

TRIAL BRIEF

re

The General Staff
and
High Command of the German Armed Forces

PART I

INDEX

Page No.

I. TOPICAL INDEX

A. Section of Indictment	1
B. Legal References	1-2
C. Statement of Evidence	2-15
D. Argument and Conclusion	16

II. DOCUMENTS

Part II A

THE GENERAL STAFF AND HIGH COMMAND
OF THE GERMAN ARMED FORCES

A. SECTION OF INDICTMENT

The section of the Indictment to be proved is that portion of Appendix B entitled "General Staff and High Command of the German Armed Forces" set out on page 37 of the Indictment.

B. LEGAL REFERENCES

1. Charter of the International Military Tribunal,

Article 9, providing in part:

"At the trial of any individual member of any group or organization the Tribunal may declare (in connection with any act of which the individual may be convicted) that the group or organization of which the individual was a member was a criminal organization."

2. Ibid., Article 6, providing:

"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 organizations, 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 labor 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, organizers, 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."

3. Ibid., Article 7, providing:

"The official position of defendants, whether as heads of State or responsible officials in Government Departments, shall not be considered as freeing them from responsibility or mitigating punishment."

4. Ibid., Article 8, providing:

"The fact that the Defendant acted pursuant to order of his Government or of a superior shall not free him from responsibility, but may be considered in mitigation of punishment if the Tribunal determines that justice so requires."

C. STATEMENT OF EVIDENCE

1. The Membership of the Group

The General Staff and High Command of the German Armed Forces, as described in the Indictment (printed form, Appendix B., p.37), consists of the individuals who held the following appointments:

Chef des Oberkommandos der Wehrmacht (Chief of the High Command of the Armed Forces)
Chef des Fuehrungstabes des Oberkommandos der Wehrmacht (Chief of the Operations Staff of the High Command of the Armed Forces)
Stellvertretender Chef des Fuehrungstabes des Oberkommandos der Wehrmacht (Deputy Chief of the Operations Staff of the High Command of the Armed Forces)
Oberbefehlshaber des Heeres (Commander in Chief of the Army)
Chef des Generalstabes des Heeres (Chief of the General Staff of the Army)
Oberbefehlshaber der Luftwaffe (Commander in Chief of the Air Force)
Chef des Generalstabes der Luftwaffe (Chief of the General Staff of the Air Force)
Oberbefehlshaber der Kriegsmarine (Commander in Chief of the Navy)
Chef (and, formerly, Chef des Stabes) der Seekriegsleitung (Chief of Naval War Staff)
Commanders-in-Chief in the field, with the status of Oberbefehlshaber, of the Wehrmacht, Navy, Army, Air Force.

In all, there are surviving approximately 165 officers who held any of the foregoing offices in the period from 1938 to 1945.

Five of the individual defendants named in the Indictment were members of the group hereinabove described, namely:

Hermann Wilhelm Goering, Oberbefehlshaber der Luftwaffe from 1933 to April 1945;

Wilhelm Keitel, Chef des Oberkommandos der Wehrmacht from February 1938 to May 1945;

Alfred Jodl, Chef des Führungstabes der Oberkommandos der Wehrmacht from August 1938 to May 1945;

Erich Raeder, Oberbefehlshaber der Kriegsmarine from 1934 to January 1943;

Karl Doenitz, Oberbefehlshaber der Kriegsmarine from January 1943 to May 1945.

Section 5 Brief

2. Functions and Method of Operation of the Group

The senior officers who occupied the foregoing positions at the highest level in the German Armed Forces organization in the years 1938 through 1945 had, by virtue of those positions, the ultimate authority and responsibility under Hitler for the plans and operations of the German Armed Forces.

(Affidavit No. 1, Franz von Halder, 7 November 1945;
Affidavit No. 2, Walter von Brauchitsch, 7 November 1945)

Hence they constitute a functional group, welded together by common responsibility and the mutual interrelationships that follow therefrom, and distinguished from all other officers by the nature of that responsibility and the scope of the authority they exercised.

Hitler, as Supreme Commander of the German Armed Forces, had four separate service departments. These were the High Commands of, respectively, the Armed Forces (OKW), the Army (OKH), the Navy (OKM), and the Air Force (OKL).

