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First Draft

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T R I A L B R I E F

THE NAZI CONSPIRATORS' WAR
OF AGGRESSION AGAINST POLAND

27.
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Section III

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SECTION OF THE INDICTMENT

Count One - The Common Plan or Conspiracy

Paragraph IV, (F), 4 - Formulation of the Plan
to Attack Poland: Preparation
and Initiation of Aggressive
War: March 1939 to September 1939.

(Steyer)

LEGAL REFERENCES

CHARTER OF THE INTERNATIONAL MILITARY TRIBUNAL

"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 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 . . ."

"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.

"Article 7. 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.

"Article 8. 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."

TREATIES AND AGREEMENTS

German-Polish Declaration of 26 January 1934 (T. C. 21).

(Section 3 - Steyer)

PolandSTATEMENT OF EVIDENCEPOINT IWAR IN EUROPE

On 23 May 1939, a group of high-ranking officers of the Wehrmacht met with Hitler in his study at the new Reich Chancellery. The Fuehrer reviewed the accomplishments of the last six years (1933-1939) and pronounced that they had been put to good use. He then surveyed the current situation and stated:

"We are left with the decision: To attack Poland at the first suitable opportunity". (Underlining in original)

(L-79, Top Secret Minutes of Conference,
23 May 1939, signed Schmudt)

In the early morning hours of 1 September 1939, German troops crossed the Polish frontier. The aggressive war which the Nazis had planned was thereby launched--and was subsequently to engulf the world.

The foundation for the initial assault had been carefully laid. From a tightly controlled and remilitarized Germany, the swastika had been carried forward by mid-March, 1939, into Austria and Czechoslovakia, thereby providing important resources and bases for further aggression. In the next five and a half months, the Nazis made their secret preparations for securing Lebensraum by force at the expense of Poland. These preparations gain some perspective in the light of formal Germany-Polish relationships from the beginning of 1934 to the outbreak of war. This span of time divides itself into two distinct periods: (1) January, 1934, through mid-March, 1939; (2) mid-March, 1939, through August, 1939.

POINT IIBACKGROUND OF POLISH-GERMAN RELATIONS IN THE PERIOD JANUARY 1934 - MID-MARCH, 1939

On 26 January, 1934, the Polish and German Governments signed a ten-year pact of non-aggression. Stating that the "maintenance and guarantee of a lasting peace between their countries is an essential prerequisite for the general peace of Europe", the two Governments agreed "to base their mutual relations on the principles laid down in the Pact of Paris of 27 August 1928". They announced their decision to seek a solution of disputes between them by peaceful means, and declared:

10.5.8
"In no circumstances ... will they proceed to the application of force for the purpose of reaching a decision in such disputes".
(underlining supplied)

(T.C.21, Polish-German Declaration
of Non-Aggression, 26 January 1934)

In subsequent years, up through January of 1939, co-conspirators Hitler, GOERING and RIBBENTROP made frequent assurances to Polish statesmen of their satisfaction with the alliance.

(No. 13, Polish White Book, Communication from Lipski to Beck reporting conversation with Hitler, 24 January 1935; No. 15, P.W.B., Extract from Count Szembek's Minutes of Conversation with Goering, 31 January 1935; No. 25, P.W.B., Count Szembek's Minutes of Conversation with Ribbentrop, 14 August 1936; No. 36, P.W.B., Beck's Minutes of Conversation with Hitler, 14 January 1938)

Hitler and Ribbentrop buttressed these assurances with public declarations of their adherence to the non-aggression pact and their resolve to keep the peace in Europe. The following are typical:

"By a series of agreements we have eliminated existing tensions and thereby contributed considerably to an improvement in the European atmosphere. I merely recall an agreement with Poland, which has worked out to the advantage of both sides

"True statesmanship will not overlook realities, but consider them. The Italian nation and the new Italian State are realities. The German nation and the German Reich are equally realities. And to my own fellow-citizens, I would say that the Polish nation and the Polish State have also become a reality

"The German Reich with its strong Army will protect her own security and her own honor. But, fully convinced that there is for Europe no greater good than peace, the German Reich will always be a responsible and conscious promoter of the European peace idea"

(2368-PS, Extracts from Speech by Hitler before Reichstag, 30 January 1937)

* * * * *

"The Reich Chancellor received the Polish Ambassador in Berlin, M. Lipski, to-day. In his conversation with the Ambassador the Fuehrer-Chancellor gave expression to his satisfaction that it had been possible to reach an understanding on a matter of special importance for Polish-German relations, i.e., the Minorities question. Thus it had been proved that the Polish-German Declaration of January 26, 1934, and the principle of direct negotiation therein provided for, was still demonstrating its value.

