

ROUGH DRAFT OF INDICTMENT

1. Status of the conspiracy by the middle of 1933.

By the middle of the year 1933 the Nazi conspirators had acquired governmental control over Germany, and were in a position to enter upon the detailed planning and execution of the next phases of the conspiracy. At this point their general plan was to acquire military strength and political bargaining power for Nazi-controlled Germany, to be used against the nations of the world as a means of accomplishing territorial expansion of Germany as contemplated in the basic aims of the conspiracy, to wit, reoccupation of the former boundaries of Germany, occupation of territory inhabited by racial Germans and further territorial expansion to acquire "lebensraum" for the "greater" Germany.

2. The 1933-1936 phase of the plan: destruction of the Versailles Treaty.

In carrying out the phase of the general plan to acquire military strength and political bargaining power to be used against the nations of the world, the Nazi conspirators conceived that it was essential to their aims to destroy the Treaty of Versailles, in part as a psychological rallying point to retain their control over the people of Germany, and in part because the specific program of action deemed necessary by them militarily and politically was a program prohibited by the Treaty of Versailles, namely, rearmament, building of an air force, conscription, and reoccupation and fortification of the Rhineland. Specific plans for this program of action were

made by the Nazi conspirators by at least the middle of the year 1933, and were executed by March 7, 1936, all in preparation for the major aggressive aims to follow. In the execution of this phase of the conspiracy the Nazi conspirators committed the following overt acts, all in accordance with plan:

(a) They caused Germany to enter upon a course of secret rearmament from 1933 to March 1935, including the training of military personnel and the production of munitions of war. This included the building of an air force.

(b) On October 14, 1933, they caused Germany to leave the International Disarmament Conference and the League of Nations.

(c) On March 10, 1935, the defendant Goering announced that Germany was building a military air force.

(d) On March 16, 1935, they announced a law for universal military service.

(e) Throughout the period they caused German diplomacy to sabotage European efforts at collective security.

(f) On May 21, 1935, they falsely announced to the world, with intent to deceive and allay fears of aggressive intentions, that they would respect the territorial limitations of the Versailles Treaty and comply with the Locarno Pacts.

(g) On March 7, 1936, the Nazi conspirators caused Germany to reoccupy and fortify the Rhineland, in

violation of the Treaty of Versailles and the Rhine Pact of Locarno of October 16, 1925, and falsely announced to the world that "we have no territorial demands to make in Europe."

3. The 1936-1938 phase of the plan: planning for the assault on Austria and Czechoslovakia.

a. Having acquired military strength and political bargaining power for Nazi controlled Germany, by 1936, the Nazi conspirators entered upon the next phase of their general plan, to wit, specific planning for the acquisition of Austria and Czechoslovakia. The period from 1936 to 1938 was given primarily to the planning of this action rather than to overt acts. The Nazi conspirators realized that before executing plans for acquiring Czechoslovakia it would be necessary, as a measure of military preparations, first to annex Austria, and they made plans for assaulting Austria and Czechoslovakia in that order. In typical Nazi style, they first deceitfully stated to the world on May 1, 1936, within two months after the reoccupation of the Rhineland: "The lie goes forth again that Germany tomorrow or the day after will fall upon Austria or Czecho-Slovakia." Having first thus reassured the world, they set out to plan exactly that. On May 21, 1935 in a speech to the Reichstag, Hitler stated that: "Germany neither intends nor wishes to interfere in the internal affairs of Austria, to annex Austria or to conclude an Anschluss." The Nazi conspirators caused a treaty to be entered into between Austria and Germany on

July 11, 1936, Article 1 of which stated that "The German Government recognizes the full sovereignty of the Federate State of Austria in the spirit of the pronouncements of the German Fuhrer and Chancellor of May 21, 1935." Meanwhile plans for aggressive violation were being made.