(Affidavit No. 1, Franz von Halder, 7 November 1945,
with attached chart initialed by Halder)

The last three are self-explanatory. The first, OKW, was a creation of Hitler in 1938 by the expansion of the Wehrmachtamt, which had been the planning and co-ordinating department of von Blomberg's War Ministry.

(Law of 4 February 1938, Reichsgesetzblatt (1938),
Part I, p. 111)

OKW was created for two purposes. First, it was to act as a central command organization over the three

services proper, to be responsible for the overall strategic direction of a war, and to act as a clearing house for inter-service matters such as allocation of man-power and material. Second, it was to act as an instrument by means of which Hitler could more easily override the OKW, which had hitherto regarded the running of German wars as its private preserve and resented any poaching thereon.

(Cf. Affidavit No. 3, Werner von Blomberg, 7 November 1945, in which witness states that Keitel was recommended to Hitler as a mere Chef de Bureau)

Each of these four departments corresponded to a Ministry or Department of State, which included among its main component departments a General Staff. The "Operations Staff of the Armed Forces" (under Jodl), for instance, was one of a number of departments immediately subordinated to the Chief of the Supreme Command of the Armed Forces (Keitel), but as it was the planning department it was the most important of these departments.

(Transcript of interrogation of Alfred Jodl, 30 August 1945, p.2., where witness states that he had been designated in case of war as a member of the Supreme Staff of the Chief of Staff of OKW - the Chief of Staff within the OKW, official title Der Chef des Wehrmachtführungstabes in Oberkommando der Wehrmacht)

The other departments immediately under Keitel, e.g. Press department, Law department, were equal in status with the Operations Staff and their Chiefs were equal in status with Jodl, but neither the departments nor their chiefs were equal in importance with Jodl or Jodl's department nor had they the same degree or the same kind of responsibility.

The group described in the Indictment includes the Supreme Commander of each of the four services plus, in each case, the Chief of his Operations or General Staff. There is one addition. The Operations Staff of the Supreme Command of the Armed Forces had also a Deputy Chief. His

particular responsibility was planning and therefore his office also has been named. Thus, at the central direction of military affairs, nine offices are named as included in the group.

To these nine have been added a number of Commanders in Chief in the field, viz., those having the status of Oberbefehlshaber (no precise English equivalent; "ober-befehls-haber", literally, over-command-holder), irrespective of the service (Army, Navy, or Air Force) in which they served. Those officers who held the status of Oberbefehlshaber exercised an overall command for a whole area - something more than mere tactical command.

Proof of this is to be found in 247-ES, a 13 March 1941 directive signed by Keitel, issued by the Supreme Command of the Armed Forces. This directive sets out regulations for the impending operations against Russia (begun 21 June 1941). Under para. I, "Area of Operations and executive power (Vollziehende Gewalt)", sub-para 1, it is stated: "It is not contemplated to declare East Prussia and the General Government an area of operations. However, in accordance with the unpublished Fuehrer orders from 19 and 21 October 1939, the Supreme Commander of the Army shall be authorized to take all measures necessary for the execution of his military aim and for the safeguarding of the troops. He may transfer his authority onto the Supreme Commander (Oberbefehlshaber) of the Army Group and Armies. Orders of that kind have priority over all orders issued by civilian agencies." Sub-para. 2 (a) states: "The area of operations created through the advance of the Army beyond the frontiers of the Reich and the neighboring countries is to be limited in depth as far as possible. The Supreme Commander of the Army has the right to exercise the executive power (Vollziehende Gewalt) in this area, and may transfer his authority onto the Supreme Commanders (Oberbefehlshaber) of the Army Groups and Armies."

These Oberbefehlshaber not only exercised such authority in the field, but they were also consulted with respect to plans for major operations, although the conduct rather than the planning of operations was their primary function. For example, in the German Army (much the most important service in this context), Oberbefehlshaber was the title held by the Commander in Chief of the Army as a whole, and below him by commanders of Army Groups and of Armies, but not by commanders of inferior status. It was the practice of the Supreme Commander of OKH to consult with these Oberbefehlshaber, both while a major operation was in the planning stage and when it had developed into the operational stage.

