will be different every time. At the beginning it was necessary—and this, if you please, should not go beyond our small circle—to carry this out in a very ruthless fashion, especially in West Prussia, where the atrocities committed by the Poles were worst, and where German blood was heavily shed * * *. It is a matter of course that Germany will bring back ethnic Germans from all countries after the war, all people who are of ethnic-German good stock, I would even say, of good blood * * *."

Later, in a letter dated 18 June 1941, Himmler made his plan quite clear in unambiguous language when he said:

"I would consider it right if small children of Polish families who show especially good racial characteristics were apprehended and educated by us in special children's institutions and children's homes which must not be too large. The apprehension of the children would have to be explained with endangered health * * *."

"After half a year the genealogical tree and documents of descent of those children who prove to be acceptable should be procured. After altogether one year it should be considered to give such children as foster children to childless families of good race * * *."

In furtherance of Himmler's pernicious kidnaping plans, Greifelt lent his assistance by issuing "Regulation 67/I". This order was sent to numerous offices, including the Higher SS and Police Leaders, as deputies to the RKFDV, in the occupied territories and in Germany and RuSHA. The decree, which was immediately placed into operation and which resulted in many kidnapings, declared:

"In order to be able to regain for German folkdom those

children whose racial appearance indicates Nordic parents, it is necessary that the children, who are in former Polish orphanages and with Polish foster-parents, are subjected to a racial and psychological process of selection. These children, who are considered to be racially valuable to German Folkdom, shall be Germanized."

The decree further provided, in great detail, for the registration of the children, their racial examination by RuSHA, a medical examination, and their subsequent handling, stating in part:

"My representative at Poznan will report all children from 6 to 12 years of age who have been considered suitable for Germanization to the inspector of the German folk schools. The inspector of the German folk schools will accommodate these children in special folk schools which answer the children's needs. Those children, who leave the German folk schools with positive results, are to be lodged in rural homes of Germany proper.

"Special attention is to be given that the expression 'Polish children suitable for Germanization' may not reach the public to the detriment of the children. The children are rather to be designated as German orphans from the regained Eastern territories."

On 16 February 1942 Himmler issued a decree dealing extensively with the kidnaping of foreign children.

In part the decree states:

"Politically heavily incriminated persons will not be included in the resettlement action. Their names are also to be submitted by the Higher SS and Police Leaders (Inspectors of the Security Police and of the SD) to the competent State Police (Main) Office for the purpose of transfer to a concentration camp. The wives and children of such persons are to be resettled in Germany proper and included in the procedures for Germanization.

"If the wife too cannot be included in the resettlement action because she is politically badly incriminated, she too is to be named to the competent State Police (Main) Office for the purpose of transfer to a concentration camp. In such cases the children are to be separated from their parents * * *. Persons to be considered politically heavily incriminated are those who committed the most serious offenses against Germandom (for example, participation in persecution of Germans, economic destruction of racially pure Germans, among other things).

"The children are to be admitted to the local German public schools and included in the Hitler Youth. Attendance at a local school of higher education is prohibited. * * *

"The Higher SS and Police Leaders are to pay particular attention that the re-Germanization of the children does not suffer as the result of detrimental influence by the parents. Should such detrimental influence be determined to exist, and should it be impossible to eliminate them through coercive measures by the State Police, accommodations are to be found for the children with families who are politically and ideologically above reproach and ready to take in the children as wards, without reservation and out of love for the good blood present in the children and to treat them as their own children. The same thing is applicable to children who must be separated from their parents in accordance with paragraph II A 3 of this regulation.

"They are to take into protective custody persons in whose cases the Higher SS and Police Leader has ordered the revocation of nationalization, and to transfer them to a concentration camp."

Ten copies of this decree were sent, for information, to the Staff Main Office.

A graphic example of the kidnaping of foreign children and the procedure followed are contained in correspondence covering a period of more than a year, concerning a number of persons. This correspondence occurred between Himmler's office, RuSHA, VoMi, and the Staff Main Office. After a decision had been made to perform a racial examination on the subjects of the correspondence and the examination had been conducted by RuSHA, Himmler reached the following decision in a memorandum marked "Secret" and sent to VoMi, RuSHA, and the Staff Main Office:

"1. Maria Lambucki and Stanislaw Koch are not to continue to remain in protective custody.

"2. Jachwiga Koch is to be assigned to a German folk school.

"3. Brunhilde Muszynski is to be taken into protective custody. Her two children, aged 4 and 7 years, are to be sterilized and lodged somewhere with foster parents.

"4. Ingeborg von Avenarius is also to be taken into protective custody. Her children too are to be lodged somewhere with foster parents, after sterilization."

Speaking at Bad Schachen in October 1943, Himmler reiterated his policy of kidnaping children in the following language:

"I consider that in dealing with members of a foreign country, especially some Slav nationality, we must not start from German points of view and we must not endow these people with decent German thoughts and logical conclusions of which they are not capable, but we must take them as they really are.

"Obviously in such a mixture of peoples there will always be some racially good types. Therefore I think that it is our duty to take their children with us, to remove them from their environment, if necessary by robbing or stealing them * * *. Either we win over any good blood that we can use for ourselves and give it a place in our people or * * * we destroy this blood."

The defendant Creutz, who was deputy to Greifelt, was also involved in the kidnaping of foreign children. Even before Greifelt issued his decree "67/I" in 1942, Creutz in writing to Reich Governors declared:

"There are a great number of children in former Polish orphanages who, on account of their racial characteristics, must be considered to be children of Nordic parents. These children * * * must be subjected to a racial and psychological selection procedure. Children found to be biologically valuable for the Germanism are to be Germanized."

In this correspondence Creutz further gave detailed suggestions and instructions as to the procedure to be followed in the Germanization of the foreign children.

The evidence establishes beyond all doubt that Creutz issued instructions for the carrying out of a "children's operation", which meant the bringing of children into Germany for Germanization; and for this activity, as a part of the Germanization program, he bears full responsibility.

RuSHA actively participated in the kidnaping of alien children. To this organization was delegated the task of making racial examinations and, upon the basis of these examinations and racial evaluations, many children were wrested from their parents and relatives and sent to Germany. These examiners were working directly at different intervals under the control and supervision of Hofmann and Hildebrandt respectively, who had knowledge of their activities; and for the participation of RuSHA in this program, both these defendants bear full responsibility.

Hofmann, as chief of RuSHA, and Hildebrandt, who later became chief of RuSHA, knew as early as the summer of 1941 the details of the proposed program. Both defendants were sent a copy of the letter from Himmler, to which we have already adverted, in which he said he would consider it right if small children of Polish families, who show good racial characteristics, were apprehended and educated by the Reich.

Further proof of Hofmann's knowledge and participation in the bringing of children into Germany for Germanization is contained in a file note sent to Hofmann concerning two Russian boys who had been deported to Berlin and were being cared for by RuSHA.

On 12 February 1942 Hofmann, in a memorandum concerning actions to be taken against foreigners who made difficulties, said:

"At another occasion, SS Gruppenfuehrer Greifelt was ordered to submit a directive according to which Germanizable Poles, who make special difficulties, are to have their children taken away from them. These children are to be sent to special homes, etc. The Reich Leader expects an especially educating effect from this measure."

The defendant Schwalm participated in the kidnaping program as is shown by several exhibits.

In January 1941, Schwalm became chief of the Staff Office at Lodz and remained in that position until September 1941. Also, in January 1941, he became chief of the RuSHA agencies in the EWZ at Lodz. He had authority over racial examiners who were constantly engaged in making examinations and evaluations of children. There is evidence in the record showing that Schwalm, while chief of the branch office at Lodz, trained racial examiners; and the evidence irrefutably shows that Schwalm, in this position, was the person who had the power to change racial decisions.

At a meeting of the offices for race and settlement, attended by Schwalm, and at which time he was appointed chief of the RuSHA agencies in the EWZ at Lodz, the following illuminating decision was made:

"Oberfuehrer Kaaserer then said that, by an order of the SS Personnel Main Office effective 1 December 1940, he was transferred as chief of the Ancestry Research Office of the Main Office SS for Race and Settlement and, therefore, as chief of the office for Race and Settlement would resign from the Central Office for Immigration on 15 January 1941. SS Sturmbannfuehrer Schwalm was appointed his successor. * * * The racial sentence once passed on a resettler by an expert may not be altered by any office. The judgment of an expert is an expert diagnosis just like that of a physician. Only Sturmbannfuehrer Schwalm, in his capacity as chief of the Offices for Race and Settlement, has the power to alter a judgment after a thorough investigation which is best done by looking over the resettler personally. * * *"

Schwalm's activities and participation in kidnaping is established beyond doubt by a number of reports signed by him concerning transports. Writing with reference to the 288th transport, 239th transport, 340th transport and 432d transport "of families and individuals to be re-Germanized," Schwalm gives a long list of persons transported, as well as the date and place of birth of the individuals; and in quite a number of instances the reports show that young boys and girls unaccompanied by family mem-

bers were being transported. Girls of 15 years of age were shipped and there were quite a number of 18 and 19 year old girls.

The participation of VoMi in the kidnaping of foreign children is clearly established by a number of exhibits from various officials of VoMi concerning the disposition of relatives of Slovenes who had been executed. Typical of these memorandums is the following from the VoMi office in Berlin to the VoMi office in Bayreuth: "Subject: Relatives of the bandits executed in Lower Styria—resettler's child, Albin Wipotnik, born 26 June 1937, at present in Camp Kastl near Bamberg. Released to family Zozelj at Geislingen." This letter states:

"In conclusion of the above matter, I wish to notify you, that the resettler's child Albin Wipotnik may be released.

"I request that you state the above file number on the release certificate, which is to be forwarded to this office, and that you make a full report to me, since I have to contact the Lebensborn yet."

Knowledge on the part of both Lorenz and Brueckner, and their participation in kidnaping activities, is established by a teletype message signed by the defendant Brueckner in which he urgently requested information as to the number of children separated from their parents. He said:

"Regarding separation from their parents of children whose ethnic characteristics are in jeopardy, the decision of the Reich Leader SS was announced by the letter from this office dated 28 August 1942 and it was ordered that lists of such children and orphans are to be submitted to this office for forwarding to the Reich Leader SS. Despite a reminder, no report has been made. As the Reich Leader SS repeatedly demanded the report from SS Obergruppenfuehrer Lorenz, I expect at once information by teletype as to when lists will arrive here."

Many children were concentrated in VoMi camps outside of Germany, separated from their parents in many instances, and usually they were finally transferred to VoMi camps in Germany. These children, who unquestionably had been forcibly taken from their parents, were subjected to racial examinations in VoMi camps, and then disposed of according to racial evaluations. The evidence indisputably establishes that these incidents occurred particularly in regard to Yugoslav children and also in Czechoslovakia. It is quite clear that both Lorenz and Brueckner are inculpated in crimes connected with the kidnaping of foreign children.

ABORTIONS ON EASTERN WORKERS

The policy of abortions on Eastern workers began in 1943, and had its basis in a decree issued by Himmler in March 1943, which provided:

"* * * that in those cases where pregnancy is caused by sexual intercourse between a member of the SS or the police and a non-German woman residing in the occupied Eastern territories, an interruption of pregnancy is to be carried out positively by the competent physician of the SS or the police, unless that woman is of good stock, which is to be ascertained in advance in every case.

"The Russian physicians or the Russian Medical Association, which must not be informed of this order, are to be told in individual cases that the pregnancy is being interrupted for reasons of social distress. It must be explained in such a way that no conclusions to the existence of a definite order may be drawn."

Following the Himmler decree on abortions, Dr. Kaltenbrunner [chief of RSHA], from the office of the RKFDV, issued detailed instructions on the subject of abortions, stating:

"In cooperation with the offices concerned, the Reich Health Leader has decreed in his Order No. 4/43, dated 11 March 1943, that in the case of Eastern female workers, pregnancy may be interrupted if the pregnant woman so desires * * *.

"The consent for abortion of Eastern female workers on the part of the offices of the Reich Commissioner for the Strengthening of Germanism is valid herewith as retroactively granted in the cases in which the father was a man of foreign race (not Germanic). In these cases, the office for expert opinion will, therefore, not obtain the consent of the Higher SS and Police Leader as Deputy of the Reich Commissioner for the Strengthening of Germanism, but may order the abortion on its own authority.

"Obtaining the consent of the Higher SS and Police Leader as Deputy of the Reich Commissioner for the Strengthening of Germanism is, according to this, necessary only in the cases in which it is maintained or is probable that the father was a German or a member of an ethnically related (Germanic) race.

"The Higher SS and Police Leader will then be informed of those cases. * * *"

The decree then provided for the taking of personal histories and racial examinations by the RuS Leader, and further provided:

"* * * If it is found by this racial examination that a racially

valuable result is to be expected, then the consent for abortion is to be denied. If on the basis of the racial examination the offspring is expected not to be racially valuable, the consent for abortion is to be granted.

"The racial examination is to be carried out rapidly. Further directives concerning the carrying out of the racial examination and the treatment of the cases in which the consent for abortion is to be denied are issued by the Reich Leader SS and Chief of the German Police, or by the RuS Main Office SS."

It appears from the evidence that basic decrees and memorandums on the question of abortion were principally issued by offices and defendants other than those here involved, with the exception of RuSHA. That RuSHA participated in the abortion program is clearly shown. The role played by RuSHA was principally in conducting racial examinations of the pregnant worker as well as the suspected father to determine whether a racially inferior or satisfactory child might be expected; and upon the basis of this examination it was determined whether an abortion should or could be performed—orders being to the effect that no abortion could be performed where a child of good racial characteristics might be expected, and that an abortion should be performed where such a child was improbable. Upon these racial examinations depended also the future treatment of a child in those cases where a pregnancy interruption was not practicable because pregnancy was in too far an advanced stage at the time of the examination. In the event the racial examiner determined that a racially inferior offspring was to be expected, the child was assigned to a "foreign children's home", which meant that it would be reared under adverse conditions without the benefit of the normal necessities of life and culture, while in the event the racial examiner found that a racially suitable child might be expected, such a decision meant that the child would be subjected to Germanism through adoption by foster parents.

That a child evaluated as of good racial characteristics would be wrested from its mother and subjected to Germanization is clearly shown in a letter from Himmler's office to RuSHA in which it is stated:

"The reception into the care of the NSV or of Lebensborn of the child of good racial stock will necessitate in most cases its separation from the mother who remains at her working place. Particularly for this reason the reception into that care of the child of good racial stock is only possible with the mother's consent. She has to be made to consent to it through interpretations by the caretaking office which set forth the advantages but not the ends of this procedure. * * *"

While it may be noticed that this letter states that such a child can be taken from its mother only by her consent, the letter proceeds to state that the mother "has to be made to consent." Of course, through no stretch of the imagination can the forced agreement of a slave laborer in the Reich, working under the conditions to which these laborers were subjected, be termed a "consent".

The role of RuSHA in the abortion program was principally carried out, so far as basic directives are concerned, by the defendants Hofmann and Hildebrandt. On 13 August 1943, Hildebrandt wrote concerning abortions:

"I should like to emphasize especially that the necessity for the racial examination, which take place upon the suggestion of the SS Race and Settlement Main Office, also applies here.

"The directives for the RuS field leaders' decision in the racial examination are the same as the ones laid down by me through the ordinance of 13 August 1943 to be applied in decisions about applications for pregnancy interruption for Eastern female workers.

"All files of cases in which the RuS field leader refuses the pregnancy interruption are to be submitted to the Race and Settlement Main Office together with photographs and addresses of their relatives, so that they may be examined in the light of inclusion into the re-Germanization program."