"In the course of the conversation it was confirmed that Polish-German relations should not meet with difficulties because of the Danzig question."

(2447-PS, Official Communique on the Polish Ambassador's Audience with the Reich Chancellor, 5 November 1937)

* * * * *

"In the fifth year following the first great foreign political agreement of the Reich, it fills us with sincere gratification to be able to state that in our relations with the State with which we had

had perhaps the greatest differences, not only has there been a detente, but in the course of these years there has been a constant improvement in relations . . . This good work, which was regarded with suspicion by so many at the time, has stood the test, and I may say that, since the League of Nations finally gave up its continual attempts to unsettle Danzig and appointed a man of great personal attainments as the new commissioner, this most dangerous spot from the point of view of European peace has entirely lost its menacing character. The Polish State respects the national conditions by this State, and both the city of Danzig and Germany respect Polish rights. And so the way to a friendly understanding has been successfully paved, an understanding which, beginning with Danzig, has to-day, in spite of the attempts of certain mischief-makers, succeeded in finally taking the poison out of the relations between Germany and Poland and transforming them into a sincere, friendly cooperation.

"Relying on her friendships, Germany will not leave a stone unturned to save that ideal which provides the foundation for the task which is ahead of us—peace."

(2357-PS, Extracts from Speech by Hitler
before Reichstag, 20 February 1938)

* * * * *

"We have no interest in oppressing other nations. We desire to be happy in our own way and let the others be happy in their own ways . . .

"The most difficult problem with which I was confronted was that of our relations with Poland. There was a danger that Poles and Germans would regard each other as hereditary enemies. I wanted to prevent this . . . In Poland there ruled not a democracy, but a man; and with him I succeeded, in precisely twelve months, in coming to an agreement which, for ten years to begin with, entirely removed the danger of conflict. We are all convinced that this agreement will bring lasting pacification. We realize that here are two peoples which must live together, and neither of which can do away with the other. A people of 33 millions will always strive for an outlet to the sea. A way to understanding, then, had to be found; it has been found; and it will be continually extended further. Certainly things were difficult in this area. The nationalities and small national groups frequently quarrelled among themselves. But the main fact is that the two Governments, and all reasonable and clear-sighted persons among the two peoples and in the two countries, possess the firm will and determination to improve their relations". (Underlining supplied)

(T.C. 29, Hitler's Speech in the
Sportpalast, 26 September 1938)

* * * * *

". . . In accordance with the resolute will of the German National Leader, the continual progress and consolidation of friendly relations between Germany and Poland, based upon the existing Agreement between us, constitute an essential element in German foreign policy. The political foresight, and the principles worthy of true statesmanship, which induced both sides to take the momentous decision of 1934, provide a guarantee that all other problems arising in the course of the future evolution of events will also be solved in the same spirit, with due regard to the respect and understanding of the rightful interests of both sides. Thus Poland and Germany can look forward to the future with full confidence in the solid basis of their mutual relations . . ."

(2530-PS, Speech by Ribbentrop in Warsaw,
25 January 1939)

* * * * *

"We have just celebrated the fifth anniversary of the conclusion of our non-aggression pact with Poland. There can scarcely be any difference of opinion today among the true friends of peace as

(Section 3 - Steyer)

to the value of this agreement . . . During the troubled months of the past year the friendship of Germany and Poland has been one of the reassuring factors in the political life of Europe."

(2360-PS, Extract from Hitler's Speech before the Reichstag, 30 January 1939)

In the interim between Hitler's speech of September, 1938, and the speeches in January, 1939, the Nazi conspirators gave some portent of things to come. On 24 October 1938 (less than a month after German troops entered the Sudetenland) and again on three occasions in January, 1939, co-conspirators Ribbentrop and Hitler proposed in conversations with Polish diplomats the return of Danzig to the Reich and the building of an extra-territorial motor road and railway line across Pomorze (the so-called "Polish Corridor"). These proposals were not received favorably by the Poles and were not pushed by the Nazis. Hitler declared that "there would be no faits accomplis in Danzig and nothing would be done to render difficult the position of the Polish Government". Ribbentrop emphasized that Germany was "not seeking any violent solution" and that the basis of their policy toward Poland was still a "desire for the further building up of friendly relations".

(Nos 44, 46, 48, 49 and 52, Polish White Book, Reports of Lipski's conversations with Ribbentrop and Hitler.)

POINT III

POLISH-GERMAN RELATIONSHIPS FROM MID-MARCH 1939 THROUGH AUGUST 1939

On 15 March, the Nazis seized and occupied the major part of Czechoslovakia; on 22 March they reunited the Memel territory with the Reich; on 23 March they secured military rights in the nominally independent state of Slovakia, along the southern borders of Poland. The crisis in Polish-German relations began within the week's span of these events.