This practice is graphically described in Affidavit No. 4, Walter von Brauchitsch, former Oberbefehlshaber des Heeres (Commander in Chief of the Army as a whole), 7 November 1945:

"When Hitler had made a decision to support the realization of his political objectives through military pressure or through the application of military force, the Commander in Chief of the Army if he was at all involved, ordinarily first received an appropriate oral briefing or an appropriate oral command.

"Operational and deployment plans were next worked out in the OKH. After these plans had been presented to Hitler, generally by word of mouth, and had been approved by him, there followed a written order from the OKW to the three branches of the Armed Forces. In the meanwhile the OKW began to transmit the operational and deployment plans to the army groups and armies involved. Details of the operational and deployment plans were discussed by the OKH with the commanders of the army groups and armies and with the Chiefs of Staff of those commanders.

"During the operations the OKH maintained a constant exchange of ideas with the army groups by means of telephone, radio and courier. The Commander in Chief of the Army used every opportunity to maintain a personal exchange of ideas with the commanders of army groups,

armies and lower echelons by means of personal visits to them. In the war against Russia the commanders of army groups and of armies were individually and repeatedly called in by Hitler for consultations.

"Orders for all operational matters went from the OKH to army groups and for all matters concerning supply and territorial jurisdiction from the OKH directly to the armies."

The number of Commanders in Chief in the field having the status of Oberbefehlshaber varied from time to time, in accordance with the varying strength and composition of the German Armed Forces, and there were, of course, successive appointees in various commands. In all, there were approximately 145 individuals who held field commands in the Army, the Navy, the Luftwaffe, and the Wehrmacht, who possessed at one time or another the status of Oberbefehlshaber.

This then completes the functional group of officers who, by virtue of authority and responsibility, planned and executed all major operations of the German Armed Forces in the period immediately preceding and during the Second World War.

The facts are succinctly outlined in Affidavit No. 1, Colonel General Franz von Halder, 7 November 1945, as follows:

"Ultimate authority and responsibility for military affairs in Germany was vested in the Head of State who prior to 2 August 1934 was Field Marshal von Hindenburg and thereafter until 1945 was Adolf Hitler.

"Specialized military matters were the responsibility of the three branches of the Armed Forces subordinate to the Commander-in-Chief of the Armed Forces (at the same time Head of State), that is to say the Army, the Navy and the Air Force. In practice, supervision within this field was exercised by a relatively small group of high-ranking officers. These officers exercised such supervision in their official capacity and by virtue of their training, their positions and their mutual contacts. Plans for military operations of the German Armed Forces were prepared by members of this group according to the instructions of the OKW in the name of their respective Commanding Officers and were presented by them to the Commander-in-Chief of the Armed Forces (at the same time Head of State).

"The members of this group were charged with the responsibility of preparing for military operations within their competent fields and they actually did prepare for any such operations as were to be undertaken by troops in the field.

"Prior to any operation, members of this group were assembled and given appropriate directions by the Head of State. Examples of such meetings are the speech by Hitler to the Commanders in Chief on 22 August 1939 prior to the Polish campaign and the consultation at the Reich Chancellery on 14 June 1941 prior to the first Russian campaign. The composition of this group and the relationship of its members to each other were as shown in the attached chart. This was in effect the General Staff and High Command of the German Armed Forces."

(To the same effect, see Affidavit No. 2, Walter von Brauchitsch, 7 November 1945.)

