

JUDGMENT OF THE
INTERNATIONAL MILITARY TRIBUNAL
FOR THE TRIAL OF GERMAN
MAJOR WAR CRIMINALS

SELECTED CASE SERIES
NUMBER IMT/GOERINGH/1946

Judgment
of the International Military Tribunal
for the Trial
of German Major War Criminals

Selected Case Series
William Thomas Worster, Editor



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Table of Contents*

JUDGMENT.....	1
THE INTERNATIONAL MILITARY TRIBUNAL.....	4
PROSECUTION COUNSEL	4
DEFENDANTS AND DEFENSE COUNSEL	5
[I.] THE CHARTER PROVISIONS	10
[II.] THE NAZI REGIME IN GERMANY	11
[A.] The Origin and Aims of the Nazi Party.....	11
[B.] The Seizure of Power	13
[C.] The Consolidation of Power	15
[D.] Measures of Rearmament	20
[III.] THE COMMON PLAN OF CONSPIRACY AND AGGRESSIVE WAR.....	24
[A.] Preparation for Aggression	26
[B.] The Planning of Aggression	27
[C.] Conferences of the 23d Nov 1939 and 5th Nov 1937	28
[D.] The Seizure of Austria	31
[E.] The Seizure of Czechoslovakia.....	35
[F.] The Aggression Against Poland	38
[G.] The Invasion of Denmark and Norway	46
[H.] The Invasion of Belgium, the Netherlands and Luxembourg	51
[I.] The Aggression against Yugoslavia and Greece	53
[J.] The Aggressive War against the U.S.S.R.	56
[K.] War against the U.S.	58
[IV.] VIOLATIONS OF INTERNATIONAL TREATIES	60
[A.] Hague Conventions.....	60
[B.] Versailles Treaty	60
[C.] Treaties of Mutual Guarantee, Arbitration etc.....	61
[D.] Kellogg-Briand Pact	62

* [Table of contents added for the reader's reference. It does not constitute a part of the Judgment.]

[V.] THE LAW OF THE CHARTER	62
[A. The Law of Aggression]	63
[B.] The Law as to the Common Plan or Conspiracy	68
[C.] War Crimes and Crimes Against Humanity	71
[1.] <i>Murder and Ill-Treatment of Prisoners of War</i>	72
[2.] <i>Murder and Ill-Treatment of Civilian Population</i>	77
[3.] <i>Pillage of Public and Private Property</i>	84
[4.] <i>Slave Labour Policy</i>	88
[5.] <i>Persecution of the Jews</i>	93
[D.] The Law Relating to War Crimes and Crimes Against Humanity	99
[VI.] THE ACCUSED ORGANIZATIONS	101
[A. General]	101
[B.] The Leadership Corps of the Nazi Party	104
[C.] Gestapo and SD	109
[D.] The SS	116
[E.] The SA	121
[F.] The Reich Cabinet	123
[G.] General Staff and High Command	125
[VII.] JUDGMENTS REGARDING THE INDIVIDUAL DEFENDANTS	128
[A.] Goering	128
[B.] Hess	131
[C.] Von Ribbentrop	134
[D.] Keitel	138
[E.] Kaltenbrunner	141
[F.] Rosenberg	144
[G.] Frank	147
[H.] Frick	150
[I.] Streicher	153
[J.] Funk	156
[K.] Schacht	159
[L.] Doenitz	163
[M.] Raeder	168
[N.] Von Schirach	171
[O.] Sauckel	174
[P.] Jodl	176
[Q.] Von Papen	180
[R.] Seyss-Inquart	182
[S.] Speer	185
[T.] Von Neurath	189
[U.] Fritzsche	192
[V.] Bormann	194
[VIII.] SENTENCES]	198