And 10 days later, Hildebrandt, in a memorandum marked "Secret", stated:

"Enclosed find the Order of the Reich Leader SS and Chief of the German Police of 27 July 1943 which has been issued in agreement with the Race and Resettlement Main Office for your compliance.

"The carrying out and the decision on the treatment of the pregnant women, as well as of the expected children, is the responsibility of the SS Leader for Racial and Resettlement matters. The regulations issued by me, in regard to the decisions on applications for interruption of pregnancy, also correspondingly apply to the decisions of the SS Leaders for Racial and Resettlement matters. * * *

"Naturally the opinion of the SS Leader for Racial and Resettlement matters is the decisive one in the judgment. * * *

"Though I have already done so in the regulations on the decisions on the interruption of pregnancies, I want to point out once more the grave responsibility which has been assigned to the SS Leaders for Racial and Resettlement matters by this new order, i.e., to especially further all valuable racial

strains for the strengthening of our people, and to accomplish a complete elimination of everything racially inferior."

The desired result of this systematic program of abortions was (a) to keep the Eastern laborers available as slave labor; and (b) to hamper and reduce the reproduction of the population of the Eastern nations.

Since one of the main defenses to this specific charge is the contention that abortions were performed in all cases only on a voluntary basis, by the express consent of the women involved, we quote another document which clearly refutes this contention:

"It is known that racially inferior offspring of Eastern workers and Poles is to be avoided if at all possible. Although pregnancy interruptions ought to be carried out on a voluntary basis only, pressure is to be applied in each of these cases. * * *"

TAKING AWAY INFANTS OF EASTERN WORKERS

Closely linked to the program of abortions was that of stealing children born to Eastern workers. Notwithstanding the abortion program, it often happened that a case of pregnancy was not discovered until it was too late to perform an abortion or the child was born before pregnancy was actually discovered. Therefore, the Nazis conceived it to be necessary to deal with this situation. They solved it by simply, in many cases, stealing the child and sending the mother back to labor for the Reich.

The procedure of taking away infants of Eastern workers is clearly outlined in a decree issued by Kaltenbrunner on 27 July 1943. This decree, among other things, provided:

"Relative to the question of the treatment of pregnant foreign women and the children born in the Reich by foreign working women, I give the following directives in accordance with the respective central offices which, on their part, will give corresponding instructions to their subordinate offices:

'After giving birth the foreign working women have to resume work as soon as possible according to the instructions of the Plenipotentiary for the assignment of labor. * * *'

"The children born by the foreign working women may in no case be attended by German institutions, be taken into German children's homes, or else be reared and educated together with German children. Therefore, special infant-attendance institutions of the simplest kind—so-called 'foreigners' children's nursing homes—have been erected within the billets where these children of foreigners are attended to by female members of the respective nationality. Foreign population is

emphasized by the human sacrifices in the war. It is therefore important that the children of foreigners who, partly, are of a similar race and bearers of German blood and may therefore be considered as valuable are not assigned to the 'foreigners' children's nursing home according to figure 3 (not reproduced), but, if possible, they are to be saved for the German nationality and to be educated as German children.

"For this reason an examination of the racial characteristics of the father and mother has to be carried out in cases where the father of a foreigner's child is of German or of kindred race (Germanic). * * *"

The decree then provides for racial examinations by RuSHA, and further states:

"In cases where on the basis of the racial examination and of the expert opinion as to the health stock both of the father and the pregnant woman racially good descendants can be expected, the children, in order to assure their education as German children, will be put in the care of the National Socialist Public Welfare Association (NSV) which will place them in special children's homes for foreigners' children of good racial stock or in private families. Should the examination prove negative then the children will be treated according to figure 3 (not reproduced).

"The Higher SS and Police Leader is to submit as quickly as possible—

"To the Youth Offices the result of the racial examination, respectively the decision on all cases reported by them. In cases of a positive result of the racial examination the summons has to be added to bring about the appointment of a guardian at the appropriate time.

"In cases of a positive result of the racial examination, to the competent Gau office of the NSV moreover the summons to have the child of the foreign woman adopted at the appropriate time under the care of the NSV for children of good racial stock. * * *

"The reception into the care of the NSV or of Lebensborn of the child of good racial stock will necessitate in most cases its separation from the mother who remains at her working place. Particularly for this reason the reception into that care of the child of good racial stock is only possible with the mother's consent. She has to be made to consent to it through interpretations by the caretaking office which is set forth the advantages but not the ends of this procedure. * * *"

A copy of this decree went to RuSHA.

RuSHA's role in the procedure for taking infants from East-

ern workers was similar to that in the case of abortions. RuSHA's evaluation of the racial value of the child determined the fate of the child. The fate of those determined to be of racial value is plainly stated in a memorandum to Himmler, suggesting the disposition of these children:

"* * * Polish women and Eastern female workers should, in every case of pregnancy, be examined by the Race and Settlement Main Office. Their children, if they are proved to be of good race, should be handed over to the institutions of the NSV.

"If the pregnancy of an alien female worker has been caused by a German man, normally no procurement of abortion is necessary, but an investigation of the racial purity of the mother and the father will be conducted by plenipotentiaries of the Race and Settlement Main Office. The alien woman will be re-allocated to labor after the birth. All children proved to be racially pure will be sent to the children's institutes, which are to be established for those children who are to be educated as Germans. The approval of the mother is only required if the mother is a national of an independent state. Children of impure race (schlechtrassisch) would be handed over to children assembly centers, in order to prevent German children growing up together with foreign children, and to make the mother available for labor allocation. Children assembly centers, which would be managed by members of foreign nations, could be set up in almost every village and without exception in every alien camp. * * *

Himmler agreed to the suggestions made, but in the case of foreign children, he considered "it proper to introduce a pompous sounding designation for the assembly centers for foreign children."

The fate of those found not to be of racial value, and accordingly sent to foreign children's homes, is disclosed in a report of investigation of such a home. This report, which was made directly to Himmler, discloses that:

"* * * This home was founded some time ago for a trial period on the basis of your correspondence of 9 October 1942 with Gauleiter Eigruher. On the basis of the order you gave then SS Oberfuehrer Langoth founded the home.

"During this visit I found that all of the babies located in this home were undernourished. As I was told by SS Oberfuehrer Langoth only 1/2 liter milk and 1 1/2 cubes of sugar per baby per day are furnished to the home on the basis of a decision of the Land Food Office. With this ration the babies must perish from undernourishment in a few months. I was in-

formed that this agreement exists concerning the raising of these babies. * * *

"I have already asked SS Oberfuehrer Langoth to inform Gauleiter Eigruher of this condition and to ask him to assure sufficient nourishment of these babies until your opinion is obtained. I consider the manner in which this matter is treated at present as impossible.

"There exists only one way or the other. Either one does not wish that these children remain alive—then one should not let them starve to death slowly and take away so many liters of milk from the general food supply; there are means by which this can be accomplished without torture and pain. Or one intends to raise these children in order to utilize them later on as labor. In this case they must be fed in such a manner that they will be fully usable as workers. * * *"

A decree emanating from Himmler's office, and previously quoted, shows that an Eastern worker was unable to resist the forcible taking of her child, and it was decreed that although, in the case of racially valuable children, the child could not be taken without the consent of the mother, in the same breath the decree voices the mandate that "she has to be made to consent".

The defendant Hofmann, as chief of RuSHA, was fully conversant with this atrocious program. He was sent copies of suggestions adopted by Himmler, as well as Himmler's decision to introduce a pompous sounding name for assembly centers for foreign children. Not only did he have knowledge, but he issued instructions, which coincided exactly with Himmler's ideas and views. On 24 March 1944, in a letter of instructions marked "Secret" dealing with the "treatment of the pregnant foreign working women and of children born of foreign female workers in the Reich", he said, "If the evaluations indicate that the children are good from the viewpoint of race and hereditary health, they are transferred to the care of the NSV in children's homes for foreign children or in private families. In negative cases children are sent to institutions for foreign children". There can be no doubt Hofmann actively participated in this criminal program.

Hildebrandt, who succeeded Hofmann as chief of RuSHA, is equally guilty with Hofmann in this specific charge. On 25 August 1943, Hildebrandt sent to all RuS leaders Kaltenbrunner's decree of 27 July 1943 giving basic instructions on the treatment of children born to foreign workers. In an accompanying letter dealing with the subject, "treatment of pregnant foreign workers and of children born in the Reich to foreign female workers", Hildebrandt emphatically issued instructions, and stated in part:

"Naturally the opinion of the SS Leaders for Racial and Resettlement matters is the decisive one in the judgment. * * * I want to point out once more the grave responsibility which has been assigned to the SS Leaders for Race and Resettlement matters by this new order, that is, to especially further all valuable racial strains for the strengthening of our people and to accomplish a complete elimination of everything racially inferior."

The prosecution seeks to attach responsibility for the taking of infants from foreign workers on Lebensborn and the defendants connected with that institution. In this respect, the prosecution rests its case upon the ground that in two memoranda or decrees issued by various persons and offices it was mentioned that children of good blood should be placed with Lebensborn. The defense asserted emphatically that Himmler rescinded this part of the decree and no children of foreign workers were actually taken into Lebensborn.

As to this defense, the prosecution strongly contended that the defense was absurd and untenable, stating that "Himmler's sole purpose in creating Lebensborn was to obtain 'blood' for the Third Reich".

We think the position of the defense is not only tenable, but correct for three reasons.

1. The prosecution introduced numerous exhibits in which it was stated that children of good racial blood would be transferred to NSV homes and those of foreign blood to foreigners' children's homes. Either these decrees are absolutely erroneous or those mentioning transfer to Lebensborn are erroneous;

2. The prosecution has failed to show that a single child of a foreign worker was ever transferred to Lebensborn;

3. Although the decrees mentioning Lebensborn were sent to a number of offices and individuals, according to the distribution list Lebensborn was not included on the list.

For these reasons we exonerate Lebensborn and the defendants connected therewith in connection with this phase of the charges lodged against the named defendants.

The defendants connected with VoMi were not charged with this specific crime; and as to the defendants connected with the Staff Main Office, the evidence was insufficient to implicate any of them in this criminal activity.

PUNISHMENT FOR SEXUAL INTERCOURSE WITH GERMANS

During the war hundreds of thousands of workers from foreign countries, particularly from the East, were brought into Germany as forced laborers in factories and agriculture. With

this advent of foreigners there naturally followed incidents of sexual intercourse between the foreigners and Germans. The Nazis, in order to meet this situation, began the issuance of numerous decrees concerning the treatment of foreigners who had sexual intercourse with Germans. Foreign nationals, particularly from the East, including Poles, Czechs, and Russians, were subject to these decrees (both civilians and prisoners of war).

As early as 3 July 1940 Pancke, then chief of RuSHA, sent a report to the office of Bormann, assistant to Hess, suggesting the issuance of laws to protect German blood. Pancke said:

"At present there are hundreds of thousands of prisoners in Germany of all nationalities and degrees, partly in camps, but for the most part, however, as workers.

"* * * The dangers of intermixing and bastardizing of our people are extraordinarily grave. They lie to a great extent in the almost unlimited lack of knowledge throughout our nations of the problems of blood."

Following Pancke's suggestion, the Reich Security Main Office, known as RSHA, and under Himmler, began dealing with the problem by promulgating decrees which provided that in the event a foreigner had sexual intercourse with a German woman, he should be arrested and examined by a racial examiner of RuSHA. Upon the basis of this examination depended the treatment accorded the foreigner. Those determined to be racially inferior were subject to "special treatment" or a concentration camp; those found to be racially valuable were subject to Germanization. In order that the term "special treatment" might not be misunderstood, we quote from a decree issued by RSHA:

"Special treatment is hanging. * * *

"Sexual intercourse is forbidden to the manpower of the original Soviet Russian territory.

"For every case of sexual intercourse with German countrymen or women, special treatment is to be requested for male manpower from the original Soviet Russian territory, transfer to a concentration camp for female manpower.

"When exercising sexual intercourse with other foreign workers, the conduct of the manpower from the original Soviet Russian territory is to be punished as severe violation of discipline with transfer to a concentration camp.

"The intercourse between other foreign workers employed in the Reich and the manpower from the original Soviet Russian territory also brings great dangers to be dealt with by the security police, therefore, it should also be fought with measures against the foreign workers. * * *"

The principal participants in carrying out measures relating

to this charge were Himmler's organization, RSHA, which issued decrees and had the final decision on punishment after racial examination, and RuSHA, which made the racial examination and evaluation upon which depended to a large extent whether the offender should die or receive a lighter punishment.

That RuSHA was an active participant in these measures cannot be denied, for practically every decree or piece of correspondence concerning this subject either originated in the office of RuSHA or was sent to that office, or else the correspondence or decrees mentioned RuSHA's role in the matter.

We need quote but a few documents to show the close connection RuSHA had with this program.

On 14 September 1942, a letter originating from the office of RuSHA while Hofmann was chief of that office, stated:

"It is requested that in all special treatment cases where German women have become pregnant by men of alien races, the offenders be racially examined without delay.

"The Reich Security Main Office has instructed its branch office to present these cases immediately to the Commissioner of the SS Race and Settlement Main Office."

In a report sent to Hofmann in October 1942, we find the following:

"The order given by the Reich Leader of the SS on the special treatment of Poles is extended to the Czechs too. The Reich Security Main Office continues to complain that a quicker decision must be reached concerning suitability for Germanization. It proposes a short course of instruction for all the heads of the State Police Regional Offices and afterwards the inauguration through these of a system of rough racial selection of the civilian workers suggested for special treatment. On account of principal considerations this consent to the Reich Security Main Office had to be refused. It then remains for us, however, on the other hand to guarantee that the examination process will be speeded up. Once more reference must be made to the regular submission of the expert opinions to the Higher SS and Police Leaders. * * *

Hofmann's complete familiarity with and participation in this program is shown by instructions he himself issued while Higher SS and Police Leader, after he left RuSHA. He said:

"With regard to illicit sexual intercourse of laborers of foreign stock the following ordinances are in force:

"All serious offenses such as assault and sexual offenses and sexual intercourse with German women and girls are to be reported at once to the Security Service (Security Police); as a matter of principle the department of justice will not be

contacted in the beginning. As a rule both parties will be arrested.

"After being investigated as to his nationality the party of foreign race is subject to a racial evaluation by the competent RuS field leader; a potential suitability toward Germanization is to be explored.

"When a case of sexual intercourse is detected, the Amtsarzt (official physician) has to ascertain whether the participating German woman is pregnant. It is to be stated how far the pregnancy is advanced and whether another and what person beside the one of foreign stock in question might have fathered the prospective child (this investigation to be made by the Youth Office). If the person of foreign stock is fit for Germanization and if both parties are evaluated favorably under the racial viewpoint, marriage is possible under certain conditions, however, marriage between laborers from Serbia, or other Eastern laborers, and German girls are not permitted for the time being. A female worker of foreign stock, caused by the German man (in abuse of his position) to submit to sexual intercourse, will be taken into protective custody for a brief period, thereafter assigned to a different job. In other cases the female worker of foreign race is to be confined to a concentration camp for women. Pregnant women are to be sent to a concentration camp only after they have given birth and stilled the baby."

In 1943 Hildebrandt succeeded Hofmann as chief of RuSHA. The measures with reference to punishment of foreigners for sexual intercourse continued thereafter. During the time Hildebrandt was chief, two copies of Kaltenbrunner's decree of 10 February 1944 were sent to RuSHA. This decree, marked "secret", was a ten-page detailed order covering the procedure in cases involving foreigners who had had sexual intercourse with Germans. With reference to "special treatment" the decree states:

"Especially acts of sabotage, crimes of violence, and immoral crimes as well as sexual intercourse with German women and girls are to be considered as severe offenses.

