

Prosecution Case 6

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Against

KRAUCH and Others (Case VI)

PRELIMINARY MEMORANDUM BRIEF

OF THE PROSECUTION

PART I

PLANNING, PREPARING, INITIATION, AND WAGING OF WARS
OF AGGRESSION AND INVASIONS OF OTHER COUNTRIES

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COUNT ONE

PLANNING, PREPARATION, INITIATION AND WAGING
OF WARS OF AGGRESSION AND INVASIONS OF
OTHER COUNTRIES

INTRODUCTION

Article II of Control Council Law #10 prescribes as crimes against peace:

"Initiation of invasions of other countries and wars of aggression in violation of international laws and treaties, including but not limited to planning, preparation, initiation or waging a war of aggression, or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing."

Article X of Military Government Ordinance #7, under which this Tribunal is established, provides that:

"The determinations of the International Military Tribunal in the judgment in Case #1 that invasions, aggressive acts and aggressive wars, crimes, atrocities or inhumane acts were planned or occurred, shall be binding on the tribunals establishment hereunder and shall not be questioned except insofar as participation therein or knowledge thereof of any particular person may be concerned. Statements of the International Military Tribunal in the Judgment in Case #1 shall constitute proof of the facts stated, in the absence of substantial new evidence to the contrary."

The basic questions at issue under Count I, therefore, are the extent to which the defendants participated in the preparation for and initiation of invasions and aggressive wars which were planned and which did occur and the state of mind with which the defendants so participated.

The necessary degree of connection with the crime to establish the guilt of the defendants is to be determined by paragraph 2 of Article II of Control Council Law #10, and in the light of recognized principles of criminal law. Paragraph 2 sets forth that an individual shall be found guilty of the crimes defined in Law #10 if he was (a) a principal, or (b) an accessory, or if he (c) took a consenting part therein, or (d) was connected with plans and enterprises involving the commission of the crime, or (e) was a member of an organization or group connected with the commission of the crime.

A further provision of this paragraph, applicable only with respect to crimes against peace, states that the holders of high political civil or military positions in Germany, or of high positions in the financial, industrial or economic life of Germany, are deemed to have committed such crimes.

This provision, we believe, is not intended to attach criminal guilt automatically to all holders of high positions. It does require, however, that the fact that a person held such a position be taken into consideration together with all the other evidence in determining the extent of his knowledge and participation.

In construing the provisions of Control Council Law #10 relating to crimes against peace we must take cognizance of the situation that existed prior to the enactment of this law and what the objective of the International community was in defining this crime. An excellent and learned discussion on these questions is contained in the opinions of the following eminent authorities concerning the trial before the International Military Tribunal.

The former Secretary of State and Secretary of War of the United States, the Honorable Henry L. Stimson, in an article, "The Nuremberg Trial: Landmark in Law." 25 Foreign Affairs, 179 (January 1947), makes these observations:

"International law is not a body of authoritative codes or statutes; it is the gradual expression, case by case, of the moral judgments of the civilized world. As such, it corresponds precisely to the common law of Anglo-American traditions. We can understand the law of Nuremberg only if we see it for what it is — a great new case in the book of international law, and not a formal enforcement of codified statutes.

The attempt to moderate the excesses of war without controlling war itself was doomed to failure by the extraordinary scientific and industrial developments of the nineteenth and twentieth centuries. By 1914 the world had been intertwined into a single unit and weapons had been so far developed that a major war could shake the whole structure of civilization. No rules of warfare were sufficient to limit the vast new destructive powers of belligerents, and the First World War made it clear that old notions must be abandoned; the world must attack the problem at its root. Thus after 1918 repeated efforts were made to eliminate aggressive war as a legal national undertaking. These efforts reached their climax in the Kellogg-Briand Pact of 1928, in which 63 nations, including Germany, Japan and Italy, renounced aggressive warfare. This pact was not an isolated incident of the postwar era. During that period the whole world was at one in its opinion of aggressive war. In repeated resolutions in the League of Nations and elsewhere, aggression was roundly denounced as criminal. In the judgment of the peoples of the world the once proud title of "conqueror" was replaced by the criminal epithet "aggressor".

The progress made from 1918 to 1931 was halting and incomplete, but its direction was clear; the mandate for peace was overwhelming. Most tragically, the peoples who had renounced war were not sufficiently alert to their danger when in the following years the

the ruling groups of three great nations, in wanton denial of every principle of peace and civilization, launched a conspiracy against the rest of the world. Thus it happened that in the ten years which began with the invasion of Manchuria the principles of the Kellogg Pact were steadily under attack, and only as the danger came slowly home to each one of them individually, did the peace-loving nations take action against aggression. In early 1945, as it became apparent that the long delayed victory was at hand, the question posed itself directly: Has there been a war of aggression and are its leaders punishable? There were many then, as there are some now, who argued that there was no law for this offense, and they found their justification in the feebleness and acquiescence of other nations in the early aggression of the Axis. Other counsels prevailed, however, and by the Charter of the Nuremberg Tribunal the responsible leaders of aggressive war were subjected to trial and conviction on the charge of crimes against peace.

Here we come to the heart of the matter. Able lawyers and honest men have cried out that this aggressive war was not a crime. They have argued that the Nuremberg defendants were not properly forewarned when they made war that what they did was criminal.

Now in one sense the concept of ex post facto law is a strange one to apply here, because this concept relates to a state of mind on the part of the defendants that in this case was wholly absent. That concept is based on the assumption that if the defendant had known that the proposed act was criminal he would have refrained from committing it. Nothing in the attitude of the Nazi leaders corresponds to this assumption; their minds were wholly untroubled by the question of their guilt or innocence. Not in their aggression only but in their whole philosophy, they excluded the very concept of law. They deliberately put themselves below such a concept. To international law -- as to the law of Germany -- they paid only such respect as they found politic, and in the end they had smashed its every rule. Their attitude toward aggressive war was exactly like their attitude toward murder--both were useful instruments in a great design. It is therefore impossible to get any light on the validity of this charge of aggressive war by inspecting the Nazi mind. We must study rather the minds of the rest of the world, which is at once a less revolting and a more fruitful labor.

What did the rest of us think about aggressive war at the time of the Nazi attacks? This question is complex, but to that part of it which affects the legality of the Nuremberg trial we can give a simple answer. That we considered aggressive war wicked is clear; that we considered the leaders of an aggressive war wicked is equally clear. These opinions, in the large part formally embodied in the Kellogg Pact, are the basis for the law of Nuremberg. With the detailed reasoning by which the prosecution has supported the law set forth in the Charter of the International Military Tribunal, we cannot here concern ourselves. The proposition sustained by the Tribunal is simple: if a man plans aggression when aggression has been formally renounced by his nation, he is a criminal. Those who were concerned with the law of this proposition cannot do better than to read the pertinent passages in the opening address of Mr. Justice Jackson, the closing address of Sir Hartley Shawcross, and the opinion of the Tribunal itself.

Now this is a new judicial process, but it is not ex post facto law. It is the enforcement of a moral judgment which dates back a generation. It is a growth in the application of law that any student of our common law should recognize as natural and proper, for it is in just this manner that the common law grew up. There

was, somewhere in our distant past, a first case of murder, a first case where the tribe replaced the victim's family as judge of the offender. The tribe had learned that the deliberate and malicious killing of any human being was, and must be treated as, an offense against the whole community. The analogy is exact. All case law grows by new decisions, and where those new decisions match the conscience of the community, they are law as truly as the law of murder. They do not become ex post facto law merely because until the first decision and punishment comes, a man's only warning that he offends is in the general sense and feeling of his fellow men.

The charge of aggressive war is unsound, therefore, only if the community of nations did not believe in 1939 that aggressive war was an offense. Merely to make such a suggestion, however, is to discard it. Aggression is an offense, and we all know it; we have known it for a generation. It is an offense so deep and heinous that we cannot endure its repetition.

The law made effective by the trial at Nurnberg is righteous law long overdue. It is just such cases as this one that the law becomes more nearly what Mr. Justice Holmes called it: "the witness and external deposit of our moral life."

And in concluding his article, the learned author states:

"A single landmark of justice and honor does not make a world of peace. The Nazi leaders are not the only ones who have renounced and denied the principles of western civilization. They are unique only in the degree and violence of their offenses. In every nation which acquiesced even for a time in their offense, there were offenders. There have been still more culpable offenders in nations which joined before or after in the brutal business of aggression. If we claimed for Nurnberg that it was final justice, or that only these criminals were guilty, we might well be criticized as being swayed by vengeance and not justice. But this is not the claim. The American prosecutor has explicitly stated that he looks unasily and with great regret upon certain brutalities that have occurred since the ending of the war. He speaks for us all when he says that there has been enough blood-letting in Europe. But the sins of others do not make the Nazi leaders less guilty, and the importance of Nuremberg lies not in any claim that by itself it clears the board, but rather in the pattern it has set. The four nations prosecuting, and the 19 other subscribing to the Charter of the International Military Tribunal, have firmly bound themselves to the principle that aggressive war is a personal and punishable crime.

It is this principle upon which we must henceforth rely for our legal protection against the horrors of war. We must never forget that under modern conditions of life, science and technology, all war has become greatly brutalized, and that no one who joins in it, even in self-defense, can escape becoming also in a measure brutalized. Modern war cannot be limited in its destructive methods and in the inevitable debasement of all participants. A fair scrutiny of the last two World Wars makes clear the steady intensification in the inhumanity of the weapons and methods employed by both the aggressors and the victims. In order to defeat Japanese aggression, we were forced, as Admiral Nimitz has stated, to employ a technique of unrestricted submarine warfare not unlike that which 25 years ago was the proximate cause of our entry into World War I. In the use of strategic air power, the Allies took the lives of hundreds of thousands of civilians in Germany, and in Japan the destruction of civilian life wrought by our B-29's, even before the final blow of the atomic bombs, was at least proportionately great. It is true that our use of this destructive power, particularly of the atomic bomb, was for the purpose of winning a quick

victory over aggressors, so as to minimize the loss of life, not only of our troops but of the civilian populations of our enemies as well, and that this purpose in the case of Japan was clearly effected. But even so, we as well as our enemies have contributed to the proof that the central moral problem is war and not its methods, and that a continuance of war will in all probability end with the destruction of our civilization.*

International law is still limited by international politics, and we must not pretend that either can live and grow without the other. But in the judgment of Nuremberg there is affirmed the central principle of peace --that the man who makes or plans to make aggressive war is a criminal. A standard has been raised to which Americans, at least, must repair; for it is only as this standard is accepted, supported and enforced that we can move onward to a world of law and peace."

Professor Jessup, writing on "The Crime of Aggression and the Future of International Law", 62 Political Science Quarterly 1, 4 (1947)

states:

"The two aspects of the precedent afforded by the trial of the war criminals which are most important for the future are, first, the control of war by law and, second, the application of international law to the individual. To appraise the importance of these aspects it is necessary to recall the situation which has existed and which may now be improved. The attempt to develop an international criminal law which will serve as a deterrent to war through the imposition of punishment upon individuals has been discussed often before in academic hall and printed page. It has also been ably argued in international committees. This is the first moment in history when action upon such proposals is not only politically possible but necessary. It is 'necessary' because the precedent will not stand still. If we do not strengthen it and move it forward, it will slide backward. Inaction by the whole society of nations from now on would constitute a repudiation of the precedent with the consequence that the last state of the world would be worse than the first. It would constitute an assertion that aggressive war is not a crime and that the individual who is guilty of endangering the international public repose is not to be treated as a criminal".

The advance made in international law by the trial of individuals for the commission of crimes against Peace is stated by the learned author in the following terms:

"Whereas the traditional international system put the burden on the state to restrain the individual, the precedent of the trial of the war criminals suggests that pressure in the form of fear or punishment should be put upon individuals to restrain the state."

* Compare Wechsler, "The Issues of the Nurnberg Trial", 62 Political Science Quarterly 11, 17: "The greatest evil is of course the initiation of war itself. Once the evil of war has been precipitated, nothing remains but the fragile effort, embodied for the most part in the conventions, to limit the cruelty by which it is conducted."

Professor Wechsler states the same principle differently as follows:

"The assumption of domestic society that punishment is a preventive weapon is not as irrelevant to international behavior as some persons seem disposed to affirm. Insofar as the penalty eliminates a danger presented by the particular individual hardly an objective of indifference to a military occupation — the function is no less plain in this situation than it is in municipal affairs. But the dominant justification of punishment, especially of the punishment of death, is usually felt to be the deterrence of others; and here it has been asserted that the justification must fail because victory carries immunity whether or not the victor was the aggressor and whatever the measures by which victory was attained.

The argument has a degree of validity but it does not prove enough to prevail. Treason, too, is punishable only when it is abortive; when 'it prospers' as the old verse goes, 'none dare call it treason'; it is the traitors who call the turn. With respect to war and the manner in which it is conducted, as with respect to treason, there are men who, valuing personal survival, will take account of the contingency of failure. It is to them that the threats are addressed." (62 Political Science Quarterly 11, 16, "The Issues of the Nuremberg Trials").

In the light of the history and purpose of Control Council Law #10, we suggest that the Tribunal approach the matter bearing in mind the principles which the late Chief Justice Stone has suggested as being proper approach to matters of this sort. In an address delivered in 1936, on "The Common Law in the United States", the late Chief Justice in speaking of the Judiciary stated: (50 Harvard Law Review 4, 12 (1936).

"There has been little disposition to look at our own shortcomings in failing through adaption of old skills and the development of new ones, to realize more nearly than we have the ideal of a unified system of judge made and statute law woven into a seamless whole by the process of adjudication.

The reception which the courts have accorded to statutes presents a curiously illogical chapter in the history of the common law. Notwithstanding their genius for the generation of new law from that already established, the common law courts have given little recognition to statutes as starting points for judicial lawmaking comparable to judicial decisions. They have long recognized the supremacy of statutes over judge-made law, but it has been the supremacy of a command to be obeyed according to its letter, to be treated as otherwise of little consequence. The fact that the command involves recognition of a policy by the supreme lawmaking body has seldom been regarded by courts as significant, either as a social datum or as a point of departure for the process of judicial reasoning by which the common law has expanded.

"* * * I can find in the history and principles of the common law no adequate reason for our failure to treat a statute much more as we treat a judicial precedent, as both a declaration and a source of law, and as a premise for legal reasoning. * * * Apart from its command, the social policy and judgment, expressed in legislation by the law making agency which is supreme would seem to merit that judicial recognition which is freely accorded to the like expression in judicial precedent."

CRIMINAL RESPONSIBILITY OF SO-CALLED "PRIVATE PERSONS"

It is quite clear that Control Council Law No. 10 recognizes no distinction between "private persons" and "government officials". Paragraph 2 of Article II of Law No. 10, in clause (f), after making reference to persons who hold "high political, civil or military" positions in Germany, continues by making reference to persons who hold high positions "in the financial, industrial or economic life" of Germany. Persons so described unquestionably include individuals such as these defendants.

The world has experienced and understood the meaning of "total war". It is plain that in the light of such experience the International community intends to get to the basic problem and to reach through the legal process, all persons who in a substantial way contributed to planning and preparation for the waging of aggressive war and invasions of other countries. Any construction which would confine or limit the persons subject to Crimes against Peace, to those who only hold high political or military position, would make meaningless the objective of seeking to prevent war by the application of legal sanctions to individual persons.*

It is a matter of common knowledge that total war requires a tremendous preparation which could not be done by political or military officials alone. The International Military Tribunal so indicated in its opinion, stating: (Vol. 1, Page 226)

"Hitler could not make aggressive war by himself. He had to have the cooperation of statesmen, military leaders, diplomats, and businessmen. When they, with knowledge of his aims, gave him their cooperation they made themselves parties to the plans he has initiated. They are not to be deemed innocent because Hitler made use

NOTE: * The General Assembly of the United Nations adopted a resolution reading in part as follows:

"Affirms the principles of international law recognized by the Charter of the Nurnberg Tribunal and the judgment of the Tribunal;

Direct the Committee on the Codification of International Law to treat as a matter of primary importance plans for the formulation, in the text of a general codification of offenses against the peace and security of mankind, or of an International Criminal Code, of the principles recognized in the Charter of the Nurnberg Tribunal and in the judgment of the Tribunal". (Journal of the United Nations, No. 58, Supp. A - A/P, V/55, P. 485, cited in 62 Political Science Quarterly 2 (1947).

of them if they know what they were doing. That they were assigned to their tasks by a dictator does not absolve them from responsibility for their acts. The relation of leader and follower does not preclude responsibility here any more than it does in the comparable tyranny of organized domestic crime."

ESSENTIAL ELEMENTS OF CRIMES AGAINST PEACE

It is the position of the prosecution that, as in the case of most crimes, the Crime against Peace requires both an act and a state of mind. In our analysis of the evidence relating to Count I, we will discuss three basic questions:

(1) The extent of participation of the defendants in the planning, preparation, initiation and waging of wars of aggression and invasions of other countries--the act in the Crime against Peace.

(2) The extent of knowledge on the part of the defendants as to what they were doing--the state of mind in the Crime against Peace.

(3) The alleged "defense" of superior orders and coercion.

A. Scope of Crimes against Peace

Without attempting an all-inclusive "definition" of what is covered under Crimes against Peace in Control Council Law #10, it is submitted that under the principles of international law and the provisions of Control Council Law #10, Crimes against Peace comprehend at least the following:

Any person without regard to nationality or the capacity in which he acted commits a crime against peace if he participates in furthering the military power of a country, knowing that such military power will be used, or is being used, for the purpose of carrying out a national policy of aggrandizement to take from the peoples of other countries their land, their property, or their personal freedoms.

B. Participation by the defendants in Crimes against Peace:

It is not necessary to define precisely what constitutes and what does not constitute participation in furthering a country's military power for the purposes indicated. It is sufficient here to state that anyone who bears a substantial responsibility for conducting activities which are vital to furthering the military power of a country "participates" within the meaning of this definition.

In the words of Mr. Justice Jackson in his opening address before the IMT:

"This war did not just happen. It was planned and prepared for a long period of time and with no small skill and cunning. The world has perhaps never seen such a concentration and stimulation of energies of any people as that which enabled Germany twenty years after it was defeated,

disarmed and dismembered, to come so near to carrying out its plan to dominate Europe! Whatever else may be said of those who were the authors of this war, they did achieve a stupendous work in organization... Financiers, economists, industrialists, joined in the plan, and promoted elaborate alterations in industry and finance to support the unprecedented concentration of resources and energies upon preparations for war... Those preparations were of a magnitude which surpassed all need for defense, and every defendant, and every intelligent German, well understood them to be for aggressive purposes."

The individuals who have been charged in this case with participating in Crimes against Peace are those who were responsible for the activities of an organization which has been described by the Four Major Powers as follows (Control Council Law No. 9):

"In order to insure that Germany will never again threaten her neighbors or the peace of the world, and taking into consideration that I.G. Farbenindustrie knowingly and prominently engaged in building up and maintaining the German war potential."

and by the determination of the U.S. Military Governor for Germany. (General Order #2):

"WHEREAS, I.G. FARBENINDUSTRIE A.G. played a prominent part in building up and maintaining the German war machine;

"WHEREAS, the war-making power represented by the industries owned and controlled by I.G. FARBENINDUSTRIE A.G. constitutes a major threat to the peace and security of the post-war world

C. State of Mind

This is the knowledge that such military power will be used for the purpose of carrying out a national policy of aggrandizement to take from the peoples of other countries their land, their property, or their personal freedoms. It is sufficient if there exists the belief that although actual force will be resorted to if necessary, such purpose will be accomplished by using the military power merely as a threat.*

And it is not essential that the defendants know precisely which country will be the first victim or the exact time that the property rights and personal freedoms of the peoples of any particular country will be

* See Vol. I, Trial of the Major War Criminals. Under the heading "The Planning of Aggression" the Tribunal stated, at page 191, --

"The defendant Raeder testified that neither he, nor von Fritsch, nor von Blomberg, believed that Hitler actually meant war, a conviction which the defendant Raeder claims that he held up to 22 August 1939. The basis of this conviction was his hope that Hitler would obtain a 'political solution' of Germany's problems. But all that this means, when examined, is the belief that Germany's position would be so good, and Germany's armed might so overwhelming that the territory desired could be obtained without fighting for it."

under attack. It is sufficient that the defendants know that the military power will be used under the circumstances indicated for the purpose of taking away from peoples of other countries that which belongs to them.

D. Superior Orders and Coercion

Insofar as the so-called doctrine of "superior orders" may be involved in this case, it is governed by Paragraph 4(b) of Article II of Control Council Law # 10, which is substantially identical with Article 8 of the London Charter, and provides:

"The fact that any person acted pursuant to the order of his government or of a superior does not free himself from responsibility for a crime, but may be considered in mitigation."

The principle of "superior orders" has been most frequently applied and interpreted in military cases. The IMT considered these matters in the cases of Keitel and Jodl, and it was held that the fact that they were acting under orders could not under the circumstances even be considered by way of mitigation, because of the far-reaching and obviously criminal character of their acts. (Vol. I, Trial of the Major War Criminals, pps. 291 and 325).

If such military officers were in no position to claim the benefits of "superior orders" even by way of mitigation, it is obvious the defendants in this case could make no such claim.

Any suggestion that the actions of these defendants were under "coercion" or "duress" has been well answered from a legal standpoint by the International Military Tribunal. The argument that persons living under a dictatorship are not responsible for participating in the crimes of that dictatorship was disposed of by the IMT in the following language (page 226 of the opinion):

"The argument that such common planning cannot exist where there is complete dictatorship is unsound. A plan in the execution of which a number of persons participate is still a plan, even though conceived by only one of them; and those who execute the plan do not avoid responsibility by showing that they acted under the direction of the man who conceived it. Hitler could not make aggressive war by himself. He had to have the cooperation of statesmen, military leaders, diplomats, and business men. When they, with knowledge of his aims, gave him their cooperation, they made themselves parties to the plan he had initiated. They are not to be deemed innocent because Hitler made use of them, if they know what they were doing. That they were assigned to their tasks by a dictator does not absolve them from responsibility for their acts. The relation of leader and follower does not preclude responsibility here any more than it does in the comparable tyranny of organized domestic crime."

What the International Military Tribunal stated with respect to the London Charter, is equally applicable under Law No. 10 (at p. 223):

"....the very essence of the Charter is that individuals have international duties which transcend the national obligations of obedience imposed by the individual State. He who violates the laws of war cannot obtain immunity while acting in pursuance of the authority of the State if the State in authorizing action moves outside its competence under international law."

PARTICIPATION

The evidence which has been presented by the prosecution establishes that the defendants participated in Crime against Peace in a number of significant ways. It is not necessary to decide whether or not each and every one of these activities constitutes in itself participation in crimes against peace. Some of them, we believe, constitute such participation without considering the others, but certainly all of them together constitute participation under any conceivable sense of the word.

Although for purposes of convenience in presenting the subject matter, we have sub-divided the activities of these defendants in particular categories such as their help in bringing Hitler to power; their cooperation with the Wehrmacht; their participation in the economic mobilization of Germany for war including the Four Year Plan; their activities in creating and equipping the Nazi war machine; their stockpiling of strategic war materials; their activities in weakening other countries; their propaganda, intelligence and espionage activities; their financing of the Nazi party and its organizations; the cloaking of their assets abroad for war purposes; their activities in plundering all of Europe; and their activities in connection with the slave labor program of the Nazi government — all of these facts, although presented separately, are not to be considered separately.

What we have in mind is perhaps better stated by the United States Supreme Court in a case involving an indictment for conspiracy to violate the monopoly laws of the United States. Although the opinion dealt with the subject matter of conspiracy, the language cited expresses our thought. Thus, in American Tobacco Company vs. United States, 328 U.S. 781 (1946), the Court at Page 809 states:

"It is not the form of the combination or the particular means used but the result to be achieved that the statute condemns. It is not of importance whether the means used to accomplish the unlawful objective are in themselves lawful or unlawful. Acts done to give effect to the conspiracy may be in themselves wholly innocent acts. Yet, if they are part of the sum of the acts which are relied upon to effectuate the conspiracy which the statute forbids, they come within its prohibition. No formal agreement is necessary to constitute an unlawful conspiracy. Often crimes are a matter of inference deduced from the acts of the person accused

and, done in pursuance of a criminal purpose. * * * Where the circumstances are such as to warrant a jury in finding that the conspirators had a unity of purpose or a common design and understanding, or a meeting of minds in an unlawful arrangement, the conclusion that a conspiracy is established is justified."

(a) Financial Support of Hitler and Nazi Party.

At a time when the Nazi Party was in a critical state (See judgment of International Military Tribunal, Page 177, Tr. Pages 283-284; Exh. 33, NI-6522, Book 3, page 52, Tr. Pages 286, 287) and notwithstanding the direct knowledge which the defendants had of the Hitler program, they nevertheless gave their support by contributing 400,000 Reichsmarks to enable Hitler to acquire power at the coming election in March, 1933. (Exh. 36, EC-439, Book 3, p. 62; Exh. 37, D-203, Book 3, p. 64; Exh. 38, D-204, Book 3, p. 74; Exh. 53, NI-406, Book 3, Page 75, Tr. Pages 345, 346; Exh. 55, NI-9550, Book 3, Pages 111, Tr. Pages 347, 348; Exh. 56, NI-391, Book 3, Page 112, Tr. Pages 348, 349). The financial support thus given by Farben along with other industrialists contributed to Hitler's seizure and consolidation of power.

Following the accession of power, (referred to in the IMT judgment, as the period of "Seizure of Power" at Pages 176-178 and the public events during 1933 and 1934 (recited in the IMT judgment under "Consolidation of Power", Pages 178-182), it became apparent that the internal policy of the new German government was based on the use of force as an instrument of a policy of national aggrandizement. Notwithstanding the foregoing, Farben made substantial financial contributions to the Nazi Party over a period of years. To the Adolph Hitler Fund it contributed from 1933 through 1944 13,000,000 Reichsmarks (Exh. 77, NI-4056, Book 4, Page 11, Tr. Page 363). Total contributions of over 40,000,000 Reichsmarks were made to the Nazi Party and the various party organizations over the same period of time. (Exh. 80, NI-9200, Book 4, Page 26, Tr. Page 364, 365).

Only the contributions to the winter aid scheme (Winterhilfswerk) and the contribution to the Adolph Hitler Fund of German economy were based on certain rates fixed by the organizations of German economy (Exh. 80, supra).

All important contributions to the party and other political

gifts had to be ratified by the Central Committee of the Vorstand which reported to the Working Committee of the Vorstand before 1938 and after 1938 to the Vorstand (Exh. 78, NI-4863, Book 4, p. 20; Exh. 79, NI-4865, Book 4, p. 22).

