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II

ACTS DONE IN CARRYING OUT THE CONSPIRACYA. THE ACQUIRING OF TOTALITARIAN CONTROL OF GERMANY: POLITICAL.1. First Steps in Acquisition of Control of State Machinery.

- a. The Nazi conspirators first sought control of State Machinery by force. The Munich Putsch of 1923, aimed at the overthrow of the Weimar Republic by direct action, failed.

On 8 November 1923 occurred the so-called Munich Putsch. During the evening, von Kahr, State Commissioner General of Bavaria, was speaking at the "Bürgerbräukeller" in Munich. Hitler and other Nazi leaders appeared, supported by the Sturmabteilungen (Storm Troops) and other fighting groups. Hitler fired a shot and announced that a Nationalist Revolution setting up a dictatorship had taken place. There followed a conference after which von Kahr, von Lossow, and Colonel of Police von Seisser, announced they would cooperate with Hitler and that a "Provisional National Government" was established as follows:

Reich Chancellor	Adolf Hitler
Leader of the National Army	Gen. von Ludendorff
Reich Minister of War	von Lossow
Reich Minister of Police	von Seisser
Reich Finance Minister	Feder

It was also announced Kahr would be State Administrator for Bavaria, Pöhner would be Bavarian Prime Minister and the defendant Frick Munich Police President. Kahr, Lossow and Seisser then departed. During the night the latter group alerted the police, brought troops to Munich and announced that their consent to the Putsch had been obtained by force. The afternoon of the next day, Hitler, Ludendorff and their supporters attempted to march into the center of Munich. At the Feldherrnhalle the procession met a patrol of police, shots were exchanged, and men on both sides were killed. The defendant, Hermann Goering, was wounded, the Putsch was broken up, the Party and its organization were declared illegal and its leaders, including Hitler,

and the defendants Frick and Streicher were arrested. The defendant Rosenberg, together with Amann and Drexler, tried to keep the Party together after it had been forbidden. Hitler and others were later tried for high treason. At the trial Hitler admitted his participation in the foregoing attempt to seize control of the State by force. He was convicted and sentenced to imprisonment..

2532-PS. Rühle, Das Dritte Reich (The Third Reich) pp 103-106.

2404-PS. Der Hitler Prozess (The Hitler Trial).
Report of Hitler's speech in his own defense.

- b. The Nazi Conspirators then set out through the Nazi Party to undermine and capture the German Government by "legal" forms supported by terrorism.
- (1) In 1925, the Nazi Party was reorganized and began a campaign to secure support from German voters throughout the nation.

On 26 February 1925, the "Völkischer Beobachter, the official newspaper of the National Socialist German Worker's Party (NSDAP) appeared for the first time after the Munich Putsch, and on the following day Hitler made his first speech after his release from prison. He then began to build anew the organization of the Party.

2532-PS. Rühle, Das Dritte Reich (The Third Reich) pp. 126, 127

In May 1928, the Nazi Party received 2.6% of the total vote and obtained 12 out of 491 seats in the Reichstag. In September 1930, the Nazi Party polled 18.3% of the total vote and won 107 out of 577 seats in the Reichstag. In July 1932, it received 37.3% of the total vote cast and won 230 out of 608 seats. In November 1932, it polled 33.1% of the vote and won 196 out of 584 seats in the Reichstag.

2514-PS. Statistisches Jahrbuch für Das Deutsche Reich (Statistical Yearbook for the German Reich) 1933, p. 539.

- (2) Hitler asserted his party sought power only by legal forms.

In November 1934, Hitler, speaking of the Munich Putsch of 1923 said:

"It gave me the opportunity to lay down the new tactics of the Party and to pledge it to legality."

2741-PS. Völkischer Beobachter, 10 November 1934

In September 1931, Hitler, testifying at the trial of three officers of the Reichswehr in Leipzig, who were accused of high treason, was asked, "What is your idea of the Third Reich?", to which Hitler replied, "The Constitution gives us the ground on which to wage our battle but not its aim. We shall become members of all constitutional bodies, and in this manner make the Party the decisive factor. Of course, when we possess all constitutional rights we shall then mould the State into the form that we consider to be the right one." Hitler was then asked, "So you intend to work only along constitutional lines?" He replied. "Yes".

2512-PS. Frankfurter Zeitung, 26 February 1931, pp. 1, 2.

- (3) The purpose of the Nazi conspirators in participating in elections and in the Reichstag was in fact to undermine the parliamentary system of the Republic and to replace it with a dictatorship of their own.

This the Nazi conspirators themselves make clear. The defendant Frick wrote in 1927:

"There is no National Socialist and no racialist who expects any kind of manly German deed from that gossip club on the Koenigsplatz and who is not convinced of the necessity for direct action by the unbroken will of the German people to bring about their spiritual and physical liberation. But there is a long road ahead. After the failure of November, 1923, there was no choice but to begin all over again and to strive to bring about a change in the spirit and determination of the most valuable of our racial comrades, as the indispensable prerequisite for the success of the coming fight for freedom. Our activities in parliament must be evaluated as merely part of this propaganda work."