An example of Oberbefehlshaber down to Army level being called together for consultations before a military operation is to be found in C-78. This is the official invitation to participate in the consultation at the Reich Chancellery on 14 June 1941, referred to in the last paragraph of Halder's affidavit above. It is signed by Col. Schmudt, chief A.D.C. to Hitler, and dated 9 June 1941. It begins "The Fuehrer and Supreme Commander of the Armed Forces has ordered reports on Barbarossa (from internal evidence, the invasion of Russia) by the commanders of Army Groups and Armies and Naval and Air commanders of equal rank." The following list of participants is given:

Representing the High Command of the Armed Forces: Keitel, Jodl, Warlimont, Christian.
 Representing the High Command of the Army (OKH): Brauchitsch (CinC), Halder (Chief of Staff), Paulus, Heusinger, Gvldenfeldt.
 Representing the Navy (OKM): Raeder (CinC), Fricke (Chief of Naval War Staff), Schulte-Moentig, Wagner.
 Representing the Air Force (RdL u Ob d L): Goering, Milch, Jeschonnek (Chief of Staff of the Air Force), Bodenschatz, v Waldau.
 Representing Field Army: Falkenhorst (CinC Armed Forces Norway), v Rundstedt (CinC Army Group South), Reichenau, Stuelpnagel, Schobert, v Kleist (5th, 17th, and 11th Armies and Armored Group 1), v Leeb (CinC Army Group North), Busch, v Kuechler, Hoppner (16th and 18th Armies and Armored Group 4), v Bock (CinC Army Group Middle), v Kluge, Strauss, Guderian, Hoth (4th and 9th Armies, 2nd and 3rd Armored Groups).
 Representing Air Force at the front: Stumpff, Loehr, Keller and Kesselring (5th, 4th, 1st and 2nd Air Fleets).
 Representing the Navy afloat: Carls (Navy Group North), Schmudt (Commander Baltic).
 A.D.C. of the Armed Forces: Schmudt, Puttkammer, Engel, Below.

Thus the above list includes and substantially consists of all the members of the High Command and General Staff group who were concerned in the impending operations against Russia.

The functional group above described should not be confused with the so-called German General Staff of common parlance which would appear to be a mythical continuation or revival of the Grosser Generalstab, a formal organization within the German command in World War I. The Grosser Generalstab was dissolved following the First World War, and it was never revived. There should be no confusion, moreover, between the functional group of high-ranking officers of all the German Armed Services now under consideration and the General Staff Corps of the German Army, which consisted merely of qualified graduates of the Kriegsakademie in Berlin who were customarily assigned to staff duties, frequently of a relatively unimportant nature.

The manner in which the General Staff and High Command Group functioned as a group can aptly be observed in the events leading up to the Polish campaign of 1939.

The general procedure is outlined in Affidavits Nos. 2 and 4, Walter von Brauchitsch, 7 November 1945. On receiving general outline orders from Hitler to prepare plans for the invasion of Poland, in April 1939, the Commanders in Chief of the three branches of the Armed Forces set the wheels in motion. In conjunction with their Chiefs of Staff and the prospective "Oberbefehlshabers" in the field they drew up a series of plans, referring them to the High Command of the Armed Forces for inter-service integration and for transmission to Hitler for his approval and further instructions. The planning stage thus involved Hitler and the entire High Command and General Staff group, i.e., the OKW, and the Commanders-in-Chief, Chiefs of Staff and Oberbefehlshaber of the 3 branches of the Armed Forces.

Documents which illustrate some of the steps in the planning programme follow. Some of the documents quoted here are directives signed by Keitel. These were all

issued by him in his capacity as Chief of the High Command of the Armed Forces (OKW) and their external distribution, when it is given, was always Army (OKH), Navy (OKM) and Air Force (RdL u Ob d L). They embody the general directives from the highest level, the details of which were to be worked out by the 3 branches of the Armed Forces.

"Case White", of which frequent mention is made, in these documents, is the plan for the invasion of Poland, from internal evidence.

The following compilation contains a number of papers which were prepared and circulated prior to meetings of which no record was kept, and, viewed in their entirety, they indicate clearly that the General Staff and High Command group, working according to standard military procedures, actively participated in the preparations leading up to the Polish campaign, and that when such preparations were substantially complete they were called together as a group by Hitler and given a final orientation on the one remaining step - the initiation of the attack.

(a) 25 March:

In the course of a discussion covering many problems on this date between Hitler and the CinC of the Army (von Brauchitsch), Hitler informed the latter that he did not intend to solve the Polish question by force for the time being but that it should be worked on.

R100. Unsigned document headed "Information given to the CinC of the Army by the Fuehrer, 25 March 1939".