(b) Cooperation with the Wehrmacht

From 1933 to 1939 Farben worked closely with the Wehrmacht building up Germany's military might. The evidence under this subdivision shows the creation of a military liaison office in Farben to expedite dealings with the Wehrmacht, the preparation of mobilization plans, and other related activities.

This office played an important role in all of Farben's preparations for mobilization, such as air raid precautions, mob plans for production, war delivery contracts, military map exercises (war games), secret military patents, stock piling, etc.

The cooperation between Farben and the Wehrmacht became so close in the latter part of 1935 that Farben found it necessary to establish in Berlin a military liaison agency. On 5 September 1935 the defendant Krauch informed all Works Combs and other important Farben agencies that the Central Committee had decided to create a "War Economy Central Office of the L.G. for all matters of military economy and questions of military policy," the Vermittlungsstelle W in Berlin. (Exh. 101, NI-4702, Bk 5, p. 80; Exh. 99, NI-2747, Bk 5, p. 77).

The purpose of the Vermittlungsstelle W was described in its first work report of 31 December 1935, as follows: (Exh. 140, NI-2638, Bk 6, p. 28):

"The aim of this work is the building up of a tight organization for the armament in the L.G. which could be inserted without difficulty in the existing organization of the L.G. and the individual plants.

"In case of war, L.G. will be treated by the authorities concerned with armament questions as one big plant which in its task for the armament, as far as it is possible to do so from the technical point of view, will regulate itself without any organizational influence from outside. (The work in this direction was in principle agreed upon with the Ministry of War (Reichskriegsministerium Wehrwirtschaftsamt) and from this office with the Ministry of Economy).

"In close collaboration with the Minister of War, it was provided that the work of the L.G. should conform with the general development and in accordance with the rules

given by the authorities with respect to its requirements."

Within the Vermittlungsstelle W three different independent offices operated, namely one for each of the three "Sparten" (Main Departments). Each of these three offices was responsible to the respective Sparte Head, that is for Sparte I the defendant Krauch, and after 1938 the defendant Schneider, for Sparte II the defendant Ter Meer, and for Sparte III the defendant Gajowski. (Exh. 142, NI-8923, Ek. 6, p.33).

The defense seek to minimize the importance of the Vermittlungsstelle W. The statement of the defendant von Schnitzler is a sufficient answer. He stressed that the fact "that one of I. G.'s first technical men, Professor Dr. Carl Krauch, was made head of this section" could not be explained if this section "were so unimportant as my technical colleagues say." He went on:

"In my own field or domain I would never have put one of my first men on an unimportant job. Not only was Krauch placed to head Vermittlungsstelle W when it was created, but when Krauch was transferred to other jobs he was succeeded as head of Vermittlungsstelle W by Gustav von Bironning, who was considered a first-rate technician and one of I. G. Farben's future factory leaders." (Exh. 18, NI-5197, Ek. 2, P. 67)

In 1936 the defendant Krauch established a special Security Section within the Vermittlungsstelle W and issued detailed directives for counter-intelligence. (Exh. 145, NI-4979, Ek. 6, P. 51a). All important I. G. Farben officials signed declarations to the Vermittlungsstelle W to the effect that they were acquainted with the details of military economic organizations and that they would keep secrecy. (Exh. 146, NI-4678, Ek. 6, P. 52; Exh. 149, NI-703, Ek. 6, P. 62, Pledge of Secrecy of Schmitz; Exh. 153, NI-6192, Ek. 6, P. 77, Pledge of Secrecy of Krauch). As early as February 1936, I. G. Farben provided for special screening of foreign workers, special security measures to be taken for visits of foreigners and increased secrecy for economic questionnaires and statistical publications. (Exh. 150, NI-1164, Ek. 6, P. 64). These security measures were increased and intensified during the years 1937, 1938 and 1939 and had reached such an extent before the war had broken out that the actual outbreak of the war did not necessitate any new measures in the field of security. (Exh. 151, NI-4985, Ek. 6, P. 68; Exh. 156, NI-1137, Ek. 6, P. 90; see Exhibits 156 through

163 in Book 6).

There was intensive cooperation between Farben and the Wehrmacht in the field of inventions and research. The defendants von Knieriem, Krauch, Ter Meer and Gajewski along with others were sent secret reports on these matters, which included a discussion of Farben's cooperation in state-owned shadow factories. (Exh. 165, NI-5694, Bk. 6, P. 125). Starting in April 1933, I. G. Farben organized air raid protection of all its plants and the defendant Jaehne took a leading part in these preparations. (See Exhibits 170 through 181 in Book 7).

In March 1936, the defendants started to conduct "map exercises" or "war games" at the most important Farben plants in order to test how these plants could be protected against bombing in case of war and these map exercises were held in the presence of the then Colonel Thomas, Chief of the Military Economic Staff, and other high officers. (Exh. 102, NI-6321, Book 5, p. 82; Exh. 29, NI-8637, Book 3, p. 18; Exh. 103, NI-4619, Book 5, p. 86; see Exhibits 183 through 190 in Book 7).

Starting in February 1936, the question of mobilization for war and the production in case of war was discussed continuously within the organization of Farben by the defendants and other Farben officials. (Exh. 191, NI-5850, Book 8, p. 10; Exh. 192, NI-7475, Book 8, p. 11). In March 1937, a conference was held by Farben specialists for mobilization questions in which it was stated that mobilization plans for Farben had to be completed by 1 July 1937 (Exh. 193, NI-8609, Book 8, p. 12; Exh. 195, NI-8608, Book 8, p. 17; Exh. 196, NI-8607, Book 8, p. 19). The basic preparation for the mobilization plans in July 1937, was developed and completed in September 1937 (Exh. 197, NI-4632, Book 8, p. 21). Not only the "technical" members of the Vorstand such as Ter Meer, Kuehne, Jaehne, Herlein, and others participated actively in these mobilization plans, but also the "commercial" members of the Vorstand, such as von Schnitzler, Ilgner, and Gattinneau, took an active role (Exh. 198 through 200, Book 8). In 1937 and 1938 all of I. G. Farben's plants were given their production tasks after thorough discussion of the possibilities of production in case of war with representatives of the Reich War Ministry, Reich Ministry of

Economics and Reichsstelle Chemistry (Exh. 201 through 208 in Book 8). In 1938 the first war delivery contracts were concluded between the various Farben factories and the local military economy offices (See Exh. 210 through 212 in Book 8). The preparations for the mobilization were continued in an ever increasing degree during the year 1938, during which time all of Farben's plants were prepared thoroughly for the production in case of war. (See Exhs. 213 thru 229 in Bk. 8; Exhs. 237 thru 244 in Bks. 8 and 9).

The last few days before the outbreak of the war show that Farben was thoroughly prepared for the case of war and that the invasion of Poland did not come to the defendants as a surprise. On 26 August 1939, Farben's Leverkusen plant received a secret letter from the Military Economics Department Duesseldorf that all personnel in military important plants had to remain on the job and detailed instructions were given for the measures to be taken "for the duration of military measures". (Exh. 260, NI-4635, Bk. 9, p. 101). On 28 August 1939 the Vermittlungsstelle W sent out a teletype to the Farben plants informing them that the Vermittlungsstelle W could be reached by telephone and teletype on a 24 hour basis and pointed out that teletype was to be used in preference to anything else "because of security and speed of transmissions of news." (Exh. 262, NI-8778, Bk. 9, p. 105). On 30 August 1939 the Military Economics Department Kassel issued to Farben Hoechst plant the necessary shipment papers for the first 14 days of the mobilization. (Exh. 263, NI-7382, Bk. 9, p. 106).

When the war with Great Britain and France broke out on 3 September 1939, I. G. Farben needed only a simple telegram from Vermittlungsstelle W to the REA Büro stating that Vermittlungsstelle W had been instructed for "all I. G. plants to switch at once to the production outlined in the mobilization program", and on 6 September 1939, Vermittlungsstelle W informed the Farben plants that the war delivery contracts became effective immediately. (Exh. 266, NI-8882, Bk. 9, p. 116).

C. Four Year Plan and Economic Mobilization of Germany for War.

The first measures taken by Goering in May 1936, after he had been appointed coordinator for raw materials and foreign exchange by Hitler, were clearly aimed to assure the raw material requirements of the Wehrmacht, and decisive for all discussions was the so-called Case A (A-Fall), that is the case of war. This is shown by the meeting of the Experts Committee on Raw Materials Questions on 26 May 1936 in which the defendant Schmitz participated together with the key men of German preparation for war, Goering, Keitel, Koerner, Keppler, etc. (Exh. 400, NI-5380, Bk. 19, p. 1). The defendant Krauch, who had already submitted to the Reich Air Ministry, which was headed by Goering, a four year plan as early as September 1933, was put at Goering's disposal by the then chairman of Farben's Vorstand, Dr. Bosch. (Exh. 402, NI-10386, Bk. 19, p. 73; Exh. 138, NI-4718, Bk. 6, p. 16; Exh. 437, NI-6768, Bk. 20, p. 63). The defendant Krauch was given the key position in Goering's new staff for rawmaterials and foreign exchange, the department Research and Development. (Exh. 426, NI-4703, Bk. 20, p. 20). Shortly after the defendant Krauch had assumed his functions in Goering's staff, he called for a report from Farben on its contracts with the Reich, including Farben's Leuna contract during World War I. (Exh. 679, NI-7833, Bk. 32, p. 1). The defendant Krauch took with him the two most important men of Farben's Vermittlungsstelle W, namely, Dr. Ritter and Dr. Eckall. (Exh. 407, NI-5911, Bk. 19, p. 87).

In July 1936, two months after Krauch had taken a key position in the government, Hitler in a memorandum to Goering outlined the basis of the Four Year Plan which was to prepare Germany for war. This memorandum stated in part (Exh. 411, NI-4955, Book 19, p. 93):

"It is not the aim of this memorandum to prophesy the moment at which the untenable situation in Europe will reach the stage of open war. The extent and the pace of the military exploitation our strength cannot be too much or too rapid.

If we do not succeed in developing the German army within the shortest period to be the first army in the world with respect to training, setting up of units, equipment and above all also in its spiritual education, Germany will be lost.

The definitive solution (of Germany's economic situation) lies in an extension of our living space, i.e. an extension of the raw materials and food basis of our nation. It is the task of the political leadership to solve this question at some future time.

Much more important, however, is to prepare for the war during the peace.

It is not enough to establish from time to time the raw material or foreign currency balance, or to speak of a preparation for war economy during peace time, but it is necessary to provide all those needs for peace time food supply and above all for warfare.

The German motor fuel production must now be developed with the utmost speed and brought to the definitive completion within 18 months. This task must be handled and executed with the same determination as the waging of war.

The mass production of synthetic rubber must be also organized and secured with the same rapidity. The affirmation that the procedure might not be quite determined and similar excuses must not be heard from now on. The question under discussion is not whether we will wait any longer otherwise the time will be lost and the hour of danger will take all of us unawares.

I herewith set the following task:

- 1) The German army must be ready for combat within four years.
- 2) The German economy must be mobilized for war within four years."

Four days before the formal announcement of the Four Year Plan by Hitler, Goering stated in the meeting of the Cabinet on 4 September 1936, with Blomberg, Koerner, Keppler and others present:

"If war should break out tomorrow we would be forced to take measures from which we might possibly shy away at the present moment. They are therefore to be taken. ****All measures have to be taken just as if we were actually in the stage of imminent danger of war." (Exh. 412, EO-416, Bk 19, p 114).

On 17 December 1936, Goering made a speech before the most important German industrialists at which the defendants Krauch and Schnitzler and the deceased Dr. Bosch were present. He outlined the purpose of the Four Year Plan (note the similarity to Hitler's memorandum), and stated:

"Our whole nation is at stake; we live in a time when the final battle is in sight; we already are on the threshold of mobilization and we are already at war. All that is lacking is actual shooting." (Exh. 421, NI-051, Bk 20, p 9).

Hitler also spoke. The defendant Schnitzler gave a "highly confidential report" to the enlarged Farben Committee on Goering's and Hitler's speech of 17 December 1936. (Exh. 422, NI-5955, Bk 20, p 14; Exh. 423, NI-4192, Bk 20, p 15).

Schacht, who had been very active in the early rearmament phase between 1933 and 1935, lost his influence in fighting actively against excessive armament policy which resulted from the Four Year Plan (Official text of the Trial of the Major War Criminals before the IMT Vol. I, pp. 307-308).

The attitude of Schacht, who was an ardent supporter of Hitler between 1933 and 1935, shows that men of financial and economic experience saw clearly the dangers involved in the Four Year Plan and the excessive "proposed expansion of production facilities, particularly for synthetics". Another group of important early supporters of Hitler's regime, namely Thyssen and other steel industrialists, refused to cooperate in the expansion of production facilities for the Four Year Plan, on the basis that it was uneconomical. (Exh. 682, NI-9656, Bk 32, p 45).

Early in June 1938, Krauch went to Koerner and Goering and pointed out that the planning of his superior, Colonel Loeb, was based on wrong figures and that it was dangerous to plan for a war on the basis of such figures. (Exh. 437, NI-6768, Bk 20, p 63; Exh. 402, NI-10386, Bk 19, p 73)* Goering then asked Krauch to suggest what powers would be necessary for him in order to take over the chemical sector as Plenipotentiary General (Exh. 301, supra).

Thereupon Krauch requested the defendant Ambros for his recommendations for the execution of a new program for the production of chemical warfare agents and explosives in Germany. The defendant Ambros recommended that "one fully responsible competent office for matters related to the new projects of the army" should be created; and suggested special powers

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- * In one of his pre-trial interrogations, (Exh. 437, supra), Krauch said that he told Koerner among other things the following:

"I know that these figures are wrong. I was talking a week before with Major Loeb about these figures and I told that there is great danger in giving at this time wrong figures to the Government. It may be possible if one deciding man knows about these wrong figures and he is thinking about war, he would decide against it. If he knows we are not independent in the war he would decide against war. There is a great danger in the wrong figures question. Then Koerner told this to Goering."

for this new agency. Ambros stressed that the "rearmament in the field of chemical warfare agents is inadequate and has to all intents and purposes remained on the 1918 level. Only during the last few months have attempts been made to apply technical devices to the old chemical warfare agents and under the driving force of industry, especially of I.G., to develop new types." (Exh. 438, NI-5687, Bk 20, p 82).

On 30 June 1938, the defendant Krauch submitted to Goering a "new accelerated plan for explosives, gun powder, intermediates and chemical warfare agents," incorporating substantially the recommendations of Ambros. (Exh. 439, NI-8839, Bk 20, p 86).

On 12 July 1938, the defendant Krauch drew up the "military economic new production plan", also called the Karinhall or Krauch Plan, which in addition to gunpowder, explosives, chemical warfare agents and intermediates, included mineral oil, rubber (Buna) and light metals. The amounts to be produced even for mineral oil, rubber and light metals were determined by the "mobilization target". With regard to oil it was stated: "The products produced.....beyond the normal requirements are to be stored for the mobilization requirements." With regard to gunpowder, explosives and chemical warfare agents: "The new plan of 30 June 1938 provides the utmost acceleration of all building projects of these sectors." (Exh. 442, NI-8800, Bk 20, p 113.)*

Krauch's Karinhall Plan persuaded Goering of the necessity for the appointment of a Plenipotentiary General for mineral oils, gunpowder and explosives. (Exh. 445, PS-11436, Bk 21, p 3). The military considered this field of activity so important that Field Marshal Keitel, Chief of the OKW, suggested that General Becker, the Chief of Army Ordnance, be appointed to this position (Exh. 447, EC-279, Bk 21, p 10). After a series of conferences between Goering's office and the military, a new so-called "Rush Plan" for the production of gunpowder, explosives and chemical warfare agents including intermediates was drawn up by Krauch on August 13, 1938. This plan was agreed upon by the High Command of Army Ordnance

* For comment by the military the Karinhall Plan, see Exh. 443, PS-2353, Bk 20, p 117.

(General Becker) and the Office of Military Economy (General Thomas) as a result of which the military agreed to the appointment of Krauch as Plenipotentiary General. (Exh. 452, NI-8791, Bk 21, p 34; Exh. 449, NI-8797, Bk 21, p 19)

On 22 August 1938 Krauch was appointed Plenipotentiary General of the Four Year Plan for special tasks of chemical production, and the "Rush Plan" was "entirely entrusted to Dr. Krauch" (Exh. 453, NI-8917, Bk 21, p 41; Exh. 463, NI-820, Bk 21, p 172).

From the time that Krauch took a key position in the government in June, 1936, Farben played a leading role in all of the activities with which Krauch was concerned. Ambros, Buerger, Gaweski, Schneider, Furster, Buetefisch, and other Vorstand members were his official advisors. (See Exh. 512, NI-6713, Bk 25, p. 7; see also Exhibits in Book 11). Farben and its subsidiaries gave their full support to the Four Year Plan Projects. (Exh. 682, NI-9656, Bk 32, p 45; Exh. 700, NI-9945, Bk 37, pl). Farben became the mainstay of the industrial program for the Four Year Plan. During the time from October 1936 to May 1937, 66.5% of all amounts to be spent under the Four Year Plan for the entire German industry were to be used on Farben projects and in the overall planning of the Four Year Plan in the chemical field (exclusive of mineral oil) 85.7% were to be invested in Farben projects. (Exh. 429, NI-10036, Bk 20, p 21; Exh. 428, NI-10035, Bk 20, p 25). Farben's investments show considerable increase after the announcement of the Four Year Plan. They rose from 42.7 million RM to 96.3 million RM between 1936 and 1937 for Farben and its 100% subsidiaries and from 10.8 to 35.7 million RM for its other most important subsidiaries. (Exh. 684, NI-10001, Bk 32, p 47; Exh. 685, NI-10013, Bk 32, p 48). Immediately after the defendant Krauch was given his new responsibility over the "new military economic production plan", Farben was told to take immediate measures to step up production of chemical warfare agents and diglycol. (Exh. 444, NI-7424, Bk 21, p 1). All of the measures taken by Krauch in connection with the Rush Plan were completed by Farben and its subsidiaries, the DAG, Wasag, and Deutsche Sprengchemie. (Exh. 452, NI-8791, Bk 21, p. 34).

On 14 October 1938, after the consummation of the first aggression against Czechoslovakia, Goering addressed his collaborators in a meeting in the Reich Air Ministry at which Krauch was present, on the future aims of the Third Reich. General Thomas' report on this conference states:

(Exh. A61, PS-1301, Bk. 18, p. 30)

"General Field Marshal Goering opened the session by declaring that he intended to give directives about the work for the next months. Everybody knows from the press what the world situation looks like and therefore the Fuehrer has issued an order to him to carry out a gigantic program compared to which previous achievements are insignificant. There are difficulties in the way which he will overcome with utmost energy and ruthlessness.

"He received the order from the Fuehrer to increase the armament to an abnormal extent, the air force having first priority. Within the shortest time the air force is to be increased five fold, also the navy should get armed more rapidly and the army should procure large amounts of offensive weapons at a faster rate, particularly heavy artillery pieces and heavy tanks. Along with this manufactured armaments must go: especially fuel, rubber, powder and explosives are moved into the foreground. It should be coupled with the accelerated construction of highways, canals, and particularly of the railroads.

"The Sudetanland has to be exploited with all the means. General Field Marshal Goering counts upon willing collaboration by the Slovaks. Czechs and Slovaks would form German dominions. They have to be exploited to the utmost. The Oder Danube Canal has to be speeded up. Searches for oil and ore have to be conducted in Slovakia, notably by State Secretary Keppler."

The defendant Krauch who had been informed by Goering on the basic policy of the Third Reich, recognized the true manner of Hitler's second aggression against Czechoslovakia, the occupation of Prague on 15 March 1939. In his work report to the General Council of the Four Year Plan of 28 April 1939, the defendant Krauch shows in his conclusion that he had grasped the real significance of Hitler's and Goering's foreign policy. He stated in this report:

"Then on 30 June 1939 the objectives of the increased production in the spheres of work discussed here were given by the Field Marshal, it seemed as if the political leadership could determine independently the timing and extent of the political revolution in Europe and could avoid a rupture with a group of powers under the leadership of Great Britain. Since March of this year there is no longer any doubt that this hypothesis does not exist anymore. It is essential for Germany to strengthen its own war potential as well as that of its allies to such an extent that the coalition is equal to the efforts of practically the rest of the world. This can be achieved only by new, strong and combined efforts by all of the allies, and by expanding and improving the greater economic domain corresponding to the improved raw material basis of the coalition, peaceably at first, to the Balkans and Spain.

If action does not follow upon these thoughts with the greatest possible speed, all sacrifices of blood in the next war will not spare us the bitter end which already once before we have brought upon ourselves owing to lack of foresight and fixed purposes." (Exh. 455, EC-282, Bk. 21, p. 56). (Underscoring in original)

Shortly before the outbreak of the war at the end of August 1939, the defendant Krauch submitted an implementation survey for the case of war in the fields of mineral oil, buna, chemistry, light metals and also of the Rush Plan (powder, explosives and chemical warfare agents). (Exh. 459, NI-8796, Bk. 21, p. 132).

With the start of the war the defendant Krauch together with General Thomas, the Head of the Wi Ru Amt, and General Pecker, the Head of the Army Ordnance Office, proposed a plan for the increase of production for the "Krauch Plan", a draft of which was sent to Hitler (Exh. 460, PS-1457, Bk. 21, p. 138; Exh. 461, NI-7570, Bk. 21, p. 158). Krauch participated in practically all of the meetings of the General Council of the Four Year Plan which board took over the Supreme Command in question of military economy when the Office of the GEW (Plenipotentiary General for Economy) was dissolved in December 1939. (Exh. 466, NI-7474, Bk. 21, p. 182; Exh. 403, NI-9767, Bk. 19, p. 76). When Goering no longer exercised his function as Head of the Four Year Plan and when the Central Planning Board became the supreme authority of the German war effort, Krauch also participated in the meetings of the Central Planning Board (Exh. 481, NI-2972, Bk. 22, p. 47). Krauch, maintained his position as a key figure during the war. (Exh. 482, NI-5821, Bk. 22, p. 50)

D. Creating and Equipping the Nazi Military Machine.

It takes a tremendous amount of people and organization to equip a war machine to carry on modern total war. Based on our experiences we know what the term "battle of production" and "arsenal of democracy" connotes in terms of preparation for modern warfare.

Farben's production program during the period involved can only be compared, in the words of the witness Elias, with the activity during the "period in the U.S. directly after Pearl Harbor". (Transcript, p. 1395). It will be seen that by virtue of the nature of the products manufactured and the fact that the contracts and negotiations were mainly with the military the defendants knew their production was to build up the Nazi war machine. In addition, the quantities of production and the circumstances surrounding such production, especially the timing of the consecutive accelerations in production planning and the fact that the military might Germany was building up far exceeded that of her neighbors, were such that the defendants must also have known that the war machine was intended to carry out the notorious national policy of aggrandizement.

GENERAL IMPORTANCE OF FARBEN'S PRODUCTION

The significance to Germany of the basic chemical processes developed by Farben in the manufacture of synthetic products from coal, water and air, was described by the witness Elias in the following term: (Transcript pp. 1347-1348)

"German chemical industry was one built on coal, air and water. Supplies of petroleum in Germany are very meager. The maximum production of petroleum in all of Germany from its own oil wells has always represented only a small fraction of its total requirements. Coal, however, is plentifully available and brown coal, which is a sort of lignite, is available in huge quantities and easily accessible to large scale mining. With coal as a basic material and with the aid of air and water, indefinite numbers of organic compounds composed of carbon, nitrogen, hydrogen and oxygen can be made. 84% of Germany's aviation fuel, 85% of her motor gasoline, all but a fraction of 1% of her rubber, 100% of the concentrated nitric acid, basic component of all explosives, and 99% of her equally important methanol were synthesized from these three fundamental raw materials -- coal, air, and water."

The importance of Farben as the backbone of Germany's industry and the dependence of practically all other industries on Farben's production is fully established by the evidence. (Exh. 701, NI-9944, Bk 37, p. 3; Exh. 705, NI-9476, Bk 37, p. 17; Exh. 707, NI-7236, Bk. 37, p. 26).

The Military importance of Farben's synthetic products to the German war machine was described by the expert witness Elias as follows: (Transcript

"The military significance of oil is best explained by the fact that in the closing months of the war, after the British and American Air Forces had concentrated on German synthetic oil targets, Germany's large reserve in military aircraft stayed on the ground with empty tanks; armored vehicles were moved to the front by oxen and every motor trip exceeding 60 miles had to be approved by the commanding general. Without nitrogen, not a single ton of military explosives or propellant powder could have been made. Certain military explosives were entirely dependent on synthetic methanol as well as ammonia. Without rubber, of course, the war machine could not have rolled."

Germany could not have waged war without Farben's help. The defendant

Bustefisch, summed up the matter as follows:

"In 1935 or 1936, it was obvious that the aim of the National Socialistic economic and military policy was to establish as complete as possible a state of self-sufficiency in Germany. Since the German march into Czechoslovakia, that is since March 1939, it was clear to me that the military economy could be aiming at development into an aggressive war. Without I.G. Farben, especially without the I.G. production in the fields of synthetic rubber, gasoline and magnesium, it would have been out of the question for Germany to carry on the war." (Exh. 261, NI-6235, Bk. 9, p. 104)*

Official reports of the Reich Office for Economic Development and Military Agencies prepared during the war show that the destruction of Farben plants would have paralyzed the German war effort:

"The breakdown of Buna at Huels and Schkopau means practically the end of motorization of the Wehrmacht and economy." (Exh. 131, NI-8594, Bk. 5, p. 178; Exh. 708, NI-8595, Bk. 37, P. 104; Exh. 709, NI-8831, Bk. 37, p. 113).

(1) Explosives

During World War I, the predecessor firms of I.G. Farben who were tied together in this "Community of Interests", produced 73% of all the high explosives used by Germany during the four years of the First World War. (Testimony of General Morgan, Transcript pages 730-751). This was due in large measure to the fact that Farben's predecessor (Badische) had in 1913

* See also speech by the defendant von Schnitzler in February 1943, where he stated:

"It is no exaggeration to say that without the accomplishment effected by German chemistry under the Four Year Plan modern warfare could not at all be possible." (Exh. 12, NI-6763, Bk. 1, p. 85); See also Testimony of von Hanneken "without Farben practically the waging of a war would not have been possible." (Transcript p. 1020).