"Our participation in the parliament does not indicate a support, but rather an undermining of the parliamentary system. It does not indicate that we renounce our anti-parliamentarian attitude, but that we are fighting the enemy with his own weapons and that we are fighting for our National Socialist goal from the parliamentary platform."

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2742-PS. Nationalsozialistisches Jahrbuch
(National Socialist Yearbook) 1927. p. 124

On 30 April 1928, the Nazi conspirator Goebbels wrote in his paper "Der Angriff":

"We enter parliament in order to supply ourselves, in the arsenal of democracy, with its own weapons. We become members of the Reichstag in order to paralyze the Weimar sentiment with its own assistance. If democracy is so stupid as to give us free tickets and per diem for this "blockade" (Barendienst), that is its own affair."

And later in the same article he continued:

"We do not come as friends, nor even as neutrals. We come as enemies: As the wolf bursts into the flock, so we come."

2500-PS. Goebbels, Der Angriff: Aufsätze aus der
Kampfzeit (Way up from the Time of Struggle) p. 71.

In a pamphlet published in 1935, the Nazi conspirator Goebbels said:

"If democracy permitted us to use democratic methods in the time of our opposition, it was because this was necessary under a democratic system. We National Socialists have never maintained that we were representatives of a democratic viewpoint, but we have openly declared that we only made use of a democratic means in order to gain power, and that after the seizure of power we would ruthlessly deny to our opponents all those means which they had granted to us during the time of our opposition."

2412-PS. Goebbels, Wesen und Gestalt National-
sozialismus (Nature and Form of National Social-
ism) pp 19, 20.

A leading Nazi writer on Constitutional Law, Ernst Rudolf Huber, later wrote of this period:

"The parliamentary battle of the NSDAP had the single purpose of destroying the parliamentary system from within through its own methods. It was necessary above all to make formal use of the possibilities of the party-state system but to refuse real cooperation and thereby to render the parliamentary system, which is by nature dependent upon the responsible cooperation of the opposition, incapable of action."

2633-PS. Huber, Verfassungsrecht des Grossdeutschen
Reiches (Constitutional Law of the Greater German
Reich) 1939, p. 31

The Nazi members of the Reichstag conducted themselves as a storm troop unit. Whenever representatives of the government or the democratic parties spoke, the Nazi members marched out in a body in studied contempt of the speaker, or entered in a body to interrupt the speaker, thus making it physically impossible for the Reichstag President to maintain order. In the case of speakers of opposition parties, the Nazi members constantly interrupted, often resorting to lengthy and spurious parliamentary maneuvers, with the result that the schedule of the session was thrown out of gear. The tactics of disturbances of parliamentary proceedings employed by the Nazis finally culminated in physical attacks upon members of the house as well as upon visitors.

L-83. Affidavit Gerhart H. Seger. 21 July 1945, p. 7

In a letter of 24 August 1931 to the defendant Rosenberg, Hitler deplores an article in "Volkischer Beobachter" the effect of which is to prevent undermining of support for the then existing form of government and says: "I myself am travelling all over Germany to achieve exactly the opposite."

047-PS. Original letter 24 August 1931 to Rosenberg signed by Hitler.

(4) The Nazi conspirators supported their "legal" activities by terrorism.

(a) The Nazi conspirators created and utilized as a Party formation the Sturmabteilungen (S.A.) a semi-military voluntary organization of young men trained for and committed to the use of violence, whose mission was to make the Party the master of the streets.

The S.A. was organized in 1921. It was a voluntary organization of young men trained for violence. It was organized on military lines from the start, and military features of its training and organization became more pronounced in later years. As the name Storm Troops indicates, members were committed to the use of violence in support of political activity of the Nazi Party. The S.A. took part in the Munich Putsch. After the Nazi Party was reorganized in 1925, the S.A. continued to be the fighting organization of the Nazi conspirators and their Party.

See trial brief submitted in support of that section of Appendix B of the indictment which deals with the S.A.

While discussing his ideas as to the place which the S.A. should play in the political activity of his Party, Hitler states its mission as follows:

"What we needed and still need were and are not a hundred or two hundred reckless conspirators, but a hundred thousand and a second hundred thousand fighters for our philosophy of life. We should not work in secret conventicles, but in mighty mass demonstrations, and it is not by dagger and poison or pistol that the road can be cleared for the movement but by the conquest of the streets. We must teach the Marxists that the future master of the streets is National Socialism, just as it will some day be the master of the state".

404-PS. Hitler, Mein Kampf (My Battle). (41st ed) p 60

In an official publication of Headquarters of the S.A., it is stated:

"Possession of the street is the key to State power: That is what the S.A. marched for and fought for".

2168 - PS. Bayer, Die S.A. (The S.A.) p. 9

- (b) The Nazi conspirators, often employing the S.A. for the purpose, used physical violence and terror to break up meetings of political opponents, and to prevent opposition or debate in their own meetings.

Groups of National Socialists invaded meetings of the Deutsche Friedensgesellschaft (Peace Society) interrupting the speaker, attempting to attack him, and endeavoring to make sufficient disturbance so that the meetings would have to be cancelled.