DISSENTING OPINION OF NIKITCHENKO.....	201
I. The Unfounded Acquittal of Defendant Schacht.	201
II. The Unfounded Acquittal of Defendant von Papen.....	209
III. The Unfounded Acquittal of Defendant Fritzsche.	212
IV. Concerning the Sentence of the Defendant Rudolf Hess.	216
V. Incorrect Judgment With Regard to the Reich Cabinet.....	219
VI. Incorrect Judgment with Regard to the General Staff and the OKW	223
INDICTMENT.....	233
COUNT ONE: THE COMMON PLAN OR CONSPIRACY.....	235
COUNT TWO: CRIMES AGAINST PEACE.....	250
COUNT THREE: WAR CRIMES.....	251
COUNT FOUR: CRIMES AGAINST HUMANITY	279
APPENDIX A – Statement of Individual Responsibility	283
APPENDIX B – Statement of Criminality of Groups	295
APPENDIX C – Charges and Particulars	301

Judgment
of the International Military Tribunal
for the Trial
of German Major War Criminals

*Rendered in
Nuremberg, Germany,
on 30 September to 1 October 1946*

**Judgment
of the International Military Tribunal
for the Trial
of German Major War Criminals**

Nuremberg, 30th September and 1st October, 1946

The United States of America, The French Republic,
The United Kingdom of Great Britain and Northern Ireland, and
The Union of Soviet Socialist Republics

- against -

Hermann Wilhelm Goering, Rudolf Hess, Joachim von Ribbentrop,
Robert Ley, Wilhelm Keitel, Ernst Kaltenbrunner, Alfred Rosenberg,
Hans Frick, Wilhelm Frick, Julius Streicher, Walter Funk,
Hjalmar Schacht, Gustav Krupp von Bohlen und Halbach,
Karl Doenitz, Erich Raeder, Baldur von Schirach, Fritz Sauckel,
Alfred Jodl, Martin Bormann, Franz von Papen, Arthur Seyss-Inquart,
Albert Speer, Constantin von Neurath, and Hans Fritzsche,

Individually and as Members of Any of the Following Groups or
Organizations to which They Respectively Belonged, Namely:

Die Reichsregierung (Reich Cabinet); Das Korps der Politischen Leiter
der Nationalsozialistischen Deutschen Arbeiterpartei (Leadership Corps
of the Nazi Party); Die Schutzstaffeln der Nationalsozialistischen
Deutschen Arbeiterpartei (commonly known as the "SS") and including
Der Sicherheitsdienst (commonly known as the "SD"); Die Geheime
Staatspolizei (Secret State Police, commonly known as the "Gestapo");
Die Sturm Abteilungen der NSDAP (commonly known as the "SA"); and
the General Staff and High Command of the German Armed Forces,

all as defined in Appendix B of the Indictment,

Defendants.

The International Military Tribunal

Member for the United Kingdom of Great Britain and Northern Ireland, President	Lord Justice Geoffrey Lawrence
Alternate Member	Mr. Justice Norman Birkett
Member for the United States of America	Mr. Francis Biddle
Alternate Member	Judge John J. Parker
Member for the French Republic	M. le Professeur H. Donnedieu de Vabres
Alternate Member	M. le Conseiller R. Falco
Member for the Union of Soviet Socialist Republics	Maj. Gen. I.T. Nikitchenko
Alternate Member	Lt. Col. A. F. Volchkov

Prosecution Counsel

Chief Prosecutor for the United States of America	Mr. Justice Robert H. Jackson
Chief Prosecutor for the United Kingdom of Great Britain and Northern Ireland	H. M. Attorney-General, Sir Hartley Shawcross, K. C., M. P.
Chief Prosecutor for the French Republic	M. François de Menthon and M. Auguste Chainpetier de Ribes
Chief Prosecutor for the Union of Soviet Socialist Republics	Gen. R. A. Rudenko

Defendants and Defense Counsel

Individual Defendants

Hermann Wilhelm Goering
Rudolf Hess

Joachim von Ribbentrop

Wilhelm Keitel
Ernst Kaltenbrunner
Alfred Rosenberg
Hans Frick
Wilhelm Frick
Julius Streicher
Walter Funk
Hjalmar Schacht
Karl Doenitz
Erich Raeder
Baldur von Schirach
Fritz Sauckel
Alfred Jodl
Martin Bormann
Franz von Papen
Arthur Seyss-Inquart
Albert Speer
Constantin von Neurath