"On principle, the cases will not be handed over to Justice. Only those cases are to be transmitted there, where a court sentence appears to be desirable for reasons of political disposition of the public and where it has been ascertained by previous sounding that the court will pass the death sentence * * *.

"Carrying out the special treatment shall serve especially to intimidate the foreign workers inside the Reich, this, however, will only be completely achieved if the expiation follows

the deed at once. Therefore the inquiries have to be completed immediately. It must be made possible for the reports to be submitted to RSHA in the case of B I, 4 days at the latest, B II, 2 months at the latest, B III, 3 weeks at the latest after the event. These offices which are involved in the process, are to be informed of this fact."

Hildebrandt, while on the witness stand, first denied that he comprehended the meaning of the term "special treatment", but later admitted that he knew that in the case of "special treatment" hanging might result.

Hildebrandt's familiarity with "special treatment" procedure is clearly shown in one of his own orders. On 31 March 1944, he appointed Dr. Turner as a deputy with powers to act in his absence. This appointment, according to the order, was made because Hildebrandt's assignment in the East would last a little while longer. In the order of appointment, Hildebrandt said:

"As before, I reserve the right to make long-range decisions as well as decisions of a fundamental nature. However, I again expressly decree that the official channel to me leads only via my deputy.

"Petitions for engagement and marriage permits and special treatment cases for submission to the Reich Leader SS are from 1 March 1944 to be submitted every week to SS Gruppenfuehrer Dr. Turner, when in Berlin, for dispatching to the Reich Leader SS, or to the Reich Security Main Office. When SS Gruppenfuehrer Dr. Turner is absent from Berlin, the chiefs of the marriage office and the race office retain the right of signature as ordered in point 5 of letter of 16 December 1943."

Thus, not only did Hildebrandt have familiarity with the term "special treatment", but he, and those deputized by him and under his express orders, actually handled special treatment cases.

HAMPERING THE REPRODUCTION OF ENEMY NATIONALS

Preliminary to a discussion of a specific charge now dealt with, we might mention the German People's List, known as the DVL procedure, which played an important part in measures taken to hamper the production of enemy nationals, as well as many other Germanization measures. The DVL procedure will be further dealt with later; but for present purposes we point out only that under this existing procedure Polish citizens, and later other foreign nationals, were divided into four groups, numbered 1, 2, 3, and 4. According to the decrees establishing the DVL procedure, and

according to Nazi conception, group 1 included so-called ethnic Germans who had taken an active part in the struggle for Germanization of Poland; group 2 included those ethnic Germans who had "preserved" their German characteristics, though they had not taken an active part in the national struggle; group 3 comprised persons of alleged German stock who had become "Polonized", but who it was believed could be won back to Germanism, and also persons of non-German descent married to Germans and members of non-Polish groups who were considered desirable so far as their political attitude and racial characteristics were concerned; group 4 comprised persons of German stock who had become politically merged with Polonism.

Upon registration in the German People's List, persons listed in groups 1 and 2 automatically became German citizens; those listed in group 3 acquired German citizenship subject to revocation; those listed in group 4 received revocable German citizenship through naturalization proceedings.

Persons ineligible for the German People's List and residing within the incorporated territories were considered ineligible for consideration as protectees, and were classified as stateless; those Poles residing in the Government General were classified as non-protectees.

As a part of the gigantic program of strengthening Germany while weakening, and ultimately destroying, enemy nations, measures were taken to hamper and impede the reproduction of enemy nationals. These took the form of various decrees, all aimed at one purpose—to greatly reduce the birth rate among enemy nationals and thereby gradually bring about the destruction of the entire national group. These decrees were mainly directed toward drastically curtailing marriages. They were aimed at all Polish groups, protectees and nonprotectees, as well as all groups of the German People's List.

By a decree dated 25 April 1943, protectees were allowed to marry among themselves unless restrictive measures should later be imposed. Such restrictions were imposed by Himmler, by raising the marriageable age to 28 for men and 25 for women. According to the decree of 25 April 1943, protectees and nonprotectees were prohibited to marry each other, except that the RKFDV had the power to grant exemptions. Such exemptions were permissible, for instance, to "enable a protectee who is particularly valuable for racial and other reasons to marry a German, in order to gain him over to the German ethnic community." And in the case of a male protectee such exemptions depended on his becoming naturalized or Germanized in order that the German woman should retain her German nationality.

Decree 12/C, issued by Himmler on 9 February 1942, provided that marriages and adoptions by the persons classified in group 3 of the German People's List with each other or with Germans was permissible but further provided that restrictive regulations might be issued by the Staff Main Office. The decree further provided that persons in group 3 were prohibited to marry persons in group 4, persons of alien race, or with Germans holding citizenship subject to revocation who were not classified in group 3. There were further restrictions on persons of group 3 prohibiting marriages to an enumerated group of persons, such as civil service employees, without a special license.

On 6 August 1944 in a memorandum issued by the Prague Office of RuSHA, it was stated that persons of Polish descent and persons of Ukrainian descent were to be prevented from marrying each other "as a matter of principle," because "experience has shown that such marriages do not tend to split up, but rather to camouflage the Polish factor; thus the children of these marriages usually are brought up as Poles."

Notwithstanding the many decrees enacted to hamper reproduction, the Nazis suddenly awakened to the realization that their measures, as occurred in other cases, were not bringing forth the desired results, and in the words of the Nazis, as shown by the report of a conference on the question, attended by the defendant Brueckner of VoMi and representatives of RuSHA, it was discovered that "because of the raising of the marriage age for Poles the number of legitimate children is reduced resulting in an increase of the number of illegitimate children. The information memorandum recently obtained showed that the number of illegitimate children is increasing to an even greater extent than the number of legitimate children is decreasing."

The conference met this problem in the following manner:

"With regard to the question of reducing the number of illegitimate children, it was the general consensus of opinion to allow the unwed Polish mothers a minimum subsistence for the care of the child, the subsistence to be paid for by the Polish fathers and to be paid out only if the care of the child is not assured by either the unwed mother or her family. This was to prevent any negligence. Here it must be the primary principle not to spend one German penny for Polish welfare. This method of putting the illegitimate, racially undesirable Polish child at a definite disadvantage, even though it will not, in general, reduce the number of illegitimate children, will at least not encourage a rise in the number of illegitimate children. The Race and Settlement Main Office suggested that the father of the illegitimate child be required to make es-

pecially large payments, but that the money become part of a general fund from which the necessary sums might then be paid out. In cases where the paternity cannot be established, all potential fathers will be equally liable to payment. This measure is not likely to increase the pleasure of having an illegitimate child; all surplus money might be turned over to German youth welfare. * * *

Even further and more far-reaching measures were thought necessary as is clearly shown by an exhaustive file note, initialed by the defendant Brueckner in his own handwriting, as well as a "strictly confidential" memorandum to Brueckner. Both memorandums are in essence the same, dealing with the same subject. The file note dealt with the subject, "Immediate Reich measures to decrease the dangers from infiltration in view of the numerous births of alien races in rural areas." After discussing the high percentage of births to alien women working on farms in Germany, the file note, with reference to emergency measures, mentioned the following:

"Comprehensive sterilization of such men and women of alien blood in German agriculture who, on the basis of our race laws—to be applied even more strictly in these cases—have been declared inferior with regard to their physical, spiritual and character traits.

"A ruthless but skillful propaganda among farm workers of alien blood, to the effect that neither they nor their children, produced on the soil of the German people, could expect much good, in other words immediate separation between parents and children, eventually complete estrangement; sterilization of children afflicted with hereditary disease. * * *

"A quiet distribution of contraceptives among farm workers of alien blood.

"General and strictest compliance with the principle of taking away for good from their mothers all new born children of female farm workers of alien blood as well as children of German women if the father is of alien race, at the latest 4 weeks after their birth, and then sending them to geographically remote homes."

According to the report these measures were considered to be necessary because "to leave the children with the mother of alien blood for a prolonged period would mean a continued and increased bother to the German farm wife; and even the German housewife and members of her family" might become attached to the child. Also "it must be constantly on the mind of the female farm worker of alien blood that to give birth to a child in Germany would mean to lose it at the same time."

The memorandum further disclosed that "homes for alien children" were to be established, to which a child was to be sent upon separation from its mother, and that one such home had already been established and in operation.

Though we have not exhausted the subject, we think the facts outlined give a sufficiently clear picture of the extent of the program inaugurated to hamper the reproduction of enemy nationals.

The offices of RuSHA, VoMi, and the Staff Main Office bear particular responsibility for this criminal activity. Representatives of RuSHA and VoMi actively engaged in discussions and made suggestions concerning measures to be enacted. These representatives demanded, and received, the right for determination of individual cases by Higher SS and Police Leaders, which would result in a decisive intervention on the part of RKFDV. It was further agreed that in deciding cases it should be determined whether the child constituted a "desirable increase in population (Poles suitable for Germanization)"; this will then be determined by the SS Race and Settlement Main Office."

The Staff Main Office prepared decrees concerning marriages. Greifelt under his own signature, forwarded decree 12/C, dealing with the question of prohibiting marriages; and representatives of the Staff Main Office participated actively in conferences in which drastic regulations were discussed and agreed upon. The defendant Greifelt bears full responsibility for the activities of the Staff Main Office, as well as his own individual acts, which contributed in a large measure toward the program of hampering the reproduction of enemy nationals.

The defendant Lorenz, as chief of VoMi, and the defendant Brueckner, as chief of Amt VI (safeguarding of German folkdom in the Reich, which was an office of VoMi) are also responsible for the atrocious crimes committed in the furtherance of this program. Being an office which dealt primarily with ethnic questions, VoMi naturally was drawn into this program, for it was peculiarly within VoMi's field of activity. We have already shown quite clearly that Brueckner was active and energetic in conferences and decisions. His chief is responsible for his acts.

In preliminary conferences leading to the issuance of decrees, RuSHA, while Hofmann was chief, had an active representative present. Afterwards, when Hildebrandt became chief of RuSHA, Klinger, acting "for the chief of the SS Race and Settlement Main Office," issued decree after decree, on the basis of existing decrees, outlining prohibitive measures to be followed in carrying out the program.

Hofmann and Hildebrandt had full knowledge of all the details of this program and willingly assisted in its execution. Practically

all correspondence and the various decrees issued outside the RuSHA office went directly to RuSHA; and by the decrees it was provided that RuSHA should play an important part in measures to be taken; for instance, it was expressly provided that RuSHA should examine those coming within the prohibitive marriage decrees. And as the evidence shows, RuSHA with determination guarded its right to make these examinations. Since both Hilbrandt and Hofmann were chiefs of RuSHA while these measures were being enacted and carried into effect, they both bear responsibility for the criminal acts committed against the populations of occupied territories.

FORCED EVACUATIONS AND RESETTLEMENT OF POPULATIONS; FORCED GERMANIZATION OF ENEMY NATIONALS; SLAVE LABOR

Within the framework of the gigantic program undertaken by Himmler and offices subordinated to his command, three aims were paramount: To evacuate and resettle large areas of the conquered territories; to Germanize masses of the population of the conquered territories; and to utilize other masses of the population as slave labor within the Reich. These aims, and the procedures and measures adopted to carry them out, are so interwoven and interrelated that one can hardly be mentioned without at the same time referring to the others. Accordingly, these specifications of the indictment will be considered and discussed together.

In the execution of the Germanization program, the measures taken in regard to these three specifications of the indictment utilized, as a basis of operation, the DVL procedure, already discussed in this judgment, or the WED procedure.

In making examinations for the purpose of resettlement of so-called ethnic Germans, the RuSHA racial examiners used the DVL procedure, dividing those considered acceptable in the German People's List into four groups, as already explained. In the case of resettlement of populations, the groups were further subdivided into "A", "O", and "S" cases. The evidence establishes that "O" cases were those determined to be racially and politically reliable; "A" cases were those who were determined to be less politically reliable but still of racial value; "S" cases were those found to be of alien blood and not racially valuable.

Generally, "O" cases (those politically and racially valuable) were transferred to the Incorporated Eastern Territories, it being assumed that such persons would aid in a speedier Germanization of that territory; "A" cases, being less reliable politically, were transferred to Germany proper, the idea being that these per-

sons could be indoctrinated with Germanism much faster in the environment of Germany and could be, from a security angle, under closer surveillance. The "S" cases, being in the conception of the Nazis of no racial value, were transferred to the dumping ground of the Government General or sent back to their native countries.

Of all the measures taken in the vast Germanization scheme, those connected with the forced deportation and evacuation of populations and the resettlement of other populations were perhaps the most far-reaching and in some respects the most cruel. These measures resulted in death, misery, and destitution to thousands upon thousands of the citizens of conquered nations. The scheme was simple in its framework, but cruel in its execution.

With the incorporation of the Eastern territories of Poland, evacuations and resettlements immediately began. According to the plan, all Poles and Jews living within the incorporated territories, except those considered fit for Germanization and registered on the German People's List, were to be evacuated to the Government General.

We have already cited many decrees which clearly establish the general plans for evacuation and resettlement. Numerous decrees and documents on this subject are contained in the record, but a reference to all these decrees and documents of various kinds would be impracticable. The evidence unquestionably establishes the aims and measures taken in the execution of this program.

Poland, being one of the first nations overrun by the Nazis, became the first nation to be affected by this program; and it was within the incorporated territories of Poland that evacuations and resettlements were carried out on the largest and most ruthless scale. However, before the end of the war, these measures had been extended to practically all conquered territories, encompassing, for instance, Yugoslavia (whose citizens were known as Slovenes) and French citizens of Luxembourg, Alsace, and Lorraine. While evacuations occurred principally in the countries named, resettlers came from many countries, including Russia, Poland, and Greece. Some were transferred by virtue of treaties entered into by Germany and the country concerned by the resettlement action; and with those resettlements, insofar as the removal of the resettlers is concerned, we need not deal. Hundreds of thousands were removed, however, from their native land, not by virtue of a treaty but simply by virtue of Germany's armed might as an occupying belligerent. Many of these resettlers were, according to irrefutable evidence, forced to sign the

DVL procedure, and were forced to leave their native lands. Intimidation and deceit in various forms were employed to force registration of the populations on the German People's List and after registration, to force the population to remain on the list. Typical of the measures taken in this coercion of the population was the threat of German authorities to take the children of those refusing to sign, and the actual taking of such children from their parents; the threat of placing persons refusing to sign in concentration camps, and the actual placing of such persons in concentration camps. Many of these resettlers were deceived into believing that they would find much better living conditions in the land to be resettled and would receive compensation in kind for property left behind; but, instead, they found themselves for months in VoMi camps, enduring hardships and living under very unfavorable conditions. Hundreds of thousands were never resettled, but remained in VoMi camps until the end of the war, and never received any compensation whatever for their property; and by the thousands others of these resettlers, instead of resettlement, were forced to work within the Reich in industry and agriculture.

Many of the resettlers, who had steadfastly refused to succumb to threats and deceit, were nevertheless placed on the German People's List without their knowledge and notwithstanding they had not applied to authorities to be placed on the list.