Even the commercial part of the Farben organization was considered by Farben "vital for the out-come of the war". (Exh. 572, NI-6123, Bk. 29, p. 74).

developed the Haber-Bosch process for the production of synthetic ammonia from which nitrates, the indispensable ingredient in the manufacture of explosives, was produced. This process developed by I.G.Farben at the time of the First World War, enabled Germany to produce explosives free from the dependence of imports of Chilean nitrates. (Exh. 592, NI-7743, Bk 33, p. 3, Tr. p. 1085; Exh. 325, NI-8313, Bk 12, P. 10, Tr. p. 651; Exh. 1051, NI-11252, Bk 51, P. 176, Tr. p. 2472).

In 1915 the supply of nitrates was so low in Germany that if Farben had not come forward with the heavy production of nitrates, the war would have been over in 1915. (Tr. p. 731, testimony of Gen. Morgan, and exhibits cited supra). In addition to the predominant position which I. G. Farben played in the production of high explosives the Allied Control Commission after the first World War also found, as General Morgan testified, that companies which were producing gunpowder (as distinguished from high explosives) were totally dependent upon I.G.Farben's nitrates for their manufacture (Tr. p. 733).

We have already indicated the indispensability of nitrates for the production of explosives and the fact that I.G.Farben's Haber-Bosch process enabled it to produce synthetic ammonia, from which nitrates were made. In the process of making explosives, the use of nitric acid is vital since the process of "nitration", that is treating various raw materials with nitric acid, will convert a peacetime commodity to an explosive. (Tr. p. 1370-1372). With the importance of nitric acid and sulphuric acid in the production of explosives. (Exh. 602, EC-144, Bk 34, Tr. p. 1117), we find in 1937 Farben undertaking the operation of a new sulphuric acid plant which was constructed solely for the purposes of the Wehrmacht to be used only for the case of war (Exh. 601, NI-4498, Bk 34, p. 18, Tr. p. 1118), and the production capacity for nitric acid was noted in the Farben files as of February 1939, to have increased ten times since 1933. (Exh. 602, EC-144, Bk 34, p. 20, Tr. p. 1118). Schacht tells of Farben's stockpiling of pyrites, the basic raw material for sulphuric acid (Exh. 716, EC-128, Bk 38, p. 103, Tr. p. 1296).

So substantial was I.G. Farben's production of nitrates via its synthetic ammonia process that it more than doubled the Chilean production in 1938 - 1939. (Exh. 592, NI-9049, Bk 33, p. 6, Tr. p. 1087). Farben and its subsidiaries manufactured 84% of Germany's high explosives and 70% of Germany's gunpowder from its nitrogen and intermediate products.

(Exh. 325, NL-8313, Book 33, Tr. p. 1087). The main producer in Germany of gunpowder and explosives was the Farben controlled Dynamit A.G.*

Diglycol. This was a new development of an intermediate product for making gunpowder. (Tr. p. 1372). It was developed as a substitute for nitro-glycerine and Farben manufactured all of the diglycol in Germany (Tr. pps. 1372, 1373). As early as August 1935, Farben discussed with officials

* The evidence discloses that Farben owned over 50% of the voting stock in Dynamit A.G. Dynamit A.G. had to apply to Farben for budget appropriations and an interlocking directorate existed whereby Farben Vorstand members sat on the Aufsichtsrat of DAG and Dynamit A.G.'s president sat on TEA and commercial committees of Farben. Thus Dr. Struss's affidavit states: (Exh. 325, NL-8313, Book 33, Tr. p. 1087-1088):

"It was Farben's unique position in the nitrate field which prompted the biggest German producer of gunpowder and ammunition, the Dynamit A.G., to come to a community of interests agreement with Farben in 1926. I.G. Farben soon succeeded in dominating the Dynamit A.G. In the first place, the Dynamit A.G. held over 50 per cent of the voting rights in DAG. Furthermore I.G. was represented in the Aufsichtsrat of DAG by Bosch, Duisberg, Gajewski, and Schmitz. Finally Director General Paul Mueller of DAG, was a member of the I.G. TEA. All credit applications of DAG were discussed in the I.G. TEA, which with this exception was entirely composed of I.G. Farben men."

See also: Exh. 17, NL-5827, Book 12, p. 55, Tr. p. 255; Exh. 326, NL-6977, Book 12, p. 80, Tr. p. 654; Exh. 16, NL-6234, Book 12, p. 53, Tr. p. 255; Exh. 327, NL-6345, Book 12, p. 86, Tr. p. 662.)

Some of the defendants seeking to disassociate Farben from DAG reluctantly admit there was "a gentlemen's agreement" between Schmitz and Bosch on behalf of I.G. Farben and Mueller of DAG, whereby the latter was to conduct affairs of DAG without interference. (ter Meer Affidavit, Exh. 334, NL-5187, Book 12, p. 138, Tr. p. 687; Von Knieriem Affidavit, Exh. 326, NL-6977, Book 12, p. 81, Tr. p. 659).

Other important explosive firms which were controlled by Farben were the Wasag and Wasag Chemie, where I.G. owned more than 50% of the stock. (Exh. 666, NL-9466, Book 31, p. 5, Tr. p. 1227). The Deutsche Sprengchemie A.G. whose activities beginning with 1937 were "limited exclusively to the purposes of the Reich War Ministry" (Exh. 600, NL-7772, Book 34, p. 15, Tr. p. 1116) was also in turn owned by Wasag and Wasag Chemie. (Exh. 666, NL-9446, supra). These two firms operated fourteen plants for the production of explosives (Exh. 48, NL-10030, Book 2, p. 5, Tr. p. 340). The Verwertschemie which operated thirty-two explosive plants, was a 100 percent subsidiary of Dynamit A.G. (Exh. 48, NL-10030, supra; Exh. 666, NL-9446). Farben (particularly Schmitz and Gajewski) received the audited reports relating to the activities of Dynamit A.G. and Verwertschemie (Exh. 1816, NL-12740, Tr. p. 4450).

See the minutes of conference of January 1939 between I.G. and DAG - indicating knowledge by I.G. (particularly ter Meer and Ambros), that not only DAG but its subsidiaries, Wasag, Verwertschemie and Deutsche Sprengchemie, were operating the explosives factories owned by Montan. (Exh. 363, NL-5685, Book 31, p. 40, Tr. p. 1241).

of Army Ordnance the construction of a diglycol plant at Wolfen (Exh. 108, NI-5762, Book 33, Tr. p. 1090). In September of 1936, production capacities of Ludwigshafen and Wolfen were discussed with Army Ordnance (Exh. 114, NI-4460, Tr. pps. 1093, 1094), and production was to start at Bitterfeld and the Wolfen plant on full-scale operation on March 1, 1937. (Exh. 115, NI-4488, Bk. 5, p. 127, Tr. p. 1094; Exh. 116, NI-4487, Bk. 5, p. 128, Tr. p. 1095). The diglycol plant at Wolfen was, as I. G. Farben stated, "originally planned merely as a stand-by plant in case of war." (Exh. 120, NI-4486, Bk. 5, p. 135, Tr. pps. 1097-1098). Farben was bound to strictest secrecy with respect to this plant. The entire production of diglycol from the Wolfen plant was to go to the explosives factories of Dynamit A.G. and Waseg (this is the middle of 1937). (Exh. 121, NI-5763, Bk. 5, p. 138, Tr. pps. 1098-1099).

In June 1938, the planning for chemical rearmament referred specifically to diglycol production of the I. G. Farben plants. (Exh. 438, NI-5687, Bk. 33, p. 75, Tr. p. 1103). Finally this preparation is shown as of May 1939, to have reached the stage whereby the production capacity for diglycol at the I. G. Farben plants in Ludwigshafen, Wolfen, Schkopau, Huels, and Trostberg,* was sufficient to produce 50,000 tons of gunpowder per month. (Testimony of Mr. Elias, Tr. p. 1374, Exh. 609, NI-8790, Bk. 34, pps. 44-46).

Diglycol, in addition to being an important raw material for explosives was also used in connection with the production of poison gas and the particular urgency for increased production of diglycol in 1938 is indicated by Exh. 217, NI-7428, Bk. 33, p. 84, Tr. p. 1109, 1110, where the defendant Kreuch, wrote on 26 August 1938 to I. G. states: "In accordance with the decision of Field Marshall Goering of 22 August 1938, I give you the additional information that the building projects for diglycol** expansion, ethylene plant Sodingen, D-L experiment (direct mustard gas) have been classified as pressing building projects."

*Trostberg was a standby plant and production of diglycol in 1937 was for the event of war. (Exh. 528, NI-7430, Bk. 33, p. 90, Tr. p. 1111).

** In the "New Order" which Farben prepared for the domination of Europe (Exh. 1051, NI-11252, Bk. 51, at p. 155, at p. 190, Tr. p. 2481), Farben's recommendation was "France should be limited to the production of diglycol. The construction and expansion of plants should be subject to license because the production is important for armaments."

Stabilizers

These products are used to stabilize gunpowder and to prevent premature explosion (Tr. p 1379). In August 1935, Farben discussed with Army Ordnance the production of stabilizers and planned the construction of standby plants to produce such stabilizers. (Exh. 108, NI-5762, Bk 34, p 28, Tr. p 1090, compare Tr. p 1379, Exh. 115, NI-4488, Bk 34, p 42, Tr. p 1095). In conference with Army Ordnance, preparation for stockpiling stabilizers was made. (Exh. 118, NI-4492, Bk 33, p 45, Tr. p 1096, compare Tr. p 1381). In 1935 there was planning for the production of 472 tons of stabilizers per month, enough to sustain a production of 11,875 tons of gunpowder per month--and this, at a time when the applicable treaties limited the production of all explosives to 2,000 tons per month. (Tr. p 1380, compare Exh. 108, NI-5762 supra). Farben produced all of the stabilizers* in Germany (Exh. 612, NI-10008, Bk 34, p 115, Tr. p 1136; Exh. 615, NI-10010, Bk 34, p 125, Tr. p 1138) and from 1932 to 1939, its production increased 2600% (Tr. p 1379) .

Methanol

The U.S. Strategic Bombing Survey (Exh. 715, NI-3767, Bk 37, p 152, Tr. p 1291) lists in the order of wartime importance as the Germans considered them the ten most important chemicals, indicating that the most important one was nitrogen and the second was methanol.

The production of powder and explosives was dependant upon these chemicals. (Exh. 616, NI-10580, Bk 34, p 129, Tr. p 1375). Two of the most modern and effective explosives, hexogen and nitropenta, were made from methanol. (Exh. 616, supra, compare testimony of Mr. Elias, Tr. p 1375-1376; see also Chart of the German Office of Economic Planning, Exh. 591, NI-6239, Bk 35.)

Farben produced all of the methanol in Germany, (Exh. 615, supra) and from 1932 to 1939 the increase was 600% and by 1943 it was 2000% (Tr. p 1377). In February 1939, the Army Ordnance Office prepared a report on the

* In the "New Order " which Farben prepared for the domination of Europe (Exh. 105, NI-11252, Bk 51, p 187), Farben's recommendation as to stabilizers was that production of this product in France be stopped as it was "essential for the production of military requirements." (Tr. p 2481)

status of explosive plants in Germany and in that report the capacity and production schedule of Farben's Ludwigshafen plant and its subsidiary Wasag are set forth (Exh 609, NI-8790, Bk 34, p 39, Tr. p 1129) and the report further showed the planning of additional facilities for the production of hexogene on the basis of a systematic research by I.G. Farben. (Tr. p 1377).

As early as 1935, Farben "on its own initiative conducted experiments which led to the discovery of hexogen", then registered it as a secret patent, and constructed an experimental factory to gain manufacturing experience. (Exh. 110, NI-6144, Bk 33, p 34, Tr. p 1091, compare testimony of Mr. Elias, (Tr. p 1379). This was in close collaboration with Dynamit A. G. and Army Ordnance (Exh. 111, NI-6498, Bk 33, p 38, Tr. p 1093).

Toluol, (or toluene) the important substance for TNT, was in short supply and Farben produced methanol synthetically and from that produced synthetic toluol (Tr. p 1375). The production of synthetic toluol via methanol was an expensive process (Tr. p 1376) and the discovery of hexogen alleviated the shortage of toluol (Tr. p 1376, see also Exh. 616, NI-10580, Bk 34, p 130).—Hexogen has no substantial peacetime use (Tr. p 1379).

(2) Synthetic Gasoline

It was because of synthetic gasoline that Hitler and Farben first got together. This was in 1932 prior to Hitler's seizure of power. At that time the defendants Bueteffisch and Gattineau went to see Hitler and received from him assurances that Farben's synthetic oil program (which Farben had been considering abandoning) would receive his support. (Exh. 28, NI-8788, Bk 3, p 9; Exh. 29, NI-8637, Bk 3, p 18; Exh 31, NI-6765, Bk 3, p 47). In the spring of 1933, after Hitler had seized power, he invited Carl Bosch, then Chairman of the Farben Vorstand, to meet with him and discuss the details of the program which Bueteffisch and Gattineau had outlined. (Exh. 59, NI-6766, Bk 3, p 127). The events which followed showed that both sides kept their part of the bargain.

One of the first contracts of Farben with the Reich for production of strategic materials in which the Reich guaranteed to Farben both the amount of sales and the price, was the gasoline agreement between Farben and the Reich Ministry of Economics of 14 December 1933. (Exh. 92, NI-881, Bk 5, p 9; Exh. 93, NI-319, Bk 5, p 15). The agreement was submitted to Hitler himself by the Reich Chancellory (Exh. 94, NI-320, Bk 5, p 16). Prior to this contract, Farben's expenditures in the development of the hydrogenation process (over 400,000,000 RM) resulted in an enormous net loss for Farben. (Exh. 522, NI-9922, Bk 26, p 89; Exh. 513, NI-9477, Bk 26, p 30). The defendant Bueteffisch stated in a speech delivered in March, 1938:

"I do not forget the day of the year 1933 when I could accept from the Reich government in Berlin the order now to proceed and expand with all possible energy the production of gasoline, which for reason inherent in political economy, could not be fully developed prior to the taking of power. From that day on we find ourselves in this invariably great experience of expanding our industry in a measure heretofore unknown." (Exh. 514, NI-6530, Bk 26, p 32).

In spring 1933, Farben started large scale production of synthetic gasoline in the Leuna Works (Exh. 541, NI-8314, Bk 27, p 154; Exh. 542, NI-8318, Bk 27, p 157)*.

* The large scale production of synthetic fuel could not be justified by purely economic reasons since, the investment cost of synthetic fuel and lubricant plants "is from 10 to 30 times as high as the investment cost to produce similar quantities of liquid fuels from natural petroleum." (Testimony of Mr. Elias, Tr. p 1351).

On 11 October 1934, a conference was held at the Leuna plant between General Bockalberg, Chief of the Army Ordnance Office, representing the Wehrmacht, and Farben representatives, among them the defendants Krauch, Schneider, and Bueteffisch, where measures for the A-Fall (case of war) were discussed. (Exh. 517, NI-3975, Bk 26, p 45). Farben was one of the first co-founders of the Brabag and supplied this company with its hydrogenation patent licenses. (Exh. 518, NI-7669, Bk 26, p 59, report on oil discussion, Ludwigshafen, 10 January 1935; Exh. 521, NI-7767, Bk 26, p 80, license agreement Farben and Brabag, June/August 1935.)

Farben, starting in 1933 by conferring with the Luftwaffe, developed high-grade aviation gasoline for its military aircraft. (Exh. 523, NI-5931, Bk 26, p 94; Exh. 524, NI-9088, Bk 26, p 100; Exh. 535, NI-7822, Bk 27, p 114; Exh. 536, NI-7127, Bk 27, p 119).

The nature of the fuels and lubricants produced differed from those used in peacetime. (Testimony of Elias, Transcript p. 1362-1364; Exh. 516, NI-7295, Bk 26, p 37; Exh. 523, NI-5931, Bk 26, p 94).

The production of synthetic gasoline was subsidized by the Reich authorities by the grant of special tax reductions, etc. (Exh. 525, NI-355, Bk 26, p 109; Exh. 526, NI-358, Bk 26, p 111; Exh. 527, NI-357, Bk 26, p 112). In May 1936, Goering emphasized in the presence of the defendant Schmitz that:

"in the A-case (A-Fall) we would not under certain circumstances get a drop of oil from abroad. With the thorough mobilization of Army and Navy, the whole program of conduct of war depends on this. All preparations must be made for the A-case so that the supply of the wartime army is safeguarded." (Exh. 400, NI-5380, Bk 19, p 1).

Struss, in a lecture on the Four Year Plan delivered on 13 May 1938, stated with regard to the:

"political significance of gasoline * * * Italy won the Abyssinian war by modern weapons and by building special highways. In modern wars the consumption of gasoline for motorized troops, tanks, airplanes, is immense." (Exh. 96, NI-8327, lecture of Dr. Struss, 13 May 1938.)

A report of the Military Economic Staff of the OKW, which went to the defendant Krauch, summarized the importance of mineral oil and gasoline as follows:

"mineral oil is just as important for modern warfare as airplanes, armor, vehicles, ships, weapons and munitions."

(Exh. 538, NI-7471, Bk 27, p 126, report of Military Economic Staff, 30 January 1939).

Farben's production of synthetic gasoline rose from 200 metric tons in 1935 to 22,000 metric tons in 1939 and then to 118,500 metric tons in 1943. (Testimony of Elias, Transcript p 1354; Exh. 612, NI-10008, Bk 34, p 115).

What Farben's importance to the war was, as respects synthetic gasoline is set forth in the official report of the Enemy Oil Committee for the Fuels and Lubricants Division of the Office of the Quartermaster General on Petroleum Facilities of Germany, as follows:

"The outstanding feature of Germany's oil economy during the past ten years has been the spectacular development of her synthetic oil plants for the production of oil from coal. This attempt at complete oil anarchy, made without regard to cost or orthodox financial consideration, has no parallel elsewhere and is a striking example of the character of the German master plan for world domination which called for the production within her own boundaries of all the resources essential to modern warfare." (Exh. 544, NI-10507, Bk. 27, p. 162, report by the Enemy Oil Committee, March, 1945).

(3) Synthetic Rubber

On 15 August 1933, Farben advised the Army Ordnance Office of its readiness to take up again production of synthetic rubber on a large scale if it received the support of the Reich. (Exh. 95, NI-8326, Bk. 5, p. 17). A meeting followed in November 1933, at the Reich Ministry of Economics between representatives of I.G. Farben, of the Army Ordnance Office, and the Reich Ministry of Economics. (Exh. 545, NI-6930, Bk 28, p. 1). In 1934 and 1935 numerous conferences took place with the Army Ordnance Office and the representatives of other Reich agencies with the defendant Ter Meer playing an active role (Exh. 95, supra).

The Reich Minister of War had decided in 1934 to earmark 1,000,000 Reichsmarks for tests of synthetic rubber and the Wehrmacht agreed to take over the newly produced tires at the actual cost price. (Exh. 562, NI-7472, Bk. 29, p. 4).

On 4 February 1936, I.G. Farben drew up a draft of a contract for the construction of a buna factory with a capacity of 200 tons per month. (Exh. 95, supra; Exh. 547, NI-7241, Bk. 28, p. 29). A conference took place on 17 June 1936, under the chairmanship of Dr. Krauch with officials of the Reich War Ministry, Army Ordnance Office, and the

Keppler's Bureau present, to extend the capacity of the first buna factory to 1,000 tons per month. (Exh. 549, NI-7625, Bk. 28, p. 47; Exh. 95, supra). The total peace requirements of the Army had previously been estimated at about 50 per month. (Exh. 95, supra.)

At the end of of 1936 Farben agreed to build a buna plant of a yearly capacity of 24,000 tons. In 1937 the project was extended to 100,000 tons of buna. (Exh. 554, NI-8833, Bk 28, p. 94). This expansion of production capacity had to be subsidized by the Reich through loans, sales guarantees, tax reductions, preferential treatment for storage of supplies (Exh. 559, NI-7769), refund for experimental costs (Exh. 558, NI-6343, to Gearing, 15 June 1937) and price guarantees. (Exh. 550, NI-882, contract on buna with Reich, 20 September 1937).

When Schacht was in charge of finances in the government, he informed Farben that he was unable to grant them a loan for the new Buna factory. The defendant Ter Meer thereupon suggested that a custom duty be imposed which would finance this construction. (Testimony of Dr. Struss, Tr. p. 4099).

The defendants knew that the extraordinary and uneconomical expansion of production capacity for buna was far beyond the needs of peacetime economy*. On 13 January 1937, the defendant Kuhne wrote the defendant Ter Meer that a representative of the Army Ordnance Office had stated:

"The Wehrmacht had considered even the increase at Schkopau of from 200 to 2000 tons as a risk; that if definitely did not welcome a second plant, considering it entirely impudent, and that he (Colonel Philipps), on his part, would do everything in his power, also with Colonel Loeb, to prevent the construction."

The same letter also mentions that Colonel Philipps had stated:

"That the official on the Raw Material staff (of Gearing) who so irresponsibly pushes matters concerning construction of rubber plants is Dr. Krauch. I felt that for once I.G. should put a stop to this, since it was in the interests, neither of the Reich nor above all of I.G." (Exh. 552, NI-4626, letter from Kuhne to Ter Meer, 13 January 1937).

By April 1939, after the invasion of Bohemia and Moravia, "political" considerations determined the production of synthetic rubber. (Exh.

* See also the testimony of the witness Elias to the effect that the enormous cost involved in the synthetic rubber program, especially in view of the price on the world market of natural rubber, could not be justified on any financial basis other than that military considerations were involved (Tr. p. 1355).

1571, NI-11106, Bk. 28).

The German Army "placed practically their entire dependence on Farben's synthetic rubber". Whereas in many other strategic products important stock piles of strategic materials have been accumulated, the stocks of natural and synthetic rubber in Germany at the beginning of the war represented only rubber for 2.4 months of pre-war consumption. (Testimony of Elias, Tr. p. 1357).

As a result of Farben's work in the field of synthetic rubber, Germany experienced no difficulty at the outbreak of the war with regard to its rubber supplies. (Exh. 97, NI-6194, Bk. 5, p. 56). It was Farben's production of synthetic rubber which enabled the Reich to carry on the war for several years which would have been impossible without Farben's buna. (Exh. 542, NI-8318, Bk. 27, p. 157), and it was Farben's efforts to restrict production and research on synthetic rubber in other countries which resulted in the United States having no adequate rubber supply on December 7, 1941. (see discussion under F, infra).

(4) Light Metals

Farben's production of light metals was one of the first topics of discussion by the newly created Reich Air Ministry at a meeting between the Chief of the Army Ordnance Office, General von Bockelberg, Lt. Col. Thomas and others with State Secretary Milch. Farben's electron metal was also discussed in connection with the procurement of incendiary bombs. In the same meeting State Secretary Milch transmitted to General von Bockelberg the defendant's Krauch's memorandum on expanding the "home raw materials bases" for the purpose of assuring the fuel oil situation. (Exh. 50, NI-7123, Conference Reich Air Ministry and Army Ordnance Office, 15 September 1933, Bk 5, p 1).

In 1933, Farben had received from the Luftwaffe the order to build a magnesium plant with the capacity of 12,000 tons per year. The site of this factory had been selected by the Luftwaffe in the strategically safe, central part of Germany. Both plant and its production were to be kept secret by order of the Luftwaffe.*

In 1934, another magnesium factory was started by Farben for the Luftwaffe at Stassfurth. The major part of the investment for this plant was provided by the Luftwaffe in the form of a credit of 44,000,000 Reichsmarks. For both plants (Aken and Stassfurth) the Luftwaffe had accorded to Farben particularly high profit rates in order to enable Farben to repay the credits out of the accrued extra profits. (Exh. 98, NI-8317, Bk 5, p 74; Exh. 573, NI-4497, Bk 30, p 8; Exh 574, NI-4496, Bk 30, p 15; Exh. 107, NI-1165, Bk 5, p 108).

Many of the plants were constructed as "stand-by plants". (Exh. 582, NI-6484, Bk 30, p 53; Exh 583, NI-9204, Bk 30, p 56; Exh. 584, NI-7240, Bk 30, p 61).

For the production of light metals, a pooling patents contract was executed at the request of the Reich Ministry of Aviation between Farben

* "Before the plant was actually built, the Luftwaffe carried out a number of tests from the air in order to ascertain how the plant itself could best be camouflaged. . . . Dr. Pistor (a deceased Vorstand member) subsequently stated in the TEA that considerable additional cost had to be incurred by ILG, because of the camouflage requirements." (Exh. 98, NI-8317, Bk 5, p 74).

and other light metal companies (Exh. 575, NI-5936, Bk 30, p 25; and Exh. 577, NI-5935, Bk 30, p 29, patents partnership agreement).

Farben's production of light metals concentrated principally on magnesium, of which Farben's production rose from 11,000 tons in 1932 to 16,600 tons in 1939 and 27,400 tons in 1943 (Testimony of Elias, Transcript p. 1360). In 1932 Farben produced 1400 tons of aluminum, in 1939 16,500 tons and in 1943 24,000 tons (Exh. 612, NI-10008, Bk. 34, p. 150).

The dependence of Farben's production of magnesium and other light metals on Germany's rearmament preparation for war was described by one of Farben's directors in a report on the development of the increased production of light metals in the Four Year Plan.

"Despite successful efforts to establish magnesium as an industrial material, it was not possible to keep the Bitterfeld plant working constantly at full production. The rearmament after the change of government, however, brought far reaching changes. Greater Wehrmacht requirements, particularly for the vehicle and plan industry, which had been developed until then. There was a marked incendiary bomb which had already been suggested in 1917 by Dr. Singer." (Exh. 590, NI-7562, Bk. 30, p. 78.)*

During the war I. G. Farben took the leadership in exploiting the production facilities for light metals of occupied Norway for the needs of the German war economy. (Exh. 585, NI-8033, Bk. 30, p. 63; Exh. 586, NI-8034, Bk. 30, p. 67; Exh. 587, NI-8144, Bk. 30, p. 71; Exh. 588, NI-8827, Bk. 30, p. 74).

(5) Poison Gas

I. G. Farben, which had been the sole producer of poison gas in World War I (Testimony of General Morgan, Tr. p. 731), concluded in August 1935, a contract with Orgacid, according to which I.G. was "to give all chemical technical advice during building concerning the setting in motion and running of the factory including the experimental work" production of dichloridieoethylsulphide (mustard gas). (Exh. 351, NI-5681, Book 35, page 45; See testimony of witness Elias on this subject, Tr. p. 1387-1394). I. G. Farben had the technical management of the plant (Exh. 621, NI-5669, Bk. 35, p. 30), and put its processes and experience

* (See testimony of Elias, Tr. p. 1360; Exh. 90, NI-7123, Bk. 5, p. 1; Exh. 581, NI-6483, Bk. 30, p. 48.)

at its disposal (Exh. 624, NI-7274, Book 35, page 62). The Orgacid plant started to work at full capacity in April 1937 (Exh. 626, NI-4484, Book 35, Page 68).

