Empire of Reason

“Trial of the 20th Century:

Nuremberg”

\* \* \* \* \*

*State boundaries are made by man and changed by man . . . we National Socialists must hold unflinchingly to our aim in foreign policy, namely, to secure for the German people the land and soil to which they are entitled upon this earth. . .* Adolf Hitler[1]

*Arbeit Macht Frei* or Work Makes You Free. . . Made popular on the sign on the gate of the infamous death camp Auschwitz-Birkenau. Such was the greeting at a number of other Nazi death and concentration camps.

*No one approves of the new Sterilization Laws more than I do, but I must repeat over and over again, that they constitute only a beginning. . .* Erwin Baur, director, Kaiser Wilhelm Institut fur Biologie.[2]

\* \* \* \* \*

The Trial of the Twentieth Century opened at 10:00 A.M., November 20, 1945. Twenty-three defendants filled the prisoners’ dock in the central courtroom, in the old fortress-prison at Nuremberg. Men like Hermann Goering, former chief of the Luftwaffe, drug addict and international thief; Ernst Kaltenbrunner, former chief of the Gestapo, murderer, common thug; Hans Frank, former administrator of the Government-General in Poland, responsible for the deaths of millions of men, women and children; Julius Streicher, the semi-literate, Jew-baiting editor of *Der Sturmer,* a crass periodical of low-rent pornography.

Yet the cream of German political gangsterdom—Heinrich Himmler, the diabolical, ex-chicken farmer who rose to become lord of the dreaded SS; Josef Goebbels, propaganda minister and liar *par excellence,* a poisonous, malignant dwarf who prostituted public opinion in Europe; and, Adolf Hitler, the power mad Bohemian corporal, whose thirst for world conquest plunged the globe into conflagration—cheated the gallows by suicide.

Still there are some who dismiss the postwar efforts in international jurisprudence as an example of vindictive retribution. That no court anywhere in the world had the legal right to judge the activities of a sovereign nation. Yet consider the alternatives.

Mussolini and his mistress were shot and hung by their heels. Allied airmen downed over Germany were set upon by enraged mobs. German women were raped by the score by vengeful Allied troops.

By contrast, then, Nuremberg offered a brand of justice dispensed with integrity and objectivity. Justice without indiscriminate vengeance; which, in comparison to the alternatives, could very well have resulted in feuds that could have plagued postwar Europe for decades, much like they do on Sicily.

The Nuremberg trials were not some hastily organized whim of revenge by the victor over the vanquished. Rather they were among the Allied war aims early on in the conflict.

\* \* \* \* \*

*Fourteen officers of the SS (Elite Guard) were sentenced today to hang for at least a million killings. The sentences wound up the biggest murder trial in history . . . The men were leaders of the “Einsatz Kommandos”. . . special extermination squads sent . . . to do away with peoples classified by the Nazis as racially undesirable.* Nuremberg, April 10, (1948)—Associated Press)[3]

\* \* \* \* \*

Early in the war, as reports of German atrocities began to mount, eight governments in exile—Belgium, Czechoslovakia, Greece, Norway, Luxembourg, Netherlands, Poland and Yugoslavia, plus the French National Committee—formed the Inter-Allied Conference, later the Commission concerned with the Punishment of War Crimes. On January 13, 1942, the Commission issued what was known as the St. James Declaration. War criminals were to be punished by judicial process, with war criminals being defined as those who issued the orders as well as the perpetrators.

On October 7, 1942, the United States and Britain organized the United Nations War Crimes Commission. This entity was to keep a detailed roster of war criminals and their excesses. Such was the Allied view that only the ringleaders were to be punished, and that no widespread reprisals were to be enacted against Axis-populations; which was in direct contrast to the idea of collective guilt which had been popular in the Allied camp after World War I, and had contributed mightily to the cause of extreme right-wing nationalism in Germany during the interwar years.[4]

Many Allied nations joined the UNWCC, except for the Soviet Union; which had sought a majority position by having its republics rostered separately. When this initiative failed, Moscow formed the Soviet Extraordinary State Commission to Investigate War Crimes.

Then in October 1943, two important developments occurred that were to shape the trials. The UNWCC was sanctioned and began its investigation of German atrocities. By March 1945, the Commission had rostered some 2,000 names backed by mountains of evidence.

