

## WANTON DESTRUCTION OF PROPERTY

A. Section of Indictment.

The sections of the Indictment which this brief supports are:

COUNT ONE - THE COMMON PLAN OR CONSPIRACY

Paragraph 1

Page 3

and

SUBSECTION IV G - WAR CRIMES AND CRIMES  
AGAINST HUMANITY COMMITTED IN THE COURSE  
OF EXECUTING THE CONSPIRACY FOR WHICH  
THE CONSPIRATORS ARE RESPONSIBLE

Paragraph 1

Page 10

and

COUNT THREE - WAR CRIMES

SUBSECTION E - PLUNDER OF PUBLIC & PRIVATE  
PROPERTY

Subparagraph 8

Page 19

and

Subparagraph 1, page 20

(Destruction of Works of Art)

and

Subparagraph 2, page 21 &amp; 22

and

SUBSECTION G - WANTON DESTRUCTION OF CITIES,  
TOWNS AND VILLAGES AND DEVASTATION NOT JUSTI-  
FIED BY MILITARY NECESSITY

Paragraph 1

Page 23

B. Legal References

1. Charter - Article 6 (b):

"WAR CRIMES: namely, violations of the laws of 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."

2. Hague Regulations, 1907:

Article 23

"In addition to the prohibitions provided by special conventions, it is especially forbidden :

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g. To destroy or seize the enemy's property unless such destruction or seizure be imperatively demanded by the necessities of war."

Article 46

"Family honour and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected.

Private property cannot be confiscated."

Article 47

"Pillage is formally forbidden."

Article 56

"The property of municipalities, that of institutions dedicated to religion, charity and education, the arts and sciences, even when State property, shall be treated as private property.

All seizure of, destruction or wilful damage done to institutions of this character, historic monuments, works of art and science, is forbidden, and should be made the subject of legal proceedings."

C. Statement of Evidence

1. Policies and Orders

On 29 September 1941 a top-secret Naval War Staff memorandum indicated the Fuehrer's attitude regarding the continued existence of the city of St. Petersburg.

"The Fuehrer has decided to have St. Petersburg wiped from the face of the earth. The further existence of this large town is of no interest once Soviet Russia is overthrown.

C-124. Internal Memorandum of Head of Naval War Staff 18 August 1941.

On 18 August 1941 the Military Commander of Serbia issued instructions to the Propaganda Leader at Belgrade to announce through the press, radio, and by means of posters that every community in which there are acts of violence against the Wehrmacht or in which sabotage occurs will be burned to the ground.

2144-PS. Typed copy of letter from Gen. Danckelmann, Military Commander of Serbia to Hippert, Propaganda Leader, 18 August 1941.

An official note of the USSR, issued by Molotov contains the following references to the German policy of wanton destruction:

"An order issued on October 10, 1941 to the Sixth German Army reads in Part: The army is only interested in putting out fires in such buildings as are to be used for housing Army units. All else . . . including buildings must be destroyed." (par 2, p4)

"Toward the end of 1941 and early in 1942 the German Command issued a series of orders directing that German Army Units which are compelled to retreat under pressure from the Red Army are to destroy everything that might still have been left undestroyed during the occupation." (par 3, p 5)

"An order to the 512th Infantry of the 293rd German Division, 10 December 1941 constitutes a compendium, taking up seven sheets of paper, of the most precise plans for consistent destruction of village after village in the district where the said Regiment had been stationed from 10 December to 14 December, inclusive." (par. 4, p 5)

"A notorious order issued by Fieldmarshal Von Reichenau contained an outright call to commit acts of vandalism. The German Army was told that no historic or artistic values in the East possess any importance." (par 5, p 14)

L-164. Official note of "Peoples Commissar of Foreign Affairs Molotov" in form of an Information Bulletin 27 April 1944

The MOLOTOV note also quotes an order signed by Adolf HITLER dated 3 January 1942:

"Each point occupied by us must be turned into a point of defense; it's surrender must not be allowed in any circumstance, not even though it should be outflanked by the enemy. If, however, a given point must be evacuated under order from superior authorities, everything must be burned to the ground and ovens blown up."  
L-164, supra, (p 8, par 1)

The General Commissioner in Lutz issued the following order on 21 September 1942:

"Homes of people refusing to report for work are to be burned down, their relatives to be seized as hostages and brought into forced labor camps."