(b) 3 April:

Keitel directive on change in previous directive for the uniform preparation of war by the Armed Forces for 1939/40.

1. Sections on "Frontier Defense" and on "Danzig" unaltered for the time being.
2. Following Hitler directives are to be added to section on "Case White":

(a) Preparations must be made in such a way that the operation can be carried out at any time from 1 September 1939 on.

(b) High Command of the Armed Forces has been directed to draw up a precise time-table for "Case White" and to arrange, by conferences, synchronized timing between the 3 branches of the Armed Forces.

(c) The plans of the branches of the Armed Forces and the details for the time-table must be submitted to the High Command of the Armed Forces by 1 May 1939.

C 120 A. Keitel directive for invasion of Poland, 3 April 1939, signed by Keitel

(It will be noticed that this directive does not go into detail but merely gives a working outline, and that inter-service conferences emerge as part of the process for achieving a co-ordinated plan.)

(c) 11 April:

Keitel directive transmitting Hitler order confirming and expanding directive of 3 April in (b) above. Annexe II, in the paragraph headed "political hypotheses and aims", states that, should Poland adopt a threatening attitude towards Germany, a final settlement would be necessary notwithstanding the pact with Poland. It further states "Policy aims at limiting the war to Poland, and this is considered possible in view of the internal crisis in France and British restraint as a result of this". Other paragraphs set out the tasks and operational objectives of the 3 branches of the Armed Forces. Thus, this directive gives the Services the general political background against which they are to work.

C 120 B & D. Keitel directive quoting Hitler order on plans for invasion of Poland, 11 April 1939, signed by Keitel.

(d) 10 May:

Hitler order transmitted by OKW instructing the Commanders in Chief of the 3 branches of the Armed Forces to report by 1 August 1939 on measures taken in consequence of instructions given for economic war. Annexe II, dealing with "Case White", sets out as main objectives the capture of Polish economic installations in undamaged condition and the cutting off of Poland from imports by sea.

C 120 K & L. Hitler order on preparations for economic war, 10 May 1939, signed by Hitler.

(c) 23 May:

Lecture by Hitler entitled "Indoctrination on political situation and future aims".

In this Hitler reviews the European political and military scene. He states that he has decided to solve the Polish problem by force, but reserves to himself the decision when and where the attack was to be made.

Present were: Goering (CinC, Air Force); Raeder (CinC, Navy); Brauchitsch (CinC, Army); Keitel (Chef, OKW); Milch (Inspector General of the Air Force); Halder (Chief of Staff, Army); Bodenschatz (personal assistant to Goering); Schniewindt (Chief of Naval War Staff); Jeschonnek (Chief of Air Staff); Warlimont (planning department, OKW); and Hitler's adjutant.

L 79. Hitler lecture "Indoctrination on political situation and future aims", 23 May 1939, unsigned.

(Transcript of interrogation of Wilhelm Keitel, 28 August 1945, pp 9-10)

(f) 14 June:

Detailed battle plan for "Case White" signed Blaskowitz (Oberbefehlshaber of 8th Army in Polish Campaign). Unaddressed.

(being translated)

2327 PS. Battle plan against Poland, signed Blaskowitz, 14 June 1939.

(An example of how an Army Oberbefehlshaber participated in the planning stage. Already by this date the plans had reached a very detailed state.)

(g) 15 June:

Memo entitled "Intention of CinC, Army & Tasks", signed Brauchitsch stating, in connection with "Case White", that the object was the destruction of the Polish Armed Forces and that this could best be achieved by surprise. Army group and Army commanders were to make their preparations accordingly. Economic installations to be spared as far as possible. This memo goes into some detail and outlines tasks, objectives, and time-tables for each army.

C 142. Memorandum entitled "Intentions of CinC, Army and Tasks", signed Brauchitsch, 15 June 1939.

(Although this memorandum is unaddressed, it is plain from internal evidence that it was made for the guidance of Army Group and Army Commanders, i.e., the Oberbefehlshaber. Cf. para. 2 of Affidavit No. 4, Walter von Brauchitsch, 7 November 1945)

(h) 22 June:

Keitel memo transmitting

1. Hitler's general approval of the "preliminary time-table for "Case White" submitted to him by OKW based on reports from the 3 branches of the Armed Forces.