The other was the Moscow Declaration, by which Roosevelt, Churchill and Stalin agreed in principle on the punishment of war criminals. Those considered “minor” criminals—those German officers and men and those members of the Nazi Party who were responsible for or had taken part in massacres, executions and atrocities—were to be sent back to those countries in which the deeds had taken place for punishment. The ruling on “major” criminals was vague by comparison, stating that those who had committed acts that had no definite geographical location were to be punished by a joint decision by the Allied governments. But thus far, a commitment to a fair trial or a summary had as yet to be agreed upon.

The basic format of a trial was taken up in May 1945, by representatives of the Big Four at the founding conference of the United Nations in San Francisco. The American view of an international military tribunal of major war criminals prevailed. And in the following month in London, the details were hammered out.

The London Conference opened on June 26 and was dominated by the keen intelligence and endless energy of Robert Jackson, an Associate Justice of the Supreme Court. Jackson overcame initial French resistance to the idea of crimes against peace, based on the fact that no legal precedence then existed for conviction on aggressive war. Indeed, for the French, “Judge Robert Falco and Professor Andre Gros, were strictly against it. Even if aggressive wars were illegal—experts on international law were not agreed on this—the wrong was committed by a state as such; there was as yet no acknowledged legal rule making anybody personally responsible, regrettable as this legal position might be. In the opinion of the French the existing, undisputed provisions of international law would, however, suffice to achieve the essential aims of the trial.”[5]

“The Russians were not worried by such legal considerations. They were no less anxious than the Americans to see the Nazi leaders punished for the crime of starting aggressive wars. But they made one condition: *any definition of the crime must be explicitly restricted to the aggressive acts committed by Germany and her allies. It is hardly surprising that they regarded this as a vital point, when one thinks of their own record of aggression against Finland and Poland.*[6]

For Justice Jackson, the real issue had been crimes against peace; which underscored his entire argument for the trials. Indeed, since international law rendered same unclear, as viewed by the French, trying the Nazi war criminals would showcase to the world as to the justification, by the Allies, as to why they waged global Total War to defeat the scourge of Fascism, Nazism and Militarism. And then to establish legal precedent for the generations to come. And in the case of the Soviets, to establish the framework of Rule of Law so as to prosecute and carry out justice in a reasonable and civilized fashion as the world’s peoples attempted to rebuild from the ashes of an unbearable depression and the global tragedy of modern, industrialized war. The promise of visiting justice on the framers of aggressive war had to be effected, in order to raise in those seeking to rebuild their lives, that they could have hope and faith in a future of peace and tranquility in a stable world.

Justice Jackson won out in the end. There would be a fair trial, no matter its duration, based on the volumes of collected evidence, that would be presented, prior to its being collated, organized and then stored for posterity. And what will be preserved and made available for the future generations brings, with the, **Nuremberg Trial Proceedings Vol. 1, Charter of the International Military Tribunal. Part I, Constitution of the International Tribunal,** featured five articles as to the basic structure and intent of the trials. Then there was, **Part II**, **Jurisdiction** **and General Principles.** Here we see **Article 6,** as the crimes and charges for trials are listed:

**(a)** **Crimes Against Peace:** namely, planning, preparation, initiation or waging of a war of aggression, or a war in violation of international 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:** namelymurder, 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 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.

**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.[7]

\* \* \* \* \*

The Trap

On August 2, 1934, President Paul von Hindenburg died, enabling Hitler to combine the offices of President and Chancellor to become Fuhrer or Leader. The Army and government functionaries had to swear oaths loyalty to the New Germany; that is, Adolf Hitler, Fuhrer of the Third Reich. This was the price they had to pay for Hitler purging the leadership of the *Sturmabteilung* or Storm Troopers, June 30-July 1, 1934. Such was the price, too, the Conservative Establishment of Germany had to pay for as well, as Hitler reduced the political threat posed by his Working Class militia and their leader, Ernst Rohm.[8]

Article 1: *The public officials and the soldiers of the armed forces must take an oath of loyalty on entering service.*

Article2:

1) The oath of loyalty of public officials will be: *I swear: I shall be loyal and obedient to Adolf Hitler, the Fuhrer of the German Reich and people, respect the laws, and fulfil my official duties conscientiously, so help me God.*

2) The oath of loyalty of the soldiers of the armed forces will be: *I swear by God this sacred oath: I will render unconditional obedience to Adolf Hitler, the Fuhrer of the German nation and people, Supreme Commander of the Armed Forces, and will be ready as a brave soldier to risk my life at any time for this oath.*

Article 3: Officials already in service must swear the oath without delay according to Art. 2, number 1.