290-PS. Copy of letter from Commissioner for Rowno to Ministry for Eastern affairs, 23 October 1943.

2. Preventive and Reprisal Measures Against Partisans.

The destruction of villages was carried out as reprisal against Partisan activities in Greece (1574-PS. Copy of three "Reports of the Day" addressed to Army High Command, Athens, 17 October 1941, 23 October 1941 and 25 October 1941); Poland (L-163. Copy of order of SS and Police Commander for Bialystock, Poland 2 May 1943.); Czechoslovakia, (998-PS. Official Czechoslovak report on German Crimes against Czechoslovakia, September 1945); and Norway (1800-PS. Official Norwegian Report on Germany's Crimes against Norway, 1 October 1943.)

German military Reports of the Day chronicle the destruction of seven Greek villages for Partisan activity as follows:

17 October 1941	Ano Kerzillion
17 October 1941	Kato Kerzillion
23 October 1941	Mesovunas
23 October 1941	Selli
25 October 1941	Amelopito
25 October 1941	Kliston
25 October 1941	Kizonia

1574-PS, supra

On 2 May 1943 the SS and Police Commander for the District of Bialystock, Poland issued a secret order for reprisal measures to be taken against the inhabitants of the village of Laski on 4 May 1943. The order provides for the execution of the 220 inhabitants of the village and states as follows:

"After the execution has been carried out and cattle and property have been captured and impounded by the Commissioner concerned the village will be destroyed totally by fire."  
(L-163, supra)

Bach-Zelewski, an SS Commander in Poland, has testified that the "Friedkorps Rodinoff" exterminated an entire village in the Pripet Marshes; that a German Brigade destroyed a village near Margolif; that the village of Margolif was burned down by his order and that two villages near Polatsh were burned down by Latvian soldiers under German orders. All of these actions were taken as reprisals against partisan activities in the area. (Interrogation of Erick Von Bach-Zelewski, 26 October 1945 - P.M.)

The official report of the Czech Government furnishes the details of the destruction of Lidice and Lezaky as reprisal measures for alleged anti-German activity and as a preventative against further resistance in Czechoslovakia. (998-PS supra)

With reference to the destruction of Lidice the report states as follows:

"At the same time, 7:00 in the morning, the first building, belonging to Hlim, on the road to Hostoun, was set on fire and after that one house after another was burned to the ground by the Gestapo. They brought two barrels of petrol and in front of each house poured out a pailfull to light the fires."

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"On 12 June (1943) German pioneers fitted into the walls of the centuries old Church of St. Martin, explosive charges. Sgt. Jan Strzed who acted as Liaison Officer once more called the Gestapo from Kladno to watch the complete destruction of the ancient church. A few months later fields covered the ground where Lidice had stood." (998-PS, supra, p 109)

The Czech report records the destruction of Lezaky as follows:

"An official report of 24 June 1942 published in the newspaper "Der Neue Tag" on 25 June 1942 (Annex 21), contains the information that Lezaky, a hamlet on the Bohemia-Moravian Plateau consisting of nine cottages, was razed to the ground and the adult population summarily shot. The report continues that the population of Lezaky sheltered Czech Parachutists who took a prominent part in the preparation in the attempt on Heydrich and tried to prevent the parachutists from falling into the hands of the Police." (998-PS, supra, p 113)

The Czech report continues with the statement that Lezaky was, like Lidice, completely destroyed and the ground where it stood covered with mud. The report states that the news of the execution of the inhabitants was officially reported four days earlier than it actually took place, that the reasons given for the executions and the destruction of the hamlet are untrue and that a short time afterward mention was made only of the discovery of an illegal transmitter.

On 7 May 1942 Terboven, Reichscommissar for Occupied Norway, described the burning of a village on an island to the west of Bergen, Norway. In a letter to GOERING he states that the entire village was burned down for having given shelter to a sabotage troop.

R-134. Copy of letter, Terboven to Goering, May 1942.