On 21 March, the defendant Ribbentrop called in the Polish Ambassador in Berlin and again sharply raised the questions of German sovereignty over Danzig and the extra-territorial motor road; these proposals were met by counter-proposals on the 26th suggesting further discussions.

(Nos. 61 and 63, Polish White Book, Communications from Lipski to Beck, 21 and 26 March 1945)

The answer to these counter-proposals did not come until late April when Hitler, in a speech before the Reichstag on the 28th (2359-PS), repeated the

German demands and then denounced the German-Polish non-aggression Pact of 1934 on the specious ground that the Polish-English accord of 6 April (2515-PS) amounted to a breach of that pact. The Polish response on 5 May pointed out that the Nazi argument in effect interpreted the Declaration of 1934 as equivalent to renunciation by Poland of the right to conclude political agreements with third states. Noting that the pact was concluded for a ten-year period without any possibility of denunciation during that time, the memorandum added that the German "decision to regard the 1934 Declaration as not binding was taken after the previous refusal of the German State to accept explanations as to the compatibility of the Anglo-Polish guarantee with the 1934 Declaration, which it was the intention of the Polish Government to furnish to the representative of the Reich in Warsaw."

(2517-PS, Polish Government Memorandum
to the German Government, 5 May 1939)

The period following the denunciation witnessed a familiar Nazi technique - used by them in the days preceding occupation of Austria and Czechoslovakia - of a violent press campaign which exaggerated border incidents and the ill-treatment of German minorities in Poland, in an effort to intimidate and to stir up passions. (See Nos. 52 and 55, British Blue Book) Meanwhile, the Nazis, acting through Gauleiter Foerster, consolidated their hold on Danzig and proceeded surreptitiously to militarize the city. (See Nos. 29, 31, 33, British Blue Book; No. 160, French Yellow Book; L-337, Despatch No. 217 from American Consul in Danzig, 2 August 1939). Events reached a climax in August. After a series of diplomatic maneuvers designed to head off the outbreak of war, the Nazi assault against Poland began on 1 September 1939.

The decision of the Nazi conspirators to denounce the treaty of 1934 and the subsequent course of Polish-German relationships can now be viewed in the light of their secret plans and preparations.

POINT IV

EARLY NAZI PLANS AND PREPARATIONS WITH REGARD TO POLAND

Even before the conference between Hitler and his military leaders on 23 May 1945, in which Hitler made known his decision to attack Poland at the first opportunity, preliminary plans for the assault were being worked out.

(Section 3 - Steyer)

As shown by internal evidence in the documents hereinafter cited, the code name for the plan of attack on Poland was "Fall Weiss", translated as "Case White".

(See, for example, C-126, p. 1; C-126, p. 3)

1. On 25 March 1939 -- four days after the defendant Ribbentrop pressed new demands for Danzig on the Polish Ambassador -- Hitler told von Brauchitsch, Commander-in-Chief of the Army, that he did not intend to solve the Polish question by force for the time being but requested that plans for that operation be developed.

(R-100, unsigned document, "Information Given to the CinC of the Army by the Fuehrer, 25 March 1939")

2. On 3 April 1939 Keitel, as Chief of the High Command of the Armed Forces, reissued over his signature the directive for the Uniform Preparation for War by the Armed Forces for 1939/40. The directive, noting that the basic principles for the sections on "Frontier Defense" and "Danzig" remained unaltered, stated that Hitler had added the following directives to "Fall Weiss":

1. Preparations must be made in such a way that the operation can be carried out at any time from 1.9.39 onwards.
2. The High Command of the Armed Forces has been directed to draw up a precise time-table for "Fall Weiss" and to arrange by conferences the synchronized timings between the three branches of the Armed Forces.
3. The plans of the branches of the Armed Forces and the details for the time-table must be submitted to the OKW by 1.5.39."

(C-120/A, KEITEL directive for the Armed Forces, 1939/40, 3 April 1939).

It is noteworthy that, even in April of 1939, the tentative time-table called for the invasion of Poland to be carried out at any time from 1 September 1939 onwards.

3. About a week later, an order signed by Hitler was circulated to the highest commands of the Army, Navy and Air Force. This confirmed KEITEL'S directive to prepare for three eventualities: "Frontier Defense", "Fall Weiss", and the Annexation of Danzig. Annex II contained further instructions for "Fall Weiss". In the first paragraph, headed "Political Hypotheses and Aims", it was stated that should Poland adopt a threatening attitude toward Germany, a "final settlement" would be necessary notwithstanding the pact with Poland. "The aim is then to destroy Polish military strength . . ."

It was further stated that the Free State of Danzig would be incorporated into Germany at the outbreak of the conflict, at the latest. The directive continued: "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."