In order to provide the Orgacid Company with the necessary amounts of ethylene oxide and to increase the Phosgene production, steps were taken by Farben in September and December 1936 to fulfill its obligations in the field of poison gas. (Exh. 114, NI-4490, Book 5, page 125; Exh. 623, NI-6764, Book 35, page 68).

In May 1938 the defendants Ambros and ter Meer had negotiated with the High Command of the Army and planned for the production of intermediates for mustard gas and the installation of an esterification plant for the conversion into finished mustard gas was contemplated (Exh. 597, NI-7380, Book 33, Page 81).

When in the summer of 1938 Goering pressed the speeding up of a production program for explosives, gunpowder and chemical warfare agents, the defendant Ambros pointed out in a letter to the defendant Krauch:

"Only during the last few months have attempts been made to apply technical advances to the old chemical warfare agents and under the driving forces of industry, especially of I. G. Farben to develop new types, such as mixed mustard gas and N-mustard gas." (Exh. 438, NI-5687, Book 20, page 848).

When in 1938, Krauch was appointed Plenipotentiary General for Goering, he informed Ludwigshafen that the building projects for D-Lost have been classified as pressing, and that no postponement of the deadline set for their completion could be tolerated. (Exh. 217, NI-7428, Book 8, page 64). A first large scale experimental station was to be erected at Huels (Exh. 440, NI-8841, Book 35, page 91), and the Krauch Office planned at that time, on 30 June 1938, the erection of a total D-Lost with a monthly capacity of 5200 tons (Exh. 440 supra); the actual building of these additional capacities, though, were to wait until Huels had gained sufficient experience (Exh. 440).

* The only producers of D-Lost in Germany up to the end of the war were Huels and Gendorf (Exh. 1819, NI-12725, Book 36, Tr. p. 4453) both I. G. plants. Hence, the plant that was here planned was Gendorf as Huels was already set up for poison gas.

I.G.'s planned poison gas capacities were, at least: --

- a) prior to 1 September 1939: 77% of total German production*
- b) 1 December 1942: 76.9% of total (Exh. 1820, NI-12678, Book 35, Tr. p. 4453)

On the 8th of May 1942 the GeBeChem (Krauch) estimated that I. G. controlled 90% of the total poison gas production potential (Exh. 1818, NI-12724, Book 36, Tr. p. 4452).

I. G. however, was not only the main producer of poison gas, it has also been the pioneer of poison gas research. (Exh. 617, NI-9203, Book 35, page 1). The position is summed up in the words of the defendant Ambros in a letter to the defendant Krauch, 27 June 1928:

"Only during the last few months have attempts been made to apply technical advances to the old chemical warfare agents and under the driving force of industry, especially of I. G. Farben to develop new types, such as mixed mustard gas and N-mustard gas". (Exh. 438, NI-5687, Book 35, page 104.)

I. G.'s contribution to preparation of chemical warfare include research and development of D-Lost, O-Lost, Tabun and Sarin, N-Lost, Adamsite, and Phosgene (Exh. 618, NI-8980, Book 35, p. 4; Exh. 619, NI-10557, Book 35, p. 10 and 12).

(6) Plant Facilities

The defendant Schmitz in a statement made on 17 September 1945, described the overall situation with respect to plant investments of I. G. Farben as follows:

"Before Hitler, Germany was in an economic crisis illustrated by an unemployment of six million people and our investments were abnormally low. As soon as Hitler came into power, things began to change and our investments grew. At first they began to rise slowly, but with the beginning of the Four Year Plan in 1936, they started to jump rapidly, and in 1938 they grew to an extent of approximately RM 500,000,000. It was absolutely clear that our new investments were tied up directly and indirectly with the armament program. For example, in regard to magnesium and benzene and high octane gasoline, all this was mostly done for Wehrmacht purposes. Therefore, it can be said that most of our whole investments since Hitler came into power were tied up with the Wehrmacht." (Exh. 334, NI-5187, Bk. 12, p. 126.)**

* Orgacid, an "OKH owned plant, operated by I.G." is included

** When defendant ter Meer and other defendants who were in custody at the Kranzburg prison, learned of Schmitz's statement, they prepared their own statement correcting what they called inaccuracies and gave it as their view that "all these investments amounting to hundreds of millions of marks resulted from purely private initiative, free from governmental planning, and in continuation of I. G. Farben's old established policy to put into practice the newest achievements in science and technique in all fields of its activities." (Exh. 334, NI-5187, Bk. 12, p. 134).

In some cases Farben used its own funds to construct new facilities or enlarge existing facilities. When the purpose of such new constructions was so specialized with no possibility of normal peacetime activity, Farben sought and received special compensation by way of a very high amortization.*

Another type of financing, used, was the construction of plants where the investment was put by the government. This covers the situation of the construction of plants by "WIFO" and "MONTAN" companies. These plants were built by Farben (Exh. 669, NI-10540, Bk. 31, p. 19) and operated by Farben under a guarantee against loss. Thirty-six out of thirty-seven Montan plants constructed before the war were built and operated by Farben (Exh. 598, NI-9193, Bk. 32, p. 104). The financing, however, was by the Government because Farben knew that "the Montan plants were built exclusively for war" (Exh. 645, NI-7377, Bk. 36, p. 37, Tr. p. 1196), and "insisted on this form of financing in all cases where the production was war material and no assured peacetime market could be expected." (Exh. 673, NI-9192, Bk. 31, p. 35; Exh. 350, NI-6788, Bk. 35, p. 37; Exh. 645, supra). Prior to 1932, I. G. Farben did not operate any plants which it did not itself own. (Exh. 46, NI-9445, Bk. 31, p. 10, Transcript p. 1229).

A number of plants constructed by Farben, beginning as early as 1934, were stand-by plants to be used only in "A-Case", A representative building contract between Farben and OKH recites that "I.G. has on the account of the OKH made various stand-by plants and adjoining supplementary plants available to OKH", and the contract then lists the stand-by plants which had been built prior to that date. (Exh. 594, NI-4493, Bk. 31, p. 76, Tr. p. 1246).

* I.G. treated all new constructions since 1933 which were undertaken for branches of the Wehrmacht, either as contract plants or as Four Year Plants. Contract plants were erected by the I.G. at the order of the Reich and financed by the authority concerned. The borrowed funds were paid off by Reich orders at an accelerated rate. The Four Year plants were erected on order of the Plenipotentiary General for Special Questions on Chemical Production (Krauch) and such plants were essentially financed by Farben's own funds for which special write-offs were recognized by the authorities. The Four Year Plants were never independent plants but parts of existing facilities. (Exh. 696, NI-7237, Bk. 32, p. 83, Tr. p. 1269; See also Exh. 697, NI-7242, Bk. 32, p. 85, p. 88 etseq.)

Examples of the principal plants in the construction program

were:

In 1934, the stand-by plant for stabilizers at Wolfen; and at Akon, a magnesium plant. (Exh. 667, NI-8319, Bk. 31, p. 12, Tr. p. 1230).

In 1935, a stand-by plant at Stassfurth* for magnesium for the Luftwaffe. (Exh. 667, supra).

In 1936, the synthetic rubber and chemical plant at Schkopau; the tetraethyl lead plant at Capol.**

In 1937, the Teutschental plant for magnesium companies; the Doeberitz plant to supply intermediates for the stabilizer plant at Wolfen. (Exh. 667, supra)***

* Besides its investment, Farben was authorized by the Finance Office to write off its machinery depreciation at 20%, (Tr. p. 1910) and also got a credit of 44,000,000 Reichmarks from the Luftwaffe, which also included the stand-by plant at Stassfurth. (Tr. p. 1912, compare also Exh. 573, NI-4497, Bk. 30, p. 8, re the contract between Reich Minister of War and I.G., covering both the Akon plant and Teutschental.)

** Compare the report of the United States Strategic Bombing Survey (Exh. 715, NI-3787, Bk. 37, p. 144) re the importance of tetraethyl lead factories of Capol and Frose: — "A major opportunity in the Allied air offensive against oil was unexploited. Ethyl fluid is an indispensable constituent of the high grade aviation gasoline. The addition of ethyl fluid in very small amounts to gasoline is so beneficial that no modern aircraft is operated without it. * * * There were only two tetraethyl lead plants in Germany. * * * Capol, near Berlin, capacity of 100 tons per month, and Frose, capacity of 300 tons per month, "See also Exh. 144, NI-4490, Bk. 31, p. 74, re discussion with Army Ordnance about emergency plants in case of "A-Fall".

*** The agreement in 1937 between Farben and WIFO concerning the extension of the new plants at Wolfen and Doeberitz provided that the plants "will be erected solely for the purposes of the Wehrmacht, that is for the "A-Fall". (Exh. 601, NI-4498, Bk. 31, p. 26, Tr. p. 1236). In discussing the extension of the the Teutschental works, secrecy was applied (Exh. 623, NI-6764, Bk. 31, p. 91).

In 1938) the Huels plant for synthetic rubber and other chemicals; the nickel and tetraethyl plant at Fross. The Landsberg plant for synthetic fibres and the Hoosbierbaum plant for magnesium.

The I.G. Farben and I.G. controlled companies started in 1932 with investments of approximately 23 million Reichmarks and in 1936 reached over 400 million Reichmarks (Exh. 684, NI-10001, Bk. 32, p. 47, Tr. p. 1264; Exh. 685, NI-10013, Bk. 32, p. 48, Tr. p. 1265; Exh. 686, NI-5813, Bk. 32, p. 51-52). Farben's total expenses for new construction work "from 1932 to beginning of 1941 amounted to two billion Reichmark". (Exh. 686, NI-5813, Bk. 32, p. 51-52).

A breakdown has been made of the investments according to the 18 products most important for waging war. (Exh. 687, NI-10007, Bk. 32, p. 54; Exh. 690, NI-10926, Bk. 32, p. 65, Tr. p. 1267). To merely limit the evidence to investments made by Farben itself does not in our view give a true picture of the situation. Consideration must be also given to the very substantial amounts which Farben received by way of subsidies and loans from the Reich. (Exh. 691, NI-10004, Bk. 32, p. 69, Tr. p. 1267-1268). These credits and subsidies exceeded 4,000,000,000 marks. (Exh. 692, NI-10016; Exh. 693, NI-10011; Exh. 694, NI-10012; Exh. 695, NI-10922; Exh. 697, NI-7242, Bk. 32).

E. Stockpiling of Critical War Materials for Nazi Offensive

As early as 1934, Farben began stockpiling raw materials as part of the government's program of "economic preparation for war". (Exh. 716, EC-128, Report of the Ministry of Economics, 30 September 1934, Bk 38, p 94). The Office of the Four Year Plan (Krauch) intensified the planning for such stock piling and worked closely with the military. (Exh. 717, NI-7823, Bk 39, p 1). These preparations of the Government were intensified in 1937, (Exh. 719, EC-258, Bk 39, p 10). In April 1938 Krauch's

* The correspondence regarding this plant states that it was undertaken "in consideration of the interests of Military Policy." (Exh. 683, NI-9548, Bk. 32, Tr. p. 1263-1264). In July 1938 secured the agreement of the Air Ministry that it did not have to invest its own funds as it was to be a stand-by plant." (Exh. 879, NI-6482, Bk. 31, p. 70, Tr. p. 1244) and as later as March 1939, discussions on extension of plant facilities for magnesium were classified as secret (Exh. 677, NI-6504, Bk. 31, p. 72, Tr. p. 1245). In July 1939, Farben and Army Ordnance are planning stand-by plants for "A-Fall" to produce aluminum chloride where experiments on production were already taking place at the Huels plant.

Office for Economic Development worked out a program for assuring mobilization provisioning by stock piling. (Exh. 718, NI-7848, Bk 39, p 3).

Farben started in October 1934 to make monthly reports to the Army Ordnance Office and later to the Military Economic Staff on the stock piling of pyrites for the production of concentrated sulphuric acid (Exh. 749, NI-8843, Bk 40, p 85).

The product of the magnesium plant in Aken was stored beginning in September 1935 in the form of tubes for incendiary bombs which were camouflaged as ordinary civilian products. (Exh. 744, NI-4832, Bk 40, p 42). The plants which Farben had constructed for the Luftwaffe in Aken and Bieberfeld were used for producing magnesium to be stock piled for the case of war. As early as December 1936, Farben was assured by a representative of the Air Ministry that "the present stock piling would be sufficient for the beginning also for "Case A". (Exh. 745, NI-1148, Bk 40, p 46).

The defendants had started already in 1935 to stockpile nickel and nickel ore (Exh. 720, NI-9549, Bk 39, p 115); and were particularly active in obtaining supplies of nickel ore for Germany in cooperation with the German Military Economic Staff (Exh. 721, NI-7563, Bk 39, p 33). The defendants Knieriem and Krauch participated already in August 1936 in submitting a special study to the Reich War Ministry on "the problem of supplying Germany with nickel". (Exh. 722, NI-4921, Bk 39, p 35). The defendants arranged through their cartel connections for increased nickel imports from the Mond Nickel Company in 1937 (Exh. 723, NI-10389, Bk 39, p 42); and Farben kept close contact with the Military Economic Staff on all purchases of nickel for stockpiling purposes (Exh. 724, NI-7564, Bk 39, p 45).

The defendant Haeffliger was particularly active in obtaining the strategic nickel supply for Germany by exploiting Farben's international cartel connections. (Exh. 725, NI-9636, Bk 39, p 47). Farben cooperated closely with the Wifo Company which acted for the German Government to stock pile nickel ores as "War stocks". (Exh. 726, NI-9638, Bk 39, p 51; Exh. 727, NI-9639, Bk 39, p 54).

The defendants also helped the German government in stock piling molybdenum, (Exh. 729, NI-40388, Bk 39, p 57; Exh. 730, NI-9640, Bk 39, p 59).

As early as October 1935, Farben constructed bomb proof gasoline storage tanks in cooperation with the Reich War Minister, the Reich Air Minister and the Wehrmacht. (Exh 747, NI-7566, Bk 40, p 53). In 1936 the defendants purchased 20 million dollars worth of gasoline from the Standard Oil Company in order to build up gasoline stocks for the Luftwaffe. (Exh. 731, NI-4690, Bk 39, p 79; Exh 994, NI-10551, Bk 43, p 87). In July 1938 (the time when Goering made his aggressive speech at Karinhall and when the defendant Krauch worked out for Goering the Karinhall Plan) the defendants arranged with the Ethyl Lead Corporation to borrow 500 tons of tetraethyllead, indispensable for the production of high octane aviation gasoline. (Exh. 732, NI-4922, Bk 39, p 93). This transaction was undertaken "because in case of war Germany did not have enough tetraethyllead to wage war for which reason the German Reich pursued a stock piling policy." (Exh. 733, NI-4831, Affidavit of Dr. Holmuth Henze, 17 March 1947; Bk 39, p 113). Farben intensified its stock piling measures between November 1938 and August 1939. (Exhibits 737 thru 742, Bk 40). In January 1939, Farben representatives and a representative of the Army Ordnance Office decided to stock pile stabilizers for gun powder on a large scale. (Exh. 118, NI-4492, Bk 5, p 130, Tr. p 402).

Farben was one of the founders of the Wehrmacht (Wirtschaftsliche Forschungsgesellschaft) which was created to construct storage facilities and to stock pile gasoline, pyrites, nickel ores and other strategic materials. (Exh. 752, EC-25, Bk 61, p 1; Exh. 751, NI-8596, Bk 40, p 108; Exh. 755, NI-7131, Bk 61, p 10; Exh. 756, NI-7120, Bk 61, p 13).

F. Use of International Agreements to Weaken Germany's Potential Enemies.

Farben's contractual history with Standard Oil is an excellent illustration of the manner in which Farben, in close cooperation with the Nazi government, deliberately utilized international cartel arrangements as a military weapon to weaken other countries. In 1929, shortly after Farben had developed its processes for the manufacture of synthetic fuels, a series of agreements were concluded between Farben and the Standard Oil, the general purport of which was that throughout the entire world, including the United States, Standard Oil recognized Farben's priority in the "chemical" business and that, except within Germany, Farben recognized Standard Oil's priority in the "oil" business. New "Chemical" processes discovered by Standard Oil were to be turned over to Farben unless they bore a close relation to the "oil" business, and Farben entered into a reciprocal obligation with respect to developments related to the "oil or natural gas" business, except within Germany. (Exh. 942, NI-10550, Bk 42, p 1; Exh. 943, NI-10430, Bk 42, p 23).

In 1930, Farben and Standard Oil entered into a further agreement, the purpose of which was stated to be "the desire and intention of the parties to develop and exploit their new chemical processes jointly on a basis of equality (50-50)". For this purpose, a jointly owned corporation called Jasco was set up to test and develop new processes turned over to it by either Standard or Farben. (Exh. 945, NI-10433, Bk 42, p 56). Despite the general language of the Jasco agreement, it apparently was agreed on both sides that the development of synthetic rubber processes fell within its terms, and that new developments in the synthetic rubber field should be turned over to Jasco. (Exh. 947, NI-10434, Bk 42, p 81; Exh. 948, NI-10450, Bk 42, p 94; Exh. 949, NI-11249, Bk 42, p 98, Exh. 950, NI-10576, Bk 42, p 99; Exh. 951, NI-10565, Bk 42, p 104).

The Standard Oil Company observed the agreement meticulously and spoke of the "spirit of good will" on the part of Farben. (Exh. 946, NI-10431, Bk 42, p 73). Farben, on the contrary, throughout the period of the agreement, behaved with calculated deceitfulness, and every move was made in consultation with the Nazi government and was directed to strengthen Germany's technical position and slow down research in the United States.



As early as March 1934, Farben instructed its subsidiary in New York, Chemnyco, which was negotiating with the DuPont Company on nitrogen matters, not to indicate to DuPont that the Nazi government might interest itself in the international interchange of technological processes. (Exh. 952, NI-10547, Bk 42, p 110). The letter states that: "We must now allow foreign industry to gain the impression that, in this respect, we are not free to negotiate". And in 1935, a memorandum of a conference between Farben representatives and Wehrmacht officials stated (Exh. 523, NI-5931, Bk 42, p 115):

"The I.G. is bound by contract to an extensive exchange of experience with Standard. This position seems untenable as far as developmental work which is being carried out for the Reich Air Ministry is concerned."

In July 1937, a conference was held between Farben and the Military Staff, the Army Office and the Reichs Air Ministry concerning maintaining secrecy on the improvements of I.G. processes for the production of motor fuels and lubricants. The necessity was stressed of keeping Farben processes for the production of fuels and airplane gasoline secret except to the extent already known by foreigners and authorized by the Wehrmacht. The test agreed upon was whether there was any immediate danger that foreigners would develop the processes in the near future without the benefit of the Farben know-how. (Exh. 954, NI-10437, Bk 42, p 121). It was agreed in part as follows:

"In consideration of its exchange of know-how agreements I.G. Farbenindustrie is permitted to inform its partners in the agreements in a cautious way shortly before the start of large-scale production that it intends to start a certain production of iso-octane and ethylene-lubricant. The impression is, however, to be conveyed that this is a matter of large-scale experiments. Under no circumstances may statements on capacity be made."

Farben's cartel policy is stated bluntly in the memorandum which the defendant Bustafisch wrote in January, 1940 (Exh. 958, NI-10447, Bk 42, p 132). After reciting that "in the field of mineral oils" there were agreements for the exchange of technical experience between Farben and Standard Oil, it stated in part:

"Up to now, we handled this exchange of experiences in such a way that we have given only reports which, after consultation with the OKW and the RWM, seemed to us unobjectionable and contained only such technical data as concerned known facts or such things as were technically outdated by the latest progress. By handling the agreements in this way we succeeded, viewed as a whole, in obtaining an advantage for German economy."

On this memorandum appears a handwritten note reading: "Agreed, Director, Dr. Buetefisch, is responsible that nothing of military or defense-political importance gets abroad." This note was initialed by Hermann Goering.

The above description of Farben's tactics in the field of oil is equally valid for synthetic rubber. In 1937 began a long course of negotiations between Farben and Standard with respect to Farben's making available, for commercial development in the United States, the patents and, what was much more important, the "know-how" for the manufacture of buna rubber (Exh. 955, NI-10436, Bk 42, p 124; Exh. 956, NI-10470, Bk 42, p 128; Exh. 957, NI-10438, Bk 42, p 130; Exh. 959, NI-10453, Bk 42, p 135). Farben's carefully planned conduct was such as to lead Standard Oil and the big American rubber companies to believe that they would get the know-how from Farben, and thereby discourage independent research in America. In this connection see particularly Exh. 957, NI-10438, Bk 42, p 130 and compare the position which the defendant Ter Meer took at this time, 1937, with the position he took in 1935, when he advised against bringing the American companies into the synthetic rubber project (see Exh. 953, supra). The reason for this change of attitude on the part of the defendant Ter Meer is clearly revealed in a letter from the defendant Ter Meer to the defendant Krauch (copy to defendant Ambros) dated 5 January 1942 (Exh. 960, NI-10455, Bk 42, p 136), which reads in part as follows:

"Mr. Sebrall informed us about experimental work done by the firm of Goodyear with polymerization compounds obtained in copying our Buna S, and Buna N, and he brought us samples which, it is true, were not exactly like our products but which nevertheless showed that in their own experimental work the firm of Goodyear had made rather good progress, so to say. In view of the experimental work done by his firm, Mr. Sebrall asked for an exclusive license on our Buna patents for U.S.A. This we declined at the time because we were of the opinion that the moment for doing work in a foreign country had not as yet come. Nevertheless, the Goodyear Company's information - evidently they had already found a supplier for Butadiene and Styrol at a later date we learned that the firm in question was the well-known firm of Dow in Midland - caused us to do some thinking and in the spring of 1938, this brought about the discussion with Brigadier General Loeb as well as Dr. Mulert and Dr. Eckell."

Farben did not attempt to conceal the fact that the Reich government might not look with favor on a turning over of Farben's buna processes,

but it succeeded in conveying the impression that Farben itself was only too willing to oblige, and that it would surely secure government approval in the near future. Impressed with Farben's protestations of good will, the Standard Oil Company turned over to Farben their own butyl (copolymer) rubber process. On 15 March 1938, three days after the occupation of Austria, Mr. Howard wrote (see Exh. 959, supra):

"In view of the very genuine spirit of cooperation which Dr. Ter Meer displayed, I am convinced that it is not only the right thing to do, but the best thing from every standpoint to pass on to them full information on the copolymer at this time. I do not believe we have anything to lose by this which is comparable with the possible benefit to all of our interests."

Three days later, a conference was held at the Reich Economics Ministry which was attended, on behalf of Farben, by the defendant Ter Meer. A memorandum of this conference states in part (see Exh. 960, supra.).

"Conferences which, up to now, had the sole object of easing the minds of American interested parties, and to prevent as much as possible an initiative on their own part within the frame of butadiene rubber, were held with Standard, Goodrich, and Goodyear. We are under the impression that one cannot stem things in the U.S.A. much longer without taking the risk of being faced all of a sudden by an unpleasant situation, and lest we be unable to reap the full value of our work and our rights....The American Patent Law does not make licensing mandatory. It would nevertheless be conceivable that because of the extraordinarily great importance of the rubber problem for the U.S.A. and because tendencies for restoring military power are very strong there too, considering the decrease in unemployment, etc., a bill for a corresponding law might be submitted to Washington. We, therefore, treat the license requests of the American firms in a dilatory way so as not to push them into taking unpleasant measures."

In October 1938, the Reich Ministry of Economics did in fact give permission for the utilization of Farben's buna patents and technical information abroad, subject to the condition that the government's consent would have to be obtained before the final consummation of any such arrangement (Exh. 967, NI-10459, Bk 42, p 156). The following month, the defendant Ter Meer paid a visit to the United States, and discussed commercial exploitation of buna rubber with Standard Oil and the big American rubber companies (See Exh. 968, NI-10460, Bk 42, p 158; Exh. 969, NI-10461, Bk 42, p 161; Exh. 970, NI-10462, Bk 42, p 165). But Ter Meer did not enter into any final contractual arrangements, and in the spring of 1939, negotiations along this line came to an end. As

Tar Meer succinctly put it in a letter to the defendant Krauch in January, 1942 (see Exh. 960, supra):

"I should like to state that, except for the license agreement concluded with our ally, Italy, processes and experiences on the production of butadiene and the manufacture of buna S and N were never made available abroad."

Mr. Howard came to Holland and conferred with the Farben representatives at the Hague later in September 1939 (see Exh. 973, NI-10465, Bk 42, p 171; Exh. 974, NI-10466, Bk 42, p 184; Exh. 975, NI-10467, Bk 42, p 193). As a result of this conference, Farben transferred its interest in Jasco to the Standard Oil Company and transferred the buna patents to Jasco, but the vital "know-how" necessary for speedy exploitation of the patents was not transferred. A letter to the defendant von Knieriem on 28 September stated (Exh. 974, supra):

"Dr. Tar Meer thinks it is necessary to point out specifically that there will be no exchange of experience with respect to buna."

The assignment of the buna patents themselves involved no more than bare specifications. Without knowledge of the accompanying Farben processes, they were of little value. The only reason that Farben assigned the patents to Jasco in 1940 was to prevent enemy countries from seizing them, and to safeguard them in the event of war between Germany and the United States (see Exh. 976, NI-10468, Bk 43, p 1; Exh. 977, NI-10439, Bk 43, p 8; Exh. 978, NI-10440, Bk 43, p 17; Exh. 979, NI-10441, Bk 43, p 23).

From 1939 on, it was quite impossible to obtain further technical information from Germany on the buna process (see Exh. 983, NI-10445, Bk 43, p. 48; Exh. 984, NI-10472, Bk 43, p 51; Exh. 995, NI-10553, Bk 43, p 97).

A most enlightening description of Farben's policy is contained in a memorandum submitted by Farben scientists to the defendant von Knieriem in May 1944 (Exh. 994, NI-10551, Bk 43, p 87), copies of which were forwarded by von Knieriem to Schmitz, Ambros, Bueteffisch and Schneider. This memorandum relates the story (in part) of how Farben weakened the United States and what she got from the United States which was "vital for the conduct of war". The memorandum and accompanying letter need no explanation.