(b) By the fall of 1937 the Nazi conspirators were ready to plan in detail the attack on Austria and Czechoslovakia. All noteworthy opposition within the Reich had been crushed. Military preparation was virtually concluded. An influential group of the Nazi conspirators met with Hitler on November 5, 1937 to review the situation. Reaffirming their determination that Nazi Germany must have "lebensraum" and must have it in central Europe, they made detailed plans for the acquisition of Austria and Czechoslovakia. The Nazi conspirators frankly recognized in their discussion that such conquest would probably meet resistance which would have to be crushed by force. They fully realized that their decision might lead to a general war, but this prospect discounted as a risk worth taking. There emerged from this meeting of the Nazi conspirators three possible plans for the conquest of Austria and Czechoslovakia. Which of the three was to be used was to depend upon the developments in the political and military situation in Europe. According to their plan, the conquest of Austria and Czechoslovakia would, through compulsory emigration of 2 million persons from

Czechoslovakia and 1 million from Austria, provide additional food to the Reich for 5-6 million people; strengthen Germany militarily by providing shorter and better frontiers; and make possible the reconstituting of new armies up to about 12 divisions. Thus the aim of the plan against Austria and Czechoslovakia was conceived of not as an end in itself but as a preparatory measure toward the next aggressive steps in the Nazi master plan.

4. The execution of the plan to invade Austria:

November 1937 - March 1938.

Following discovery by the Austrian authorities late in January 1938 of a Nazi putsch plot to capture control of Austria (known as the Taus plan) Hitler on February 8, 1938 called Chancellor Schuschnigg to a conference at Berchtesgaden. At the meeting of February 12, 1938, under threat of invasion, Schuschnigg yielded a promise of amnesty for all imprisoned Nazis, full political freedom for Austrian Nazis, and appointment of Nazis to ministerial posts. He agreed to silence until Hitler's February 20 speech in which Austria's independence was to be reaffirmed. Hitler's speech, instead of affirming Austrian independence, declared himself protector of all Germans. Meanwhile Nazi agitation in Austria became more active. Schuschnigg in desperation on March 9, 1938 announced a plebiscite for the following Sunday on the question of Austrian independence. Hitler sent an ultimatum on March 11 demanding that the plebiscite be called off or that

Germany would invade Austria. Later the same day a second ultimatum threatened invasion unless Schuschnigg resign in three hours. Schuschnigg resigned; and defendant Seyss-Inquart who was appointed Chancellor, immediately invited Hitler to send German troops into Austria to "preserve order." The invasion began on March 12, 1938. March 13 Hitler by proclamation assumed office as Chief of State of Austria and took command of its armed forces. By a law of the same date Austria was annexed to Germany.

5. The execution of the plan to invade Czechoslovakia:

April 1938 - March 1939.

(a) With the annexation of Austria, the Nazi conspirators reached the phase of their plan looking to the attack on Czechoslovakia. Having reached that stage, they proceeded at once to give false assurances to the Czechoslovakian government that they would not attack that country. But within a month the Nazi conspirators were meeting to plan specific ways and means of attacking Czechoslovakia, and to revise the previous plans for aggression against Czechoslovakia in the light of the acquisition of Austria.

(b) On April 21, 1938, the Nazi conspirators met and prepared to launch an attack on Czechoslovakia no later than October 1, 1938. They planned specifically to create an "incident" to "justify" the attack. They decided to launch a military attack only after a period of diplomatic squabbling

which growing more serious would lead to the excuse for war, or in the alternative, to unleash a lightning-seige attack as a result of an "incident" of their own creation. Consideration was given to engineering an assassination of the German ambassador to create the requisite incident. From and after April 21, 1938, the Nazi conspirators caused to be prepared detailed and precise military plans designed to carry out such an attack at any opportune moment, plans calculated to overcome all Czech resistance within four days, and thus present the world with a fait accompli, and so forestall outside resistance. Throughout the months of May, June, July, August and September, these plans were made more specific and detailed, and by September 3, 1938, it was decided that all troops were to be ready for action on September 28, 1938.

(c) Throughout this same period, the Nazi conspirators were agitating the minorities problem in Czechoslovakia, and particularly in the Sudetenland, leading to a diplomatic crisis in August and September 1938. After the Nazi conspirators threatened war, and in the face of tremendous military pressure, Great Britain, France and Italy concluded an agreement with Germany at Munich on September 29, 1938 involving the cession of Sudetenland by Czechoslovakia to Germany. Czechoslovakia was required to acquiesce. On October 1, 1938, German troops occupied Sudetenland.