Details of the destruction in Norway are given in the official Norwegian report on "Germany's Crimes Against Norway." (1800-PS, supra) All of the destruction referred to in the report was carried out by way of reprisal for anti-German activities. The report lists the following towns destroyed:

"On 25 April 1940, Ulavik-Hardanger was reduced to ruins, as a reprisal measure, as the Germans claimed that civilians there had fired on German troops. Damage was done to more than 400 buildings and chattels amounting to a total of 2.3 million kroner." (1800-PS, supra, p 17)

"After the raid on Lofoten on the 4th March 1941, the Germans ordered all houses belonging to Norwegians, or relatives of Norwegians, who had voluntarily accompanied the Allied troops to England, or people who had assisted such Norwegians to be completely burned. Pursuant to this order 10 houses were burned while the inhabitants were forced to look on. The damage totalled, more than  $\frac{1}{2}$  a million kroner."

"A similar burning took place at Reine in Lofoten on the 6th January 1942, causing damage amounting to one-quarter million kroner."

"To avenge the death of the two German policemen who were shot on the 25th April 1942, at Televaag, the entire place was laid waste. More than 90 properties with 334 buildings were totally destroyed, causing damage to buildings and chattels (furniture and fishing outfits) amounting to a total of 4.2 million kroner."

"On many occasions the Germans burned cottages and summer farms in various districts, because they insisted that saboteurs and "bandits" had lodged there; as, for example at Hordangervidda in the spring of 1943, Ostre Slidre in the summer of 1944, Furnes and Vang in January 1945. The damage amounted to several hundred thousand kroner. At Eggedal in April 1945, the Germans burned cottages as a revenge for the defeat they had suffered fighting Norwegian Home Front Forces (damage of about 150,000 kroner) and at Masfjorden in May 1945, farms and summer farms were burned for the same reason (damage about 350,000 kroner." (1800-PS, supra, p 26)

### 3. Enforcement of Labor Procurement Drive

In the course of the drive to recruit forced labor in the Eastern Territories, the homes of the people refusing to report for work were burned down. (290-PS, supra; (254-PS. Copy of letter to ROSENBERG, dated 7 June 1944). A number of homes were burned down during the labor procurement drive in Biloserka, by order of Government Counsellor Mueller. Mueller's action was condoned on the basis of the statement of the General Commissioner in Luzk that the homes of people refusing to report to work were to be burned down. (290-PS, supra)

In a communication to the Reichsminister for the Occupied Eastern Territories (ROSENBERG), a number of similar instances were reported. After recounting the resistance of members of two families to the labor recruitment the report states as follows:

"That time I decided to take measures to show the increasingly rebellious Ukranian Youth that our orders have to be followed. I ordered the burning down of the houses of the fugitives." (254-PS, supra)

The report recounts additional instances of resistance to recruitment and states:

"After a while a transport of people, obliged to work, overran the Police in the railroad station in Wassilkow and escaped. I saw again the necessity for strict measures. A few ring leaders escaped before they were found . . . . . After repeated attempts to get ahold of them their houses were burned down." (254-PS, supra)

The report concludes with a justification of the measures taken:

"I was entitled to use such measures by the secret labor - directive for labor commitment staff in the district of Kiev. They, therefore, don't display by any means, any individual actions.

The delivery of 31,000 workers to the Reich is definitely important to the war effort. Stern measures are definitely justified in order to prevent a failure of this action.

My actions against fugitive people obliged to work (Arbeitseinsatz-pflichtige), were always reported to district commissioner Dohrer, in office in Wassilkow, and to the general commissioner (Generalkommissar) in Kiev. Both of them know the circumstances and agreed with my measures, because of their success." (254-PS, supra)

#### 4. "Defensive" Measures

In Norway an evacuation of the population from certain areas and the destruction of all buildings was ordered as an alleged defensive measure.

1800-PS, supra; 754-PS. Copy of Telegram from Jodl to Military Authorities, 26 October 1944.

The Norwegian report quotes the following proclamation issued by the Reichscommissar for the Occupied Norwegian Territories and the Commander-in-Chief of the 20th Army.

#### "To the Population

The evacuation of a part of North Norway has been rendered a military necessity as a result of the treachery of a Finnish Government clique.

This evacuation necessitates the removal of the civilian population, as the enemy has proved that, in those territories occupied by him, he ruthlessly and brutally forces the civilian population to give him active assistance in achieving his aims.

This means that no shelter or means of existence of any kind can be left to the Bolshevik enemy in the fighting zone. All such installations as housing accommodation, transport facilities and food stocks must be destroyed or removed.

He who does not comply with these unequivocal instructions exposes himself and his family to possible death in the arctic winter without house or food.