As a result of the efforts by Farben to restrict production and research on synthetic rubber, the United States found itself with no adequate rubber supply and with no adequate program underway for making synthetic rubber when it was attacked on 7 December 1941. (Exh. 996, NI-10620, Bk 43, p 110; Exh. 997, NI-10621, Bk 43, p 113; Exh. 998, NI-10549, Bk 43, p 117).

Synthetic oil and synthetic rubber were not the only fields in which Farben used its international agreements as a military weapon designed to weaken other countries. Farben's activities included retarding production and controlling the supply for military reasons of such strategic products as magnesium, synthetic nitrogen and tetrazane. Exh. 999, NI-10968, Bk 43, p 126; Exh. 1000, NI-10967, Bk 43, p 127; Exh. 1001, NI-10966, Bk 43, p 139; Exh. 1002, NI-11203, Bk 43, p 152; Exh. 1003, NI-10965, Bk 43, p 159; Exh. 1004, NI-10954, Bk 43, p 166; Exh. 1005, NI-10953, Bk 43, p 167; Exh. 1006, NI-10952, Bk 43, p 168; Exh. 1007, NI-10960, Bk 43, p 169; Exh. 1008, NI-10955, Bk 43, p 172; Exh. 1009, NI-10959, Bk 43, p 173; Exh. 744, NI-4832, Bk 43, p 175; Exh. 98, NI-8317, Bk 43, p 179; Exh. 745, NI-1148, Bk 43, p 182; Exh. 1010, NI-622, Bk 43, p 185; Exh. 1011, NI-10969, Bk 43, p 188; Exh. 1012, NI-10970, Bk 43, p 211; Exh. 1013, NI-10963, Bk 43, p 222; Exh. 1014, NI-10964, Bk 43, p 224; Exh. 611, NI-7745, Bk 43, p 225; Exh. 888, NI-11197, Bk 43, p 232; Exh. 1015, NI-11204, Bk 43, p 237; Exh. 1016, NI-7543, Bk 43, p 239; Exh. 1017, NI-10786, Bk 43, p 252; Exh. 1018, NI-10784, Bk 43, p 262; Exh. 1019, NI-10785, Bk 43, p 282.

The defendant Schmitz has stated (Exh. 334, NI-5187, Bk 12, p 126):

"It was absolutely clear, that insofar as international agreements were concerned in the chemical field, that the government wanted us to keep the Wehrmacht here as strong as possible."

In commenting upon this the defendant von Schnitzler stated (Exh. 1812, NI-11591, Bk 16, to p 4447):

"Absolutely true-how can one deny that?" *

And the defendant Kugler admitted that the foremost purpose of

* The defendant von Schnitzler also stated (Exh. 40, NI-5196, Bk 1, p 54):

"..... the development of I.G. during the last 12 years cannot be separated from the government's foreign policy."

the Nazi government and I.G. was "to keep the Wehrmacht all powerful vis-a-vis all other countries including the U.S.A." (Exh. 1015, supra).

In summary, as was found in an official American government study of Germany's use of international cartels: *

"Germany used the cartel device as a medium for strengthening Germany's position to make war, and in turn, to weaken the defensive position of its potential enemies."

* "Study of the FEA Drafting Committee on the Treatment of German Participation in International Cartels from the Standpoint of International Security", 10 October 1945, p 2.

G. Propaganda, Intelligence and Espionage Activities

Propaganda, intelligence, and espionage activity was one of Hitler's basic weapons in his plans of world conquest. Concerning the role these activities were to take in the Nazi war plans, Hitler stated (Exh. 774, NI-10933, Book 44, p. 1):

"When I wage war....in the midst of peace, troops will suddenly appear, *** They will march to the headquarters of the General Staff. They will occupy the ministries, the Chamber of Deputies, Within a few minutes, France, Poland, Austria, Czechoslovakia, will be robbed of their leading men. An army without a general staff! All political leaders out of the way! The confusion will be beyond belief. But I shall long have had relations with the men who will form a new government - a government to suit me."

"Our strategy is to destroy the enemy from within, to conquer him through himself" (p. 3)

"I shall never start a war without the certainty that a demoralized enemy will succumb to the first stroke of a single gigantic attack....When the enemy is demoralized from within, when he stands on the brink of revolution, when social unrest threatens - that is the right moment. A single blow must destroy him"(p. 5)

It is now a matter of history, fully recorded in the Judgment of the International Military Tribunal, that Nazi Germany did, in fact, utilize Fifth Column activities as one of its major tactics to achieve world domination. The evidence shows that the defendants did not merely participate in and carry out this program, but that for the most part, they assumed leadership in planning and organizing such program with the Nazi officials and placed their personnel in prominent positions in official and semi-official organizations to carry out these tasks.

In 1933, immediately on Hitler's rise to power, the defendant Ilgner, assisted by the defendant Gattineau, rallied the industrialists around a program to spread propaganda in foreign countries to sell the "new Germany" to these countries. A circle of economic experts was created for this purpose. Ilgner was responsible for handling the program with respect to the United States, and Gattineau with respect to Scandinavia (Ex. 26, NI-4833, Book 44, P. 14; Ex. 772, NI-6702, Book 17, p. 23). Meetings of the Circle were attended by Goebbels. (Exh. 772, NI-6702, Book 17, p. 26; Ex. 378, NI-4928, Book 46, p. 104).

The defendants, Mann, Schnitzler, and Gattineau were appointed to the Publicity Board of the German Economy by Propaganda Minister Funk* at a meeting held on October 30, 1933, attended by Nazi ministers, under-secretaries, and prominent representatives of the Party and of industry. The meeting was addressed by Funk, who announced his chairmanship of the Board to insure the close cooperation of the Board with the Ministry of Propaganda, and Goebbels, who urged the participants to "go ahead in the spirit of National Socialist vigor and conviction." (Exh. 62, NI-1105, Book 44, p. 53,54). The defendant von Schnitzler was appointed chairman of another propaganda agency, (Exh. 1778, NI-880, Book 44, p. 53), and the president of the Reich Press Chamber and Reich Chief of the National Socialist Press was appointed deputy to von Schnitzler. (Ibid, p. 57).

One of the first major achievements of I.G. Farben in the field of winning friends for Nazi Germany during the precarious first days of its program in 1933 was the hiring of the American public relations expert, "Ivy Lee", to advise Nazi Germany concerning its propaganda techniques in the United States. The defendant Ilgnor arranged for Ivy Lee to visit Hitler and Mussolini and paid the \$25,000 fee attached to this venture. ** Farben provided the organization to carry out the ambitious program proposed by Ivy Lee, using among others, the Institute for Market Analysis, which it supported financially, the Karl Schurz Association, the Circle of Economic Experts, and members of the Berlin NW 7 staff (Exh. 772, NI-6702, Book 17, pps. 23, 24, and 25; Exh. 297, NI-6699, Book 17, P. 48; Exh. 776, NI-7605, Book 44, page 18). In January 1934, on a second visit, Ilgnor took Lee to see Goebbels, von Papen, Neureth, and Schmidt to discuss the propaganda program. (Exh. 777, NI-10921, Book 44, pps 21, 27, 39). In furtherance of this program I.G. sent on behalf of the German government,

* Funk was at that time Under-Secretary of the Ministry of Propaganda and a leading figure in the various Nazi organizations which were used to control the press, films, music, and publicity houses. (IMT, p. 131).

** The defendant Schmitz, after discussion with Bosch, personally paid Ivy Lee his first payment and in cash. The U.S. Congressional Investigating Committee on Un-American Activities brought this transaction to light (Exh. 777, NI-10921, Book 44, p. 21).

"immense amounts of propaganda material, books, pamphlets, newspaper clippings, and documents "world without end" * (Exh. 777, supra, pages 32, 37, 38)

In December of 1933, the defendant Mann sent a circular letter to all of the Bayer representatives abroad describing in detail the "achievements" of the Nazi Regime since its advent to power, and the "miracle of the birth of the German nation".

"We wish to express the hope that this report will supply you with important data, enabling you to continue to assist us in our struggle for the German conception of law. We ask you expressly in connection with your collaborators and your personnel, to make use of those data in a manner which appears appropriate to you, to the end that all co-workers of our pharmaceutical business become familiar with these general, economic and political conceptions." (Ex. 782, NI-10267, Book 47, p. 89.90)

This was but the first of a series of directives to its agencies and personnel abroad to mold opinion to help and support the Nazi Regime and in other ways to further the objectives of the Nazi program.**

On September 10, 1937, the Commercial Committee of I.G. Farben passed the following resolution at a meeting attended by the defendants Schnitzler, Mann, and Oster:

"Staffing of our agencies abroad and collaboration with the A.O.
(Organization of Germans Abroad)"

It is generally agreed that under no circumstances should anybody be assigned to our agencies abroad who is not a member of the German Labor Front and whose positive attitude to the new era has

* The United States was not the only beneficiary of immense amounts of literature "world without end". In prosecutions Exh. 784, NI-8424, Book 4, p. 94, the minutes of a Bayer Director's meeting of 16 May 1934, it was noted that French pamphlets of Hitler's speeches sent to a Bayer agency in Belgium were confiscated by the authorities; and in Exh. 783, NI-8420, Bk 44, page 93, at a meeting of the Bayer Director's of 23 January 1934, at which the defendant Mann presided, it was noted that "propaganda mail to about 16,000 physicians including the text of Adolph Hitler's speech to the Reichstag about the German people's readiness for peace" was sent to Brazil.

** Ex. 785, NI-8421, Bk 44, p. 95; Ex. 786, NI-8422, Bk 44, p. 96; Ex. 773, NI-6701, Bk 17, p. 33; Ex. 790, NI-070, Bk 44, p. 111; Ex. 363, NI-4959, Bk 45, p. 5; Ex. 803, NI-8428, Bk 45, p. 18; Ex. 129, NI-6489, Bk 45, p. 29; Ex. 807, NI-2786, Bk 45, p. 47; Ex. 808, NI-7984, Bk 45, p. 53;

not been established beyond any doubt. Gentlemen who are sent abroad should be made to realize that it is their special duty to represent National Socialist Germany. They are particularly reminded as soon as they arrive, they are to contact the local or regional group (of Germans abroad) respectively, and are expected to attend regularly at their meetings as well as at those of the Labor Front. The Sales Combines are also requested to see to it that their agents are adequately supplied with National Socialist literature.

"Collaboration with the A. O. must become more organized. It seems practical to work out a uniform plan jointly with the A. O. which will show within which period of time it will be possible to eliminate deficiencies still existing with our agencies abroad, which have been a subject for complaint."

And again on 16 February 1938 at a meeting of the Bayer Board of Directors presided over by the defendant Mann, I.G. affirmed the National Socialist attitude of the entire Bayer Organization and requested the offices abroad to cooperate with and follow the Nazi Party Line. The minutes of this meeting state:

"National Socialist Attitude

The chairman points out our incontestable being in line with the National Socialist attitude in the association of the entire "BAYER" pharmaceutical and insecticides; beyond that, he requests the heads of the offices abroad to regard it as their self-evident duty to collaborate in a fine and understanding manner with the functionaries of the Party, with the DAF (German Workers' Front), etc. Orders to that effect again are to be given to the leading German gentlemen so that there may be no misunderstanding in their execution".

"The Management of our Offices Abroad

is to be in the hands of German gentlemen as a matter of basic policy. Should existing national laws make this impossible a German gentleman is always to be delegated to the agency in question, whose task it will then be to keep up relations with the branch-offices of the Party abroad, and to put forth great effort in behalf of the National Socialist attitude of Germans abroad who belong to our organization." (Exh. 803, NI-8428, Book 45, p. 18).

On 25 February 1938, the defendant Mann wrote to Homann in Argentina repeating his request that Homann "should again and again make all endeavors to support not only the government agencies, but also official Party agencies in their work abroad." This letter was sent to the heads of all of the Bayer offices abroad. (Exh. 129, NI-6489, Book 45, p. 20).

In accordance with these instructions, the various representatives and employees of I.G. Farben abroad created and participated in programs, together with the foreign organizations of the Nazi Party,

the German embassies and Legations, and other powerful institutions acting in the Nazi cause, such as the German Chambers of Commerce. I. G. was kept informed of the various schemes and projects undertaken and approved and ratified them. (Exh. 780, NI-9898, Book 44, p. 83; Exh. 781, NI-9897, Book 44, p. 87; Exh. 789, NI-6696, Book 44, p. 109; Exh. 787, NI-4610, Book 44, p. 97; Exh. 788, NI-4613, Book 44, p. 102):

A trip by Ilgner in 1936 to South America resulted in the setting up of a detailed program on "defense against fostering of anti-German sentiments in Latin America." The program contemplated the distribution of propaganda material through Latin American Chambers of Commerce, the branch offices of German banks and the representative of Germany economy. The use of the film, the exchange of students, businessmen, scientists, and artists, the use of German clubs are all mentioned as important sources for "important propaganda work for German."* (Exh. 790, NI-070, Book 44, p. 111).

Ilgner in his report on this trip, discusses the tasks of "Verbindungsmaenner", who were leading men of I. G. Farben abroad appointed pursuant to a decision of the Commercial Committee, many of whom held leading posts in the Foreign Organization of the NSDAP or in German clubs, chambers of commerce, and other German institutions abroad. (Exh. 772, NI-8702, Book 17, p. 23). Ilgner's report clearly indicates that the Verbindungsmaenner were to coordinate all of the Fifth Column activities engaged in by the defendants' agents abroad. (Exh. 773, NI-6701, Book 17, p. 33).

* The defendant Ilgner was a member of the supervisory board of the Trans-Ocean News Service (Exh. 377, NI-6544, Book 17, p. 311), which was the official German news agency of the Nazi Propaganda Ministry. As to the support given by Farben to schools and cultural institutions, (see exhibit 797, NI-4864, Book 44, p. 147; Exh. 79, NI-4863, Book 44, p. 154; Exh. 798, NI-8512, Book 44, p. 150; Exh. 799, NI-6126, Book 45, p. 1; Exh. 796, NI-7338, Book 44, p. 144; Exh. 818, NI-6293 Book 45, p. 140) as to support given by Farben to Chambers of Commerce abroad, (see Exhibit 819, NI-5751, Book 45, p. 41; Exh. 820, NI-1327, Book 45, p. 143; 146; Exh. 830, NI-5453, Book 46, p. 18).

In April, 1938, shortly after the seizure of Austria, a representative of I. G. Farben attended a conference of the International Central Office "Joy and Work" of the German Labor Front, which set out a propaganda campaign to be carried out by the I.G.Verbundungsmaenner in Latin America and the West Indies to win friends for Germany. This was the first time a representative of industry participated in a conference of this organization. It was agreed at this conference to use I.G.Farben Verbindungsmaenner:

"for the reason that, the propaganda will be more forceful because of the complete network of representatives of this firm over the whole continent, and on the other hand, it would be shown that in this case the representatives of a big employer, like the I.G. assist in carrying the idea of organizing leisure activities for employees into a foreign country." (Exh. 807, NI-2786, Book 45, p. 47).

Farben's campaign carried on in conjunction with the government to influence newspapers in accordance with the political aims of the Nazi war program is revealed in a cable received on 4 September 1939 from an I.G.Farben subsidiary requesting I.G. to lend money to the German Legation in case of war and stating that the "Press in Mexico must be influenced". The Vorstand agreed to this request (Exh. 814, NI-8937, Ek 45, p. 131; Exh. 788, NI-4613, Ek 45, p. 53; Exh. 808, NI-7984, Ek 45, p. 53; Exh. 894, NI-6977, Ek 48, p. 102; Exh. 810, 812, Ek 45).

The manner in which German business men and the German government combined in Latin and South America to influence political policy of the governments in supporting the German war preparation and program, is described in the U.S. State Department Report (Ex. 805, NI-10555, Ek 45, pages 30, 32, 36).

A particularly revealing statement from Farben's own files, refers to the activity in Argentina and related countries, among which the following was stated:

"The situation in Uruguay is said to be difficult. On account of the economic situation, the dependence on England and the States is said to be so great that an uninfluenced policy is not possible. In the well-known question of bases, one can even suppose that a direct influence on the Uruguayan ministers concerned existed. However, the Argentine Government, by a timely intervention, succeeded in disturbing the already very far advanced negotiations to such a degree that on account of the inclusion now planned of the adjacent states Argentina, Brazil, Paraguay, and Chile, the settlement of the question of bases has been drawn out considerably. However, Argentina would of course not be in a position to proceed by armed force against a "coup de main" of the U.S.A. at the La Plat

estuary or against any possible cession of the Malvinas
by England to the U.S.A." (Exh. 604, NI-10712, Bk 45, p.22)*

Farben's propaganda activities were not limited to the Americas.

I. G. Farben's Fifth Column activities in Czechoslovakia shows that on the 17 May 1938, a few short months before the seizure of Czechoslovakia, a conference was held by various officials of I. G. Farben at which the situation in Czechoslovakia was thoroughly canvassed and a program for action set out. Plans were made for action in the greatest possible speed to carry out the tenets of National Socialism (Exh. 833, NI-6221, Bk 46, p. 29), in contemplation of an "anschluss" or the possibility of the Sudeten Germans becoming "autonomous". Proposals were made in conjunction with a company sponsored by the German authorities for the placement of articles in the Sudeten German Press to "serve as a preparation for a gradual financial strengthening of the Sudeten German newspapers by advertising" (p. 33). A report of this conference and the minutes were given to the members of the Commercial Committee at a meeting attended by the defendants Schmitz, Schnitzler, Haefliger, Ilgner, Gattineau, and Kugler (Exh. 1612, NI-6703, Bk 46).

In August 1938, the Roumanian authorities took action against the I. G. Farben Roumanil firm because of support given by I.G.Farben to the Roumanian Iron Guard, the party through which Germany gained its hold on Roumania and maneuvered her into the axis. (Ex. 835, NI-1085 Book 46, pages 39, 43, 44).

* This report also states:

"For the maintenance of the good relations still existing between Germany and Argentina, he (Hoer von Thermann) thinks it absolutely necessary that an Argentinian, too, should come to Germany once more to get a direct impression of the actual effects of the war, so that enemy propaganda will be counteracted by evidence. We think it best that Oberingenieur (Chief Engineer) Brandt should be informed about it and that he should be asked to see to it that a respected, high-ranking officer of the Argentine Army comes with him in February to Germany by airplane, because this would be the best opportunity for finding a plausible reason (Gun-Powder Factory Villa Maria). (Exh. 804, NI-10712, Bk 45, p. 21).

In 1939, at a specially arranged meeting for prominent foreign businessmen and economists, where it was anticipated that Germany's foreign policy would be discussed, Farben, in conjunction with the Reich government, organized the "Party Line" to be taken. A report of the meeting indicates that the following occurred with respect to the discussion on foreign affairs: (Exh. 779, NI-826, Bk 44, page 59).

"The English and French papers had heavily exploited the underlying fact that, with the occupation of Bohemia and Moravia, Germany had deviated from the principle of the national state and had thus become a menace to all South-East-European states. Unfortunately no respective counter measures had been undertaken by the German propaganda. Germany ought to emphasize again and again that in the case of Czechoslovakia not a neutral country had been occupied, nevertheless, these smaller countries who will fully maintain their neutrality, will have nothing to fear at all from Germany. It could quite often be observed that foreign friends of Germany were looking for arguments to defend Germany's foreign policy. Benevolent pro-Germans, when talking with us, were always on the lookout for arguments they could offer their compatriots to offset the claim that Germany, with the establishment of the Protectorate, had deviated from her own principles. I have the impression that many a pro-German abroad considers himself exposed to attacks and so, for reasons of self-defense, wants to get hold of any enlightenment we can give him." (p. 62, 63).

The financing of propaganda and other Fifth Column activities throughout the world through foreign exchange provided by I.G.Farben, was another of I.G.Farben's major contributions to effectuate the Nazis war plans. In 1937, General Thomas, Chief of the Military Economy Staff of the Wehrmacht, in a speech delivered at the Wehrmacht War College in which he made clear the measures which were necessary to place Germany in a position to successfully carry out its war program and the tasks which had to be performed by the industrialists of Germany, stated:

"In view of the fact that sizeable means will be needed during the war to make the necessary propaganda to pay for the espionage service and similar purposes, it must be realized that marks are useless and that foreign currency is needed." (Exh 1613, EC-14, Bk 67, p. 5).

I. G. Farben provided this foreign exchange (Exh. 822, NI-9776, Book 45 p. 175). These payments were not made in innocence. On September 4, 1939, the Vorstand approved monthly "loans" of foreign exchange to the German Legation in Mexico in case "war breaks out", (Exh. 814, NI-8937, Book 45, p. 131). On September 19, 1939, German Ambassador Ott in Tokyo refers

to receipt of 100,000 yen supplied by I.G. Farben for propoganda purposes. (Exh. 825, NI-950, Book 46, P. 1) Most of these payments were made in secret and in violation of the laws of the nations whose hospitality the Germans were enjoying and I. G. fully participating in the intrigue necessary to transfer the foreign exchange to the German Embassy and party officials* (Exh. 826, NI-1194, Book 46, p. 3; Exh. 828, NI-068, Book 46, p. 11). At a meeting of the Bayer Board of Directors presided over by the defendant Mann it was noted that:

"From a Protective Power Report (Schutzmacht Bericht) it appears that the fine of Cruzeiros 8,750,000 (R\$. 1, 145, 250--) imposed on 'A Chimica Bayer Ltd.' in Rio de Janeiro, on account of alleged illegal commercial operations, was based on payments made to the German Embassy there, which was viewed as a violation of the Brazilian Foreign Exchange regulations. The equivalent value is therefore to be registered with the competent Reich Office for the purpose of repayment." (Exh. 827, NI-7666, Book 46, p. 5)

* Compare the discussion under subdivision H, relating to Farben's camouflage measures to conceal its assets abroad and the making available of its foreign exchange to the German Government.

INTELLIGENCE AND ESPIONAGE ACTIVITIES

The evidence establishes that the defendants placed at the disposal of Reich authorities voluntarily and on their own initiative information which was vital to the plans and preparation of the wars of aggression and invasions of other countries; that it worked closely with the intelligence service of the Wehrmacht (the Abwehr) and sponsored and financed institutions in the service of that organization; and after the outbreak of war, it supplied the Wehrmacht with the information it needed to wage each succeeding act of aggression.

Mobilization of the home economy and thorough knowledge of economy abroad became part of the objectives of the Wehrmacht in its program for total war. In November 1937, General Thomas, Chief of the Military Economy Staff in the Wehrmacht, in a speech before the Wehrmacht War College, after pointing out that the National Socialist "revolution" of 1933 made it possible to mobilize the entire economy for war, stated:

"If an economic war is to be successfully waged, the same thorough preparations as made in wartime on the home front are needed. The quicker and more suddenly the economic war starts the greater will be its success. To achieve these results, the leaders of the economic war must know the enemy's economy well and, in particular, must know where the most vulnerable points of the enemy's economy are. We must realize that preparations in this field were not made in the world war nor were the data available to bring quick success to economic warfare. Therefore, it is the task of the Military Economic Staff (Wehrwirtschaftstab) to make a close study of the economic structure and economic interrelations of our neighboring countries and to find their weakest spots. To be successful in this it is necessary to have an extensive intelligence machine and to cultivate close contact with industry. It will be impossible to obtain the necessary data through espionage alone. The home economy, which in many fields has international relations with the economy of foreign countries, will have to lend its aid."
(EC-14, pages 5, 6).

I. G. Farben, with its worldwide network of agencies and representatives, was in a peculiarly good position to obtain information concerning the economic, political and military life of the countries of the world.*

* See Exh. 377, NI-6544, Bk 17, p. 15, which discusses sources of information obtained by I.G.; Exh. 850, NI-8149, Bk 47, pp 1,2.

See also activities of Chemycor, the American company dominated by I.G., re transmittal of Exh. 888, NI-11197, Book 48, p. 36; Exh. 872, NI-7581, Book 47, p. 92; Exh. 873, Exh. 875, Exh. 876, Exh. 877, Exh. 880, Exh. 377, NI-6544.

Farben's Berlin Northwest 7, headed by defendant Ilgner, was the central office through which information was received, analyzed, and channeled to the various Reich authorities. This office included the Economics Research Department (VOWI), the Economic Political Department (WIPO), and the Bureau of the Commercial Committee (BdKA). (Exh. 839, NI-10702; Ek 46, p. 85). VOWI reports and analyses covered every aspect of world economy including the organic structure of the economy of foreign countries, market and currency observations, foreign trade, raw material supplies and studies of specific industries and firms containing financial structure, production capacity, labor supplies, price data and consumer figures. VOWI reports were regularly distributed to government officials. (Exh. 377, NI-6544, Book 17, p. 3, 15; Exh. 850, NI-8149, Book 47, p. 1, 2; Exh. 851, NI-8414, Book 47, p. 6)*

The staff of General Thomas made full use of the information proffered by I.G. General Huehnermann, who had been in charge of the Military Economic Department of the High Command of the Armed Forces from October 1937 until the middle of 1938, stated that:

"Another of our sources of information was the Economic Department of the I. G. Farbenindustrie A.G. (Volkswirtschaftliche Abteilung). I cannot give the precise date when this cooperation started, because at the time when I took over the Military Economic Department this connection was already in existence and I never learned when it began. The Economics Department of the I. G. cooperated with us by putting their work, such as reports on countries, detailed reports on raw materials, developmental prospects, at our disposal. Since the Economics Department of the I. G. had an excellent and highly qualified staff of collaborators we also addressed to this office inquiries on subjects about which we assumed they were informed. (Inquiries about America's nitrogen production, etc.)" (Exh. 853, NI-9827, Book 47, p. 11).

* See also Exh. 852, NI-5760, Book 47, p. 9, minutes of a meeting of the NW 7 department heads which was attended by the defendant Menn, in which it is indicated that "official authorities, the organization of the NSDAP abroad and similar agencies" who are scheduled to travel abroad obtain information from VOWI on the particular country.

In March of 1939, the defendants established a branch office in Vienna of VOWI. The chief of this branch office stated that one of the factors in selecting Vienna for this was -

"... the fact that Vienna, in view of its historical-political mission and its manifold cultural and economic ties with the nations and countries of Southeast Europe, was undoubtedly the most suitable place in Greater Germany for the economic observation of Southeast Europe, which has become an urgent necessity in view of the present well established southeast direction of Greater Germany's economic policy." (Exh. 846, NI-7987, Book 46, p. 126, 129).

Two weeks prior to the opening of this office, the defendant Gattinonu offered General Gautier, of the Office of Military Economy, the services of the Vienna Branch Office. (Exh. 858, NI-7787, Book 47, p. 39).