The general political background against which the Armed Forces were to work having thus been set down, the later paragraphs outlined the tasks and operational objectives of the three branches of the Armed Forces. It was also decreed that a "camouflaged or open ('general' added in ink) mobilization will not be ordered before D-Day-1 at the latest possible moment", and further that the "preparations for the opening of operations are to be made in such a way that - without waiting for the planned assembly of mobilized units - positions can be taken up immediately by the first available troops".

(C-120/B and D - Hitler directive
on plans for invasion of Poland,
11 April 1939).

4. On 10 May an order signed by Hitler promulgated his instructions for the seizure of economic installations in Poland and directed the Commanders-in-Chief of the three branches of the Armed Forces to report by 1 August 1939 on the measures taken in consequence of these instructions.

(C-120/K and L, Hitler directive
on preparations for economic war,
10 May 1939).

5. On 16 May, the defendant RAEDER, as Commander in Chief of the Navy, promulgated a memorandum conveying the Fuehrer's instructions to prepare for the carrying out of "Fall Weiss" at any time from 1 September 1939 onwards. He added the information that Y-hour was expected to be in the early morning, about two hours before light.

(C-126, p. 3, Memorandum of C-in-C,
Navy, 16 May 1939).

POINT V

DECISION TO ATTACK POLAND

The basic military preparations for the attack on Poland had thus been underway for almost two months when the Fuehrer called his military leaders together in his study at the New Reich Chancellery on 23 May 1939 and delivered his lecture entitled "Indoctrination on the Political Situation and Future Aims". Those present included the defendants GOERING (C-in-C, Air Forces), KEITEL (Chief, OKW), and RAEDER (C-in-C, Navy), as well as Col.-Gen. von Brauchitsch (C-in-C, Army), Col.-Gen. Milch (Inspector General of Air Force), Gen. (of Artillery) Halder (Chief of Staff, Army), Gen. Bodenschatz (Personal Assistant to GOERING), Rear-Admiral Schniewindt (Chief of Naval War Staff), Col. (G.S.) Jeschonnek (Chief of Air Staff), Col. (G.S.) Warlimont (Planning Department, OKW), and other lower ranking officers, including Lt. Col. (G.S.) Schmudt, Hitler's adjutant and the recorder of the conference.

The Fuehrer defined the following as the purposes of the conference:

- "1) Analysis of the situation.
- 2) Definition of the tasks for the armed forces arising from the situation.
- 3) Exposition of the consequences of these tasks.
- 4) Ensuring the secrecy of all decisions and work resulting from these consequences."

In his review of the present situation, Hitler noted that the past six years had "indeed been put into good use. All measures have been taken in the correct sequence and in harmony with our aims." Pointing out that the ideological problems of Germany were solved, he said that the economic problems must now be met. This solution, he felt, was impossible without invasion of foreign states or foreign property. "Further successes," he added, "cannot be attained without the shedding of blood."

Turning to the question of Poland, he declared: "The Pole is no 'supplementary enemy'--Poland will always be on the side of our adversaries." He then made the statement--significant in the light of the agitation which the Nazi conspirators had already stirred and were to continue to stir--that "Danzig is not the subject of the dispute at all". Rather, as he saw it, "It is a question of expanding our living space in the East

and of securing our food supplies, of the settlement of the Baltic problem."

From this he drew the conclusion that "there is therefore no question of sparing Poland, and we are left with the decision: to attack Poland at the first suitable opportunity. We cannot expect a repetition of the Czech affair. There will be war."

Hitler posed the problem as one of isolating Poland and, if possible, preventing a simultaneous conflict with the Western Powers, France and England. He recognized, nevertheless, that England was an enemy to German aspirations for expansion and said that if it were impossible to keep the Western Powers out of a war beginning with an attack on Poland, "then it will be better to attack in the West and to settle Poland at the same time".

After further discussions of possible strategy for attack on England and France, including plans for the simultaneous occupation by armed force of air bases in the Netherlands and Belgium, the Wehrmacht was directed to make systematic and detailed plans, the Fuehrer reserving to himself the right to give the final order to attack.

(L-79, Top Secret Conference,
"Indoctrination on Political
Situation and Future Aims,"
23 May 1939, Minutes in hand-
writing and signed by Schmudt).

The authenticity of the above document and its accuracy as a record of what transpired at the 23 May meeting has been testified to by the defendant KEITEL.

(Transcript of Interrogation of
KEITEL, 28 August 1945, pp. 9-10)

POINT VI

FURTHER PLANNING FOR THE ATTACK ON POLAND

By June of 1939, the planning for the attack on Poland had already reached an advanced stage. A detailed battle plan, with annexes, for "Fall Weiss" was signed under date of 14 June by Blaskowitz, then Commander of the Third Army Group, and subsequently Oberbefehlshaber

(Section 3 - STEYER)

of the 8th Army in the Polish Campaign.