By January 1944, nearly three million Poles alone had been registered on the DVL procedure. Hundreds of thousands had been deported to the Government General or to the Reich to labor in factories, in agriculture, and other enterprises. These Poles had no choice, but their disposition was governed entirely by the whim of the conquerors. As Poles were deported, a corresponding number of resettlers were evacuated from their homeland and resettled on the Polish property left behind by those Poles who had been evacuated. These resettlement actions were so immense that many times it was necessary to await an evacuation of Polish citizens before the resettlers could be accommodated. And in addition to those hundreds of thousands going to the Incorporated Eastern Territories, other hundreds of thousands of resettlers went direct to the Reich as laborers. They, too, had no choice in the matter and were allocated to such jobs as those in authority desired to place them.

The enormity of the crimes committed in the evacuation and resettlement actions are shown by reports made by high German officials during the period when these actions were taking place. Shortly after Poland was conquered, the Commander in Chief East, in his own notes made for the purpose of reporting to the

commander in chief of the army, describes the chaotic conditions attending those evacuations as follows:

"The resettlement scheme is causing particular and steadily increasing alarm in the country. It is quite obvious that the starving population, struggling for its very existence can regard the wholly destitute masses of evacuees, who were torn from their homes over night, as it were, naked and hungry, and who are begging shelter from them, only with the greatest anxiety. It is only too understandable that these feelings are intensified to immense hatred by the numerous children starved to death on each transport and the train loads of people frozen to death * * *."

Himmler himself, in a speech to Party comrades, acknowledged that in evacuations people froze to death on transport trains in the East, but he said: "I imagine that we have to be ruthless in our settlement, for these provinces must become Germanic, blond provinces of Germany."

Frank, Governor General of Poland, made a lengthy report direct to Hitler on 25 May 1943, in which he described in detail the harsh treatment of the Poles and the conditions prevailing in the resettlement districts of Poland. This report, a copy of which went to Himmler, stated—

"* * * the newly settled area and, unfortunately, the nearer and even the farther surroundings, have for a long time been in a state of open rebellion.

"According to my own conviction, the reason for the complete destruction of public order is to be found exclusively in the fact that the expelled persons were in some cases given only 10 minutes, and in no case more than 2 hours, to scrape together their most necessary belongings to take with them. Men, women, children, and old people were brought into mass camps, frequently without any clothing or equipment; there they were sorted into groups of people fit for work, less fit for work, and unfit for work (especially children and aged persons), without regard to possible family ties. All connections between the members of families were thus severed, so that the fate of one group remained unknown to the other. It will be understood that these measures caused an indescribable panic among the population affected by the expulsion, and led to it that approximately half of the population, earmarked for expulsion, fled. They fled, in their despair, from the expulsion district and have thus contributed considerably to the increase of the groups of bandits which existed for some time in the Lublin district and which act with continuously increasing audacity and force. This movement has extended, like waves in a pond, also to the inhab-

itants of those rural districts which were not—in any case not yet—intended for expulsion. In the course of these events it has even happened that the newly settled ethnic Germans, forced by casualties inflicted on them by bandit actions, frequently banded together into armed troops and procured for themselves from the surrounding villages, with alien population, on their own initiative and by force of arms, the necessary implements for their farms.

“This chaotic situation was further aggravated by retaliatory measures by the constabulary in the Lublin district to forestall additional attacks on ethnic German villages. These retaliatory measures consisted, among other things, in mass-shootings of innocent persons, especially of women and children and also of aged persons, between the ages of 2 and 80 and over.

“* * * In connection with the execution of the resettlement plan described by me, the point of view has often been maintained that all humanitarian considerations must be completely neglected. May I give the assurance that I, too, share this view utterly and completely.”

It is established by the evidence, including the testimony of inmates of concentration camps, that persons who refused to sign the DVL procedure were incarcerated in these camps, and after their confinement were still subjected to coercion in an attempt to compel them to enroll on the German People's List.

There existed a close connection between resettlements and evacuations. Almost all correspondence and decrees concerning evacuations and resettlement actions discussed both subjects, and detailed measures to be taken in regard to both evacuation and resettlement. While at first there was not such a close connection in point of time, the Nazis, finding that to leave a farm unattended often resulted in thefts and loss of property left on the evacuated premises, adopted a procedure whereby the person to be evacuated was given only a few hours notice. He was permitted to carry away only a meager amount of personal possessions; and the evacuations took place only after resettlers were in a VoMi camp and in a position to move onto the evacuated premises immediately.

These evacuations were carried out without regard whatever to military necessity. While there were instances where property was confiscated for military purposes, in the great majority of cases, vast areas comprised of farms and various enterprises were evacuated for the sole purpose of ridding the Incorporated Eastern Territories of those persons the Nazis regarded as unsuitable and to make room for those persons the Nazis hoped would speedily make of the incorporated areas a Germanic stronghold.

In the gigantic undertaking comprising evacuations and resettle-

ments, Germanization, and commitment to slave labor of foreign nationals, the Staff Main Office, VoMi and RuSHA held significant roles. Greifelt, as chief of the Staff Main Office and also as deputy to Himmler, issued decree after decree concerning measures to be taken in the evacuation and resettlement of populations.

Greifelt's intimate connection with, and active participation in, evacuations and resettlements as well as Germanization and slave labor, affecting the populations of various countries, may be clearly shown by reference to several decrees.

On 7 July 1941, Greifelt issued a directive concerning "the evacuation from Southern Carinthia of elements of alien stock", in which it was directed:

"The Slovenian intelligence will be submitted to a racial examination. The racially valuable elements (groups 1 and 2) will not be evacuated to Serbia but will be transferred to Germany proper to be Germanized.

"The above change does not affect the ordinance to the effect that a sharp selection will be made from among the native population of Southern Carinthia and that the undesirable population must be evacuated in accordance with existing directives."

Greifelt, in writing Himmler on 22 September 1941 regarding the completion of racial examinations of inmates of Baltic refugee camps, reported that 70 percent were "fit for immediate labor service"; 28.5 percent were "foreign elements which should be brought back to their land of origin"; and 1.5 percent were "considered as politically incriminated or suspected or asocial, and as such to be handed to the Chief of the Security Police for commitment to a concentration camp."

In discussing the settlement of Lithuanian Germans, Greifelt in a report to Himmler on 19 November 1941 proposed—

"In order to be able to give the German peasants profitable holdings, the following is suggested:

"1. Resettlement of Lithuanian peasants in former German holdings in eastern Lithuania.

"2. Evacuation of Poles and resettlement of Lithuanians in the former Polish holdings.

"3. Immediate requisition of Polish, Russian, and Jewish property."

In an order dated 3 October 1942, marked "Secret", and concerning "the treatment of labor allocation of the persons evacuated from Alsace, Lorraine, and Luxembourg," Greifelt decreed—

"Evacuees who—

- a. express their wish to be sent to France,
- b. refuse to accept German citizenship,

c. show by gross insubordination other than the above that they feel as Frenchmen and intend to remain such,

d. for those reasons refuse to accept reasonably suitable work or housing,

are to be reported to the competent Gestapo Regional Hq. for deportation to a concentration camp or, in the case of racial inferiority, to be deported to France."

Creutz, deputy to Greifelt, was also active in resettlement and evacuation actions as well as the Germanization and commitment to slave labor of various foreign populations. Creutz issued instructions concerning these matters to various persons and made detailed reports direct to Himmler. On 30 July 1941, in reporting to Himmler on deportations from Lorraine, Creutz said:

"* * * it has become clear during the time following the conclusion of these evacuations that—

"1. further evacuations to France, although affecting only a smaller number of people are yet to be carried out (mainly priests and members of the intelligentsia);

"2. there still remain about 2,000 families which, although not suited for deportation to France, cannot remain in the Westmark, if we want to clear up the situation in that region.

"According to information from SS Gruppenfuehrer Berkelmann, these 2,000 families represent members of a variety of vocations, and are, generally speaking, entirely decent people, who, however, have to be removed from their present environment in order to win them back for Germanism at another place and to remove them from the current unfavorable influences."

The defendant Creutz, in correspondence direct with Himmler on 3 July 1942, requested permission to utilize a portion of the Government General for the resettlement of ethnic Germans; and on 10 October 1942, Creutz issued an order designating the district of Lublin as the area for resettlement of resettlers from Bulgaria, Serbia, and Leningrad. The order stated—

"Will you, please, immediately move the above mentioned resettlers into camp Lodz and put the necessary documents immediately at the disposal of the delegate of the Reich Commissioner for Strengthening of Germanism, Lublin Office."

Creutz, in other orders, also designated the district Lublin as the area of resettlement for resettlers coming from other countries.

Creutz' full knowledge of, and active participation in, deportation and resettlement actions is clearly shown by a report he made to Himmler's secretary on 7 August 1943. He reported in detail the exact number of persons settled in various districts, which

represented "a grand total of 546,000 resettlers." He reported that—

"* * * there are 55,500 resettlers in the camps of the repatriation office for ethnic Germans, of which 31,500 are O-cases, further 44,000 evacuees, together a total of 99,500. All are working temporarily in Germany proper with the exception of 22,000 who are in the camps in Lodz. Remaining capacity of camp another 40,000 persons."

A prolific source of labor for the Reich's war efforts was supplied by the re-Germanization or WED procedure. Notwithstanding, hundreds of thousands of foreign nationals were pouring into Germany by virtue of the DVL procedure, Himmler, in order to make use of those Poles not eligible for the DVL procedure, introduced the WED procedure. This procedure was somewhat similar to the DVL procedure, differing principally only in the fact that while the DVL procedure applied to so-called ethnic Germans, the WED procedure applied to those who were admittedly not of German descent but whose racial characteristics appeared to be satisfactory. The prime purpose of this procedure was to bring labor to Germany, at the same time depriving Poland of masses of its citizens and attempting to effect a forced Germanization of these foreign citizens.

On 9 May 1940 Himmler, in preliminary remarks to decree 17/II, the basic decree of the WED procedure, made his aim quite clear when he said:

"Among the people of alien (not German) nationality in the annexed Eastern districts as well as in the Government General there are often such who are eligible for Germanization on the basis of their racial suitability. I therefore ordered that a selection of the racially most valuable families of Nordic nature be made, according to directives issued by me, and I intend to put them into plants in the Old Reich. Since this is not a question of utilization of labor in the ordinary sense but an extremely important national-political task, the accommodation of this group of persons cannot be done in the usual way through the labor offices.

"For this reason I entrust the Higher SS and Police Leaders in their capacity as my deputies for the Strengthening of Germanism with this task of the distribution of people and at the same time with the utilization of this group of persons. * * *

"* * * it should be endeavored to accommodate able-bodied sons and daughters, who are not necessarily needed in the same plant, in other, more distant places."

Both Greifelt and Creutz actively participated in the slave labor program connected with the WED procedure. On 4 June 1941,

Greifelt, in a supplement to Himmler's decree 34/I, which extended the WED procedure to Southern Carinthia and Lower Styria, issued these specific instructions:

"The number of persons suitable for re-Germanization to be expected from Southern Carinthia and Lower Styria is not yet determined, but in the very near future if the transport difficulties can be overcome, an extensive number may be expected.

"Supplementing Decree No. 34/I, I therefore state: I ask that the competent Laender Labor Offices be contacted as well as the other offices participating according to the hitherto customary procedure. I attach the greatest importance to closest cooperation with the Party offices.

"All the labor locations which you have already selected and not yet filled will not be settled by persons from the former Polish territories suitable for re-Germanization, but by those from Southern Carinthia and Lower Styria.

"Once again I call attention to the fact that according to Decree No. 34/I for the allocation of the persons from Southern Carinthia and Lower Styria who are suitable for re-Germanization, the procedure already used for the persons from the Eastern territories capable of re-Germanization is to apply to the fullest extent. This additional group of people is to be treated in the same manner."

In an eight-page report, dated 25 March 1943, Creutz outlined the entire re-Germanization program, giving details as to the measures that had been taken. A few extracts from this report are sufficient to show Creutz' familiarity with the procedure and his participation therein:

"The selection of the persons is made by the branch office of the SS Race and Settlement Main Office, Litzmannstadt [Lodz].

"The persons found suitable for being Germanized will be turned over to the individual Higher SS and Police Leaders in Germany proper according to the plans to be drawn up by the Staff Main Office.

"The Higher SS and Police Leaders are competent for the selection of the work assignments. They are willing to consider proposals of other offices also (District Directorates, National Food Agricultural Estate, Labor Offices); the definite decision, however, is theirs exclusively.

"The families suitable for Germanization will, after their transfer to Germany proper, first be lodged for a short period in transit camps, which are subordinated to the Higher SS and Police Leaders. At these camps a thorough examination takes place in order to find out for what kind of the approved work assignments the individual families are best suited.

"Until 31 January 1943, 14,592 persons from the former Polish territories have been selected by the branch office of the SS Race and Settlement Main Office and were transferred into Germany proper.

"The Staff Main Office is not able to concur fully with the statements of the Reich Security Main Office regarding the willingness to be Germanized. According to experiences gained here, the willingness to be Germanized is lowest in such persons who came to the Reich as single individuals and whose families were left behind in the Eastern territories.

"A low degree of readiness to be re-Germanized also prevails in those who left behind larger properties.

"* * * it is emphasized that the care of the persons suitable for re-Germanization shall not degenerate into an exaggerated kind of welfare. It was also often necessary to discipline some obstinate persons in the harshest manner and to keep them in line through the use of compulsory measures.

"If there still exists, as is understandable, a lack of willingness for re-Germanization, it is nevertheless to be expected that the next generation, on account of its racial orientation, will have almost completely merged with Germanism. The care and education of juveniles is therefore considered the main task in the procedure of re-Germanization.

"On the basis of the decree 34/I of the Reich Fuehrer SS of 4 June 1941, 10,121 persons have been transferred to Germany proper until 31 January 1943, to work and live there.

"Approximately 6,500 Slovenes, which still are in camps, are at present available for allocation in the district of Lublin.

"According to reports of the Immigration Center, the Slovenes have an aversion against settlement in the district Lublin. They try to influence the Immigration Center by all means, so that they will not be declared worthy of settling in the East. Among the Slovenes already settled in Germany proper, a strong uneasiness can be observed also."

Greifelt, as the active directing force, and Creutz, acting by reason of Greifelt's directions, were instrumental in bringing into Germany young girls to be used as domestic workers in German households. Himmler, in a decree issued on 1 October 1941, had pronounced his purposes in this respect. He said:

"One of the greatest calamities is at present the shortage of female domestic help, especially in families with many children.

"I therefore order that girls of Polish and Ukrainian descent, who meet the requirements of the racial evaluation groups 1 and 2 shall be selected by the racial examiners of the Race and Settlement Main Office and shall be brought into the Reich

territory. The selection is not to be limited only to those persons who are to be evacuated but, as far as possible, to all available girls. In this connection not only the Warthegau but also the other Incorporated Eastern Territories, the General Government, and, after prior understanding is reached with locally competent offices, the former Esthonian, Latvian, and Lithuanian territories are to be considered.

"Assignments may only be made to households of families with many children who are firm in their ideology and fit for training such girls."

The defendants Greifelt and Creutz assisted in fulfilling Himmler's ambitions, as is shown by the report of Creutz, a few months after the issuance of Himmler's decree. In reporting to Himmler on 20 February 1942, Creutz said:

"Regarding the status of the allocation of female domestic help eligible for re-Germanization I wish to report as follows:

"521 female domestics suitable for re-Germanization were allocated to nonfarming households until 31 December 1941 (total number of allocated persons including children, 10,520).

"The selection of the persons eligible for re-Germanization is made by the field office of the SS Race and Settlement Main Office in Litzmannstadt [Lodz]. The allocation in the Reich is carried out by the locally competent Higher SS and Police Leaders.