2. Hitler's instructions arising from this, notably the need to camouflage the size of the forthcoming "maneuvers" in order not to disquiet the population.

C 126 p.6. Keitel directive re "Case White", 22 June 1939, signed by Keitel.

(i) 24 June:

Keitel directive on "Case White".

a. Army to prepare measures for the capture in undamaged condition of the bridges over the lower Vistula.

b. Army and Navy to examine whether the element of surprise in sudden attacks against the bridge at Dirschau would be jeopardized by preceding actions of the Navy in Danzig bay (mining before D day).

Various further subjects are dealt with in the annexes notably: the nature of the mobilization, powers of the CinC, Air Force, division of responsibilities, feeding of troops from the occupied area.

C 120 E, F. Keitel directive on "Case White", 24 June 1939, signed by Keitel.

(j) 3 July:

Letter from Brauchitsch to High Command of the Navy requesting the Navy not to take any measures of any sort before D day, in order not to prejudice the surprise nature of the attack by the Army and Air Force.

C 126 p.2. Brauchitsch letter to High Command of the Navy, 3 July 1939, signed by Brauchitsch.

(k) 22 August:

Hitler informed the assembled "Oberbefehlshaber" in a conference at Obersalzberg that Poland was to be invaded at dawn on August 26 (this was later postponed till 1st September for political reasons). He produced arguments to prove that he and the politicians had succeeded in creating such a favorable situation that the conflict would be a local one only.

798 PS. Notes of Hitler's speech at Obersalzberg, 22 August 1939, unsigned.

(l) 31 August:

Hitler directive, transmitted by OKW. Attack on Poland in accordance with preparations made for "Case White" to begin at 0445 hours 1st September 1939. Same time to apply to operation at Gdynia, Bay of Danzig and to Dirschau bridge.

C 126 p.6. Hitler directive No. 1 for the conduct of the war, 31 August 1939, signed by Hitler.

3. The Criminal Activities of the Group

The facts showing the criminal activities of the German General Staff and High Command group fall into two categories. First, it can be shown that individual defendants who were members of the group, and other members of the group, acting in their official capacities as such members, performed and participated in activities that are criminal within the meaning of Article 6 of the Charter. Second, it can also be shown that members of the German Armed Forces (which, as hereinabove shown, were so under the control of the group as to make the group responsible for the activities of the Armed Forces) committed and participated in criminal activities within the meaning of Article 6 of the Charter.

One example comprehending both categories is set out in the preceding section of this brief. It there appears (pages 9 to 13) that members of the group, including defendants Goering, Keitel, and Raeder in their respective official capacities as Oberbefehlshaber der Luftwaffe, Chef des Oberkommandos der Wehrmacht, and Oberberbefehlshaber der Kriegsmarine, participated in the planning and preparation for the attack on Poland on 1 September 1939. It is a necessary inference from the facts stated, as well as a matter of common knowledge, that all branches of the German Armed Forces participated in such preparations and attacked on 1 September 1939.

Other examples are to be found in the Briefs submitted in support of the facts alleged in the body of the Indictment, as follows:

- a. Indictment, Count I, paragraph IV F 2,
relating to German rearmament, creation of the German military air force, and the reoccupation and fortification of the Rhineland in 1936, in all of which the German Armed Forces, as well as the named defendants Goering and Raeder, participated.

(Section 3 Brief)

- b. Indictment, Count I, paragraph IV F 3, relating to planning for the acquisition of Austria and Czechoslovakia, including military preparations, the invasion of Austria on 12 March 1938, the revision of plans for aggression against Czechoslovakia, including the preparation of detailed and precise plans to crush Czechoslovakia in 4 days at any opportune moment, occupation of the Sudetenland on 1 October 1938 and occupation of the remainder of Czechoslovakia on 15 March 1939, involving defendants Goering, Raeder, and Keitel, and the German Armed Forces.

(Section 3 Brief)

- c. Indictment, Count I, paragraph IV F 4, also relating to plans and preparations for the attack on Poland which occurred on 1 September, involving defendants Goering, Raeder, Keitel, and Jodl, and the German Armed Forces.