(2327-PS, Battle Plan for "Fall Weiss", 14 June 1939, signed Blaskowitz).

On June 15, a memorandum entitled "Intention of the Commander in Chief of the Army and Orders" again stated that the object of the pending operation was to destroy the Polish Armed Forces. "High policy demands," the memorandum continued, "that the war should be begun by heavy surprise blows in order to achieve quick results." After laying down the broad strategic outlines necessary to achieve such success, the memorandum directed the Army Group Commands and the Army Commands to make their preparations accordingly, with allowance for possible alterations. The memorandum is unaddressed but it appears from the context to be a directive from the Army Commander in Chief to his Army Group and Army Commanders.

(C-142, Memorandum "Intentions of CinC, Army and Orders", 15 June 1939, signed Brauchitsch).

A directive dated 22 June 1939, signed by the defendant KEITEL as Chief of the OKW, indicates a further advanced stage of preparation. On the basis of particulars already available from the Navy, Army and Air Force, he stated, he had submitted to Hitler a "preliminary time-table" for "Fall Weiss". The Fuehrer was reported to be in substantial agreement with the intentions submitted by the three branches; he had also made suggestions with regard to the need to camouflage the scheduled maneuvers "in order not to disquiet the population", and had commented on the disposition of an S.S. Artillery Regiment.

(C-126, p. 6, Memorandum on preparation for "Fall Weiss", 22 June 1939, signed KEITEL).

Two days later, the defendant KEITEL issued instructions for further study on two specific problems: the capture, in undamaged condition, of bridges over the Vistula; and the possible adverse effect of Navy mining in Danzig Bay on the element of surprise in the Army's attack against the bridge at Dirschau, southeast of Danzig.

(C-120/E, Directive on "Fall Weiss", 24 June 1939 signed KEITEL).

In a subsequent memorandum from Brauchitsch to RAEDER, it was urged that Navy measures contemplated to be taken before Y-hours be abandoned, in order not to prejudice the surprise of the attack.

(C-126, p. 2, Letter to Supreme Command of the Navy from Brauchitsch, 3 July 1939).

On 21 August, operation order No. 1 for the battleship Schleswig-Holstein was issued, indicating that plans had progressed to that stage of refinement where individual naval units could be informed of the proposed attack on Poland.

(C-126, p. 1, Operation Order for battleship Schleswig Holstein, 21 August 1939).

POINT VII

ORDER FOR ATTACK ON POLAND

On 22 August 1939, Hitler called together at Obersalzberg the Supreme Commanders of the three branches of the armed forces, as well as the lower ranking Commanding Generals ("Oberbefehlshaber"), and announced his decision to attack Poland near dawn on 26 August.

(L-3, 798-PS, 1014-PS, Hitler Speech to Supreme Commanders and Commanding Generals, 22 August 1939).

Three documents reporting this meeting have been uncovered: the text of one, L-3, overlaps the contents of the other two, 798-PS and 1014-PS; the latter two appear to be complementary, 798-PS being a record of a morning speech, and 1014-PS of an afternoon speech. Violent and abusive language appears in both L-3 and 798-PS. That Hitler made, at a minimum, the following points appears from all of them:

1. The decision to attack Poland was made last spring. (L-3 and 798-PS).
2. The aim of the war in Poland is to destroy the Polish armed forces, rather than to reach a fixed line. (L-3 and 1014-PS).
3. The attack will start early Saturday morning, 26 August. (L-3 and 1014-PS).
4. A spurious cause for starting the war will be devised by German propaganda. It is a matter of indifference whether it is plausible or not.

(Section 3 - STEYER)

The world will not question the victor (L-3 and 1014-PS). The text in L-3 further describes the pretext to be used to start the war: "I'll let a couple of companies, dressed in Polish uniforms, make an assault in Upper Silesia or in the Protectorate".

5. Be swift, and be brutal to the Poles. Lebensraum is needed for the German people, (L-3 and 1014-PS).

Various persons have stated that they were present at the meeting at Obersalzberg on 22 August 1939 and that the statements in the various documents are either accurate in detail or represent in general the expressions of the Fuehrer. That the meeting was held and that the order was given on this occasion to attack on 26 August have not been denied.

See: Transcript of Interrogation of
HERMANN GOERING, 28 August 1945,
pp. 41-2; 29 August 1945 A.M., p.6;
29 August 1945 P.M., pp. 1-7;
8 September 1945, pp. .

Transcript of Interrogation of
WILHELM KEITEL, 28 August 1945 P.M.
pp. 5, 14.