"The field office of the SS Race and Settlement Main Office makes its selections primarily from among the evacuated Poles. In addition, pursuant to the personal order of the Reich Leader SS, it has the responsibility of removing qualified female domestics, eligible for re-Germanization, from the re-Incorporated Eastern territories (especially from the Warthegau), and of transferring them to the Reich proper. It receives the names of girls in the Warthegau through my deputy. Furthermore, it contacted the local employment offices and welfare offices in the allocation of the girls."

Subsequently, less than a year later, Creutz reported to Himmler that the total number of re-Germanizable domestics and agricultural workers was 6,818, of which 1,127 were allocated to urban households. The number of persons suitable for re-Germanization allocated to the Reich up to 30 November 1942 was estimated at 26,000 in a memorandum by Greifelt dated 12 December 1942 and addressed to Higher SS and Police Leaders.

RuSHA held a prominent role in the adoption and enforcement of measures taken to evacuate and resettle foreign populations, Germanize enemy nationals, and utilize enemy nationals as slave labor. In all three of these closely connected procedures, RuSHA

was the organization charged with, and upon which depended, the selection and evaluation of so-called ethnic Germans and foreigners. Upon the decision of RuSHA depended the future treatment of the persons examined.

We have already detailed the mass resettlement actions from numerous countries and the mass deportations of Poles and Jews from the Incorporated Eastern Territories, as well as the forcible evacuations by the tens of thousands from Yugoslavia and Luxembourg, Alsace, and Lorraine. In all these actions RuSHA was involved, the duties of that office varying in accordance with the action being taken in each instance; but in all cases the fundamental role of RuSHA was to racially examine and classify the persons involved in the various actions.

In the case of resettlement actions, the resettlers, after being removed from their native lands by VoMi and transferred to VoMi camps, were examined and classified by racial examiners; and on the basis of "A", "O", or "S" classifications, some resettlers were allowed to resettle in the Eastern territories, some were taken to Germany as laborers, and some were sent direct to the Government General.

RuSHA's responsibility for examinations and evaluations in this connection is clearly outlined in a draft of instructions for the Immigration Center where the resettlers were assembled and screened. The instructions provided:

"The Race and Settlement Office (RuS) determines the racial suitability of the resettler according to general directions by the Reich Leader SS. The results are listed in a card index. This race and settlement card index is also centrally stored in Lodz and is consulted when determining the final settlement."

RuSHA's responsibility also extended to the Government General. The procedure followed and the ultimate results of racial examinations in connection with the expulsion of Poles from the Government General is described in a report made directly to Himmler by Mueller on 31 October 1942. This "secret" report from a Gestapo office concerning evacuations from the Lublin district stated:

"The Polish families classified in groups 1 and 2 will be separated and taken to Lodz for Germanization or screening. In as far as no settlers are available at present, a small group of these families will be retained to be settled on the so-called 'Z-farms' which are to be formed by combining larger and smaller Polish farms.

"Of those classified in groups 3 and 4 the children together with the Poles above the age of 60 will be segregated, i.e., as a rule children together with grandparents, and will be taken to

the so-called 'pensioneers villages'. Sick and infirm Poles under the age of 60 who are unable to work will also be taken to the 'pensioneers villages'. The age limit for children should be fixed at 14 years of age (not 10 years) since children under the age of 14 cannot be taken to Germany proper to work there. The able-bodied members of group 3 between the ages of 14 and 60 years of age without their disabled family members will be taken to the Reich as laborers.

"Individuals in group 4 between the ages of 14 and 60 are to be sent to concentration camp Auschwitz."

All three of the defendants connected with RuSHA—Hofmann, Hildebrandt, and Schwalm—lent their assistance and active support to measures formulated and carried out in connection with the three specifications of the indictment being considered.

Hofmann was informed by RKFDV as early as 10 January 1941 of proposed evacuation actions in Poland. In a letter to Hofmann from the RKFDV, after a description of certain evacuation actions, it was stated:

"* * * in the near future a particularly large number of evacuations will be carried through, also in the Warthegau, Danzig-West Prussia and Upper Silesia. I request that there, too, the racial examination should be made sure."

Hofmann complied with this request. On 21 January 1941, Hofmann answered:

"Please be informed that during my stay in Lodz, on 20 January 1941, I discussed and established with SS Sturmbannfuehrer Schwalm, chief of the branch office, the employment of racial examiners for the racial examination of those Poles who will be evacuated. SS Sturmbannfuehrer Schwalm will remain in contact, personally and through representatives, with SS Obergruppenfuehrer Krueger or with the authoritative agencies in the Government General as far as the start of the action is concerned."

In writing concerning the status of Dongus, chief of the branch office of RuSHA in Lodz, Hofmann outlined the activities of RuSHA in Poland. He said:

"From the beginning of 1941, SS Hauptsturmfuehrer Dongus has been directing the branch office of the Race and Settlement Main Office in Lodz. The branch office was commissioned to select from the new Reichsgaue [Reich districts] the Polish families which were racially most valuable from among the Poles being evacuated. This commission was in the meantime extended to the area of the entire Government General. On the instructions of the Reich Leader SS Reich Commissioner for Strengthening of Germanism, this selection process has to be

carried out with particular care. To carry out this work, therefore, I must have at my disposal a man who has the necessary knowledge in the fields of anthropology and psychology. In the case of Dongus we have in addition a man who has considerable experience and practice. Dongus' qualifications make it possible for me to appoint him, over and above his commission, as instructor and trainer for the new specialists in the sphere of anthropology.

"I beg you to consider that, through the work of the branch office at Lodz, most valuable families are gained by the Reich; at the moment they can be employed as acceptable labor forces, and their children, as can be seen even today, are growing up in the youth organizations as valuable blood of Germandom."

Hofmann, in a letter to RuS field leaders and "all racial examiners" emphasizes the importance of racial examinations being made by examiners from the RuS office. He declared:

"The racial evaluation made by the branch office Lodz of the SS Race and Settlement Main Office is binding in every case. The reversion of a decision made by the branch office can only be executed upon an order of the SS Race and Settlement Main Office. Grievance cases can be decided on by the chief of the SS Race and Settlement Office only after detailed facts have been submitted."

Continuing with a report about racial examinations made by racial examiners from a replacement office, which had "turned out to be completely unsuitable," Hofmann said:

"In this connection it is to be considered that the branch office has part of the persons which are to be re-Germanized at the camp Lodz under observation for weeks and that the racial selection can be made from naked persons. The racial examiner—as in the above-mentioned case—is only able to see these persons for a short time. Moreover, it is possible that he may see only parts of a family, but never the whole family, as it is the case in Lodz."

A lengthy report and survey made in the main office of RuSHA on 31 July 1942 and forwarded to Hofmann for transmission to Himmler covers the entire field of RuSHA activities. This report gives complete figures on the number of persons undergoing Germanization as well as the nationality of such persons, such as Poles and Slovenes. It also contains reports on deportations and the activities of RuSHA in that regard; it being stated that RuSHA had intervened with examinations to determine whether persons "represent a racially desirable increase in the population or the reverse." According to the report, those found racially valuable were to be settled in the Old Reich [Germany proper]; those

racially inferior were to be evicted to France. With reference to the commitment to labor in the Reich of those found fit, the report stated:

"The Reich Governor of Poznan, Department of Labor, and the Race and Settlement Field Leader Vietz-Danzig are striving in closest conjunction with the labor offices to bring about the necessary transfer of workers suitable for Germanization to the Old Reich.

"The Race and Settlement Main Office cannot shut its eyes to this necessity in view of the fact that it is the fourth year of the war and considering the problems of armaments and food confronting us in the Eastern sector too and has made the Staff Main Office corresponding promises."

Hildebrandt, after becoming chief of RuSHA, was informed of the deportations being conducted. On 8 December 1943, in writing in regard to planned deportations of students from the University of Strasbourg, a RuSHA field leader in France informed Hildebrandt:

"In the course of a larger action by the Security Police against the students of the former university of Strasbourg at Clermont-Ferrand, I examined there 107 male and female students along racial lines. It is well known that among the students there are many persons of German descent. Their political opinion, however, is in direct contrast to their descent. Thirty-seven percent of the students were classified as having biologically valuable characteristics, and it is intended to transfer them to the Reich * * *."

In actively directing racial examinations of French citizens, Hildebrandt ordered, in a letter to Higher SS and Police Leaders on 5 August 1943:

"All matters pertaining to resettled persons are to be handled centrally by the SS Race and Settlement Main Office.

"Insofar as the persons to be resettled have not yet been registered, they will be reported to the SS RuS Main Office by the Higher SS and Police Leader or by the Office for Ethnic Germans. The order to carry out the racial examination will be issued to the competent RuS field leaders by the SS RuS Main Office and the family cards to be used will be included. The results of the examination are to be forwarded to the SS RuS Main Office. It is not permissible to inform the offices of the Deputies of the Reich Commissioner for the Strengthening of Germanism of the results from there.

"The decisions will be made by the SS RuS Main Office, on the basis of the complete family evaluations, and the competent offices will be informed of them".

The evidence establishes that Schwalm, while chief of the branch office at Lodz, supervised racial examiners in that area, and Schwalm not only had full knowledge of the activities of his subordinates, but he himself was active in this field. We have already referred in this judgment to Schwalm's report in which he gave a complete list of persons being transported in a number of transports for Germanization from his area of command. Within Schwalm's jurisdiction examinations were carried out for the purpose of resettlement, evacuations, Germanization, and slave labor; and for the activity of his many subordinates, he bears full responsibility.

The organization VoMi was deeply involved in the forceful evacuation and resettlement of populations as well as the Germanization and commitment to slave labor of foreign nationals.

During the course of the war, hundreds of thousands of persons went through VoMi camps for various reasons. Documentary proof has already been quoted to give some idea of the vastness of the VoMi operations. It is disclosed by the evidence that VoMi actually operated some 1,500 to 1,800 camps; and at the end of the war there were still hundreds of thousands of persons confined within these camps. VoMi camps held resettlers, evacuees, and slave laborers.

Both Lorenz and Brueckner occupied high positions in VoMi and in the course of the immense VoMi operations became deeply involved in measures carried out under the Germanization program. Both defendants are responsible for a systematic and organized expulsion and evacuation of masses of the population throughout the invaded countries of Europe.

Immediately after his appointment as RKFDV, Himmler commissioned VoMi to carry out evacuations, resettlements, and the "whole ethnical work for the strengthening of Germanism." VoMi was charged with the "whole administration and care" of the VoMi camps.

Lorenz, from the date of the decree conferring such responsibility upon him and his organization, until the end of the war, was an energetic worker in the Germanization program; and he bitterly contested any encroachment by another organization upon activities Lorenz regarded to be within the realm of his duties.

Brueckner, likewise, was an energetic participant in the activities conducted by VoMi.

The evidence conclusively shows that VoMi was responsible for transporting thousands of resettlers and deported persons to VoMi camps; that these persons were subjected to the harshest kind of treatment and hardships; that they were herded into VoMi camps, several families assigned to one room, and for months forced to

live without adequate food and clothing. Within these camps some of those subjected to these hardships died.

The close connection between VoMi and expulsion and resettlement actions may be seen from the fact that Himmler, just four days after his appointment as RKFDV, issued an order on 11 October 1939 regarding resettlements in Poland, in which he stated that "a preliminary condition for the populating of these cities is the deportation of poles and the evacuation of their dwellings." Himmler then ordered:

"The selection of the population will be carried out by the Chief of the Security Police in collaboration with SS Obergruppenfuehrer Lorenz. A preliminary condition for repopulating these cities is the deportation of Poles and the evacuation of their dwellings.

"Members of the Polish Intelligentsia are to be deported in the first place."

From that time onward during the war, Lorenz, Brueckner, and VoMi were closely connected with all such undertakings.

On 10 December 1942 Lorenz reported to Himmler that 16,932 persons had been transported from Bosnia to VoMi camps. On 15 January 1943 Lorenz wrote the following letter to Himmler:

"Einsatzgruppe D reports that the North Caucasian territory had been cleared of ethnic Germans owing to military developments. Transport of ethnic Germans was channelled from Kur-savka to Yeisk where 2,000 ethnic Germans were scheduled to arrive on 9 January. Transport leader requested further directives. Suggested that Oberfuehrer Hoffmeyer should settle ethnic Germans in Halbstadt territory. Hoffmeyer acknowledges this possibility under the condition that the appropriate number of Ukrainians be evacuated. Request approval."

Himmler approved this plan and on 18 January 1943 Brueckner wrote the Higher SS and Police Leader in Russia-South:

"In consequence of a report to the effect that a transport of approximately 2,000 ethnic Germans from the Caucasus has arrived in Yeisk, SS Obergruppenfuehrer Lorenz suggested to the Reich Leader SS to settle these people in the Halbstadt region and to expel simultaneously a corresponding number of Ukrainians. The Reich Leader approved this suggestion. * * *

Brueckner in writing to the Reich Minister for the occupied Eastern territories on 14 April 1943 said in regard to the competency of VoMi:

"The registration and the welfare of ethnic Germans within the Reich are matters falling exclusively within the competence of the Reich Leader SS in his capacity as Reich Commissioner for Strengthening of Germanism who has commissioned his

Main Office (Repatriation Office for Ethnic Germans) to carry out this program. In pursuance of this commission the Repatriation Office for Ethnic Germans registered the above mentioned group of people already. The welfare service is provided through our ethno-political agencies. The racial examination of ethnic Germans takes place in pursuance of the directives of the Reich Leader SS through the SS Race and Settlement Main Office.

"On this occasion it may be further pointed out that in the course of the discussion which took place some time ago in the Reich Ministry of the Interior, concerning the German People's List procedure, it was decided that the Repatriation Office for Ethnic Germans will have competence to report ethnic Germans from the Reich Commissariat of the Ukraine to the appropriate People's List Offices."

As previously stated, Lorenz jealously guarded his field of competency, which often led to disputes with those he thought were encroaching upon his duties. He even complained to Greifelt with reference to a jurisdictional dispute concerning labor allocation and the handling of resettlers; and he suggested to Greifelt that if Greifelt's office would desist from certain functions and leave them to his agency, he could bring in laborers to Germany by the tens of thousands. The text of this complaint reads:

"I am, of course, quite prepared to let your office in the future solely handle the labor allocation for the supply industries of the Luftwaffe, if you attach any importance to that matter; in that case, however, I wish to ask you even now to let my office complete the pending allocation operations.

"Yet apart from this, my dear Greifelt, there seems to me that something is wrong with the entire set-up of the labor allocation and I would ask you to give this matter some thought.

"Practically, the set-up is like this—the actual labor allocation, that is, the selection of the resettlers, the screening of the resettlers, the formation and execution of the transports, is handled by my camps, whereas your deputies tell my camp offices where the shipments are to go, or they negotiate in my camps with the companies concerned. This situation applies particularly to Lodz, and in this connection I may add the following remark: Your 5 deputies in Lodz were able to complete the allocation of only 500–600 resettlers within roughly 4 months, or to discharge them in order to join relatives. That is an output which certainly cannot have absorbed all of their time.

"The procedure in Germany proper is to report the "B" cases by name to the competent Higher SS and Police Leaders and to place them in camps made available by us, and only then to

have them allocated by the Higher SS and Police Leaders. This procedure might have had certain advantages during the last few years. Under the current conditions, however, when again many thousands of resettlers have come to the Reich it is, in my opinion, too clumsy to be practicable, not to speak of the immense paper work that it entails.

