

have reread their testimony, both direct and cross, which fortifies the conclusions which we expressed in the opinion. Any modifications which were made are not substantial and do not materially effect the force of the statements given in the respective affidavits. Puhl himself confirmed Thoms' statement that the transactions regarding the so-called Melmer deposits were to be kept secret and confidential. (*Tr. p. 5336.*)

We were not in error in stating that the defendant contended that the theft of personal property of Jews and other concentration camp inmates is not a crime against humanity. His counsel, on final argument (*Tr. p. 27131*), asserted "that the acceptance of gold assets and other currency delivered by the SS cannot be considered a crime against humanity *because this act was directed exclusively against property.*" [Emphasis supplied.]

If our statement regarding the amount of gold and silver melted down from the loot of the concentration camps is erroneous it must be one of translation—the figures are taken from the English document book. We have no present facilities for examining the original. But assuming that the translation of this particular document is erroneous, the fact still remains that a vast amount of loot of this character was delivered to the Reich Bank by the SS Organization, that it came from concentration camp inmates and much of it from the bodies of the murdered. Puhl made the arrangements for the receipt thereof, gave instructions to the proper subordinates of the bank, and we are convinced beyond question he knew the nature of the transactions and the source from which the gold, silver, jewelry, gold teeth, watches, spectacle cases, and the like came. His motions should be, and are, overruled.

## 15. RASCHE—ORDER AND MEMORANDUM OF THE TRIBUNAL ORDER

Defendant Rasche, on 10 May 1949, filed a motion praying that the judgment in this case be amended and that the finding of "guilty against the defendant Karl Rasche under count six of the indictment for 'participation in the exploitation of Bohemia, Moravia, as well as the Netherlands' and under count eight 'for membership in the SS' be repealed." On 16 June 1949 the prosecution filed an answer to said motion, and on 30 June 1949 the defendant filed a rejoinder to said answer of the prosecution. It further appears that on 25 April 1949 the defendant joined in a petition for plenary session of the Tribunal, for the purpose of examining "the judgment passed on 14 April 1949 by Military Tribunal IV in Case 11."

The Tribunal having considered the motion of defendant, the answer thereto of the prosecution, the defendant's rejoinder to said answer, the argument contained in petition for plenary session insofar as pertinent herein, and being advised in the premises,

IT IS ORDERED that defendant Rasche's said motion be, and the same is, hereby in all respects denied.

Memorandum hereto attached is made a part of this order.

Dated 12 December 1949.

[Signed] WILLIAM C. CHRISTIANSON  
WILLIAM C. CHRISTIANSON  
Presiding Judge

[Signed] ROBERT F. MAGUIRE  
ROBERT F. MAGUIRE

Judge

### MEMORANDUM

With respect to count six, defendant has to a great extent re-argued the facts and law, which were by him argued prior to the preparation and rendition of the judgment. He now argues that the Tribunal has in many respects wrongly interpreted the evidence and incorrectly construed the applicable law. He has also sought to add considerable evidence by appending to his motion a considerable number of affidavits, and other documentary evidence, all prepared and dated subsequent to the rendition of the judgment. Obviously these cannot now be considered.

It does not appear that the defendant has called our attention to such errors of law, in the judgment, with respect to count six, or errors of fact therein of such materiality or substance, as to properly require the amendment of the judgment as to count six, as prayed in defendant's motion.

We have reviewed the conclusions expressed in our opinion and the evidence on which they are based in light of the defendant's motion. We find no error and no reason to modify the views there expressed. His motion to set aside his conviction under count eight is hereby denied.

## 16. KOERNER—ORDER AND MEMORANDUM OF THE TRIBUNAL

### ORDER

On 10 May 1949 counsel for defendant Koerner filed with the Secretary General a memorandum and amendment motion, and an appendix thereto, alleging errors in fact and law in the judg-