L-83. Affidavit Gerhart H. Seger, 21 July 1945. p. 4

During the campaign for the election of 14 September 1930, the Nazi conspirators resorted to similar tactics in an effort to break up meetings of political opponents. In meetings arranged for their own speakers, storm troopers prevented anyone connected with the opposition from taking the floor. On the other hand, the Nazis sent speakers into meetings of other political parties accompanied by many storm troopers, often physically taking over such meetings.

L-83. Affidavit Gerhart H. Seger. 21 July 1945 p. 6.

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- (c) The Nazi conspirators constantly threatened their opponents with organized reprisals and terror.

During the course of the trial of three officers of the Reichswehr in Leipzig for high treason in September 1931, Hitler said:

"But may I assure you that if the National Socialist Movement is victorious in its struggle, a Nazi Court of Justice will be established; November 1918 will be avenged and heads will roll".

This threat was greeted with shouts of "Bravo" from the gallery.

2512-PS. Frankfurter Zeitung, 26 September 1931, p. 1, 2.

The defendant Frick wrote in the National Socialist Yearbook for 1930:

"No wonder that as the situation of the entire German people, as well as that of the individual racial comrade, grows rapidly worse, increased numbers are realizing the incompetence of the parliamentary system, and no wonder that even some who are responsible for the present system desperately cry for a dictatorship. This however, will not save them from their fate of one day being called to account before a German State Tribunal."

2743-PS. Nationalsocialistisches Jahrbuch (National Socialist Yearbook) 1930. p. 178

On 7 October 1929, the National Socialist District leader Terboven said in a meeting in Essen:

"This weakness is especially known to Severing, who symbolizes the present State, and he intends to render a service to the State, which is breathing its last; but this too will no longer save the present corrupt parliamentary system . . . But I give such a dictatorship only four weeks. Then the people will awaken, then the National Socialists will come to power, and then there will not be enough lamp posts in Germany . . ."

"The National Socialists will march into the new Reichstag with thirty members; then there will be black eyes every day in this Reichstag; thus this corrupt parliamentary system will be further discredited; disorder and chaos will set in, and then the National Socialists will judge the moment to have arrived in which they are to seize the political power."

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2513-PS. Confidential Report Police Division
Prussian Ministry of Interior. 1930

On 18 October 1929, the defendant Frick, while discussing the Young Plan in a meeting in Pyritz, said:

"This fateful struggle will first be taken up with the ballot, but this cannot continue indefinitely, for history has taught us that in a battle, blood must be shed, and iron broken. The ballot is the beginning of this fateful struggle. We are determined to promulgate by force that which we preach. Just as Mussolini exterminated the Marxists in Italy, so must we also succeed in accomplishing the same through dictatorship and terror."

2513-PS. Confidential Report Police Division
Prussian Ministry of Interior. 1930

In December 1932, the defendant Frick, at that time Chairman of the Foreign Affairs Committee of the Reichstag stated to a fellow member of that committee:

"Don't worry, when we are in power we shall put all of you guys into concentration camps."

L-83. Affidavit Gerhart H. Seger. p. 9.

- (d) The Nazi conspirators manifested approval of acts of terrorism committed by subordinates.

On 22 August 1932, five National Socialists were condemned to death for a murder in the town of Potempa. Hitler wired to the condemned men:

"My Comrades! Faced with this terrible blood sentence, I feel myself bound to you in unlimited faithfulness. Your liberty is from this moment a question of our honor. To fight against a Government under which such a thing could happen is our duty".

2532-PS. Rühle, Das Dritte Reich (The Third Reich) p. 227.

2511-PS. Deutsche Reichsgeschichte in Dokumenten (History of the German Reich in Documents) Vol. 4 Telegram from Hitler. p. 496

Goering, two days later sent the following telegram to the condemned men:

"In nameless embitterment and rage against the terror sentence which has struck you, I promise you, My Comrades, that our whole fight from now on will be for your freedom. You are no murderers. You

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have defended the life and the honor of your Comrades. I send to your families 400,000 Marks which I have received from your friends. Be courageous. More than 14,000,000 of the best Germans have made your interest their own".

2634-PS. "Völkischer Beobachter, 26 August 1932

On 2 September 1932, the death sentences were commuted to imprisonment for life. In 1933, after the Nazis came into power, the five were set free.

2532-PS. Rühle, Das Dritte Reich (The Third Reich)
p. 227

Soon after coming to power the Nazi conspirators took steps to grant a general amnesty for all unlawful acts, including acts of violence, committed by their adherents in course of their struggle for power. On 21 March 1933, a decree was promulgated, signed by von Hindenberg, Hitler and by the defendants Frick and von Papen granting amnesty to all those "who committed punishable acts in the struggle for the national uprising of the German people or in preparation therefor or in the struggle for German soil".

2059-PS. Verordnung des Reichspräsidenten über
die Gewährung von Straffreiheit (Decree of the
Reich President Granting Amnesty) 21 March 1933,
1933 Reichsgesetzblatt, Part I, p. 134.