"The following, in my views, might be an expedient solution: Since today we can anyway no longer speak of a settlement according to plan, but are—if for no other reason than due to the housing shortage—concerned only with a temporary war-time placement of the resettlers to be handled still now, the allocation should be made directly by my office. From my subordinate offices, I know that in agriculture alone we could place tens of thousands of resettlers and at the same time this would be of immense importance from an ethnological viewpoint, since we thus could proceed with deportations in villages which today have an alien population of 60, 70, and 80 percent."

And still fighting for the right to handle and allocate workers, Lorenz wrote a bitter protest to the Higher SS and Police Leader in the Gau Upper and Lower Silesia. Within this area the Higher SS and Police Leader had ordered that every allocation for release of resettlers or evacuees should have his approval. In protesting this order, Lorenz said:

"Therefore, your purely local order must necessarily lead to confusion and uncertainty, especially since it does not take into account the thoroughly incorporated existing plan of procedure. For example, you also overlook the fact that the labor allocation of Slovenes not suitable for re-Germanization and other similar groups of evacuees is entirely my job. The fact that I am not dependent upon a single Gau in the allocation of these cases, but can execute relocation measures into other Gaus according to economic necessities, guarantees speedy completion of these labor allocation measures.

"I request of you, with respect to these facts, to retract the order issued by you on the 18th of this month. It is not in accordance with the Reich Leader's orders and therefore cannot be recognized by me. Furthermore, it leads to unnecessary difficulties which especially at the present moment must be termed undesirable.

"Since I am aware of the efficient cooperation between you and the local allocation headquarters of the repatriation office for ethnic Germans in Breslau, I am somewhat amazed how such an order ever came into being at all without my having been consulted. Therefore, I am returning to you your letter of 18 August of this year and request, contrary to the intentions

expressed therein, that in the future you give my local allocation headquarters the opportunity to carry out their duties on the basis of instructions issued to them by me without any difficulties."

The nature of the camps operated by VoMi may be seen from a drastic order issued to Lorenz by Himmler on 21 September 1942 after it had been reported to Himmler that Slovenes had escaped from the VoMi camps. Himmler decreed:

"The escape of a Slovene is to be reported immediately by the camp commander of the VoMi to the Gestapo. The Gestapo, in turn, will notify immediately the Higher SS and Police Leader Alpenland.

"The family of the escapee as well as his relatives will be removed immediately from the camp and be taken to a concentration camp. Their children will be taken away from them and sent to a home.

"At once investigation has to be made in the camp in order to determine who knew of the proposed escape and aided it. All men who knew about the escape and lent a helping hand will be hanged in the camp."

It has been established beyond any doubt by voluminous evidence that both Lorenz and Brueckner had knowledge of, and actively engaged in, actions carried out to evacuate and resettle foreign populations, to Germanize enemy nationals, and to utilize enemy nationals as slave labor within the Reich.

COMPULSORY CONSCRIPTION OF ENEMY NATIONALS INTO THE ARMED FORCES

Both Lorenz and Brueckner are charged under this specification of the indictment.

The evidence discloses that tens of thousands of foreign nationals, after registration in the DVL procedure, were conscripted into the Waffen SS or armed forces. There is an abundance of evidence, in the form of periodical reports, disclosing the extent to which foreign nationals were drafted for military service. For instance, in an information bulletin by RLD on 28 December 1943, the following information is given about the drafting of ethnic Germans for military service: *NO-2015, Pros. Ex. 341*.

"The first more extensive recruiting of ethnic Germans for the Waffen SS took place in Romania in 1940. This was done under the pretense of recruiting labor for the Reich. In a later, second action, a thousand men belonging to this ethnic German group in Romania were recruited. At that time these recruitments were not made for the purpose of strengthening the Ger-

man Army but with the idea, strongly backed by the Repatriation Office for Ethnic Germans (VoMi) and the present SS Obergruppenfuehrer Berger, that the participation of the ethnic Germans in the war within the ranks of the Waffen SS would cause a still closer union between these ethnic German groups and the German people and, especially after the war, in territories settled by ethnic Germans, led to the development of a veteran's generation like those in the German Reich.

"The political situation in the Serbian Banat made it possible, after the dissolution of the Yugoslav state, to collect the ethnic Germans living there into a unit, called the SS division "Prinz Eugen". Above and beyond this all further available men of the ethnic German group in the Banat fit for service were drafted into the police forces or served as temporary policemen in the Banat. Of the ethnic German group in the Banat and Serbia, counting approximately 150,000 ethnic Germans, 22,500 are serving in the aforementioned units, that is to say, more than 14 percent of this whole number."

This report gives a list, country by country, of the "allotment of German ethnic groups", enumerating the total number of persons in the Waffen SS and Wehrmacht. Typical of these listings are the following: Romania, "Waffen SS, 54,000"; Slovakia, "Waffen SS, 5,390"; "German Wehrmacht, 237".

The status of the aforementioned SS Division "Prinz Eugen", composed of ethnic Germans, is classified in a letter from Reinecke to the SS Main Office, dated 12 July 1943. Writing on the subject of "compulsory military service for racial Germans of foreign citizenship", the writer states:

"* * * the SS and police court in Belgrade reported e.g., on 14 August 1942 that the volunteer division "Prince Eugen" no longer was an organization of volunteers, that on the contrary, the ethnic Germans from the Serbian Banat were drafted to a large extent under threat of punishment by the local German leadership, and later by the replacement agency."

Order after order was issued in which it was expressly stated that those who were registered on the German People's List and who attempted to shirk military service should be severely punished. For instance, one order discussed cases which had arisen where such persons had claimed "Polish affiliation" when it was sought to induct them into the army; and in other cases persons in groups from 1 to 3 had tried, when it was sought to induct them into the army, to have their registration changed to group 4 in order to avoid military service. It was ordered that such persons should be transferred to a concentration camp.

Toward the end of the war more drastic measures were taken,

as is shown by a letter dated 20 September 1944 from the Higher SS and Police Leader Southeast to deputies of the RKFDV, in which it is stated:

"In the individual case of a member of group 3 who refused acceptance of the German People's List identification card in order to avoid being drafted into the army, the Reich Leader has decided that in this and similar cases firm action will have to be taken and has ordered the execution of the individual in question.

"If, in spite of having been properly instructed, persons enrolled in the German People's List should refuse acceptance of their German People's List identification cards a motion for special treatment will have to be submitted in future."

It is quite clear from the evidence that Lorenz was an active and willing participant in the forced conscription of enemy nationals. One document in the evidence discloses that he had suggested such conscriptions. Another document, from which we shall quote, should suffice to show his close connections and active participation in this matter. On 21 December 1942, in a report to the Assistant Secretary of the Foreign Office by Berger, head of the recruiting office of the Waffen SS, a lengthy account is given concerning the activity of Lorenz and others in the induction into the Waffen SS of members of "compulsory labor service of Croatia." It appears from this report that some dissension had arisen among officials with regard to this proposed induction, and it was finally decided "to postpone a decision about the labor service until SS Obergruppenfuehrer Lorenz visited Croatia." This report then continues:

"During this visit to Croatia SS Obergruppenfuehrer Lorenz informed the officer commanding the reserve command that he desired the induction of all the men of the labor service who were fit for the SS. One third of the leaders could join as well, otherwise, however, the labor service should be maintained as arranged. SS Obergruppenfuehrer Lorenz made an identical statement to the racial German leaders as Minister Kasche himself states in a teletype message of 7 November 1942. SS Obergruppenfuehrer Lorenz stated furthermore that he would inform Minister Kasche of the state of affairs."

According to further details of the report, a transport was supposed to leave on 5 November 1942 with inductees, but difficulties arose when the German labor service and the German legation failed to give their approval to the release of the laborers. Thereupon, according to the report, the following occurred:

"SS Obersturmfuehrer Heermann told SS Standartenfuehrer Ruschka that troop trains for the transportation of the labor

service men, who had been drafted into the Waffen SS, had already arrived, and that the transport escort troops had already been assigned. Since the minister himself had proposed that the decision about the induction of the labor service men should be left to SS Obergruppenfuehrer Lorenz, and since the latter had decided that the men had to join, he, SS Obersturmfuehrer Heermann, was obliged to regard it as sabotage if the draft orders were withdrawn by command of the legation one day prior to the scheduled departure of the transport trains, particularly as the orders had been submitted as early as a fortnight beforehand * * *."

Thus, Lorenz' activity, not only by way of consent but by way of direction, in the compulsory induction of foreign nationals is made quite clear.

The thousands of foreigners inducted into the armed forces of Germany came principally from VoMi camps which were under the supervision of Lorenz. By his activities in forcibly inducting these foreigners under his jurisdiction and supervision, he forced foreign nationals to fight against their own country and their own allies. He bears full responsibility for these deeds.

While Brueckner is shown by the evidence to have at one time submitted a draft of an order, under the terms of which "auxiliaries" under certain circumstances were to be inducted into the army, the evidence fails to disclose that the proposed order was ever adopted or carried out. No other evidence of an incriminating nature has been offered against the defendant Brueckner with regard to this specification of the indictment. We find the evidence insufficient to prove Brueckner guilty on this specification.

PLUNDER OF PUBLIC AND PRIVATE PROPERTY

As country after country was overrun by the Nazis, the plunder of public and private property was carried out on an immense scale in practically every conquered territory. The plunder seized consisted of various objects—from cultural property, such as paintings, carpets, and crystal, to agricultural property consisting of millions of acres of land.

Greifelt, as deputy to Himmler, was deeply involved in the plunder and confiscation of this property. He issued decrees directing that confiscations be carried out; and after confiscations had taken place, he refused to return the property to those from whom it had been confiscated. He was directly involved in the confiscation of many churches, hospitals, and sanitoriums as well as agricultural property. These confiscations were not carried out by reason of military necessity, but mainly were a part of a preconceived plan

to strip the Polish population of the Eastern territories of all their property and in turn to make the property available to resettlers.

Greifelt made periodic reports to Himmler in which he gave detailed accounts of the stages reached in resettlements and confiscation of property. Some conception of the extent of these confiscations may be gained from a report made by Greifelt to Himmler as early as 3 August 1942. Following page after page of statistics, the report reveals that in four Eastern Gaue [districts] alone the total number of confiscated farms and estates amounted to 626,642, with a total area of 5,849,987 hectares. Roughly, the land confiscated consisted of more than 14,000,000 acres.

None of the land confiscated was ever paid for; and although it is claimed in defense to these confiscations that it was intended to pay for these properties after the war, it is quite plain from the evidence that no such intention existed, for in reporting in a memorandum on a conference held with Hitler on 12 May 1943, Greifelt stated:

"The Reich Leader SS has pointed out that the property in question in the Incorporated Eastern Territories was formerly German property which was robbed in 1918 and for which no one can demand compensation. On the other hand, the situation in the Government General is different since the Poles there are still owners of their property. In so far as this property will be utilized for German resettlement measures, one could, therefore, consider a compensation for the previous owner."

With regard to property confiscated from Jewish owners, no compensation at all was contemplated, as is disclosed by a memorandum by Greifelt, written in December 1942, which he sent to Himmler's secretary. This memorandum revealed that "the Reich Leader SS had signed a general directive whereby the entire Jewish real estate is to be placed at the disposal of the Office for Strengthening of Germanism."

We have previously shown in this judgment that in reporting to Himmler, Greifelt recommended the "immediate requisition of Polish, Russian, and Jewish property." Greifelt, on other occasions, voiced his opinion that requisitions should take place. For instance, on 23 February 1941, he wrote Himmler:

"After having issued your carrying-out decree concerning the treatment of the population in the Eastern occupied countries of 12.9.1940, you will find it necessary to issue instructions concerning the treatment of the property belonging to persons included in groups 3 and 4 of the 'List for the Repatriation of German ethnic groups' and this for the agricultural as well as for the trade sections.

"In the interest of Germanizing the country as fast and as

effectively as possible and of separating from both these groups their property located in the occupied Eastern territories as soon as feasible, my office is of the opinion that real estate situated in the annexed Eastern areas, and belonging to members of groups 3 and 4 of the list should be expropriated * * *.

"My office proposes to expropriate the property of these persons under the law concerning the treatment of property belonging to nationals of the former Polish State * * *."

While in that correspondence Greifelt further voiced the opinion that in the case of group 3 compensation should be paid, and in the case of group 4 partial compensation should be paid, this procedure was never followed; and, as we have shown, future measures adopted explicitly provided that no compensation at all should be paid for confiscated property.

As early as 4 October 1940, Greifelt expressly ordered the confiscation of property. In an order to the Central Land Office he declared:

"I wish to inform you that real property of people of Polish citizenship but who belong to other ethnic groups is on principle subject to requisition and confiscation in pursuance of the provisions of the decree concerning the handling of property of citizens of the former Polish State. This applies particularly to real estate of owners belonging to the Czechoslovakian, Russian, and Lithuanian ethnic groups.

"I request that the land offices be instructed accordingly and that the necessary action be taken."

Confiscation of property was carried out in such a ruthless and indiscriminate manner that it caused the Reich Minister of Justice to enter a protest against the extent of confiscation of Polish property. In a letter direct to Himmler on 22 May 1942, the Reich Minister of Justice complained that a sudden action had taken place whereby all live and dead stock belonging to former owners of Polish property had suddenly been seized. He reported:

"During the execution of this order, of which neither the Gauleiter nor the Landrat of the Kreis Bielitz had any knowledge as it was probably initiated by the decision of the head of the Gau Office Strengthening of Germanism, the Poles were robbed not only of their technical appliances but also of their food and personal articles and clothes.

"The Polish inhabitant who has been left practically without means after the extent of the confiscation has become very agitated, which might result in further expressions of hate and acts of sabotage against Germans. The action will also have bad effects as far as nutrition policies are concerned."

Greifelt answered the complaint of the Reich Minister of Justice

on 8 July 1942, and he sought to justify such seizures with these remarks:

"Since these Poles began to steal the fodder for their animals after they had lost their agriculture enterprises, and furthermore because the resettlers were in want of the missing live and dead stock which belonged to the farms, it became necessary for economic reasons to confiscate this stock and to return it to the now German farms to which it belonged."

The confiscation of property with which Greifelt dealt extended to both public and private property. In a "secret" report to Himmler on 21 October 1943, Greifelt, in opposing a loan plan which had been suggested by the Reich Minister of Finance, stated:

"The plan will endanger the execution of plans repeatedly outlined by the Reich Leader SS in conversations with the undersigned. In these plans it was foreseen to utilize the entire amount of confiscated former Polish landed property in the Incorporated Eastern Territories, including as far as possible municipal and industrial property under the administration of the Main Trustee Office "Ost", as separate property of the Reich Commissioner in order to make the financing of subsequent settlement tasks in the new territories at least in part independent of the Reich finances * * *."

Greifelt further opposed this plan because certain aspects of the plan would reveal to the world the secret aim of the Nazis to confiscate all Polish property, and would make useless an ordinance previously issued for the purpose of camouflaging the aim of the Nazis in regard to Polish property. Greifelt reminded Himmler that—

"On the basis of this figure it would be possible for everybody in foreign countries to calculate that the entire Polish house property without exceptions has been confiscated. The reasons for hesitation dictated by international law and foreign policy, which in 1940 were conclusive for formulating the ordinance concerning Polish property in such a way that it could not be realized by any uninitiated person that actually all Polish property was supposed to be confiscated, would thus be thrown overboard."

For the ruthless and indiscriminate confiscation of property without regard whatever to military necessity Greifelt bears full responsibility.

The evidence on this specification of the indictment is insufficient to prove the guilt of the other defendants connected with the Staff Main Office.