The six-month period preceding the attack on Poland was marked by accelerated activity between Farben and the Wehrmacht relating to supplying of information and culminated in an agreement on 25 August 1939 whereby Farben was to turn over the records and archives of VOWI, together with its staff, to the Military Economy Office of the Wehrmacht.* (Exh. 860, NI-7493, Book 47, p. 51; Exh. 861, NI-8469, Book 47, Page 65; Exh. 843, NI-4875, Book 46, Page 99; Exh. 850, NI-8149, Book 47, p. 1, 2.)

* In June 1939 the Military Economy Staff was informed that the records and library of I. G. were at the disposal of the Military Economy Staff at any time. (Exh. 860, supra, p. 59, 62). Negotiations followed concerning a closer cooperation (p. 57). On the 24th of August, the report notes that:

"I. G. made all their archives and printed material available for exploitation and furthermore declared themselves prepared to answer questions put to them, which must be kept as brief and concise as possible." (p. 55).

See Exh. 861, NI-8649, Book 47, p. 65, for a formal statement of the agreement circulated by the Military Economy Staff on August 31, 1939.

Throughout the war years VONI prepared a continuous stream of important military and economic reports for the Wehrmacht, including location maps for bombing targets.*

The Economic Political Department of Northwest 7 (WIPO) was headed by the defendant Gattineau. This department was organized shortly after the advent of Hitler's rise to power when the defendants hastened to consolidate the position of influence they had achieved with the Nazi Party through their earlier support of Hitler. (Exh. 377, NI-6544, Ek. 17, p. 3.) The main task of WIPO was to act as liaison with the authorities on behalf of I.G. Farben (Exh. 377, supra, at p. 5; Exh. 842, NI-5727, Ek. 46, p. 96). The defendant Gattineau who had been responsible for bringing the Nazis and I.G. Farben together was made chief of WIPO because of his good connections with the Nazi Party.**

* Immediately after the attack on Poland, von der Bey, the Abwehr agent of I.G.'s Bitterfeld Plant, who was also one of the directors, transmitted to the Reich Air Ministry information concerning the location and production capacities of certain aluminum factories in England. The aerial targets were clearly marked in the plans and maps transmitted by von der Bey. (Exh. 884, NI-1147, Ek. 48, p. 29; see also Exh. 857, NI-6652, Ek. 47, p. 37.) See Exh. 657, NI-7859, Ek. 47, p. 74 - a report on the technology of explosives and chemical warfare agents containing an analysis of the production capacities and potentialities of the United States; Exh. 867, NI-9959, Ek. 47, p. 78, a report on the construction of a calcium carbide plant in Great Britain; Exh. 863, NI-7794, Ek. 47, p. 80, a report on the allied poison gas industry and a location map of synthetic rubber plants in the United States; Exh. 870, Ek. 47, NI-7857, p. 86, a report to the OKW transmitting information on the production of explosives in Russia and the United States and nitrogen production in the United States, Great Britain, U.S.S.R., and Japan; Exh. 871, NI-7978, Ek. 47 p. 88; a list of VONI reports prepared for the OKW from November 1939 to January 1944.

** Gattineau states concerning his appointment as chief of WIPO:

"I was made chief of WIPO because, apart from my knowledge in the field of commercial policy and by reason of my journalistic activity and acquaintance, I had the necessary contacts with the government and the agencies of the Party and thus I could render I.G. good services as liaison man." (Exh. 26, NI-4833, Ek. 46, p. 14.)

The early transmittal of reports and information to Reich officials* and the Intelligence Department of the Wehrmacht was made through the defendant Gattineau. Exh. 840, NI-9512, Bk. 46, p. 89, indicates that:

"Other material for instance that was meant for Bloch (an officer in the Intelligence Department of the Wehrmacht, the Abwehr) was in each case earmarked accordingly by Dr. Gattineau or Dr. Terhaar when distributing the mail. This applied to communications which in principle could be of interest to the OKW." (See also Exh. 841, NI-10558, Bk. 46, p. 94.)

The defendant von der Heyde stated:

"A short time afterwards," (the middle of 1936), "I was requested by my department chief, Dr. Gattineau, to contact Major Bloch. As a result, an arrangement was made shortly afterwards for reports to be passed on in the manner described in paragraph 5. Reports handled by I.G. Berlin NW7 generally passed from the office of the Commercial Committee to the office of Dr. Ilgner; from there, they were generally passed on to me for distribution. I took over the connection with Major Bloch from my department chief Dr. Heinrich Gattineau. I was also requested by Major Bloch to notify him of the presence of any of our foreign sales agents in Berlin. In such instances I used to telephone Major Bloch and he decided whether he wished to see the person concerned. If he did, the respective sales agent had a meeting with Major Bloch. I cannot remember the names of the gentlemen who met Major Bloch in this manner, but I definitely know that this was the usual procedure." (Exh. 164, NI-6658, Bk. 49, p. 68, 70.)**

In 1937 after a trip to South America, Ilgner proposed a program to the Nazi officials, which was approved and endorsed by the Commercial Committee meeting on August 20, 1937, for intensification of exports for carrying out the Four Year Plan which involved an elaborate scheme for procuring information for that purpose. The plan for intensification of export promotion proposed by Ilgner provided for methods and techniques of obtaining complete knowledge of conditions abroad necessary to carry out this program (see item d on p. 48, and p. 63-67). In this document, as in innumerable others introduced by the prosecution, the plan of utilizing Germans living abroad, both German Nationals and those of German descent,

* Exh. 420, NI-5746, Bk. 49, p. 12, 13. Minutes of a meeting of department heads of NW7 notes:

"Gattineau reports about a desire on the part of Herr Keppler (of the Foreign Office) to have the figures compiled by Dr. Neubacher placed at his disposal. As there are no such compilations, Gattineau is to inquire whether Herr Keppler is referring to Dr. Neubacher's reports, and if he wants to have these placed at his disposal."

** The East Asia report by the defendant Ilgner received widespread distribution among the Nazi officials. In addition, a special copy of the report was prepared by Ilgner on the suggestion of a Nazi official, for Hitler. (Exh. 762, NI-1570, Bk. 48, p. 45, 47-48; Exh. 851, NI-8414, Bk. 47, p. .)

for creating a corps of "loyal" workers for the German cause is repeated and set forth. The plan provides among other things for the training of the younger generation of German descent to be employed abroad in order to give that generation a "loyal attitude towards Germany" and to enable them to "serve later as a reliable stock for the representation of German interests abroad." (Exh. 762, NI-1570, Ek. 48, p. 45.) The plan also provided for the concentration and intensification of German banks abroad (p. 67), support to German chambers of commerce abroad, support to German cultural institutions abroad, and support to German newspapers abroad (p. 68).

Farben appointed Verbindungsmaenner abroad and assigned to them the task of making systematic transmittal of information concerning the economic, political, and military life of the countries to which they were assigned, to promoting pro-Nazi sentiment and action in those countries through the press. The Verbindungsmaenner were the key men of I.G. Farben abroad. (Exh. 362, NI-4927, Ek. 48, p. 82; Exh. 773, NI-6701, Ek. 17, p. 33.) It was shortly after the institution of the Verbindungsmaenner system that the Commercial Committee issued the resolution requiring all of its employees abroad to affirm their loyalty to the Nazi cause and to work closely with the Foreign Organization of the Nazi Party (Exh. 365, NI-4959, Ek. 45, p. 5, 9). Many of these men were notoriously involved in propoganda and espionage activities.*

One of the I.G. Farben officials in a report to the Commercial Committee in the fall of 1938 on the South American question pointed out that:

* See Exh. 806, NI-16575, Ek. 44, p. 98, a report by the American Charge d'Affaire in Argentine Foreign Office concerning the activities of German Nationals in Argentina which describes the espionage, propoganda, and other activities on behalf of the Nazi war program of I.G.'s Verbindungsmaenner in Argentina, Heinrich Homann; see also Exh. 914, NI-10922, Ek. 49, p. 50, which is a report by the Embassy of the United States in Buenos Aires to the Secretary of State in Argentina. This report describes in detail the espionage system carried on by the Axis in Argentina and the role played by employees of I.G. Farben who were working directly under the supervision of Heinrich Homann.

"...A further point to be borne in mind in this connection is the need for precautions to prevent our representatives abroad from meeting difficulties resulting from the nature of the questions submitted. Some of them are of delicate nature affecting as they do the interests both from the point of view of policy and war economy, of the countries concerned. As people are getting a little sensitive in this respect, even in Latin America, no documents should be found in the offices of the Verbindungsmaenner or their assistants which could possibly hang them or ourselves. This was another point which called for our consideration on the occasion of the May rising in Brazil." (Exh. 808, NI-7984, Bk 45, p. 53, 53c).

The Commercial Committee discussed this report at the meeting which was attended by the defendants von Schnitzler, Haefliger, Ilgnor, Ostor, Schmitz, Gattineau, Kugler, and Kuehne, and decided:

"In view of the political situation in Latin America, reference is again made to the necessity for extreme caution in correspondence with our agencies." (Ex. 894, NI-6077, Bk. 48, p. 102, 104).

Precautions were taken by the defendants concerning such correspondence (see Ex. 156, NI-1137, Bk 48, p. 106; Ex. 895, NI-4842, Bk. 48, p. 110; Ex. 896, NI-8644, Bk. 48, p. 112)*

Some time in 1936, employees in all of the plants of I.G. Farben were appointed by the Abwehr Office of the German High Command, ** with the consent of the Nazi Party, to act as agents for the Abwehr within I.G. (Abwehrbeauftragte). (Exh. 164, Bk 49, NI-6658, p. 68; see also Exh. 145, NI-4979, Bk 6, p. 51a). The tasks of these agents consisted initially of carrying out the instructions of the Abwehr of the OKW with respect to

* Some indication as to the character of the correspondence is revealed in a memorandum prepared by the German envoy in Argentina which was transmitted to WIFO on August 18, 1941, with the request that I.G. influence its agencies to conform. This memorandum requests that caution be displayed in transmitting correspondence overseas from which "any conclusion could be drawn that we intend to stage anything military or to step out of our reserve on the basis of our philosophy of life through meddling in the internal conditions of the individual Spanish American State," and that communications which might be so construed be sent through the foreign Office. (Exh. 897, NI-1130, Bk. 48, p. 118, 118a.)

** The Abwehr was the intelligence and counter-intelligence office of the German High Command (See transcript page 2156).

plant security and counter-intelligence matters (Exh. 377, NI-6544, Bk 17, p. 20; see also Exh. 164, NI-6658, Bk 49, p. 68). The defendant von der Heyde was recommended by the defendant Ilgner as Abwehr agent for Berlin NW 7, and in that capacity, he transmitted reports to Major Bloch and arranged for I. G. representatives traveling from abroad to make oral report to Major Bloch (Exh. 164). Similar arrangements were made throughout other plants and offices for I.G.*

The information transmitted to the Abwehr through I.G. Abwehr agents covered among other things reports concerning ship movements (Exh. 840, NI-9512, Bk 46, p. 39), information concerning the location and production capacity of vital war plants in foreign countries, (Exh. 922, NI-7726, Bk 49, p. 86; Exh. 920, NI-10924, Bk 49, p. 81) information from engineers working in foreign countries concerning the organization and stage of technical development of the armed forces of the particular country in which the engineer was employed (Exh. 921, NI-8515, Book 49, p. 84), and location maps of vital plants in foreign countries for bombing targets (Exh. 834, NI-1147, Bk 48, p. 29; Exh. 924, NI-1163, Bk 49, p. 92). In the spring of 1940, responsibility for coordinating the Abwehr activities of I.G. agents was given to the defendant Schneider, (Exh. 164, NI-6658, Bk 49, p. 66-70; Exh. 377, NI-6544, Book 17, p. 3, 20, 21).

I. G. maintained and financed several agents abroad who were engaged in espionage and in some cases exclusively for the Abwehr. (Exh. 377, NI-6544, Bk 17, p. 3, 18, 20; Exh. 378, NI-4928, Bk 46, p. 104, 108, 109) I.G. carried on these activities on a large scale in South America. A Bayer Directors' Meeting of 21 October 1943 notes:

"Brazil - Liquidation of German firms"

We have received the information that, under a decree of the State President of Brazil a number of German firms including the Quimica Bayer have been liquidated "on account of espionage", (Ex. 827, Bk 46, NI-7666, p. 5. 8.)

(See also Ex. 806, NI-10575, Bk 44, p. 101, and Ex. 914, NI-10922, Bk 49, P. 50, for further indication of the widespread espionage activities of I.G.'s agents in South America; and Exh 823, NI-11196, Bk 45, p. 179, for indication of I.G.'s espionage activities in China.)

* The defendant Mann stated that he issued instructions for the transmittal of written and oral reports from abroad to the local offices of the Abwehr in Cologne (Exh. 918, Bk 49, NI-8150, p. 60) at the time the Abwehr were appointed in all of the I.G. plants.

Although I.G. placed its own agencies, representatives, and employees in the service of the Abwehr, it was reluctant to hire espionage agents and place them with I.G. agencies abroad for fear of exposure (Ex. 251, NI-5198, Bk 16, p. 157, 159, 167)*

In the Spring of 1940 to meet this problem, I.G. Farben, through the defendant von Schnitzler, who was given this responsibility by the Commercial Committee**, arranged for an organization, known as the Society for Sales Promotion, which was under his control, to act as a cover agency for espionage agents sent to foreign countries by the Abwehr (Ex. 251, NI-5198, Bk 16, p. 157). *** I.G. undertook the initial financing of this organization (Ex. 932, NI-1448, Bk 49, p. 116; Ex. 933, NI-1449, Bk 49, p. 117; Ex. 934, NI-1450, Bk 49, p. 118), and the defendant von Schnitzler aggressively undertook to procure financial support for this organization from other industrialists (Ex. 926, NI-1446, Bk 49, p. 100).

The espionage and intelligence services which the defendants provided the Abwehr were gratefully acknowledged by Bloch and his superior Colonel Pickenbrock on the occasion of their transfer to the front in 1943. (Ex. 941, NI-7627, Bk 49, p. 143).

* See also Ex. 927, NI-7626, Bk 47, p. 102, which is a letter from von der Heyde in his capacity as Abwehr agent to Schnitzler in March 1940 in which he requests Schnitzler to obtain I.G.'s cooperation in the matter of placing Abwehr people in I.G. agencies abroad. In reply, Schnitzler points to the danger of I.G. in the case of exposure and recommends using the Society for Sales Promotion (Ex. 928, NI-3804, Bk 49, p. 104). In spite of this reluctance, I.G. did make some effort to place espionage agents with its agencies abroad, (Ex. 926, NI-1322, Bk 49, p. 128).

** At the Commercial Committee meeting on 17 April 1940, attended by the defendants Schnitz, Haefliger, Ilgner, Kugler, Mann and Oster, von der Heyde reported on the question of placing Abwehr people in the I.G. agencies abroad. The Commercial Committee deputized von Schnitzler with the assistance of von der Heyde to take care of the problem. (Ex. 929, NI-5950, Bk 49, p. 105; see also Ex. 930, NI-1447, Bk 49, p. 107 containing further discussion of this question by the Commercial Committee; Ex. 931, NI-5951, Bk 49, p. 108).

*** The defendant Schnitzler stated that this firm was used by Major Bloch to obtain information out of enemy and neutral countries and that men on special missions were sent under cover of this association (Ex. 251, p. 168).

Josco von Puttkamer, an official of the Society for Sales Promotion went on a special mission to Shanghai for the Society (Ex. 241, NI-5198, Bk 16, p. 157). While in China he corresponded with Schnitzler apparently transmitting reports to him (Ex. 938, NI-1300, Bk 49, p. 130). Puttkamer, who remained in Shanghai throughout the war, was chief of Nazi propaganda activities in China and also carried on espionage activity (Ex. 937, NI-1333, Bk 49, p. 132; Ex. 939, NI-11334, Bk 49, p. 138). I.G. Farben's agents and employees in China participated freely in espionage and propaganda activities there (Ex. 823, NI-11196, Bk 45, p. 179).

H. Protecting Farben's Empire and Expanding it Through Plunder and Slavery as Part of the Preparation for and Waging of Aggressive Wars and Invasions.

Beginning in 1938 and with the approach of each new aggression Farben not only intensified its activities in the fields already discussed, but took steps to protect its foreign empire and to expand it through plunder and slavery. The steps which Farben took in furtherance of its own policy of aggrandizement also constituted an integral and vital part of carrying out the Nazi policy of aggrandizement. Thus the protection of Farben's foreign empire through the camouflaging of its assets abroad made foreign currency available to the Reich and enabled Germany to use these cloaked assets in furtherance of the war effort for the purpose of acquiring strategic materials abroad and for financing propaganda, intelligence and espionage activities throughout the world. The activities of Farben in plundering the European continent and acquiring the chemical industries of the invaded countries not only expanded the Farben empire but also was done in furtherance of the government program of integrating these industries into the German economy and using the resources of the conquered countries in waging each aggression and preparing for the next. The use of slave labor by Farben also has this double aspect. It not only enabled Farben to erect new plants and make huge profits, by increasing production, but the very erection of such plants and the increase of such production constituted a vital part of the preparation for and the waging of aggressions.

In July or August of 1938, the legal division of Farben seriously considered what steps had to be taken to safeguard its assets abroad against the consequences of war. (Testimony of Kuepper, Tr. p. 2907-2908; 2929; Exh. 1022, NI-4923, Bk 50, p. 17, Tr. p.2423). This was at the time when "the dark clouds of the Sudeten crisis already appeared over the horizon" (Tr. p. 2908). There "was a general feeling of the darkening of the general political situation and the general talk not only was in Farben, but in the whole German population, about the possibility of war: the kind of war - that was not discussed." (Tr. p. 2908). Immediately after the German troops occupied Bohemia and Moravia in Czechoslovakia, on March 15, 1939, Farben's legal committee met on March 17 and made specific recommendations as to the legal steps necessary to camouflage its assets abroad so as to prevent seizure in the event of war. (Exh. 1020, NI-2796,

Bk 50, p. 1). Thereafter, Farben, in a series of letters addressed to the Reich Ministry of Economics (June thru August, 1939) advised that office that after the September 1938 crisis, Farben had reexamined its foreign organization in "consideration of the possibility of European conflicts" (Exh. 1023, NI-5769, Bk 50, p. 25, Tr. p. 2432) and informed the Reich Ministry of Economics that they proposed to safeguard their foreign organization in the event of political complications and to sever I.G.'s connections with such foreign organizations only "from the legal point of view" (Exh. 1023, supra; Exh. 1024, NI-8496, Bk. 50, p. 29)*

The camouflage measures were a part of the official government policy for the preparation and waging of war (Exh. 1026, NI-6121, Bk 50, p 41, Tr. p. 2435-36). Farben discussed its camouflage measures with the Reich Ministry of Economics and made available to the Reich "the hard foreign currency". (Tr. p. 2926-27).

A special feature of Farben's camouflage activities related to protecting its assets in the U.S. in anticipation of the U.S. entering the war against Germany. (Exh. 2028, NI-5773, Bk 50, p. 49, Tr. p. 2440). Accordingly, Farben advised the German governmental agencies of their intention to transfer their interests in the General Aniline and Film Company, and pointed to the "political economic consideration" involved. (Exh. 1032, NI-5772, Bk 50, p. 61, Tr. p. 2443; Exh. 1029, NI-5770, Bk 50, p. 51, Tr. p. 2440; Exh. 1030, NI-5768, Bk 50, p. 54, Tr. p. 2441; Exh. 1031, NI-5771, Bk 50, Tr. p. 2443). In seeking approval of its action, Farben pointed out to the government agencies that its actions should be kept secret and that it was taken "in view of the possibility of war suddenly breaking out between Germany and the U.S.", and that I.G.'s interests might be threatened. (Exh. 1034, NI-5767, Bk 50, p 66, Tr. P. 2444).

* That this severance of I.G. from its foreign organization was only one of form and not of substance, appears from Exh. 1025, NI-7078, Bk. 50, p. 27, Tr. p. 2435, where Farben writing to the Reich Ministry of Economics in August 1939 stated:

"We declare moreover that the decisive real influence we shall have on the foreign sales companies even after carrying out of new measures (of camouflage) will be sufficient in every respect to answer the requirements of the governmental and party authorities with regard to personnel and political questions."

Beginning with the invasion of Austria in March 1938, Farben made representations to the German authorities that it would take over the chemical industry of Austria and operate it "within the framework of the Four Year Plan". (Exh. 1040, NI-4024, Bk. 51, p. 3). This was on April 9, 1938. Also in April 1938, Farben sounded out State Secretary Keppler on what the official attitude of the German authorities would be as to Farben taking over the enterprises in Sudeten Czechoslovakia (Exh. 1072, NI-3981, Bk 54, p. 1 to 2). The story of Farben's activities in taking over the chemical industries in Austria and Czechoslovakia and integrating their production with the war production program of the Reich is told in Part II.

The desire for conquest and dominance on the part of Farben is vividly set forth in its plans for the "New Order". Immediately after the fall of France in May 1940, Farben set forth its blueprints for taking over the chemical and pharmaceutical industries of Europe and to control and dominate its production in the interests of (1) extending the military might of Germany, and (2) of subjugating the economy of the continent to the German economy. (Exh. 1051, NI-11252, Bk 51, p. 155).

The new order was planned "not only in regard to the countries still at war with Germany but also in regard to those countries which were allied with Germany or which were still neutral." (Exh. 1049, NI-4697, Bk 51, p. 130). It was definitely directed at pitting a new Europe under German leadership against the countries of North America. (Exh. 1051, supra.) By neutralizing the control of patents in Germany they intended to control the economy of the continent. (Exh. 1050, NI-4695, Bk 51, pp 140 149, Tr. p. 2471). Through Cartels and capital investment control in other countries, Farben and Germany intended to limit new production facilities (Exh. 1051, supra, p. 156, Tr. p. 2474); by a licensing system and special tariffs, to control the flow of specialized goods between the countries; and one of the purposes of such control was to enable Germany "to determine whether secret rearmament was going on" (Exh. 1051, supra, p. 182, Tr. p. 2490). With respect to France, they particularized in detail the kinds of plants and raw materials which should be limited because they were "important for armament".* (Exh. 1051, supra, p. 183, Tr. p. 2481).

*The secret plans for the distribution of the production under the New Order were destroyed by Farben (Exh. 661, NI-9126, Tr. p. 1060-7).

Finally, while waging war, Farben joined with the "tasks for the development of the New Order in the world with which Japan and Germany are faced" and assigned in January of 1945, the Hydrogenation process to the Japan Imperial Army (Exh. 1055, NI-6925, Bk 51, Tr. p. 2489).

What Farben attempted and actually accomplished in taking over the chemical industry of Europe is set forth in Part II. It is the position of the prosecution that the activities of Farben in connection with both spoliation and slave labor constituted an integral part of the preparation for and waging of aggressive wars and invasions. Accordingly, Part II and Part III of this brief, as well as Part I, are to be considered in connection with the charge of Crimes against Peace.

STATE OF MIND

We have reviewed the evidence relating to the participation by these defendants in furthering the military power of Germany after Hitler's rise to power. The evidence shows that the activities for which these defendants are responsible were indispensable to the waging of the war by Germany. Except for these activities there would have been no World War II. The remaining question is the state of mind with which the defendants engaged in these activities.

In discussing this question we should take note that, as distinguished from most criminal cases in which the period of time involved is relatively short (sometimes a matter of hours or even minutes), in this case the period involved is over 12 years. During this time the defendants not only bore substantial responsibility for activities vital to preparing Germany for conquest, but with each succeeding step in the program of conquest they intensified their efforts while reaping the rewards and the spoils.

It seems totally unnecessary to discuss at this point the state of mind of these defendants after 1 September 1939. That they knew after that date that the military power which they were furthering was being used and would continue to be used to take from the peoples of other countries their land, their property, and their personal freedoms appears to be beyond question. Accordingly we will concentrate our discussion at this point on the period from 1933 to 1939. In this connection we should keep in mind that the period following the conquest of Austria on 12 March 1938, which covers the conquest of the Sudetenland, on 1 October 1938, and Bohemia and Moravia on 15 March 1939, was a period of actual aggression as well as preparation for further aggressions.

The evidence concerning the activities of these defendants from 1933 to 1939 taken alone without any consideration of the political events which everyone knew were occurring in Germany during that period establishes that the defendants knew that they were preparing Germany for war which was inevitable or at least highly probable. The question might then be asked whether the

defendants could have believed the preparation for war was for defensive or aggressive purposes. Even if these activities were viewed without any reference to the political events, it is difficult to see how the defendants could have believed the preparation was for defensive purposes. A country desiring merely to defend itself does not deprive its people of peacetime goods and pleasures over a period of years in order to build up a war machine far exceeding that of its neighbors.* And the efforts to weaken other countries through the use of international cartels and through propaganda, intelligence and espionage activities can hardly be regarded under the circumstances as defensive. But, however this may be, all of these activities did not occur in a vacuum. When viewed in the light of the political events occurring during that period there can be no doubt as to the state of mind of these defendants. The events we have already reviewed, taken together with the events occurring in Germany during this period, establish beyond a reasonable doubt that the defendants knew that the military machine they were building up would be used for the purpose of carrying out a national policy of aggrandizement to take from the peoples of other countries their land, their property and their personal freedoms.

On the basis of the evidence which has been reviewed up to this point, the prosecution could rest and merely ask that the Court weigh this evidence in the light of the facts that have already been determined by the International Military Tribunal as to what occurred in Germany during this same period. However, we believe that it would be helpful to highlight at this point certain events which occurred during the period beginning with 1932 and which have a special bearing on the state of mind with which the defendants engaged in these activities.

* See Exh. 40, NI-5196, Affidavit of von Schnitzler, Ek 1, at p 76; Testimony of Paul Otto Schmidt, transcript pp 1543, 19544, 1550, 1599. The meaning of Goering's slogan "guns for butter" was clear to everyone.

Program and Aims of the Hitler Movement

The program of the Nazi Party had been hammered into the heads of the Germans again and again since the early 1920's. This program was, as it stated

"The political foundation of the NSDAP and, accordingly, the primary political law of the State."

The first three points of the program were:

Point 1. We demand the unification of all Germans in the Greater Germany, on the basis of the right of self-determination of peoples.

Point 2. We demand equality of rights for the German people in respect to the other nations; abrogation of the peace treaties of Versailles and Saint Germain.

Point 3. We demand land and territory for the sustenance of our people, and the colonization of our surplus population. (Exh. 4, PS-1708, Program of the NSDAP, Bk 1, p 22).