(signed) Terboven. Reichskommissar for the Occupied Norwegian Territories.  
(signed) Rendulic. Colonel-General Commander-in-chief 20th Army."

1800-PS, supra p 62.

The Official Norwegian Report describes this action as follows:

"As a result of the advance of the Russian troops and the retreat of the German Army in Finnmark, October - November 1944, the Germans practised the "scorched earth" policy for the first time in Norway. Orders were issued that the civilian population was to evacuate and that all houses, transport and stores were to be destroyed. As a result of this about 30,000 houses were damaged, apart from 12,000 items of damage to chattels, amounting to a total of about 176 million kroner."  
(1800-PS, supra, p 17)

##### 5. Destruction of Cultural Properties

Two instances of the destruction of cultural institutions in the Occupied Russian Territories are furnished in Documents 303-PS. (Original "Political Report of Prof. Thomson", Posen University, dated 19 October 1942); and 707-PS. (Original correspondence between SS Lt. Colonel and a Vienna official, August 1943 to February 1944.) Reporting on the situation in Occupied Russia, Professor Thomson of the University of Posen, made the following comment:

"Our attitude toward cultural and scientific institutes has caused the most bitter disappointment in intellectual circles. I pointed out in my report about Danjpropetrowsk that the professors of the Mountain Academy there exposed joyfully the collections which had been stored and hidden by the retreating Bolsheviks, after the entering of the German troops. These valuable collections have been destroyed to a large extent by our Police for no obvious reason."

"Similar statements appear in all confidential conversations which I had during the months of September and October (1942) in White Ruthenia, Ukraine and in the Crimea with the various representatives of the native population."  
(303-PS, supra)

The Museum at Cracow was burned down in February 1943 due to the fault of the Waffen SS.

707-PS. Original correspondence between SS Lt. Colonel and a Vienna official, August 1943 to February 1944.

That the policy of engendering disrespect for the cultural values of the Eastern Territories bore fruit is indicated in Document 1099-PS. (Original letter from General Commissar or White Ruthenia Rosenberg dated 29 September 1941.) The following indiscriminate destruction is noted:

"According to the report made by a Major of the 707th Division who today handed the remaining treasures over to me, the SS has left the rest of the paintings and works of art to the Wehrmacht for further pillaging, including very valuable paintings and furniture from the 18th and 19th centuries, vases, marble objects, clocks, etc."

I request that the national socialist painter, Willi Springer, Berlin SW 29, Hasenheide 94, be sent here to restore those paintings which were in part thoughtlessly damaged by knife slashes, so that under his supervision whatever still can be salvaged, should be salvaged. Unfortunately, many valuable vases, china, cupboards, and period furniture from the 18th and 19th centuries were also badly damaged or destroyed. Altogether it is a question of irreplaceable valuables worth millions of marks.

The prehistoric museum also is in a completely devastated state. Valuable precious and semi-precious stones were stolen from the geological section. At the university, instruments worth hundreds of thousands of marks were thoughtlessly destroyed or stolen." (1099-PS, supra)

#### D. Argument and Conclusion

The repeated occurrence in widely scattered localities of similar acts of wantonness leads to the inescapable inference that destruction was an accepted instrument of coercion and terrorism, to be applied whenever deemed expedient by the local commanders. The numerous orders emanating from virtually all levels of command from the Fuehrer down to Division, and executed in such widely scattered localities as Norway, Greece, White Ruthenia and Czechoslovakia, demonstrate that the destruction was not carried out pursuant to the spontaneous whims of unscrupulous commanders. On the contrary, the instrument of destruction was used as a terror weapon against civilians, as an implementation to the program of weakening Germany's neighbors so as to leave them destitute in the event of a German defeat, and as an expression of a deliberately cultivated contempt for so-called "Non Aryan" cultures. It was used to stamp out resistance to the labor

procurement program and the Germans unhesitatingly destroyed homes and villages of those who resisted.

As the Germans retreated from conquered areas, they embarked upon a program of "scorched earth" and by this program sought to weaken the economies of neighboring states so that at the conclusion of hostilities the neighbors would be inferior to Germany despite her defeat.

The expressed policies of the German State and its officials together with the widespread wanton destruction, precludes any defense of "Military Necessity." The acts of wantonness followed a calculated distortion of the rights of others and was an open expression of immorality by the very acts done.