Hitler sent von Blomberg[9] a message of thanks, dated 20 August 1934.[10]

Unbeknownst at the time, those who capitulated to the above oaths signed on to serve one of the most perverse regimes throughout the long and inglorious history of Man’s inhumanity to his fellow Man. And by 1945, they will not only have to face the judgment of their fellow Man, but the unbiased arbitration of history. Result . . . The Verdict. . .

\* \* \* \* \*

The Verdict

On September 30, 1946, the defendants entered the courtroom to be sentenced. They were as follows:

Hermann Goering: Chief of the Luftwaffe; early member of the Nazi Party; close confidant to Hitler and one-time heir to become Fuhrer; conspirator against legitimate government in Germany (the Weimar Republic); complicit in waging aggressive war; founder of the Gestapo; plunderer of art works in Europe; death by hanging. Goering cheats the hangman by taking cyanide in his cell.

Rudolf Hess: Early party member; Hitler’s personal secretary; Deputy Fuhrer. Sentenced to, life in prison. Last inmate at Spandau Prison, at the insistence of the Soviets. Having served 41 years, Hess is reputed to have hanged himself, in his cell with an electrical cord . . . at 93 years old.

Hans Frank: The murderous governor of occupied Poland: Death by hanging, October 16, 1946.

Wilhelm Frick: Minister of the Interior: Death by hanging, October 16, 1946.

Julius Streicher: Low-rent degenerate and publisher of *Der Sturmer,* an anti-Jewish rag of the most sordid and pornographic variety: Death by hanging, October 16, 1946.

Walther Funk: One-time Minister of Finance and President of the Reichsbank, 1936-1945: Sentenced to life in prison. October 14, 1955, transferred to a hospital.

Fritz Sauckel: Gauleiter for Thuringia; plenipotentiary for labor recruitment. Perpetrated slave impressment in Russia and other nations occupied by Nazi Germany: Death by hanging, October 16, 1946.

Alfred Jodl: Hitler’s Chief of Staff of the German High Command, Armed Forces; and, Chief of the High Command, Department of Land Forces. Found guilty of waging aggressive war: Death by hanging, October 16, 1946.

Martin Bormann: Nazi Party Office Chief, as of May 1941. Also became Hitler’s personal secretary, April 1943. Probably the most powerful man in Nazi Germany at the end of the war. Sentenced to death in absentia.

Franz von Papen: Chancellor of the Reich, 1932; Vice Chancellor in the Hitler Government, 1933-1934. Ambassador to Vienna; then in 1938, named ambassador to Ankara. Acquitted at Nuremberg.

Joachim von Ribbentrop: Ambassador for Nazi Germany to London, 1936-1938; Hitler’s Foreign Minister, 1938-1945. Death by hanging, October 16, 1946.

Wilhelm Keitel, Field Marshal. Chief of the High Command, Armed Forces (OKW), February 1938 to May 1945. Death by hanging, October 16, 1946.

Ernst Kaltenbrunner: An organizer of the Anschluss of Austria and Germany; SS Police Leader, Vienna, 1938-1943; head of the Reich Main Security Office, 1943 to May 1945. Death by hanging, October 16, 1946.

Alfred Rosenberg: Nazi Party theorist; head of the political section of the Nazi Party, 1930-1941; Minister of the Eastern Territories, April 1941-May 1945. Death by hanging, October 16, 1946.

Hjalmar Schacht: Minister for Economic Affairs, August 1934-November 1937; and, president of the Reichsbank until 1939. Minister without portfolio until 1944. Arrested by the Gestapo as part of the German resistance. Acquitted at Nuremberg.

Karl Doenitz, Grand Admiral: Commander-in-Chief, German Navy U-boat Forces; Commander-in-Chief of the German Navy, January 1943 to May 1945. Last Head of State of Nazi Germany, May 1, 1945. Sentenced to ten years, Spandau Prison.

Erich Raeder, Grand Admiral: Commander-in-Chief, German Navy, 1928-1943. Sentenced to life imprisonment. Sentence reduced; released from Spandau Prison, September 26, 1955.