(Section 3 Brief)

- d. Indictment, Count I, paragraph IV F 5, relating to extension of the war in Europe involving invasions of Denmark, Norway, Belgium, the Netherlands, Luxembourg, Yugoslavia, and Greece and advance planning therefore, and implicating defendants Goering, Raeder, Keitel, and Jodl, and the German Armed Forces.

(Section 3 Brief)

- e. Indictment, Count I, paragraph IV F 6, relating to preparation for and initiation of the German attack on Russia on 22 June 1941, in which defendants Goering, Raeder, Keitel and Jodl, and the German Armed Forces participated.

(Section 3 Brief)

- f. Count III, paragraph VIII (A), dealing with the murder and ill treatment of civilian populations.

(Section 4 Brief)

g. Count III, paragraph VIII (B), dealing with deportation.

(Sections 2 and 4 Briefs)

h. Count III, paragraph VIII (C), dealing with murder and ill treatment of prisoners of war and of the armed forces of the countries with whom Germany was at war

(Section 4 Brief)

D. ARGUMENT AND CONCLUSION

The evidence contained in the foregoing statement proves that:

1. The officers who occupied the positions specified on page 17 of the printed Indictment, Appendix B, under the heading "General Staff and High Command of the German Armed Forces" constituted a functional group, within the meaning of Article 9 of the Charter, possessing, under Hitler, final authority and responsibility for the plans and operations of the German Armed Forces.
2. Five of the individual defendants named in the Indictment, i.e., Goering, Raeder, Doenitz, Keitel, and Jodl, were members of this group.
3. Activities that were illegal within the meaning of Article 6 of the Charter were performed and participated in (a) by members of the group, including said named defendants, in their official capacity as such members, and (b) by the German Armed Forces subject to control of the group.

It is immaterial in this connection that certain defendants may be regarded as responsible officials in Departments of the German Government in view of the express provisions of Article 7 of the Charter to the effect that such status shall not free defendants from liability or mitigate their punishment.

The General Staff and High Command of the German Armed Forces is a criminal group and should be declared to be such by the Tribunal.

High Command

*10.02
contd*

TRIAL BRIEF
re
GENERAL STAFF
and
HIGH COMMAND OF THE GERMAN ARMED FORCES

Part II A
Documents in English Translation

INDEX	Page No.
II. DOCUMENTS	
A. Numerical list	i, ii
B. Types	
1. Affidavits	ii
2. Charts	ii
3. Correspondence and Memoranda	ii, iii
4. Interrogations of Defendants	iii
5. Laws, Decrees, Enactments	iii
6. Military Orders	iii
7. Other Evidence	iii
C. List of Individual Defendants Involved	iii, iv
D. List of Criminal Groups or Organizations Involved	iv

II DOCUMENTS

Page No.
(in Part I)

A. Numerical

<u>C-78</u>	Invitation to participate in discussion at Reich Chancellery, 14 June 1941, signed by Col. Schmudt, Chief A.D.C. to Hitler, dated 9 June 1941	8
<u>C-120/ A</u>	Keitel directive for invasion of Poland, 3 April 1939, signed by Keitel	10, 11
<u>C-120/ B&D</u>	Keitel directive quoting Hitler order on plans for invasion of Poland, 11 April 1939, signed by Keitel	11
<u>C-120/ E&F</u>	Keitel directive on "Case White", 24 June 1939, signed by Keitel	13
<u>C-120/ K&L</u>	Hitler order on preparations for economic war, 10 May 1939, signed by Hitler	11
<u>C-126 p.2.</u>	Brauchitsch letter to High Command of the Navy, 3 July 1939, signed by Brauchitsch	13
<u>C-126 p.6.</u>	Keitel directive re "Case White", 22 June 1939, signed by Keitel	13
<u>C-126 p.7.</u>	Hitler directive No. 1 for the conduct of the war, 31 August 1939, signed by Hitler	13
<u>C-142</u>	Memorandum entitled "Intentions of CinC, Army and Tasks", 15 June 1939, signed by Brauchitsch	12
<u>L-79</u>	Hitler lecture, "Indoctrination on political situation and future aims", 23 May 1939, unsigned.	12
<u>447- PS</u>	Keitel directive setting out regulations for impending operation against Russia, 13 March 1941, signed by Keitel	5
<u>798- PS</u>	Notes of Hitler's speech to Oberbefehlshaber at Obersalzburg, 22 August 1939, unsigned	13