Hans Fritzsche

Groups and Organizations

Reich Cabinet
Leadership Corps of Nazi Party
SS (Schutzstaffeln) and
SD (Sicherheitsdienst)

SA (Sturm Abteilungen)

Gestapo (Geheime Staatspolizei)
General Staff and High Command
of the German Armed Forces

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JUDGMENT

[1]. On the 8th August 1945, the Government of the United Kingdom of Great Britain and Northern Ireland, the Government of the United States of America, the Provisional Government of the French Republic, and the Government of the Union of Soviet Socialist Republics entered into an Agreement establishing this Tribunal for the trial of War Criminals whose offences have no particular geographical location. In accordance with Article 5, the following Governments of the United Nations have expressed their adherence to the Agreement: [1]

Greece, Denmark, Yugoslavia, the Netherlands, Czechoslovakia, Poland
Belgium, Ethiopia, Australia, Honduras, Norway, Panama, Luxemburg,
Haiti, New Zealand, India, Venezuela, Uruguay, and Paraguay.

[2]. By the Charter annexed to the Agreement, the constitution, jurisdiction and functions of the Tribunal were defined.

[3]. The Tribunal was invested with power to try and punish persons who had committed crimes against peace, war crimes and crimes against humanity as defined in the Charter.

[4]. The Charter also provided that at the trial of any individual member of any group or organisation the Tribunal may declare (in connection with any act of which the individual may be convicted) that the group or organisation of which the individual was a member was a criminal organisation.

[5]. In Berlin, on the 18th October 1945, in accordance with Article 14 of the Charter, an Indictment was lodged against the defendants named in the caption above, who had been designated by the Committee of the Chief Prosecutors of the signatory Powers as major war criminals.

[6]. A copy of the Indictment in the German language was served upon each defendant in custody at least thirty days before the Trial opened.

¹ [The numbering of paragraphs is added for the reader's reference. It does not constitute a part of the original Judgment.]

[7]. This Indictment charges the defendants with crimes against peace by the planning, preparation, initiation and waging of wars of aggression, which were also wars in violation of international treaties, agreements and assurances; with war crimes; and with crimes against humanity. The defendants are also charged with participating in the formulation or execution of a common plan or conspiracy to commit all these crimes. The Tribunal was further asked by the Prosecution to declare all the named groups or organisations to be criminal within the meaning of the Charter.

[8]. The defendant Robert Ley committed suicide in prison on the 25th October 1945. On the 15th November 1945, the Tribunal decided that the defendant Gustav Krupp von Bohlen und Halbach could not then be tried because of his physical and mental condition, but that the charges against him in the Indictment should be retained for trial thereafter, if the physical and mental condition of the defendant should permit. On the 17th November 1945, the Tribunal decided to try the defendant Bormann in his absence under the provisions of Article 12 of the Charter. After argument, and consideration of full medical reports, and a statement from the defendant himself, the Tribunal decided on the 1st December 1945, that no grounds existed for a postponement of the trial against the defendant Hess because of his mental condition. A similar decision was made in the case of the defendant Streicher.

[9]. In accordance with Articles 16 and 23 of the Charter, Counsel were either chosen by the defendants in custody themselves, or at their request were appointed by the Tribunal. In his absence the Tribunal appointed Counsel for the defendant Bormann, and also assigned Counsel to represent the named groups or organisations.

[10]. The Trial which was conducted in four languages - English, Russian, French and German - began on the 20th November 1945, and pleas of "Not Guilty" were made by all the defendants except Bormann.

[11]. The hearing of evidence and the speeches of Counsel concluded on 31st August 1946.

[12]. Four hundred and three open sessions of the Tribunal have been held. Thirty-three witnesses gave evidence orally for the Prosecution against the individual defendants, and 61 witnesses, in addition to 19 of the defendants, gave evidence for the Defence.

[13]. A further 143 witnesses gave evidence for the Defence by means of written answers to interrogatories.

[14]. The Tribunal appointed Commissioners to hear evidence relating to the organisations, and 101 witnesses were heard for the Defence before the Commissioners, and 1,809 affidavits from other witnesses were submitted. Six reports were also submitted, summarising the contents of a great number of further affidavits.