The meaning of these three points of the Nazi program are explained in the judgment of the International Military Tribunal (pp 175, 186-187) as follows:

"The demand for the unification of all Germans in the Greater Germany was to play a large part in the events preceeding the seizure of Austria and Czechoslovakia; the abrogation of the Treaty of Versailles was to become a decisive motive in attempting to justify the policy of the German Government; the demand for land was to be the justification for the acquisition of "living space" at the expense of other nations;"

* * * * *

"For the aggressive designs of the Nazi Government were not accidents arising out of the immediate political situation in Europe and the world; they were a deliberate and essential part of Nazi foreign policy."

"From the beginning, the National Socialist movement claimed that its object was to unite the German people in the consciousness of their mission and destiny, based on inherent qualities of race, and under the guidance of the Führer."

"For its achievement, two things were deemed to be essential; the disruption of the European order as it had existed since the Treaty of Versailles, and the creation of a Greater Germany beyond the frontiers of 1914. This necessarily involved the seizure of foreign territories."

"War was seen to be inevitable, or at the very least highly probable, if these purposes were to be accomplished."

These points were elaborated in Hitler's "Mein Kampf", the leading principles of which were not changed for about two decades. As the International Military Tribunal held (page 187):

"In Mein Kampf Hitler had made this view quite plain. It must be remembered that Mein Kampf was no more private diary in which the secret thoughts of Hitler were set down. Its contents were rather proclaimed from the house tops. It was used in the schools and Universities and among the Hitler Youth, in the SS and the SA, and among the German people generally, even down to the presentation of an official copy to all newly-married people. By the year 1945 over 6½ million copies had been circulated. The general contents were well known. Over and over again Hitler asserted his belief in the necessity of force as the means of solving international problems, as in the following quotation:

'The soil on which we now live was not a gift bestowed by Heaven on our forefathers. They had to conquer it by risking their lives. So also in the future, our people will not obtain territory, and therewith the means of existence as a favor from any other people, but will have to win it by the power of a triumphant sword.'

Mein Kampf contains many such passages, and the extolling of force as an instrument of foreign policy is openly proclaimed."

If there is one reproach this criminal regime established in Germany in 1933 does not deserve it is that of having concealed their true aims or having deceived anybody as to their creed that brutal force is the guiding and supreme principle of their entire policy.

As to the Nazi claim for "Lebensraum", Mein Kampf stated:

"If this earth really has space for all to live, then we should be given the territory necessary for us to live."

And also:

"Accordingly the sole possibility of Germany to carry out a healthy territorial policy consisted in acquiring new territory in Europe itself";

or:

"...oppressed countries are led back into the lap of a common Reich by a mighty sword and not by flaming protests.

It is the task of the inner political leaders of a people to forge this sword; to safeguard the work of the smith and to seek comrades in arms in the task of the foreign policy."

That the use of force would be necessary and resorted to also appears quite clearly from other passages of "Mein Kampf":

"...we, National Socialists, have to hold on steadily to our foreign political goals, namely, to secure on this earth the territory due to the German people. And this action is the only one which will make bloody sacrifice before God and our German posterity appear justified." (Exh. 5, PS-2760A, Excerpts from Hitler's "Mein Kampf", Bk 1, p 25).

Not only the aim for "Lebensraum" was stressed in Hitler's "Mein Kampf", but also Hitler's theory of dominating inferior races which led later on to the extermination of other races and nations.

"Had it not been possible for them to make use of people of inferior race, the Aryans would never have been able to take the first steps towards their subsequent culture; just as, without the help of certain suitable animals which they were able to tame, the technical achievements, which have now enabled them gradually to dispense with these same animals, would never have been possible."....

"The presence of inferior peoples constituted one of the most essential prerequisites for the establishment of higher cultures." (Exh. 1496, PS-2760B, Excerpts from Hitler's "Mein Kampf", Bk. 1, p. 29).

Concerning the common knowledge in Germany of Hitler's program, the witness Paul Otto Schmidt said in his affidavit of 3 July 1947;

"The above and many other points of the Nazi platform were continuously repeated by the party's propaganda machine. Nobody in Germany could possibly overlook them, whether he had read "Mein Kampf" or not. They were daily and almost hourly proclaimed in speeches, over the radio, in films; the newspapers were full of them, the walls of the cities were plastered with posters extolling their virtues, and publications ranging from the one-paged leaflet being distributed from door to door or on the street corners to the most elaborate volumes were in circulation. Whatever doubt a person may have had during the time before the seizure of power with regard to the ultimate aims of the NSDAP or the methods by which it proposed to fulfill them, was dispelled by an intelligent observation of the methods of violence the party used originally in electioneering and subsequently in fortifying its dictatorial powers." (Exh. 10, NI-7765, Ek 1, p 48).

1932 - 1935

The first acts of Hitler after he was appointed Chancellor on 30 January 1933 were enough to put any person in Germany, who might have had any lingering doubts that Hitler did not mean what he said in Mein Kampf and in the Nazi program, on notice that he meant what he said and was determined to carry it out. The defendants in this instance, as in most instances, had special knowledge that this was true. The speech of Hitler at the famous meeting in Goering's house on 20 February 1933, attended by von Schnitzler, showed clearly that Hitler was determined to use force to carry out his program. (Exh. 37, D-203, Bk. 3, p. 64). After von Schnitzler had reported on this meeting to other Farben officials (Exh. 36, EC-439, Bk. 3, p. 62), Farben contributed to Hitler's campaign the largest single contribution made by any of the firms represented at the meeting: RM 400,000. The payment was made on 27 February 1933. (Exh. 56, NI-391, Bk. 3, p. 112). The next day the Reichstag building was set on fire and Hitler and his cabinet, using the fire as a pretext, promulgated a decree suspending the constitutional guarantee of freedom. By this decree, certain sections of the German constitution were indefinitely suspended and

"...restrictions on personal liberty, on the right of free expression of opinion, including freedom of the press, on the right of assembly and the right of association, and violations of the privacy of postal, telegraphic and telephonic communications, and warrants for house-searches, orders for confiscation as well as restrictions on property, are also permissible beyond the legal limits otherwise prescribed." (Exh. 63, 1390-PS, Bk. 3, p. 136).

The decisive election was held with the constitutional guarantees in a state of suspension one week later; the Nazi party received seventeen million votes out of thirty nine million cast, and 288 Reichstag seats out of a total of 647. Still lacking a majority, Hitler applied the "other methods" he had threatened to use in the speech which

von Schnitzler had heard on the 20th of February. Opposition members in the Reichstag were taken into "protective custody" and in their enforced absence the Reichstag on 24 March 1933 passed the Enabling Act which gave Hitler full legislative power, including the power to deviate from the constitution. (Exh. 65, 2001-PS, Bk. 3, p. 141). Thus perished democracy and liberty in Germany: The Third Reich had come to stay for twelve long and terrible years. In April 1933, Hermann Goering founded the Gestapo. In that same month, the Reich Association of German Industry, of which Carl Duisberg was a founder and Farben a member, submitted to Hitler a plan for the reorganization of German industry according to the "Fuehrerprinzip" or "leadership principle". In July 1933, a law was passed declaring the NSDAP to be the only political party, and making it criminal to maintain or form any other political party. Three days earlier, representatives of the DuPont Company of Delaware met with Carl Bosch, then chairman of the Farben Vorstand, who told them that (Exh. 57, NI-9784, Bk. 3, p. 115):

"just now it is a question of Fascism and Bolshevism, and industry must support the present government to prevent further chaos. In the beginning, Hitler did not consult industrial leaders, but in recent weeks he has shown his stability by curbing the more extreme elements of the party and bringing the industrial leaders into consultation with him."

What Farben regarded as "stability" and what is preferred to "chaos" more clearly emerged during the remaining months of 1933. The grip of tyranny grew tighter. The independence of the judiciary was fatally undermined, special political courts were established, and the concentration camp made its appearance. Jews were eliminated from the civil service and otherwise persecuted, the trade unions were strangled and the Hitler Youth was organized on military lines. Joseph Goebbels established the Ministry of Peoples' Enlightenment and Propaganda to insure distortion and suppression of the truth. Within Goebbels' Ministry, Walther Funk established

a "Publicity Board of the German Economy", on which the defendants von Schhitler, Mann and Gattineau were pleased to serve. (See subdivision G, supra). Germany withdrew from the International Disarmament Conference and from the League of Nations. Germany's foreign policy was "ratified" by a so-called "election" in November, 1933. At the same "election", the defendant Schmitz, as a Nazi nominee, was elected to the Reichstag. (Exh. 315, NI-5029, Bk. 11, p. 180).

On the political front, as we have seen, Farben supported Hitler and the Nazi Party wholeheartedly and energetically throughout these months, when concentration camps were being established and one tyrannical decree after another was being issued from Berlin. In April 1933, the defendant Kuehne exhorted all his employees to participate in the May Day Rally stating that "the main issue is that, on this day of all, Germany should stand behind its government." (Exh. 82, NI-6960, Bk. 4, p. 79). In May a circular was issued to all Farben plants stating that the management would "welcome suitable representation of National Socialist aims within the National Socialism factory cell organizations. (Exh. 83, NI-1091, Bk. 3, p. 80). In June a Farben committee determined that it should be a matter of course in engaging new people to give preference to members of "semi-military organizations" with obvious reference to the SS, SA and other uniformed gangs. (Exh. 84, NI-4884, Bk. 4, p. 81).

Hitler's viewpoint abroad paralleled its outlook at home. So did Farben's. Hitler's brutal dictatorship, and in particular the anti-Semitic outrages of the Third Reich, caused public opinion to react violently in other countries, especially in the United States. Spontaneous boycotts of German goods injured German trade. Some of Farben's foreign

agents endeavored to persuade the Vorstand to use its influence to soften the anti-Jewish policies, in the interests of Farben's export trade. But Farben was playing for bigger stakes, and its reaction to the American boycott was the launching of a vigorous and insidious propaganda campaign which would have done credit to Goebbels himself. They retained a well-known public relations expert, Ivy-Lee, to devise methods for countering a boycott and organizing pro-German propaganda. Farben's pharmaceutical Sales Company, headed by the defendant Mann, had extensive connections in the United States, and at the end of 1933 it distributed a circular letter to its American representatives, which contained the following (Exh. 782, NI-10267, Bk. 44, p. 89):

".....we are particularly desirous of describing to you in detail the actual conditions as they prevail under the new National Socialistic Government in Germany; we wish to express the hope that this report will supply you with important data, enabling you to continue to assist us in our struggle for the German conception of law. We ask you expressly, in connection with your collaborators and your personnel, to make use of these data in our manner which appears appropriate to you, to the end that all co-workers in our pharmaceutical business become familiar with these general, economic and political conceptions.

* * * * *

Within Germany, the Reichstag fire gave the signal for the fight against Communists and Marxists, who, in armed revolt, were intent upon bringing Germany again to the brink of the abyss. The Government stepped in and cleaned the country with an iron hand. Peace and quiet was established....

* * * * *

Achievement, not connection and party membership, was the means of securing office; order and honesty again became the guiding principles in German public life."

On 20 January 1934, the Fuehrer principle was introduced in labor. On 26 January, Hitler signed a non-aggression pact with Poland which lulled this country into security. On 27 February, Hitler directed the Reich Minister of Economics to prepare "the organic structure of

the German Economy by reorganizing the economic group" which represented the various branches of German economic and industrial life. (Exh. 71, NI-100, Bk. 4, p. 77). On 27 November, Schacht, as the acting Minister of Economics, issued a decree, the practical effect of which was to give the Reichsgruppe Industrie (Reich Group Industry), governmental powers in the planning of German mobilization for war.* (Exh. 72, NI-10545, Bk. 4).

In 1934 decisive rearmament measures were taken by the German government, measures which were summarized in a report submitted by Ministry of Economics titled, "Progress of Work for Economic Mobilization". The report begins: "With the foundation of the Reich Defense Council and of its permanent committee, the Reich Ministry of Economics has been charged with the job of economic preparation for war." (Exh. 716, EC-128, Bk. 38, p. 94). This report assigned to Farben an important role in Germany's economic preparation for war. It shows that Farben had willingly accepted its tasks within the elaborate program of stockpiling strategic products, building shadow factories and transfer of production to strategically safe central Germany. (Exh. 716, supra).

* These Economic Groups, on behalf of the German High Command prepared Germany's industrial mobilization plans in conjunction with the various industries. In the Reich Group Industry, the defendant SCHMITZ was a member of the Engerer Beirat (Advisory Council). The defendants SCHMITZ, VON SCHNITZLER and JAEHNE were members of the Grosser Beirat (Greater Advisory Council). Farben was represented on all of the Group's important committees. In the Economic Group Chemical Industry, VON SCHNITZLER was deputy chairman and member of the Engerer Beirat (Advisory Council). The defendant TER MEER was a member of the Praesidium. The Group was subdivided into "Fachgruppen (sub-groups), many of which were directed by Farben officials, including the defendants, WURSTER, OSTER, VON SCHNITZLER, AMBROS and others. (See Exh. 496 through 509, Book 24).

By 1934, Farben had worked out detailed plans for defending their plants against air raids. I. G. Farben engineers and such high Wehrmacht officers as Generals Milch and Thomas jointly planned and supervised the air raid maneuvers. All the important Farben plants engaged in these maneuvers which were called "war games" (Kriegespiele).*

As before, Farben did not neglect the political aspects of the Nazi program. In January 1934, the Bayer directors at Leverkusen approved a resolution to send propaganda mail to 16,000 physicians abroad including the text of Hitler's speech to the Reichstag about the German people's readiness for peace (Exh. 783, NI-8420, Bk. 44, p. 93). On 27 February 1934, at a meeting of the Board of Directors of Bayer at which the defendant Mann presided, the following directive was issued:

"It has to be demanded of our representatives and agents abroad respectively that they refrain from any political activity against the German Reich. At the next possible opportunity the gentlemen are to be pledged accordingly." (Exh. 786, NI-8422, Bk. 44, p. 96).

* In the words of a Farben official: "They were set up the following way—on a map of a particular plant, an umpire marked the points where bombs of a certain weight were supposed to have been dropped by the attacking air force. The Works Management which operated in an air raid shelter ascertained the imaginary damage done by the bombs and figured out what length of time parts of the plant had been put out of operation. The management itself also ascertained within which period of time the damage could be repaired.

"At the conclusion of each 'Plan-Spiele' it was discussed between the I. G. representatives and the military which measures could be taken by I. G. to afford additional protection from the air to the particular plant. It was as a result of one of these discussions that the gasoline production in the I. G. plant Leuna was split up in 5 or 6 different units which would work independently of each other in case one of them was hit by a bomb. As far as I remember I. G. Farben spent an amount of several million marks in order to effect the necessary changes.

"Such 'Plan-Spiele' were held in Leuna, Ludwigshafen-Oppau and Leverkusen. They were always held in the presence of a number of high-ranking officers of the Luftwaffe, artillery and infantry and representatives of various authorities." (Exh. 102, NI-8321, Bk. 5, p. 92).

Military preparations in Germany were intensified in 1935. In March of that year Goering publicly announced that Germany was building a military air force. During the same month, compulsory military service was instituted at a peacetime strength of 500,000 men. In May, Hitler publicly renounced the disarmament clauses of the Versailles Treaty. The secret Reich Defense Law was passed defining in detail the powers and duties of the Chancellor and the other ministers should Germany become involved in war. Of this, the International Military Tribunal said (IMT judgment at p. 184):

"It is clear from this law that by May of 1935, Hitler and his government had arrived at the stage in the carrying out of their policies when it was necessary for them to have in existence the requisite machinery for the administration and government of Germany in the event of their policy leading to war. At the same time that this preparation of the German economy for war was being carried out, the German armed forces themselves were preparing for a rebuilding of Germany's armed strength."

1935 was the year that the Vermittlungsstelle W was established (see pp 15-18) because "conferences and discussions with various military offices and authorities in Berlin became more and more numerous and urgent. (Exh. 99, NI-2747, Book 5, p. 77).

In July 1935 General Milch, State Secretary for Aviation, visited the I. G. Farben plants at Oppau and Ludwigshafen. The visit brought General Milch and defendant Krauch close together. In his letter to Krauch of 23 July 1935, of which Krauch sent a copy to defendant Schmitz (Exh. 138, NI-4718, Bk. 6, p. 16), Milch stated that he had "immediately informed General Goering" of his visit to Oppau and that Goering also "is particularly interested in questions of this nature." He announced Goering's plan to invite Krauch "for a leisurely visit to Karinhall, in order that he too can discuss with you the long-range viewpoints." Krauch accepted. (Exh. 138, supra). He also suggested "the provisional appointment of

our (Farben's) Dr. Ritter as liaison officer to your C-Office (Procurement Office in the Reich Air Ministry)."

Farben, in 1935, had already acquired a corner on the synthetic gasoline and lubricating oil business in Germany. The defendants Ter Meer and Ambros sought a similar foothold in synthetic rubber production. In January 1935, the Army Ordnance Office visited Farben's Leverkusen plant in an effort to speed up work on synthetic tires so that the military officials might decide whether to concentrate on the synthetic program and its expansion or on the stockpiling of natural rubber. According to the Army Ordnance representative, "the production of synthetic rubber is no longer a question of foreign exchange, but has become a question of military policy in which, though it is dealt with in close contact with Hennesfahr, the requirements of the Wehrmacht will, however, be decisive." (Exh. 547, NI-7241, Bk. 28, p. 21).

In 1935, with Hitler's renunciation of the Treaty of Versailles and the promulgation of the Reich Defense Law which the International Military Tribunal said marked the stage when Hitler considered it necessary to set up the requisite machinery for preparing Germany for war, Farben intensified its explosives production program. Numerous conferences were held at the Ministry of Economics on diglycol, other explosives ingredients and on explosives stabilizers. (pp. 29, 31, supra.)

Any intelligent man in Germany must have realized, from the very moment of Hitler's seizure of power, that the Third Reich was headed inevitably toward war: Many forewarned and warned. But, making every allowance for human credulity and indifference, the conclusion is inescapable that, long before the attack on Poland and well in advance of the Austrian and Czechoslovakian invasions, all highly placed officials of the Third Reich, and influential men who did business with them and had access to official information and opinion, must have known that the Nazi program of aggrandizement would be carried out even if it meant war, although they may not have known just when or how it would first break out. And there is much evidence to suggest that the latest year in which such a conclusion must have forced itself upon the minds of such men is the year 1936.

In March 1936, German troops occupied the demilitarized zone of the Rhineland. This altered the military situation very fundamentally. It was the first time since 1918 that German troops, on German initiative, had marched to settle an international political issue by force.

1936 found Hjalmar Schacht, who had been the leading figure in organizing the German economy for war, beginning to lose his influence because he opposed the enormous program for synthetics. As the International Military Tribunal found:*

Schacht, by April 1936, began to lose his influence as the central figure in the German rearmament effort when Goering was appointed Coordinator for Raw Materials and Foreign Exchange. Goering advocated a greatly expanded program for the production of synthetic raw materials which was opposed by Schacht on the ground that the resulting financial strain might involve inflation. The influence of Schacht suffered further when, on 16 October 1936, Goering was appointed Plenipotentiary for the Four Year Plan with the task of putting "the entire economy in a state of readiness for war" within four years. Schacht had opposed the announcement of this plan and the appointment of Goering to head it, and it is clear that Hitler's action represented a decision that Schacht's economic policies were too conservative for the drastic rearmament policy which Hitler wanted to put into effect.

After Goering's appointment, Schacht and Goering promptly became embroiled in a series of disputes... As a result of this dispute and of a bitter argument in which Hitler accused Schacht of upsetting his plans by his financial methods, Schacht went on leave of absence from the Ministry of Economics on 5 September 1937, and resigned as Minister of Economics and as Plenipotentiary General for War Economy on 16 November 1937.

* Judgment of the International Military Tribunal, Vol. 1, Trial of the Major War Criminals, pp 307-08.

The importance of the issue involved in this clash between Goering and Schacht can hardly be overstated. The International Military Tribunal found that:^{*}

Schacht, as early as 1936, began to advocate a limitation of the rearmament program for financial reasons. Had the policies advocated by him been put into effect, Germany would not have been prepared for a general European war.

As between Goering and Schacht, and on the issues at stake between them, there was no question where Farben stood. Despite Schacht's position as Plenipotentiary General for War Economy, the contracts between Farben and Schacht had been conspicuously few. On the other hand, as we have seen, Farben's relationships with Goering's Air Ministry and with his Deputy, Milch, began immediately after the seizure of power, and steadily grew closer. For years Farben had been staking its future on synthetic products, particularly gasoline and rubber, and Goering was the great protagonist of a "greatly expanded program for the production of synthetic raw materials which was opposed by Schacht."^{**}

At Goering's crucial meeting, on 26 May 1936, attended by the defendant Schmitz (see p 19 supra), Goering emphasized that, once at war, Germany would be cut off from all oil imports; that since a mechanized army and navy was dependent on oil, the waging of war hinged entirely on the solution of the oil problem. Goering also declared that "rubber is our weakest point". Every subject, including oil and rubber, was discussed at the meeting in the light of military requirements for waging war. Farben's first plant for the large scale production of synthetic rubber was built in 1936 at Schkopau. (See p 35, 36 supra).

The Four Year Plan announced in 1936 (see pp. 19-25, supra) was the voice of Hitler but the task was Farben's. Thereafter, there was no longer any doubt; Germany was heading for war at express train speed. In December 1936 in Hitler's presence, Goering made the speech in the Preussenhaus in Berlin concerning the Four Year Plan (see p 20, supra), at which Bosch and the defendants Krauch and von Schnitzler (who reported to Farben) heard him make clear the intention and decision of the Nazi government to wage war: "If we win, business will be sufficiently compensated."^{***} "All that is lacking is the actual shooting.

* Judgment of the IMT, Vol. I, Trial of the Major War Criminals, p 309.

** Id., p 307

*** Exh. 421, NI-051, Bk 20, p 9.

Security requirements, already stringent, were drawn even tighter. How clearly these security requirements foreshadowed war is illustrated by a directive issued by Vermittlungsstelle W in December 1936, relating to war materials, explosives, chemical warfare material, fuels and lubricants of special types, and other strategic products. The directive stated: (Exh. 144, EO-223, Bk 6, p 46)

"The keeping secret of new methods in the above mentioned fields is necessary in any case, if either completely new, up to now unknown materials are produced, or if already-known products can be manufactured in considerably improved quality. Furthermore, a new method could be subject to secrecy if through it the self-sufficient military economic power of a possible enemy in case of war were considerably improved; i.e. if an existing lack of raw material for the production of a war-important product in the country concerned is removed by the new methods."

Farben's outposts abroad became increasingly a network for propaganda and espionage. In 1936, the defendant Ilgner made an extended tour of inspection of the Farben organizations in Latin America, and re-organized the work of Farben's Verbindungsmaenner (liaison men). From then on, they were to submit monthly reports pertaining to economic, political and military matters. (see subdivision "G", supra).

1936 was indeed a fateful year. According to the defendant von Schnitzler (Exh. 18, NI-5197, p 23, Bk 2, p 67).

....with the increased tempo after 1936, the Wehrmacht became the predominant factor in the whole picture. After 1934, a strong movement for investments in our plants for commodities of decisive military importance became more and more pronounced with the main objective of increasing the military potential of Germany. At first autarchic principles to make Germany independent of importation from abroad were one of the leading objectives. After 1936, the movement took on an entirely military character and military reasons stood in the foreground. Hand-in-hand with this, the relations between I.G. and the Wehrmacht became more and more intimate and a continuous union between I.G. officials on the one side and the Wehrmacht representatives on the other side was the consequence of it.

1937 - 1939

For German industry, 1937 was the year of mobilization plans. The Vermittlungsstelle W was the channel between Farben and the Ministries of War and Economics for the preparation of mobilization plans at Farben plants. In January, the defendant Kuehne conducted so-called "tactical exercises" or "war games" at his Leverkusen plant, following which the Vermittlungsstelle W wrote him: (Exh. 186, NI-4628, Bk. 7, p. 58):

"In connection with the tactical exercises, we had already discussed with you the formulation of plans for Leverkusen which are being commenced. In preparation for this, we should very much like to receive a list in which the individual departments of Leverkusen are listed and clearly designated. This list should differentiate between the following three sections:

- (1) Plants which must be on a full production basis in A-Fall.
- (2) Plants (intermediates and final processing (which will only operate on a limited scale.
- (3) Plants for which it can already be determined that they will not run during the war."

By the middle of 1937 all of the Farben plants had been fully advised by the Vermittlungsstelle W as to the nature and aims of the mobilization tasks to be carried out. Arrangements were under way to furnish the plants with the necessary personnel and materials to carry out the mobilization plans.

In March 1937, various high ranking Farben officials were informed by letter that the Reichsminister for War and Commander-in-Chief of the Armed Forces (von Blomberg) had ordered that (Exh. 491, NI-4623, Bk. 22, p. 90):

".....a leadership corps for military economy be set up immediately. The war economy leaders shall be responsible collaborators of the Wehrmacht in preparing and carrying out the mobilization of the armament industry and in the conduct of war. Their significance, their tasks, and duties in connection with armament economy, places them in a position corresponding approximately to that of reserve officers on active duty."

The defendants Krauch and Schmitz were appointed War Economy Leaders in 1938, and subsequently von Schnitzler, Gajewski, Hoerlein, Ter Meer, Schneider, Ambros, Buergin, Buetefisch, Ilgner, Jaehne, Leutenschlaeger, and Wurster were designated. (Bk. 11).

In September 1937, Farben's reorganized Commercial Committee reemphasized Farben's political outlook. The committee agreed that (Exh. 363, NI-4959, Bk. 45, p. 9):

"Under no circumstances should anybody be assigned to I. G. Farben agencies abroad who is not a member of the German Labor Front and whose positive attitude to the new era has not been established beyond any doubt. Gentlemen who are sent abroad should be made to realize that it is their special duty to represent National Socialist Germany.

"They are particularly reminded that as soon as they arrive they are to contact the local or regional group of Germans abroad and are expected to attend regularly their meetings as well as those of the Labor Front."

In the summer of 1937, the defendant Krauch, with other high government officials, met in Goering's office to discuss the scarcity of iron and steel. Goering stated (Exh. 432, NI-084, Bk. 20, p. 39):

"At a time like this, we cannot export one-third of our total iron production.....The Four Year Plan will do its share to create a foundation upon which preparation for war may be accelerated.....In the armed forces, those undertakings must receive first consideration which manufacture materials requiring a long period of construction. Warships by all means must get their supply of iron. Guns for battleships and other big guns fall in the same class.....The export (of iron and steel) may lead easily to the facilitation of the armament of the enemy. I am thinking for instance, of heavy plates which are needed abroad by the armament industry."