VoMi was directly connected with the plunder and confiscation of property for the evidence unquestionably shows that many con-

confiscations were carried out for the very purpose of using the confiscated property for the housing of resettlers. These confiscations particularly occurred with reference to church property and hospitals and sanatoriums.

The defendant Lorenz, as chief of VoMi, confiscated property for use of VoMi, and he was opposed to the return of confiscated property to its original owner, the church.

Greifelt, in a letter to Himmler dated 17 December 1940, gives the following account of VoMi's activities with reference to the confiscation of property:

"Realizing the impossibility of providing temporary housing accommodation for the resettlers by normal lawful means, the Office for the Repatriation of Racial Germans was empowered by an authorization issued by the Reich Leader on 30 December 1939 to requisition lodging space suitable for the communal housing of racial German resettlers.

"On the strength of this authority the Office for the Repatriation of Racial Germans has requisitioned a large number of inns, hospitals, sanatoriums, old people's homes, and especially convents. To a large extent this requisitioning was done with full collaboration of the minor administrative authorities."

In June 1943 Lorenz wrote Brandt, Himmler's secretary, concerning an inspection of certain camps, and in giving reasons for the full maintenance of the camp apparatus although the camps were only partly occupied, Lorenz said:

"* * * Another reason for the maintenance of the camps * * * is the following:

"The buildings confiscated there for the accommodation of resettlers mainly come from former church property. An unrestricted surrender of this property to the Wehrmacht, the National Socialist Public Welfare organization, etc., undoubtedly would result in this property gradually returning to the hands of the previous clerical owners. In order to prevent such a development which is undesirable to the Reich Leader SS, I have, so far, persistently opposed the surrender of these camps."

The evidence has clearly established the responsibility of Lorenz for the plunder and confiscation of public and private property belonging to enemy nationals without regard to military necessity; and for these acts Lorenz is criminally responsible.

On this specification of the indictment the evidence is inadequate to prove guilt on the part of the defendant Brueckner. Though he might have had knowledge of confiscations it has not been proved beyond reasonable doubt that he actually was connected in any manner with confiscations.

On this specification of the indictment, the evidence is insuf-

ficient to prove the guilt of any of the defendants connected with RuSHA.

The four defendants connected with Lebensborn—Sollmann, Ebner, Tesch, and Viermetz—are charged under this specification of the indictment. While it appears from the evidence that Lebensborn utilized certain property formerly belonging to Jews, such as several hospitals, old people's homes, and children's homes, it further appears that these properties had already been confiscated by other agencies and were empty at the time Lebensborn took them over. Furthermore, it appears that Sollmann, as chief of Lebensborn, deposited one million Reichsmarks of Lebensborn's funds for the purpose of paying for these properties upon transfer. Although the evidence discloses that no compensation was actually paid for these properties, this occurred by reason of an order of the Reich Minister of Justice suspending land registration entries, and not by virtue of any refusal to pay on the part of Lebensborn. While there is evidence to the effect that in isolated instances Lebensborn also utilized a small amount of personal property for the welfare and maintenance of children under Lebensborn's care, it has not been established beyond a reasonable doubt that Lebensborn actually confiscated such property without payment; nor has it been established that any defendant connected with Lebensborn was connected with any plan or program to plunder occupied territories.

The burden of proof rests upon the prosecution; and the evidence by which it is sought to criminally implicate the defendants connected with Lebensborn is, in the opinion of the Tribunal, insufficient to justify a conclusion of guilt on this specification.

PERSECUTION AND EXTERMINATION OF THE JEWS

Insofar as the evidence might connect the individual defendants with this charge in the indictment, this specification has heretofore been dealt with, particularly under specifications relating to punishment for sexual intercourse with Germans, plunder of public and private property, and evacuations of foreign nationals.

Persecutions upon racial grounds were directed particularly toward the Poles and Jews, and both the Poles and Jews were the victims of similar measures, as we have heretofore shown in this judgment.

WAR CRIMES AND CRIMES AGAINST HUMANITY

Judged by any standard of proof, the record in this case clearly establishes crimes against humanity and war crimes, substantially as alleged in the indictment under counts one and two.

The acts and conduct, as set forth in this judgment, and as substantially charged in the indictment, constitute crimes against humanity as defined in Article II (c) of the Control Council Law No. 10, and are violative of international conventions, and particularly of Articles 23, 45, 46, 47, 52, 55, and 56 of the Hague Regulations (1907), and are violative of the general principles of criminal law as derived from the criminal laws of all civilized nations and of the internal penal laws of the countries in which such crimes were committed.

The acts and conduct set forth in this judgment, and as substantially alleged in the indictment, also constitute war crimes, as defined in Article II (b) of Control Council Law No. 10, and are violative of international conventions, and particularly of Articles 23, 45, 46, 47, 52, 55, and 56 of the Hague Regulations (1907), and are violative of the general principles of criminal law as derived from the criminal laws of all civilized nations and of the internal penal laws of the countries in which such crimes were committed.

During the course of the trial defenses common to all defendants have been urged.

It has been insisted repeatedly by the defendants that numerous activities were not within their sphere of competency but on the contrary some other person or some other organization was charged with the performance of these various tasks. We have given careful consideration to these assertions, and in instances we have determined that certain assertions of this nature were creditable; and in such instances the defendant has not been held responsible for those activities. However, a complete and irrefutable answer to many of these assertions is found in the words of the defendants themselves in many orders, directives, and memoranda issued under their own signature while the barbarous Germanization program was in full swing. We can give no credence to such defenses when the words of a defendant absolutely refute the contentions now urged. It is no defense for a defendant to insist, for instance, that he never evacuated populations when orders exist, signed by him, in which he directed that the evacuation should take place. While in such a case the defendant might not have actually carried out the physical evacuation in the sense that he did not personally evacuate the population, he nevertheless is responsible for the action, and his participation by instigating the action is more pronounced than that of those who actually performed the deed.

Another defense urged is that, in performing certain functions, the defendants were acting under superior orders. By Control Council Law No. 10 it is expressly provided that superior orders

shall not free a defendant from responsibility for crime but this fact may be considered in mitigation of punishment. We have, in passing judgment on all the defendants, given due consideration to this defense as it might affect the punishment of the individual defendants. It is our view in this respect that justice demands a fair consideration of the fact that each and all defendants occupied a subordinate position, being answerable to Himmler, and several of the defendants were even subordinate to other defendants at bar.

Still another defense often asserted is to the effect that if certain events happened, or certain orders or memoranda were issued, the defendant knew nothing of these transactions. Such a defense is of no avail when it appears, as it does in many instances, that the defendant urging such a defense actually issued an order or memorandum, or actually received it, or otherwise had full knowledge, at the time, of the commission of various acts.

It has been urged and argued at length that certain territories, such as the Incorporated Eastern Territories of Poland and parts of Luxembourg, Alsace, and Lorraine, were incorporated into the Reich and thereby became a part of Germany during the war. Hence, it is urged, the laws and customs of war are inapplicable to these territories.

Any purported annexation of territories of a foreign nation, occurring during the time of war and while opposing armies were still in the field, we hold to be invalid and ineffective. Such territory never became a part of the Reich but merely remained under German military control by virtue of belligerent occupancy. Moreover, if it could be said that the attempted incorporation of territories into the Reich had a legal basis, it would avail the defendants nothing, for actions similar to those occurring in the areas attempted to be annexed also occurred in areas which Germany never professed to have incorporated into the Reich.

COUNT THREE

Count three of the indictment charges all defendants, except the defendant Viermetz, with membership in a criminal organization, namely, the SS. This charge will be dealt with in passing upon the guilt or innocence of the individual defendants.

We shall now consider and determine the individual responsibility of the defendants.

ULRICH GREIFELT

The defendant Ulrich Greifelt, as chief of the Staff Main Office and deputy to Himmler, was, with the exception of Himmler, the

main driving force in the entire Germanization program. By an abundance of evidence it is established beyond a reasonable doubt, as heretofore detailed in this judgment, that the defendant Greifelt is criminally responsible for the following actions: kidnaping of alien children; hampering the reproduction of enemy nationals; forced evacuations and resettlement of populations; forced Germanization of enemy nationals; the utilization of enemy nationals as slave labor; and the plunder of public and private property.

The evidence submitted is insufficient to establish beyond a reasonable doubt the defendant Greifelt's guilt upon the following specific charges: abortions on Eastern workers; taking away infants of Eastern workers; and the punishment of foreign nationals for sexual intercourse with Germans.

The defendant Greifelt is found guilty upon counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Greifelt was a member of a criminal organization, that is, the SS, under the conditions defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

RUDOLF CREUTZ

Rudolf Creutz, as deputy to Greifelt, was an active participant in certain phases of the Germanization program, as has heretofore been set forth in detail in this judgment; and it has been established beyond any reasonable doubt that the defendant Creutz is criminally responsible for, and implicated in, the following criminal activities: the kidnaping of alien children; the forced evacuation and resettlement of populations; the forced Germanization of enemy nationals; and the utilization of foreign nationals as slave labor.

Upon the following specific charges the evidence is insufficient to justify a conclusion of guilt: abortions on Eastern workers; taking away infants of Eastern workers; punishment of foreign nationals for sexual intercourse with Germans; and hampering the reproduction of enemy nationals.

The defendant Creutz is found guilty upon counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Creutz was a member of a criminal organization, that is, the SS, under the conditions

defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

KONRAD MEYER-HETLING

Konrad Meyer-Hetling was chief of the planning office within the Staff Main Office. During his entire period of service in this position he was a part time worker only, still retaining a professorship at the University of Berlin. Meyer-Hetling is a scientist of considerable world renown—an agricultural expert.

The prosecution's case rests principally upon the "General Plan East", a survey and proposed plan for the "reconstruction of the East", prepared by Meyer-Hetling at Himmler's request and submitted to Himmler on 28 May 1942. It is the contention of the prosecution that this plan formed the basis for the measures taken in the incorporated Eastern territories and other occupied territories.

A consideration of General Plan East, as well as correspondence dealing with this plan, reveals nothing of an incriminatory nature. This plan, as contended by the defendant, envisaged the orderly reconstruction of the East—and particularly village and country—after the war. The plan plainly states, "According to plan, the achievement of the work of reconstruction will be spread over five periods of 5 years each, totalling 25 years." There is nothing in the plan concerning evacuations and other drastic measures which were actually adopted and carried out in the Germanization program. As a matter of fact, it is made quite plain by the evidence, as the defendant contended, that this General Plan East was never adopted and no effort was made to carry out its proposals. Actually, Himmler, instead of an orderly reconstruction, decided upon and pursued a drastic plan which in all its cruel aspects sought the reconversion of the East into a Germanic stronghold practically overnight. Of course, Meyer-Hetling is not responsible for these measures which he did not suggest.

Simply by virtue of his position as chief of planning, the prosecution would have the Tribunal assume that Meyer-Hetling was the person responsible for all planning and, consequently, the drastic actions taken must have had their origin in his planning. The difficulty with such an assumption is that there is no proof to support it. He is charged, for instance, with such criminal activities as kidnaping alien children, abortions on Eastern workers, and hampering the reproduction of enemy nationals. Yet in thousands of pages of documentary and oral evidence, there is not a single syllable of evidence even remotely connecting him with any of these activities.

Upon the evidence submitted, the defendant Meyer-Hetling is found not guilty on counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Meyer-Hetling was a member of a criminal organization; that is, the SS, under the conditions defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

OTTO SCHWARZENBERGER

Otto Schwarzenberger was chief of finance in the Staff Main Office. As such, he dealt with the operational finances and expenses of all organizations charged in the indictment with participation in the Germanization program. He also handled operational finances of other organizations, such as DUT, DAG, EWZ, and UWZ.

Schwarzenberger has contended throughout the trial that, as chief of finance, his duties consisted almost entirely of paying out funds on lumpsum requisitions submitted to him by various organizations, and that, as chief of finance, he had no power to approve or disapprove requisitions for funds, which was a duty resting solely with the Reich Minister of Finance. He contends, furthermore, that not even in the requisitions and bills submitted to his office was there anything indicating the purpose for which the funds were to be used or had been used, and he never had knowledge of the purposes for which these funds were being dispersed. Schwarzenberger's contentions are supported by an abundance of evidence. It would appear from the evidence that Schwarzenberger's principal task was to submit to the Reich Minister of Finance a budget containing the estimated operational needs of the various departments; and upon approval by the Reich Minister of Finance, the funds were deposited with Schwarzenberger's office for payment to the various organizations.

Volumes of documents have been introduced by the prosecution in this case—hundreds pertaining to the various organizations involved—and Schwarzenberger's name is conspicuous in its absence among these documents. No documentary evidence of an incriminatory nature has been offered against this defendant; yet the prosecution would have the Tribunal assume, as it is argued, that he held numerous conferences with all departments with reference to all financial matters and was intimately acquainted with all activities of the various departments. This is an assumption

which the prosecution bases wholly upon the position held by the defendant and which is not supported by proof.

Upon the evidence submitted, the defendant Schwarzenberger is found not guilty on counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Schwarzenberger was a member of a criminal organization, that is, the SS, under the conditions defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

HERBERT HUEBNER

As chief of labor staffs and the resettlement staff in Poznan, Herbert Huebner was concerned in the forcible evacuation and resettlement actions as well as the slave labor program. Within the area under his jurisdiction and supervision, these actions were carried out on a large scale. One document, written by him, suffices to show his connection with these actions. Huebner on 29 August 1941 wrote to the SS Settlement Staff at Lodz and Poznan as follows:

"According to the newest order of the Reich Governor, the Poles who will have to be displaced in the course of the settlement must under no condition leave the Warthegau, e.g., in order to be allocated for labor in Germany proper via the employment offices, since the Poles will probably be needed later on as manpower (in this area). The Landraete (chiefs of district adm.) will have to provide emergency work for them until large-scale projects will provide the possibility to make use of all available Polish manpower.

"The Reich Governor will instruct the Landraete tomorrow by circular letter to make all provisions to prevent the displaced Poles from leaving the Gau. The Landraete also were again urged to support the displacement measures in every way.

"I request you to comply with this order under all conditions and, where necessary, to instruct the Landraete to provide housing for the Poles to be displaced. In all cases they are to be informed in time of any planned displacement measures."

It has been established by the evidence beyond a reasonable doubt that the defendant Huebner actively participated in the forced evacuation and resettlement of foreign populations and the use of foreign nationals as slave labor.

The evidence is insufficient to authorize a conclusion of guilt on the part of Huebner with regard to the other specifications of the indictment.

The defendant Huebner is found guilty on counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Huebner was a member of a criminal organization, that is, the SS, under the conditions defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

WERNER LORENZ

The defendant Werner Lorenz, as chief of VoMi, was an active participant in practically every phase of the Germanization program, as has heretofore been set forth in detail in this judgment. The evidence establishes beyond any reasonable doubt that Lorenz is criminally responsible for and implicated in the following criminal activities: the kidnaping of alien children; hampering the reproduction of enemy nationals; the forced evacuation and resettlement of foreign populations; the forced Germanization of enemy nationals; the utilization of enemy nationals as slave labor; the forced conscription of non-Germans into the SS and armed forces; and the plunder of public and private property. The evidence is insufficient to authorize a conclusion of guilt with regard to forcible abortions on Eastern workers.

The defendant Lorenz is found guilty upon counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Lorenz was a member of a criminal organization, that is, the SS, under the conditions defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

HEINZ BRUECKNER

Heinz Brueckner, as head of the Amt VI of VoMi, actively participated in certain phases of the Germanization program, as has heretofore been set forth in detail in this judgment. It has been established beyond a reasonable doubt that this defendant is criminally responsible for and implicated in the following criminal activities: the kidnaping of alien children; hampering the reproduction of enemy nationals; the forced evacuation and resettlement of foreign populations; the forced Germanization of enemy

nationals; and the utilization of enemy nationals as slave labor.