A handwritten entry in the diary of the defendant JODL, at the time Chief of the Operations Department of the OKW, confirms that the time for the attack on Poland had been fixed for 0430 on 26 August 1939.

(1780-PS, Photostat of Jodl's
Diary in his own handwriting,
4 January 1937 to 22 August 1939).

POINT VIII

DELAY IN THE ATTACK UNTIL 1 SEPTEMBER 1939

The attack scheduled for the morning of 26 August 1939 did not go through as planned. According to defendants GOERING and RIBBENTROP, Hitler called it off in the afternoon of the 25th upon receiving news of the formal signing of the Anglo-Polish Agreement of Mutual Assistance.

(Transcript of Interrogation of
Hermann GOERING, 29 August 1945 P.M.,
p. 7).

(Transcript of Interrogation, Joachim
von RIBBENTROP, 29 August 1945 P.M.,
p. 16).

There followed, in the week 25 - 31 August, a period of intense diplomatic conversations between Hitler and RIBBENTROP, on the one hand, and the British Ambassador to Berlin, on the other. The Nazis repeated and increased their demands on Poland; the British recommended direct Polish-German negotiation. On the evening of the 29th, Hitler agreed, in a note handed to the British Ambassador, to meet with a Polish representative with full powers, on the 30th. The Polish Ambassador to Berlin, still officially unaware of the text of the new German demands, saw RIBBENTROP briefly, for the first time in this crucial period, on the evening of the 31st and reported that his Government was favorably considering direct negotiations with the German Government. Later that evening, the German State Secretary Weizsacker for the first time gave the British Ambassador the full text of the German proposals and further informed him that since the Polish plenipotentiary had not arrived, it was considered that the German proposals had been rejected by Poland.

(See L-20, "Final Report by Sir Neville Henderson on the Circumstances Leading to the Termination of his Mission to Berlin", 20 September 1939, pp. 11-20; and, particularly with reference to the defendant RIBBENTROP, pp. 16-17).

(No. 147, Polish White Book, Final Report from the former Polish Ambassador in Berlin to the Minister for Foreign Affairs, 10 October 1939).

Meanwhile, on 31 August, presumably while the last futile negotiations were in progress, Hitler resumed the course he had secretly pursued since Spring. On that day he issued Top Secret Direction No. 1 for the Conduct of the War:

"1. Now that all the political possibilities of disposing by peaceful means of a situation on the Eastern Frontier which is intolerable to Germany are exhausted, I have determined on a solution by force.

"2. The attack on Poland is to be carried out in accordance with the preparations made for "Fall Weiss", with the alterations which result, where the Army is concerned, from the fact that it has almost completed its dispositions.

"Allotment of tasks and the operational target remain unchanged.

Date of Attack - 1.9.39

Time of Attack - 4.45 (Inserted in red pencil)

This time also applies to the operation at Gdynia, Bay of Danzig and the Dirschau Bridge. . . "

(C-126, p. 7, Top Secret, Direction
No. 1 for the Conduct of the War,
31 August 1939, signed Hitler)

In the morning hours of 1 September 1939, the Wehrmacht crossed the Polish frontier. At the same time the Luftwaffe loosed destruction on Polish towns.

The same day the British and French Ambassadors in Berlin delivered communications to RIBBENTROP stating that unless the German Government was prepared to give assurances that it had suspended all aggressive action against Poland and was prepared to withdraw all forces from Polish territory, their respective governments would fulfill their obligations to Poland. On 3 September the British and French Ambassadors informed RIBBENTROP that unless the assurances were given that day, a state of war would exist between Germany and their countries. Upon the refusal of RIBBENTROP to give this assurance, the United Kingdom and France recognized the existence of a state of war with Germany.

See: Nos. 110, 111, 118, 119, British Blue Book; Nos. 337, 334, 365, 367, French Yellow Book

POINT IX

BORDER INCIDENTS

On the very day of aggression, Hitler maintained the pretense that the war had been precipitated by Polish terror and violation of the border (T.C.54, Hitler's Proclamation to the German Army, 1 September 1939). One of the alleged Polish violations of the border on the night of 31 August 1939 is listed in the official German Foreign Office publication as follows:

"4. Report of the Chief Constable at Gleiwitz.

Towards 8 p.m. the German Broadcasting Station at Gleiwitz was attacked by a troop of Polish insurgents and temporarily occupied. The insurgents were driven off by German frontier police officers. One of the insurgents was fatally injured."