The response, by a representative of the iron and steel industry, reflected the tense atmosphere of the meeting:

"In regard to the shipment of iron to the so-called enemy countries like England, France, Belgium, Russia, and Czechoslovakia, only six percent of our export goes there. That does not help the British to keep up their armament."

Late in November, Hitler summoned his foreign ministers and the four chiefs of the armed services including Hermann Goering, the Commander-in-Chief of the Luftwaffe. What was said is set forth at length in the judgment of the International Military Tribunal.* Hitler announced his "irrevocable decision to solve the German space problem", and indicated that the first steps would be the conquest of Austria and Czechoslovakia. Thereafter as the International Military Tribunal found: "This decision to seize Austria and Czechoslovakia was discussed in some detail; the action was to be taken as soon as a favorable opportunity presented itself."

In 1938 Hitler purged the Army and his cabinet of all conservative elements and assumed direct and supreme leadership of the armed forces of Germany. German troops occupied Austria. German troops marched into the Sudetenland. In 1938 Farben accelerated its preparations for war to accompany military developments (see pp. 21-28, 30, 40, 44, supra). In the summer of 1938, with the invasion of Czechoslovakia imminent, Goering intensified his economic measures in preparation for aggressive war. Krauch and other defendants took the initiative in reorganizing the chemical program outlined by the Four Year Plan in line with the requirements for waging war. (See pp. 21-25, supra).

On 11 October 1938, Ter Meer writing to the Reich Ministry of Economics, referred to the fact that Buna III could not at that time be located in Upper Silesia, since that "area was considered as a troop deployment area against Czechoslovakia." (Exh. 563, NI-4717, Bk. 28, p. 11). On 14 October 1938, after Hitler had publicly declared

* Judgment of the IMT, Vol. I, Trial of the Major War Criminals, pp. 189-192.

"that there will be no more territorial problems for Germany in Europe",* Goering announced in the presence of Krauch that Hitler had ordered him "to carry out a gigantic program compared to which previous achievements are insignificant." (see p. 24, supra).

It was in 1938 that Farben arranged "to borrow" 500 tons of tetraethyl lead from the Ethyl Export Corporation of the United States and misrepresented the purpose of the "loan", (Exh. 732, NI-4922, Bk. 39, p. 93), and in 1938, Farben intensified the camouflage or cloaking of its foreign holdings to protect them from seizure in the coming war by enemy custodians. (see subdivision H, supra). The defendant VON SCHNITZLER stated:

"Even without being directly informed that the government intended to wage war, it was impossible for officials of I. G. or any other industrialists to believe that the enormous production of armaments and preparation for war starting from the coming into power of Hitler, accelerated in 1936 and reaching unbelievable proportions in 1938, could have any other meaning but that Hitler and the Nazi government intended to wage war come what may. In view of the enormous concentration of military production and of the intensive military preparation, no person of I. G. or any other industrial leader could believe that this was being done for defensive purposes. We of I. G. were well aware of this fact, as were all German industrialists, and on a commercial side, shortly after the Anschluss in 1938, I. G. Farben took measures to protect its foreign assets in France and the British Empire." (Exh. 40, NI-5196, Bk. 1, p. 54 at 76).

On 12 March 1938, Germany invaded Austria. This move was, as the International Military Tribunal found, a "premeditated aggressive step", but its timing was not planned in advance. On the contrary, it was precipitated, unexpectedly even to Hitler, by Schuschnigg's announcement on 9 March of a plebiscite on the question of Austrian independence. Goering promptly gave directions for the extension of the Four Year Plan to Austria, and Farben equally promptly "placed its cooperation at the disposal of the authorities".

* Judgment of the IMT, Vol. 1, Trial of the Major War Criminals, p. 197

and suggested on its own initiative that

"the groundwork should be laid immediately to prepare assignments to be carried out by the chemical big industry of Austria, within the framework of the Four Year Plan." (Exh. 1040, NI-4024, Bk. 52, p. 26)

These recommendations were prepared by Farben immediately following the invasion of Austria, and set forth in a letter signed by defendant Haefliger dated 9 April 1938, entitled "New Order of the Major Chemical Industries of Austria". (Exh. 1040 supra).

About the same time, on 12 April 1938, defendant Bueteftisch discussed with the German Military Economy Inspection detailed "plans for hydrogenation and nitrogen plans of I.G. Farbenindustrie in Austria". As Bueteftisch stated in his secret report: "From a military angle, only the neighborhood of Wolfseck can be considered." (Exh. 1074, NI-7133, Bk. 52, p. 28).

In spite of its striking successes in occupied Austria, Farben felt that it should be prepared even better in the case of Sudetenland.

As early as April, 1938, Farben sounded out State Secretary Keppler on what the official attitude of the German authorities would be as to Farben taking over the enterprises in Sudeten Czechoslovakia. (Exh. 1072, NI-3981, Bk 54, p 1-2). In May 1938, Farben's Commercial Committee, having received a report from its agent in Czechoslovakia as to the political situation in the Sudeten area, decided to employ "Sudeten Germans for the purpose of training them with I.G. in order to build up reserves to be employed later in Czechoslovakia." (Exh. 833, NI-6221, Bk 54, p 6, 8; Exh. 1612, NI-6703, Bk 46; p 34-a; see particularly testimony of Dr. Frank Fahle, Tr. p 2033). Present at the meeting of the Commercial Committee were the defendants Schmitz, von Schmitzler, Haefliger, Ilgner, Gattineau and Kugler.

The minutes of this conference on Czechoslovakia are very significant. They read in part as follows: (Exh. 833, supra)

"Seeborn [Farben's representative in Czechoslovakia] gave an introductory report; he stated that after the incorporation of Austria in the Reich, tension had increased in the Sudeten-German parts of the country and that in all sectors of the population the political and industrial organizations were being reconstructed according to German pattern and to the tenets of National Socialism."

"Our aim should be to prevent authorized sellers of I.G. products abroad from having to be in any way dependent upon Jewish banks, since we would otherwise be branded with the stigma of cooperating with Jewish firms. Furthermore, such conditions of ownership could possibly deprive us of the liberty of directing our agencies at will, as our experience in Austria has shown, if such Jewish banks should come under the direction of trustees appointed by the Government (Kommissare)."

* * * * *

"It seemed expedient to begin immediately and with the greatest possible speed, to employ Sudeten Germans for the purpose of training them with the I.G. in order to build up reserves to be employed later in Czechoslovakia."

The witness Frank-Fahle (who called the meeting on 17 May and reported to the Commercial Committee on 24 May) gives the following interesting explanation after he had been shown on the witness stand a copy of the minutes of the meeting (Tr. pp. 2033-2034):

"Austria had been occupied and had become part of Germany, I believe, just two or three months ago. I believe that it had been — I mean I don't like to talk about the way how it has been done, but it was — it had become part of Germany, and I believe all the Powers — also the Allied Powers had agreed to this political change. The I.G. had in Austria a lot of affiliations, sales agencies, and so on. When Hitler made this crude attack, we were severely attacked by the Nazi regime that more or less all of our agencies still employed Jewish people, that the members of the boards of the different companies were Jewish, and when the development in Czechoslovakia started, everybody could see that Hitler planned to get the German part of Czechoslovakia back. As later on the facts show, he got it back not in a nice way, I mean the way he started it with an absolutely Nazi method, but it was done in a way which followed, whether rightly or wrongly, with the approval of England, the United States, France and God knows all the other nations.

"We in the I.G. had also some imagination and read in the papers the atrocities against Sudeten-Germans. I asked Mr. Seebohm, 'What is the truth about it?' He said: 'There is nothing about it', and he laughed. But knowing that Hitler had — I am sorry to say — success in his foreign political actions without being stopped by anybody — when he occupied the Rhineland, he was not stopped by France; when he occupied Austria, he was not stopped by anybody — that he might succeed without causing a way by regaining the German part of Czechoslovakia.

"The point of us in the I.G. was to be in case such things happened, a little more careful, but in the case of Austria, in other words, when Hitler succeeded, which he did, by getting part of Czechoslovakia in a peaceful way, not to find the I.G. again having done nothing. This resulted that we asked our representatives in Czechoslovakia, to give some of our advertising to Germans — Sudeten-German newspaper, not to continue to employ the non-Aryan or Jewish lawyer, Dr. Fanter, which was — I have to say it — also some window dressing, because in fact Dr. Fanter function as our very good lawyer, continued to function, but for window dressing, we employed some Sudeten-German lawyers. In the same way we had to see that we had not too many National Czechs in our compilation has to be understood."

On 21 September 1938 the Vorstand was advised by the Commercial Committee of the details of the chemical plants in Czechoslovakia (Exh. 1043, NI-10725, Bk 51, p 115). On 22 September 1938, the defendants Gajewski, Hoerlein, v. Knieriem, Krauch, ter Meer, Schneider, v. Schnitzler, Wurster, Ambros, Leutenschlaeger, Kuehne, Buergin, Ilgner, and Oster were informed that after having talked the matter over with Schmitz, the Central Committee placed RM 100,000 at the disposal of the Sudeten German Free Corps, an auxiliary military organization charged with maintenance of disturbances and clashes (Exh. 834, Bk 46, NI-1318, p. 36; Exh. 1041, PS-388, Bk 51, p.55).

On 23 September 1938, the defendant Kuehne was pleased to learn from ter Meer and von Schnitzler "the pleasant news that you have succeeded in making the competent authorities appreciate our interest in Aussig, and that you have already suggested commissars to the authorities, viz, Dr. Wurster and Kugler." (Exh. 1044, NI-3721, Bk 52, p 116). Again, on 29 September 1938, the day that the Munich Pact was signed, the defendant von Schnitzler reported on a meeting with Keppler: "The negotiations have been successful insofar as all parties acknowledge that as soon as the German Sudetenland comes under German jurisdiction, all the work situated in this zone and belonging to the Aussig Union, irrespective of the future settlement of accounts with the head office in Prague, must be managed by trustees 'for account of whom it may concern'." The defendant Kugler (together with the Sudeten-German engineer) was appointed "commissar for the maintenance of the plants". (Exh. 1045, NI-3722, Bk 52, P. 117). The next day the defendant Schnitz wired Hitler that he was impressed by the return of Sudeten-Germany to the Reich, "which you, my Fuehrer, have achieved", and that Farben "puts an amount of half a million Reichmarks at your disposal for use in the Sudeten-German territory". (Exh. 1046, NI-2795, Bk 52, p.122).

In the middle of March 1939, broken by Goering's threat to destroy Prague from the air, the Czech president signed the agreement for the occupation of Bohemia and Moravia by German troops. These two provinces became the protectorate of the Reich, and Slovakia a minor satellite power.

Farben's mobilization for war was by now virtually complete. A report written to the defendant von Knieriem in June 1939, and circulated to most of

the defendants read: "While three or four years ago, only isolated sections within I.G. were engaged on work concerning Wehrmacht problems, at present there is experimental work in progress in almost all major I.G. plants, which is being carried on either directly at the order of the Wehrmacht or in which the Wehrmacht is taking an active part either due to the particular nature of the problems in question or through providing Experts to participate in the work." (Exh. 166, NI-4669, Bk 7, p 1).*

On May 4, 1939, Dieckman, an I.G. Farben employee in Vermittlungsstelle W, transmitted a secret report to the Military Economy Staff containing detailed information concerning the location and production capacity of English stand-by plants for production of primary nitrogen. The report also states that the total production capacity of the plants described would be enough to cover the entire requirements for the production of highly concentrated nitric acid, "even should the Billingham plant be put out of action" (Exh. 922, Bk 49, NI-7796, p 86; see also Exh 923, Bk 49, NI-7965, p. 90). A copy of this report was sent to the defendant Krauch (Exh. 922, supra, p 87).

The frenzied pace of the German armament effort, the events of the recent months, and the widely publicized objectives of the Nazi party made the future only too clear. If one may concede room for doubt before 1939, after the Wehrmacht's entry into Prague no one could longer doubt that the Third Reich was ready for war. The tension which lay over Europe became nearly intolerable, and Germany was in a constant condition of emergency mobilization. Industrial mobilization had been planned down to the last detail. During the summer, incidents began to "occur" along the German-Polish border, and riots "broke out" in Danzig. These echoes of the Sudetenland crisis were well understood by intelligent, influential, and well informed men such as the defendants.

As we have seen (pp 24, 25) the defendant Krauch made clear that he understood in a report on the Four Year Plan of 28 April 1939. The quotation from this report can bear repetition here:

* Two months prior, the defendant von Knieriem and his Legal Committee had recommended that drastic measures be taken to camouflage Farben's foreign holdings in order to protect them from seizure by the enemy. (Exh. 1020, NI-2796, Bk 50, p 1)

"When on 30 June 1938 the objectives of the increased production in the spheres of work discussed here were given by the Field Marshal, it seemed as if the political leadership could determine independently the timing and extent of the political revolution in Europe and could avoid a rupture with a group of powers under the leadership of Great Britain. Since March of this year there is no longer any doubt that this hypothesis does not exist anymore."

"It is essential for Germany to strengthen its own war potential as well as that of its allies to such an extent that the coalition is equal to the efforts of practically the rest of the world. This can be achieved only by new, strong and combined efforts by all of the allies, and by expanding and improving the greater economic domain corresponding to the improved raw material basis of the coalition, peacefully at first to the Balkans and Spain.

"If action does not follow upon these thoughts with the greatest possible speed, all sacrifices of blood in the next war will not spare us the bitter end which already once before we have brought upon ourselves owing to lack of foresight and fixed purposes." (Exh. 455, EC-282, Bk 21, p 56).

The defendant Krauch was Goering's right hand, and several others were working closely with Krauch. Many of the defendants were in key positions in the government or the semi-official Economic Group Chemical Industry. All major Farben projects and policies within the armament effort had been approved in meetings of the Vorstand. It seems superfluous to mention particular meetings at which high government officials informed Farben that war was bound to come; certainly many of these defendants knew the truth far better than those who presumed to whisper state secrets in their ears. But it is perhaps worth mentioning that, in July 1939, the defendant von Schnitzler conferred in Berlin, as was his monthly custom, with Ungewitter, the Reich Commissioner for Chemistry. Ungewitter, speaking on behalf of the Four Year Plan, told von Schnitzler that Hitler was determined to invade Poland and that, in view of the guarantees which had been extended to Poland by England and France, Germany must be prepared for an attack on its western frontier. Ungewitter had also made similar statements to others among the defendants, such as ter Meer, Wurster and Ambros. (Exh. 40, NI-5196, Bk 1, p. 54 at 74).

During the same month, July 1939, in which the defendant von Schnitzler says he was informed of Hitler's intentions with respect to Poland, von Schnitzler attended a convention at Kiel of prominent foreign businessmen with Farben acting as host (Exh. 779, NI-826, Bk 44, p 59). This was an annual project sponsored to get acquainted with the views of prominent foreign

businessmen, and in turn to persuade the foreigners of the righteousness of the German program. At this convention in July of 1939, a report on it by a Nazi official indicates that everyone discussed Germany's invasions of Bohemia and Moravia. The report states that this event "caused reactions abroad, the extent of which has so far not been realized by most of the German participants. The English and French naturally expressed themselves very pointedly on the subject. Nobody of course wants a war and hopes for peace are still being cherished, but they felt certain that in case of any further arbitrary proceedings in Germany's foreign policy, war would be unavoidable."

On 2 August, Ungewitter, as Reich Commissioner for Chemistry, gave Farben the alert signal for war. Through the Vermittlungsstelle W, instructions were given as follows:

"The basic principles should be that the raw and auxiliary materials necessary for the execution of the mobilization orders issued to youwill be held in stock by you for a certain period. In agreement with the Reich Ministry of Economics, I accordingly direct you to stockpile that amount of the raw and auxiliary materials indicated by you as necessary for the execution of the mobilization order, which would cover the requirements for three months... It is incumbent upon you to register as priority transports the quantities of these materials required for the first four weeks from the beginning of mobilization with the military economic department concerned... Please inform me as soon as possible that the directives issued to you for stockpiling have been carried out." (Exh. 742, NI-8364, Ek 40, p 21).

The time had come for putting into effect the "cloaking" plans for Farben's foreign assets which the defendant von Knieriem had devised. As this program, known among the defendants as "tarnung" (Camouflage), was put into effect, Farben explained to the Reich Minister of Economics on 12 August 1939 (Exh. 1025, NI-7078, Ek 50, p 37):

"We declare that we shall have unrestricted influence upon the foreign companies, even after the carrying out of the measures aimed at, and that we are preparing and in a position to insure that all foreign values on hand will be delivered to the Reichsbank either directly by way of the export proceeds, or via Stockholm as indicated in our proposal... We declare, moreover, that the decisive real influence we shall have on the foreign sales companies, even after the carrying out of the new requirements, will be sufficient in every respect to answer the requirement of the German governmental and party authorities with regard to personnel and political questions. We shall always be able to eliminate from our sales business those individuals who are unsuitable or suspect because of their political position and to insure that no conflicts arise between the Staff of our foreign economics sales organization and the general German viewpoint and government and economic policy."

While von Rundstedt and von Bock were deploying the German legions on the Polish frontier in accordance with their plan of attack, Farben was carefully surveying the Polish chemical industries in anticipation of the benefits to be derived from conquest. On 28 July 1939, a comprehensive report was prepared under the direction of the defendant Ilgner, which was entitled "The Most Important Chemical Plants in Poland", and which set forth a detailed description of the physical structure of these plants, the products they manufactured, their adaptability to the German war economy, and the names of their owners and directors. (Exh. 1137, NI-9154, Ek 55, p 52; Exh. 1135, NI-9151, Ek 55, p 50).

On 28 August, the Vermittlungsstelle W notified the Farben plants that it could, for the time being, be reached day and night by telephone and teletype. (p 18, supra). That day or the next, the defendant Schneider, head of Sparte I, called a meeting of the department chiefs of the Leuna plant and informed them that the order for the mobilization of the plants had been given. Schneider closed the discussion with the words: "This is war." (Exh. 261, NI-9235, Ek 9, p 104) One week after the aggression against Poland the defendants started to carry out their program previously planned for the seizure of the Polish chemical industries.

* * * * *

In our review of the evidence relating to the participation by these defendants in the events which occurred in Germany during the period from 1933 on and the state of mind with which they so participated, it appears that one basic fact remained the same throughout the period. That is the fact that the defendants backed Hitler and his program for twelve years — whether for love, or for money, or to protect their positions, or to protect Farben. Although the motive of these defendants in backing Hitler is not an essential part as such, of the crimes with which they are charged, it is very relevant in shedding light on the state of mind with which they engaged in preparing Germany for each aggression.

Krueger, one of Farben's leading officials in the Berlin NW 7 office, has testified on cross examination by the defense that the deceased Farben

leader Bosch and a few other Farben officials wanted "to turn their backs to National Socialism, but I had to see that if the majority of the management said that, such an attitude would be a great risk, a risk to the life of I.G. Farben" (tr. p 2970). He said further, "The fear of the commissar was very strong, as far as I.G. Farben was concerned and because of that people who did not sympathize with the movement within the I.G. did not know of any better advice than to follow the strategy of hunting with the great....most industrialists of these circles were anxious to bring their enterprises...into a Germany which had Nazis who were tamed, - so to speak, civilized" (Tr. p 2971). And on redirect examination, Krueger affirmed that the adopted policy was not merely one of "hunting with the great", but of "howling with the wolves" (Tr. p 3016-3017).

This attitude of the defendants did not undergo any basic change over a period of twelve years. They never stopped howling with the wolves. They kept "hunting with the great" when freedom was destroyed in Germany and the persecution of the alleged "inferior peoples" was carried out; when one step after another was taken to implement Germany's foreign policy with force; when Germany's growing military power was used in the military reoccupation of the Rhineland; when troops moved three times within thirteen months to effect Nazi conquest in Austria and Czechoslovakia during 1938 and 1939; and when one aggressive war after another was launched and waged by Germany. To top it all, these defendants, as if to be second to none in ratifying and supporting Nazi politics, took more than their share of the plunder and more than their share of the "slaves".

This policy of "hunting with the great" and "howling with the wolves" will probably take on a more dignified tone in the course of the defense in this case. The cross-examination of witnesses friendly to the defense (former employees of Farben who admitted certain facts in affidavits given to the prosecution) has indicated that we may find this policy dressed up as "superior orders" or "coercion". It will be helpful, we believe, to discuss certain aspects of this "defense" briefly at this point, since it is sometimes offered as bearing on motive.

THE DEFENSE OF SUPERIOR ORDERS AND COERCION

We have already shown that the "defense" of superior orders and coercion has no legal justification in a case of this type. The evidence in this particular case makes the factual basis even less convincing than any possible legal argument which might be advanced. Without spending too much time discussing this "defense", we believe that it will be sufficient to merely show what it amounts to in the light of the facts. On the basis of the evidence, it would go something like this:

We were forced to help bring Hitler to power in 1933 and to help him consolidate his position in Germany, and we were forced to support him financially and otherwise during the succeeding 12 years while he was destroying freedom in Germany and attempting to destroy it throughout the world. We were forced to take this action in Germany because if we didn't support Fascism we were afraid we might have Communism.¹

Once Hitler had come to power in Germany with our help, we were forced to use our power and resources in preparing Germany for war. It is true that Farben was indispensable to creating and equipping the Nazi war machine;² that Farben had been a power in the world a generation before the Nazis came;³ that our world-wide empire⁴ was necessary for carrying out economic warfare, fifth column activities, and propaganda and intelligence activities throughout the world⁵ — as well as for supplying the necessary foreign exchange to the Nazi government;⁶ and, that our international relations with foreign countries were an indispensable weapon to the Nazi government in its efforts to weaken the economic strength of the countries which the Third Reich regarded as potential obstacles to carrying out its aggressive policies.⁷ It is true that we were so powerful that the Nazi government was forced to let us have our way in such things as choosing between Farben and the SS in the development of particularly important chemical processes;⁸ and in deciding whether the Reich itself or Farben should be entitled to utilize the synthetic rubber manufacturing processes of the Soviet Union.⁹ All of these things are true, but this does not take away from the fact that the Nazi government forced us to participate in preparing the Four Year Plan and forced us to participate in directing the economic mobilization of Germany for war, and forced us to participate in building up the Nazi war machine.

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1. See Exh. 36, EC-439, Bk 3, p 62; Exh. 34, NI-7990, Bk 3, p 55; Exh. 57, NI-9784, Bk 3; p 115.
 2. See subdivision "D", *supra* p 26.
 3. See Exh. 51, NI-9052, Bk 2, p 61; Exh. 18, NI-5197, Bk 2, p 67; Exh. 39, NI-5191, Bk 2, p 107; tr. pp 730-751.
 4. See Exh. 51, NI-9052, Bk 2, p 61; Exh. 18, NI-5197, Bk 2, p 67; Exh. 39, NI-5191, Bk 2, p 107; Exh. 41, NI-9286, Bk 2, p 2; Exh. 42, NI-9503 Bk 2, p 20; Exh. 43, NI-9540, Bk 2, p 22; Exh. 49, NI-9763, Bk 2, p 1.
 5. See subdivision "G", *supra* p 54.
 6. See Exh. 822, NI-9776, Bk 45, p 175.
 7. See subdivision "F", *supra* p 47.
 8. Exh. 14, NI-4042, Bk 1, p 98.
 9. Exh. 15, NI-4971, Bk 1, p 101.

When we took the initiative in "selling" the synthetic oil program and the synthetic rubber program to the Nazi government, the fact that Hitler, "bought" these programs because he needed oil and rubber to wage war is not significant. We were only interested in bargaining with Hitler because we wanted to make Germany self-sufficient. We could not help it if Hitler used this self-sufficiency for war purposes. Once we had made our bargain we were forced to carry it out even though it became clearer and clearer that we were heading for war. It is true that thereafter we took the leadership in many other important phases of preparing Germany for war¹⁰ but once having gotten into the boat we were forced to see to it that it didn't sink.

The fact that we made huge profits in preparing Germany for war;¹¹ that we added greatly to our empire within Germany;¹² that we expanded our empire abroad by seizing the property of others;¹³ and that we were able to make these profits and expand our empire through the use of slave labor and inmates of concentration camps¹⁴ is all quite immaterial. For so long as we were forced to do what we did, there was no reason why we should not benefit from it at the same time.

We were forced to prepare Germany for the conquest of its neighbors; to reap the spoils of each conquest by absorbing the chemical industries of the conquered countries; and to use men, women, and children deported from these countries and inmates of concentration camps in our factories (we cannot be blamed for the fact that many of these people were forced to work so hard that they either died or were so exhausted that they were sent to the gas chambers). For once Germany had started the war we had been forced to prepare her for, we were likewise forced to see to it that she won the war. The chemical factories which we grabbed, (even though sometimes we had to fight government agencies to get them), were essential to the waging of war and the slave laborers whom we worked (sometimes to death), were likewise essential to the winning of the war.

It is true that all of this resulted in a world tragedy and in the ruin of Germany¹⁵ but Hitler should be blamed for this and not us.

The irony is not chosen by the prosecution. It is inherent in any attempted justification of such an intimate alliance with leading Nazis and with the Nazi policy. It is inherent in the conventional attempt to cite "coercion" where less active and less willing partnership would have meant a loss to the Farben firm and a loss of personal position and prestige. It is inherent in the attempt to deny initiative in the face of ever increasing responsibilities and the ever increasing rewards both to the concern and to its

10. See subdivisions "G" and "D", *supra*.

11. Exh. 132, NI-10002, Ek 5, p 181; Exh. 133, NI-10014, Ek 5, p 182.

12. See subdivision "D" *supra* at pp 41 - 44.

13. See Part II of this brief.

14. See Part III of this brief.

15. See affidavit of von Schnitzler, Exh. 40, NI-5196, Ek 1, at p 66.

leaders. It is inherent in the face of evidence such as the letter from Ambros to ter Meer in April 1941, where in speaking of I.G. Farben Auschwitz he states "our new friendship with the SS is proving very profitable"¹⁶ and in the letter from Krauch to Himmler in 1944, stating: "I was particularly pleased to hear that * * * you hinted that you may possibly aid the construction of another synthetic factory * * * in a similar way as was done at Auschwitz, by making available inmates of your camps."¹⁷

(E N D)

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16. Exh. 1431, NI-11118, Bk 73, p 11.
17. Exh. 1526, NI-10040, Bk 79, p 53.