(d) On March 15, 1939, contrary to the provisions of the Munich Pact itself, the Nazi conspirators caused the

completion of their plan to attack Czechoslovakia by seizing and occupying that part of Czechoslovakia not ceded to Germany by the Munich Pact.

6. Formulation of the plan to attack Poland: preparation for general aggressive war. March 1939 - September 1939.

(a) With the successful aggression against Austria and Czechoslovakia, the Nazi conspirators were ready to undertake further aggressive expansion. The specific objectives planned for in 1937 were achieved, and the Nazi conspirators were ready for the next steps in the master plan for the acquisition of "lebensraum" and achievement of world domination. The general master plan could now be reduced to specific particular plans, and this the Nazi conspirators set out to do in the spring of 1939, first of course assuring the world of their peaceful intentions.

(b) On May 23, 1939, an influential group of the Nazi conspirators met to consider the further implementation of the master plan. They reviewed the situation and observed that "the past six years had been put to good use and that all measures had been taken in correct sequence and in accordance with out [their] aims;" that the national-political unity of the Germans had been achieved, apart from minor exceptions, and that further success in attaining the objectives of the master plan could not be achieved without war and bloodshed. They decided nevertheless to attack Poland at the first suitable opportunity. They admitted that the issues concerning Danzig

which they had agitated with Poland were not the true issues at all, but rather that the question was one of aggressive expansion for food and "lebensraum." The Nazi conspirators in their deliberations recognized that in case of attack on Poland she would fight in resistance, and that a repetition of their success against Czechoslovakia without war could not be expected. Accordingly, they determined that their problem was to isolate Poland and if possible prevent a simultaneous conflict with the western powers. Nevertheless, they agreed that England was an enemy to their aspirations, and that war with England and her ally France must eventually result, and therefore that in that war every attempt must be made to overwhelm England with a blitzkrieg. The Nazi conspirators thereupon determined: to prepare immediately detailed plans for an attack on Poland at the first suitable opportunity and thereafter for an attack on England and France, together with plans for the occupation of Dutch and Belgian air bases by armed force at the time of the attack on England and France.

7. Execution of plan to attack Poland with contemplation of resulting general war.

(a) Following the decision made in the spring of 1939 to attack Poland at the earliest opportunity, the Nazi conspirators proceeded to make and carry out specific and detailed plans to that end. This included the agitation of the Danzig issue, preparation for frontier "incidents" to "justify" the attack and demands on Poland for the cession of Polish territory.

This constituted a false program of action the decision to attack Poland and enter upon an aggressive war already having been made by the Nazi conspirators. Upon refusal by Poland to yield to the demands the Nazi conspirators caused German armed forces to invade Poland on September 1, 1939. In compliance with their treaty obligations England and France entered the war against Germany.

(b) In the meanwhile, the Nazi conspirators had caused Germany falsely and deceitfully to enter into a non-aggression pact with the USSR on August 21, 1939, as a preparatory measure for the attack on Poland, intending all the while to launch an attack on the USSR at the first favorable military opportunity.

(c) Thus the general aggressive war, prepared for by the Nazi conspirators through their attacks on Austria and Czechoslovakia, was actively launched by their attack on Poland. Following the smashing of all resistance in Poland, and a period of relative inactivity, the Nazi conspirators caused German armed forces to attack in the west and extend their active military operations against France and England, all in accordance with their prepared plans. Further, in accordance with those plans, they caused the German armed forces to invade Denmark and Norway on April 9, 1940; Belgium, Netherlands and Luxembourg on May 10, 1940; Yugoslavia and Greece on April 6, 1941, and the USSR on June 22, 1941. All these

invasions had been specifically planned for, and constituted overt acts in the execution of the Nazi master plan.