(No. 470, Documents on the Events Preceding the Outbreak of the War, compiled and published by the German Foreign Office, Berlin 1939, New York 1940)

The true story of this attack has been related by Alfred Naujocks, a German, a member of the SD during August 1939, and a participant in the incident described above. Naujocks has testified that, on orders given him on 10 August by Chief of the SD Heydrich, he, together with other SD men proceeded to the Gleiwitz radio station on the evening of 31 August 1939. There they carried out an attack and, to give the impression that they were Poles, one of the Germans delivered a short speech in Polish over an emergency microphone. They had been supplied with the body of a man, supposed to represent a Pole, who had been drugged and, presumably shot, and was covered with blood. This man was left at the station after a

few shots were fired. Presumably he was the "insurgent" described as a casualty in the official German report.

(Transcript of Interrogation of Alfred Naujocks, 12 September 1945, pp. 3-18).

No further direct evidence exists on the Polish border "incidents". Indirect evidence, however, strongly supports the belief that other border "incidents" were fabricated on the orders of the Nazi conspirators. Naujocks has testified that he overheard a conversation between two security police officials in which they discussed the use of about a company of security police members dressed in Polish uniforms to create a border incident on the night of ³¹~~30~~ August. He has further stated that he inquired of Heydrich as to the successful execution of the "incident" and was told it had gone well. (Naujocks, op. cit. supra, pp. 18-20). The reference in Hitler's speech at Obersalzberg to the use of Polish uniforms for German soldiers, is also significant in this regard (L-3, cited supra). In addition, a memorandum of a conference in mid-August with the defendant Keitel quotes Keitel as stating that he had been instructed by Hitler to furnish Heydrich with Polish uniforms. Keitel has identified his conferee on this occasion as Admiral Canaris, Chief of Intelligence of the OKW, and has confirmed the conversation.

(795-PS. Memorandum regarding a conference between Keitel and an unidentified person, 17 August 1939).

(Transcript of Interrogation of Wilhelm Keitel, 17 October 1945, pp. 11-13).

POINT X

THE AXIS RELATIONSHIP

The picture of events leading up to the attack on Poland and the spread of war in Europe is not complete without an examination of the relationship between the Fascist leaders of Germany and Italy in the crucial month of August 1939.

On 30 May 1939 the Axis partners had signed a secret additional protocol to the pact of solidarity announced to the world a week previously.

(Section 3 - STEYER)

Attached to this were comments by Mussolini pointing out that Italy needed a preparatory period for war which might possibly extend until the end of 1942. "Any warlike efforts would have the best chance of success from 1943 onwards."

(2818-PS, Secret additional Protocol to German-Italian Treaty, May 1939, with attachments.)

By 12 August 1939, the Nazi conspirators were referring in their conversations with Italy to the advantage of liquidating "false neutrals". At a conference on that date between Hitler and Ciano, in the presence of RIBBENTROP, the Fuehrer stated that since Poland's whole attitude showed that she would in any event be on the side of Germany's and Italy's enemies in the event of a war, her liquidation now would be an advantage in the contemplated and "unavoidable" war with the western democracies. Hitler then added that Yugoslavia might similarly be regarded by Italy as one of these "uncertain neutrals".

In response to a query by Ciano, Hitler said that the Danzig question would "have to be settled by the end of August one way or another . . .". He stated that, in view of the weather, no time was to be lost in the matter of the Polish problem. The Fuehrer added that he was resolved to use the opportunity arising from the next political provocation in order to attack Poland within 48 hours and thus solve the problem. This, he said, would mean a considerable strengthening of the Axis, just as would the liquidation of Yugoslavia by Italy. Similar thoughts were expressed in a conference the next day.

(1871-PS, Report of Meeting Hitler-Ciano, in presence of RIBBENTROP, 12 August 1939).

(1867-PS, Report of Meeting Hitler-Ciano, in presence of RIBBENTROP, 13 August 1939).

By 25 August, Mussolini had received a letter from Hitler which caused him to ask Mackensen, the German Ambassador in Rome, the exact date of the outbreak of the "unavoidable conflagration." (It will be noted that the date for the attack on Poland had originally been set for the next morning, the 26th, and was subsequently postponed). Upon receiving no direct reply,

Mussolini proceeded to explain why he would prefer that open conflict be delayed for about two to three years.

(1822-PS, Mackensen's Telegram to German Foreign Office on Mussolini's Comment on Hitler's Letter, 25 August 1939).

By 26 August, Hitler had received Mussolini's decision not to participate in the war. In a telegram despatched from Berlin at 0032 hours, 27 August, Hitler accepted Mussolini's decision but asked him to support Germany's fight psychologically through the press and by other means, to tie down some French and English forces by a display of military activities, and to create uncertainty in the minds of the Western Powers.

(1823-PS, Hitler Despatch to Mussolini, 27 August 1939).

Later on the 27th, the defendant RIBBENTROP called Mackensen with regard to rumors spread in Rome that the situation had improved. He directed him to see that the rumors were not believed by Mussolini or Ciano; on the contrary, "the armies are marching."