2327		
<u>PS</u>	Battle plan against Poland, 14 June 1939, signed Blaskowitz	12
R-		
<u>100</u>	Unsigned document headed "Information given to the CinC of the Army by the Fuehrer, 25 March 1939"	10

B. Types

1. Affidavits

No. 1	Affidavit of Franz Halder, 7 November 1945	3, 7
No. 2	Affidavit of Walter von Brauchitsch, 7 November 1945	3, 8, 9
No. 3	Affidavit of Werner von Blomberg, 7 November 1945	4
No. 4	Affidavit of Walter von Brauchitsch, 7 November 1945	6, 9, 12

2. Charts

A Chart, which is the same in both cases, is attached to Affidavits Nos. 1 and 2, above

3. Correspondence and memoranda

<u>C-78</u>	Invitation to participate in discussion at Reich Chancellery, 14 June 1941, signed by Col. Schmudt, Chief A.D.C. to Hitler, dated 9 June 1941	8
<u>C-126</u> <u>p.2.</u>	Brauchitsch letter to High Command of the Navy, 3 July 1939, signed by Brauchitsch	13
<u>C-142</u>	Memorandum entitled "Intentions of CinC, Army and Tasks", 15 June 1939, signed by Brauchitsch	12
<u>L-79</u>	Hitler lecture, "Indoctrination on political situation and future aims", 23 May 1939, unsigned.	12
<u>447-</u> <u>PS</u>	Keitel directive setting out regulations for impending operation against Russia, 13 March 1941, signed by Keitel	5
<u>798-</u> <u>PS</u>	Notes of Hitler's speech to Oberbefehlshaber at Obersalzberg, 22 August 1939, unsigned	13

R-
100 Unsigned document headed "Information
given to the CinC of the Army by
the Fuehrer, 25 March 1939 10

4. Interrogations of Defendants

Transcript of Interrogation of Alfred Jodl,
30 August 1945, page 2 4

Transcript of Interrogation of Wilhelm
Keitel, 28 August 1945, pp. 9, 10 12

5. Laws, Decrees, and Enactments

Law of 4 February 1938, Reichsgesetzblatt
(1938), Part I, p. 111 3

6. Military Orders

C-120/
A Keitel directive for invasion of
Poland, 3 April 1939, signed by
Keitel 10, 11

C-120/
B&D Keitel directive quoting Hitler order
on plans for invasion of Poland,
11 April 1939, signed by Keitel 11

C-120/
E&F Keitel directive on "Case White",
24 June 1939, signed by Keitel 13

C-120/
K&L Hitler order on preparations for
economic war, 10 May 1939, signed
by Hitler 11

C-126
n.6. Keitel directive re "Case White",
22 June 1939, signed by Keitel 13

C-126
n.7. Hitler directive No. 1 for the con-
duct of the war, 31 August 1939,
signed by Hitler 13

447-
PS Keitel directive setting out regula-
tions for impending operation against
Russia, 13 March 1941, signed by Keitel 5

7. Other Evidence

Briefs of Sections: 2 16
3 14, 15
4 15, 16
5 3

C. List of Individual Defendants Involved

Doenitz, Karl
Affidavits 1-4, inclusive

Goering, Herman
C-78
affidavits 1-4, inclusive

Jodl, Alfred
C-78
Affidavits 1-4, inclusive

Keitel, Wilhelm
C-78 C-126, p.6
C-120 A 447-PS
C-120 B&D Affidavits 1-4, inclusive
C-120 E&F

Raeder, Erich
C-78
Affidavits 1-4, inclusive

D. List of Criminal Groups or Organizations Involved

General Staff and High Command of the
German Armed Forces
see Numerical list of Documents under A,
above, and list of Affidavits under
B, 1, above.