[15]. Thirty-eight thousand affidavits, signed by 155,000 people, were submitted on behalf of the Political Leaders, 136,213 on behalf of the SS, 10,000 on behalf of the SA, 7,000 on behalf of the SD, 3,000 on behalf of the General Staff and OKW, and 2,000 on behalf of the Gestapo.

[16]. The Tribunal itself heard 22 witnesses for the organisations. The documents tendered in evidence for the prosecution of the individual defendants and the organisations numbered several thousands. A complete stenographic record of everything said in court has been made, as well as an electrical recording of all the proceedings.

[17]. Copies of all the documents put in evidence by the Prosecution have been supplied to the Defence in the German language. The applications made by the defendants for the production of witnesses and documents raised serious problems in some instances, on account of the unsettled state of the country. It was also necessary to limit the number of witnesses to be called, in order to have an expeditious hearing, in accordance with Article 18(c) of the Charter. The Tribunal, after examination, granted all those applications which in their opinion were relevant to the defence of any defendant or named group or organisation, and were not cumulative. Facilities were provided for obtaining those witnesses and documents granted through the office of the General Secretary established by the Tribunal.

[18]. Much of the evidence presented to the Tribunal on behalf of the Prosecution was documentary evidence, captured by the Allied armies in German army headquarters, Government buildings, and elsewhere. Some of the documents were found in salt mines, buried in the ground, hidden behind false walls and in other places thought to be secure from discovery. The case, therefore, against the defendants rests in a large measure on documents of their own making, the authenticity of which has not been challenged except in one or two cases.

[I.] The Charter Provisions

[19]. The individual defendants are indicted under Article 6 of the Charter, which is as follows:

"Article 6. The Tribunal established by the Agreement referred to in Article 1 hereof for the trial and punishment of the major war criminals of the European Axis countries shall have the power to try and punish persons who, acting in the interests of the European Axis countries, whether as individuals or as members of organisations, committed any of the following crimes:

The following acts, or any of them, are crimes, coming within the jurisdiction of the Tribunal for which there shall be individual responsibility:

(a) Crimes against Peace: namely, planning, preparation, initiation or waging of 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:

(b) War Crimes: namely, violations of the laws or customs of war. Such violations shall include, but not be limited to, murder ill-treatment or deportation to slave labour or for any other purpose of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns or villages, or devastation not justified by military necessity:

(c) Crimes against Humanity: namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war, or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated.

Leaders, organisers, instigators and accomplices participating in the formulation or execution of a common plan or conspiracy to commit any of the foregoing crimes are responsible for all acts performed by any persons in execution of such plan."

[20]. These provisions are binding upon the Tribunal as the law to be applied to the case. The Tribunal will later discuss them in more detail; but before doing so, it is necessary to review the facts. For the purpose of showing the background of the aggressive war and war crimes charged in the Indictment, the Tribunal will begin by reviewing some of the events that followed the first world war, and in particular, by tracing the growth of the Nazi Party under Hitler's leadership to a position of supreme power from which it controlled the destiny of the whole German people, and paved the way for the alleged commission of all the crimes charged against the defendants.

[II.] The Nazi Regime in Germany

[A.] The Origin and Aims of the Nazi Party

[21]. On 5th January 1919, not two months after the conclusion of the Armistice which ended the first World War, and six months before the signing of the Peace Treaties at Versailles, there came into being in Germany a small political party called the German Labour Party. On the 12th September 1919, Adolf Hitler became a member of this party, and at the first public meeting held in Munich, on 24th February 1920, he announced the party's programme. That programme, which remained unaltered until the party was dissolved in 1945, consisted of twenty-five points, of which the following five are of particular interest on account of the light they throw on the matters with which the Tribunal is concerned:

"Point 1. We demand the unification of all Germans in the Greater Germany, on the basis of the right of a 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 colonisation of our surplus population.

Point 4. Only a member of the race can be a citizen. A member of the race can only be one who is of German blood, without consideration of creed. Consequently no Jew can be a member of the race ...

Point 22. We demand abolition of the mercenary troops and formation of a national army."