(1823-PS, Note on telephone conversation 27 August 1939, signed Mackensen).

The final note on the Axis relationship in the period of the aggression against Poland arises out of Mussolini's attempts between 31 August and 3 September to act as "mediator" in the conflict. The diplomatic interchanges continued through the first two days of the German attack and finally foundered upon the British insistence that no proposal for a conference could be considered favorably unless German troops withdrew from Polish territory. After the British position was clear, Hitler sent a telegram to Mussolini thanking him for his attempt to mediate, but pointing out that the war was inevitable and the most promising moment had to be picked after cold deliberation. Mussolini commented when this message was handed to him that he had never intended to submit an offer based on the withdrawal of German troops; he would have been outraged and would have refused even to suggest a "symbolic withdrawal."

(1831-PS, Exchange of Communications, Hitler-Mussolini, 1-3 September 1939).

POINT XI

STATEMENTS BY NAZI CONSPIRATORS AFTER THE FACT

After the conquest of Poland, Hitler took the opportunity to review the situation and to sum up for leaders of the Army the various steps which had led to the outbreak of war. About four years later, when the conflict begun by Nazi aggression had spread to the far corners of Europe, the defendant JODL undertook a similar review for ranking members of the Nazi Party. These reviews do not touch on the actual details of "Fall Weiss" outlined above, but clearly reveal the existence of the overall aggressive plan. Only those portions bearing on Poland are quoted here.

On 23 November 1939, exactly one month after the official German announcement of the end of the campaign in Poland, Hitler addressed a speech to his military commanders. After reviewing the steps he had taken to consolidate his control of Germany and to remilitarize the whole country, the Fuehrer continued:

"One year later, Austria came; this step was also considered doubtful. It brought about a considerable reinforcement of the Reich. The next step was Bohemia, Moravia and Poland. This step also was not possible to accomplish in one campaign. First of all, the western fortification had to be finished . . . Then followed the erection of the Protectorate and with that the basis for the action against Poland was laid, but I wasn't quite clear at that time whether I should start first against the east and then in the west or vice-versa . . . Under pressure the decision came to fight with Poland first. One might accuse me of wanting to fight and fight again. In struggle I see the fate of all human beings . . ."

(789-PS, Hitler's Speech to all
Military Commanders, 23 November 1939).

Speaking under less favorable military circumstances, the defendant JODL delivered a lecture entitled "The Strategic Position at the Beginning of the Fifth Year of War" on 7 September 1943, a little more than a month after the fall of Mussolini. The theme of his review up to the Polish campaign was much the same as Hitler's remarks quoted above, covering the struggle for internal control, rearmament, "Anschluss" with Austria -- all to the end of "reinforcing our fighting strength and of materially improving our fighting position." JODL then stated:

"The bloodless solution of the Czech conflict in the autumn of 1938 and spring of 1939 and the annexation of Slovakia(sic) rounded off the territory of Greater Germany in such a way that it now became possible to consider the Polish problem on the basis of more or less favorable strategic premises.

"This brings me to the actual outbreak of the present war, and the question which next arises is whether the moment for the struggle with Poland -- in itself unavoidable -- was favorably selected or not. The answer to this question is all the less in doubt since the opponent -- after all not inconsiderable in himself -- collapsed unexpectedly quickly . . ."

(I-172, Lecture by JODL to the Reich-and Gau-leiters, entitled "The Strategic Position at the beginning of the 5th Year of War", 7 November 1943).

In addition to these broad reviews, the highlights of the specific preparations for "Fall Weiss" are entered in detail in a document containing secret notes to the War Diary. The developments described in Points IV - VIII supra are set down as follows:

1. At the end of March 1939 the Fuehrer decided to start with military preparations for the attack against Poland ("Fall Weiss"). These were to be finished at the end of summer 1939. Hitler hoped to conduct only a one-front war.
2. In the following months the line-up of forces took place under the pretense of defense measures.
3. Despite the English guarantee to Poland and therefore the unavoidable two-front war, the Fuehrer decided in August 1939 to attack Poland.
4. In September, Poland was invaded.

(1796-PS, Secret Notes to the War Diary, 7 April 1941.

ARGUMENT AND CONCLUSION

The foregoing evidence establishes that the defendants committed crimes against peace within the terms of Article 6(a) of the Charter of the International Military Tribunal through their plan and conspiracy -- and particularly through the actions of certain defendants and conspirators in furtherance thereof -- to do the following things:

1. To plan, prepare, initiate and wage a war of aggression against Poland.
2. To violate assurances freely and frequently given to Poland that they would not start war.
3. To violate international treaties and agreements.