8. Charge of crimes against peace.

(a) By reason of the matters set forth above, the Nazi conspirators committed crimes against peace. They planned, prepared, initiated and waged wars of aggression. They planned, prepared, initiated and waged wars in violation of international treaties, agreements and assurances. They participated both in the planning and execution of a common plan and conspiracy for the accomplishment of all the foregoing.

(b) The international treaties agreements and assurances which the Nazi conspirators caused to be violated in the course of their conspiracy and in the execution of their common plan are as follows:

(1) Convention for the Pacific Settlement of International Disputes signed at the Hague 29 July 1899.

(2) Hague Convention III, signed 18 October 1907, relative to the Opening of Hostilities.

(3) Convention for the Pacific Settlement of International Disputes signed at the Hague 18 October 1907, (Hague I 1907).

(4) Convention Respective the Rights and Duties of Neutral Powers and Persons in Case of War on Land, signed at The Hague, October 18, 1907. (Hague V)

(5) Convention Concerning the Rights and

Duties of Neutral Powers in Naval War. Signed at The Hague,
18 October 1907 (Hague XIII 1907).

(6) Treaty of Versailles, Concluded 28 June 1919.

(7) Treaty between the United States and
Germany Restoring Friendly Relations signed at Berlin, Germany,
25 August 1921.

(8) Arbitration Treaty Between Germany and
Czechoslovakia, Done at Locarno, October 16, 1925.

(9) Arbitration Convention Between Germany
and Belgium, Done at Locarno, October 16, 1925.

(10) Arbitration Treaty Between Germany and
Poland, Done at Locarno, October 16, 1925.

(11) Arbitration Convention Between Germany
and France, Done at Locarno, October 16, 1925.

(12) Treaty of Mutual Guarantee Between Germany,
Belgium, France, Great Britain and Italy, Done at Locarno,
October 16, 1925.

(13) Convention of Arbitration and Conciliation
entered into between Germany and the Netherlands on 20 May 1926.

(14) Treaty between Germany and other Powers
providing for Renunciation of War as an Instrument of National
Policy, signed at Paris 27 August 1928.

(15) Treaty of Arbitration and Conciliation
entered into between Germany and Luxemburg on 11 September 1929.

(16) Part IV of a Treaty regarding Limitation

and Reduction of Naval Armament signed at London, April 22, 1930.

(17) Declaration of non-aggression entered into between Germany and Poland on 26 January 1934.

(18) Assurance that the inviolability and integrity of the Federal State of Austria would be recognized, 21 May 1935.

(19) Austro-German Agreement of 11 July 1936.

(20) German assurances given on 30 January 1937 to respect the neutrality and territorial inviolability of the Netherlands.

(21) German assurance given on 30 January 1937 to respect the neutrality and territorial inviolability of Belgium.

(22) German assurance that the inviolability and integrity of the Federal State of Austria would be recognized, July 1937.

(23) German assurance to respect the neutrality and territorial integrity and inviolability of Belgium given 13 October 1937.

(24) German assurance that the inviolability and integrity of the Federal State of Austria would be recognized. 12 February 1938.

(25) Munich Agreement and annexes of 29 Sept. 1938.

(26) Franco-German Declaration of 6 December 1938.

(27) German assurance given on 28 April 1939 to respect the neutrality and territorial inviolability of the Netherlands.

(28) German assurance given on 28 April 1939 to respect the neutrality and territorial inviolability of Norway.

(29) German assurance given on 28 April 1939, to respect the neutrality and territorial inviolability of Luxemburg.

(30) German assurance given on 28 April 1939, to respect the neutrality and territorial inviolability of Belgium.

(31) German assurance given on 28 April 1939 to respect the neutrality and territorial inviolability of

(32) Treaty of non-aggression between Germany and Denmark signed at Berlin 31 May 1939.

(33) Treaty of non-aggression entered into between Germany and USSR on 13 August 1939.

(34) German assurance and declaration, given on 26 August 1939, to respect the neutrality and territorial integrity of Luxemburg.

(35) German assurance and declaration, given on 26 August 1939, to respect the neutrality and territorial integrity of Luxemburg.

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(c) Attached hereto as Annex A is a statement of particulars specifying the charges of violations of the international treaties, agreements and assurances listed above.