The evidence is insufficient to authorize a conclusion of guilt on the part of Brueckner with regard to the other specifications of the indictment.

The defendant Brueckner is found guilty upon counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Brueckner was a member of a criminal organization, that is, the SS, under the conditions defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

OTTO HOFMANN

Otto Hofmann, as chief of RuSHA from 1940 to 1943, actively participated in the measures adopted and carried out in the furtherance of the Germanization program, as has heretofore been set forth in detail in this judgment. The evidence establishes beyond any reasonable doubt Hofmann's guilt and criminal responsibility for the following criminal activities pursued in the furtherance of the Germanization program: the kidnaping of alien children; forcible abortions on Eastern workers; taking away infants of Eastern workers; the illegal and unjust punishment of foreign nationals for sexual intercourse with Germans; hampering the reproduction of enemy nationals; the forced evacuation and resettlement of foreign populations; the forced Germanization of enemy nationals; and the utilization of enemy nationals as slave labor.

The evidence is insufficient to prove this defendant's guilt with regard to the plunder of public and private property.

The defendant Hofmann is found guilty upon counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Hofmann was a member of a criminal organization, that is, the SS, under the conditions defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

RICHARD HILDEBRANDT

Richard Hildebrandt was Higher SS and Police Leader at Danzig-West Prussia from October 1939 to February 1943, and

simultaneously he was leader of the Administration District Danzig-West Prussia of the Allgemeine SS and deputy of the RKFDV. From 20 April 1943 to the end of the war, he was chief of RuSHA. From 1939 to 1945, while serving in these capacities, he was deeply implicated in many measures put into force in the furtherance of the Germanization program, as has heretofore been set forth in detail in this judgment. By an abundance of evidence, it has been established beyond a reasonable doubt that the defendant Hildebrandt actively participated in and is criminally responsible for the following criminal activities: the kidnaping of alien children; forcible abortions on Eastern workers; taking away infants of Eastern workers; the illegal and unjust punishment of foreign nationals for sexual intercourse with Germans; hampering the reproduction of enemy nationals; the forced evacuation and resettlement of populations; the forced Germanization of enemy nationals; and the utilization of the enemy nationals as slave labor.

Hildebrandt, as the sole defendant, is charged with special responsibility for and participation in the extermination of thousands of German nationals pursuant to the so-called "Euthanasia program." It is not contended that this program, insofar as Hildebrandt might have been connected with it, was extended to foreign nationals. It is urged by the prosecution, however, that notwithstanding this fact, the extermination of German nationals under such a program constitutes a crime against humanity; and in support of this argument the prosecution cites the judgment of the International Military Tribunal as well as the judgment in the case of the United States of America *vs.* Brandt, Case No. 1. Neither decision substantiated the contention of the prosecution. For instance, in holding defendants guilty in the Brandt judgment, the Tribunal expressly pointed out that the defendants, in participating in this program, were responsible for exterminating foreign nationals. The Tribunal expressly stated:

"Whether or not a state may validly enact legislation which imposes euthanasia upon certain classes of its citizens is likewise a question which does not enter into the issues. Assuming that it may do so, the Family of Nations is not obliged to give recognition to such legislation when it manifestly gives legality to plain murder and torture of defenseless and powerless human beings of other nations.

"The evidence is conclusive that persons were included in the program who were non-German nationals. The dereliction of the defendant Brandt contributed to their extermination. That is enough to require this Tribunal to find that he is criminally responsible in the program."

It is our view that euthanasia, when carried out under state legislation against citizens of the state only, does not constitute a crime against humanity. Accordingly the defendant Hildebrandt is found not to be criminally responsible with regard to this specification of the indictment.

The evidence is insufficient to implicate this defendant on the specification regarding the plunder of public and private property.

The defendant Hildebrandt is found guilty upon counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Hildebrandt was a member of a criminal organization, that is, the SS under the conditions defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

FRITZ SCHWALM

The defendant Fritz Schwalm was an active participant in certain phases of the Germanization program, as has heretofore been set forth in detail in this judgment. It has been established by the evidence beyond a reasonable doubt that this defendant is criminally responsible for and implicated in the following criminal activities conducted in the furtherance of this program: kidnapping of alien children; the forced evacuation and resettlement of populations; the forced Germanization of enemy nationals; and the utilization of enemy nationals as slave labor.

Upon the other specifications of the indictment the evidence is insufficient to justify a conclusion of guilt on the part of this defendant.

The defendant Schwalm is found guilty upon counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Schwalm was a member of a criminal organization, that is, the SS, under the conditions defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

MAX SOLLMANN

The defendant Max Sollmann, as chief of Lebensborn—together with the other three defendants connected with that institution—is charged with criminal responsibility in three specifications of

the indictment, namely, the kidnaping of alien children, taking away infants of Eastern workers, and the plunder of public and private property. With two of these specifications we have already dealt. We now consider the charge concerning the kidnaping of alien children.

It is quite clear from the evidence that the Lebensborn Society, which existed long prior to the war, was a welfare institution, and primarily a maternity home. From the beginning, it cared for mothers, both married and unmarried, and children, both legitimate and illegitimate.

The prosecution has failed to prove with the requisite certainty the participation of Lebensborn, and the defendants connected therewith, in the kidnaping program conducted by the Nazis. While the evidence has disclosed that thousands upon thousands of children were unquestionably kidnaped by other agencies or organizations and brought into Germany, the evidence has further disclosed that only a small percentage of the total number ever found their way into Lebensborn. And of this number only in isolated instances did Lebensborn take children who had a living parent. The majority of those children in any way connected with Lebensborn were orphans of ethnic Germans. As a matter of fact, it is quite clear from the evidence that Lebensborn sought to avoid taking into its homes, children who had family ties; and Lebensborn went to the extent of making extensive investigations where the records were inadequate, to establish the identity of a child and whether it had family ties. When it was discovered that the child had a living parent, Lebensborn did not proceed with an adoption, as in the case of orphans, but simply allowed the child to be placed in a German home after an investigation of the German family for the purpose of determining the good character of the family and the suitability of the family to care for and raise the child.

Lebensborn made no practice of selecting and examining foreign children. In all instances where foreign children were handed over to Lebensborn by other organizations after a selection and examination, the children were given the best of care and never ill-treated in any manner.

It is quite clear from the evidence that of the numerous organizations operating in Germany who were connected with foreign children brought into Germany, Lebensborn was the one organization which did everything in its power to adequately provide for the children and protect the legal interests of the children placed in its care.

Upon the evidence submitted, the defendant Sollmann is found not guilty on counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Sollmann was a member of a criminal organization, that is, the SS, under the conditions defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

GREGOR EBNER

Upon the evidence submitted, the defendant Gregor Ebner is found not guilty upon counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Gregor Ebner was a member of a criminal organization, that is, the SS, under the conditions defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

GUENTHER TESCH

Upon the evidence submitted, the defendant Guenther Tesch is found not guilty upon counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Guenther Tesch was a member of a criminal organization, that is, the SS, under the conditions defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

INGE VIERMETZ

Upon the evidence submitted, the defendant Inge Viermetz is found not guilty on all counts of the indictment with which she has been charged.

This March 10, 1948

[signed] LEE B. WYATT
Presiding Judge
DANIEL T. O'CONNELL
Judge
JOHNSON T. CRAWFORD
Judge

SENTENCES

ULRICH GREIFELT, Military Tribunal I has found and adjudged you guilty of war crimes, crimes against humanity and membership in an organization declared criminal by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand convicted, Military Tribunal I sentences you Ulrich Greifelt, to life imprisonment.

RUDOLF CREUTZ, Military Tribunal I has found and adjudged you guilty of war crimes, crimes against humanity and membership in an organization declared criminal by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand convicted, Military Tribunal I sentences you, Rudolf Creutz, to fifteen years of imprisonment.

KONRAD MEYER-HETLING, Military Tribunal I has found and adjudged you guilty of membership in an organization declared criminal by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand convicted, Military Tribunal I is of the opinion that the time you have already spent in confinement pending trial, namely since 27 May 1945, is sufficient punishment for this offense. It is the order of the Tribunal that you shall be discharged from custody by the marshal when the Tribunal presently adjourns.

OTTO SCHWARZENBERGER, Military Tribunal I has found and adjudged you guilty of membership in an organization declared criminal by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand convicted, Military Tribunal I is of the opinion that the time you have already spent in confinement pending trial, namely, since 2 May 1945, is sufficient punishment for this offense. It is the order of the Tribunal that you shall be discharged from custody by the marshal when the Tribunal presently adjourns.

HERBERT HUEBNER, Military Tribunal I has found and adjudged you guilty of war crimes, crimes against humanity and membership in an organization declared criminal by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand

convicted, Military Tribunal I sentences you, Herbert Huebner, to fifteen years of imprisonment.

WERNER LORENZ, Military Tribunal I has found and adjudged you guilty of war crimes, crimes against humanity and membership in an organization declared criminal by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand convicted, Military Tribunal I sentences you, Werner Lorenz, to twenty years of imprisonment.

HEINZ BRUECKNER, Military Tribunal I has found and adjudged you guilty of war crimes, crimes against humanity and membership in an organization declared criminal by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand convicted, Military Tribunal I sentences you, Heinz Brueckner, to fifteen years imprisonment.

OTTO HOFMANN, Military Tribunal I has found and adjudged you guilty of war crimes, crimes against humanity and membership in an organization declared criminal by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand convicted, Military Tribunal I sentences you, Otto Hofmann, to twenty-five years of imprisonment.

RICHARD HILDEBRANDT, Military Tribunal I has found and adjudged you guilty of war crimes, crimes against humanity and membership in an organization declared criminal by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand convicted, Military Tribunal I sentences you, Richard Hildebrandt, to twenty-five years of imprisonment.

FRITZ SCHWALM, Military Tribunal I has found and adjudged you guilty of war crimes, crimes against humanity and membership in an organization declared criminal by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand convicted, Military Tribunal I sentences you, Fritz Schwalm, to ten years of imprisonment.

MAX SOLLMANN, Military Tribunal I has found and adjudged

you guilty of membership in an organization declared criminal by the judgment of the International Military Tribunal as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand convicted, Military Tribunal I is of the opinion that the time you have already spent in confinement pending trial, namely, since 6 July 1945, is sufficient punishment for this offense. It is the order of the Tribunal that you shall be discharged from custody by the marshal when the Tribunal presently adjourns.

GREGOR EBNER, Military Tribunal I has found and adjudged you guilty of membership in an organization declared criminal by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand convicted, Military Tribunal I is of the opinion that the time you have already spent in confinement pending trial, namely, since 5 July 1945, is sufficient punishment for this offense. It is the order of the Tribunal that you shall be discharged from custody by the marshal when the Tribunal presently adjourns.

GUENTHER TESCH, Military Tribunal I has found and adjudged you guilty of membership in an organization declared criminal by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand convicted, Military Tribunal I is of the opinion that the time you have already spent in confinement pending trial, namely, since 13 May 1945, is sufficient punishment for this offense. It is the order of the Tribunal that you shall be discharged from custody by the marshal when the Tribunal presently adjourns.

INGE VIERMETZ, having been acquitted shall be discharged from custody by the marshal when the Tribunal presently adjourns. This the 10th day of March, 1948.

[Signed] LEE B. WYATT
Presiding Judge, Tribunal No. I.
DANIEL T. O'CONNELL
Judge, Tribunal No. I
[Handwritten] Concurring specially.
JOHNSON T. CRAWFORD
Judge, Tribunal No. I

X. CONCURRING AND DISSENTING OPINION BY JUDGE DANIEL T. O'CONNELL

Dissent by O'Connell, Judge, Military Tribunal I from Such Part of Judgment as Fixes Periods of Imprison- ment Applicable to the Defendants, Greifelt, Creutz, Lorenz, Brueckner, Hofmann, and Hildebrandt

With all findings of the Tribunal and disposition of indictments as applicable to all defendants, I concur, except in respect to sentences of imprisonment imposed upon the defendants Greifelt, Creutz, Lorenz, Brueckner, Hofmann, and Hildebrandt. I dissent from the majority of the Tribunal in the extent of terms of imprisonment as applicable to the aforesaid defendants and for reasons hereinafter stated.

It is my reasoned judgment, based upon nineteen years of judicial service, related in large measure to imposition of prison sentences, that in respect to each of the above-named defendants, the sentence imposed is too extreme in fixed duration of time when consideration is given to the character and scope of the duties each performed. Severity of sentence is erroneously believed by many to be a preventive of future crime by others. I do not subscribe to such a belief.

These six defendants, associated with other defendants, some of whom have been found not guilty of the crimes alleged in counts one and two, were essentially employed in civilian capacities. Their duties related almost exclusively to direction, or aiding in direction, of bureaus subordinate to governmental control, springing from the power Himmler exercised as delegated by Hitler, and accompanied with all its ruthlessness as disclosed by the evidence before us. Their guilt is fixed by the findings heretofore set forth, is entwined with military mandates and superiority of direction. Grave difficulty exists in effecting separation of dominant governmental and military superiority of direction from civilian association and support.

All governments engaging in war, of necessity, must have the aid of civilian bureaus operating under governmental direction, and functioning closely with the armed forces. It is difficult to draw a line fixing to what extent punishment can be inflicted upon those associated with civilian bureaus, also how far down the line of authority in the direction of bureau activities, responsibility is to be fixed in decreeing punishment and

the extent of punishment the civilian invites for himself or herself in participating in actual war activities. It is also most difficult to determine to what extent the civilian bureau official joins in spirit, or without definite objection or protest, against acts calculated to further the perpetration of criminal acts.

These defendants cannot rightly be held accountable in degree of participation in the war crimes alleged, and of which they have been found guilty, as would be warranted if they, respectively, had been wholly or substantially acting upon their own initiative. It is, therefore, a warranted judicial conclusion that the sentences imposed upon these civilian officials, even though all enjoyed military titles, awarded as establishing greater and perhaps more effective prestige in executing their civilian duties, should be less in severity than as fixed by the majority of the Tribunal.

In no instance as affecting these defendants do I believe a sentence of life imprisonment is warranted; neither is it warranted to fix upon sentences which in duration carry the person to an age which, based upon normal life expectancy, is the equivalent of a life sentence.

I believe, also, sound reasoning in respect to decreeing of imprisonment should include a stated direction that the sentence imposed is to be reduced by subtraction of the period of time covered by imprisonment while awaiting trial.

I concur with the majority of the Tribunal in respect to the sentences imposed upon the defendants Huebner and Schwalm.

As applicable to the defendants Greifelt, Creutz, Lorenz, Brueckner, Hofmann, and Hildebrandt, the sentences which I believe should be decreed and in respect to which I record my judgment, are as follows:

- (1) The defendant, Greifelt, twenty (20) years,
- (2) The defendant, Creutz, ten (10) years,
- (3) The defendant, Lorenz, fifteen (15) years,
- (4) The defendant, Brueckner, ten (10) years,
- (5) The defendant, Hofmann, fifteen (15) years,
- (6) The defendant, Hildebrandt, fifteen (15) years,

and furthermore:

That in each and all instances, the period of sentence be reduced to the extent as disclosed by the prison records the defendants, respectively, have heretofore been imprisoned.

10 March 1948

[Signed] DANIEL T. O'CONNELL
Judge, Military Tribunal I