Baldeur von Schirach: Served in the *Sturmabteilung* or SA for a year; Reich Youth Leader; not involved in the organization of the deportation of those considered subhuman, he was a public speaker on the deportation of Jewish people to the Eastern Territories, in addition to incriminating paperwork in his office showing his support for such a program; sentenced to twenty years in prison for Crimes Against Humanity. Released in 1966.

Artur Seyss-Inquart: Austrian Nazi politician and, served as Reich Governor of *Ostmark* or Austria, until April 30, 1939. Reich Commissioner for the Netherlands, 1940 to 1945. Found guilty of directly participating in the deportation of Jewish people and others to the East, in addition to having hostages shot. Death by hanging, October 16, 1946.

Albert Speer: Architect for Hitler; Minister of Armaments and War Production, 1942-1945. Found guilty of procuring slave labor. Sentenced to life imprisonment. Later released.

Freiherr Constantin von Neurath: Foreign Minister until 1938; Protector, Bohemia-Moravia, 1939-1943. Released from Spandau prison, November 7, 1954.

Hans Fritzsche: Radio propaganda chief for the Ministry for Public Enlightenment and Propaganda; acquitted, October 1, 1946.

“The bodies of the ten hanged men, together with Goering’s, were laid out in an adjacent room, where they were photographed, clothed and unclothed, from various angles by a volunteer from the Signal Corps. (The surgeon general of the United States had requested that their brains be excised and shipped to Washington for study, but this request was denied.) At four o’clock the corpses were loaded onto two trucks, which, under heavy escort, swung out through the gates into the mist and rain. A dawn the convoy arrived at Dachau. The crematorium was fired up once again.” Here some of the murders followed their millions of victims in the fires of malice . “At the end of the day, the ashes of the dead were dropped into a brook on the outskirts of Munich. Symbolically, the cradle of the Nazi movement became the grave of its leaders.”[11]

\* \* \* \* \*

Addendum

Following the trial of the major war criminals, the International Military Tribunal at Nuremberg convened twelve additional trials, from December 1946 to April 1949. Proceedings held included those such as the Medical Trials, the Einsatzgruppen, trials against complicit businessmen. . . Altogether some 199 defendants were tried, 161 were convicted with 37 sentenced to death.[12]

War Crimes Trials, though, were held in other areas of Germany. “In the British Zone of Occupation in Germany alone, 356 war crime trials were held involving more than 1,000 war criminals.[13] Trials were held in neighboring European countries as well, and were convened for a number of years. For instance, Rudolf Hoess, arguably one of the most monstrous executioners in history, was the commandant of Auschwitz. He had been arrested by British Military Police in Schleswig-Holstein, March 11, 1946. He was interrogated, then, turned over to American authorities at Nuremberg. On May 25, 1946, he was remanded to Polish authorities where he first went to Cracow, then to Warsaw. While in prison, awaiting trial, he wrote his memoir, which became a book, *Commandant at Auschwitz.* His trial commenced in March 1947. He was found guilty, sentenced to death and executed the following month. However . . .

. . . when in British custody, Hoess penned a statement: “Statement made voluntarily at [the name was omitted] at the jail by Rudolf Hoess, former Commandant of Auschwitz Concentration Camp on the 16th day of March, 1946. I personally arranged on orders received from Himmler in May the gassing of two million persons between June-July 1941 and the end of 1943, during which time I was Commandant of Auschwitz. Signed, Rudolf Hoess.”[14]

Hitler’s SS was judged to be a criminal organization at Nuremberg. And this included such component parts as the Gestapo or security police and the SD or Sicherheitsdienst or Reich Security Service. Considered criminal organizations from the perspective of Article 6 of the Constitution of the International Military Tribunal, . . . refer to page four of this narrative.

Endnotes

[1] See pages 652 and 653, Volume Two, The National Socialist Movement, Chapter XIV, “Eastern Orientation or Eastern Policy,” *Mein Kampf,* by Adolf Hitler.

[2] See page 131, Chapter 6, “Anti-Semitism in the German Medical Community,” *Racial Hygiene: Medicine Under the Nazis,* by Robert N. Proctor.

[3] See page 10, *The Eichmann Kommandos,* by Justice Michael A. Musmanno. The *Einsatzgruppen* or Action Groups were among the most sordid of examples of the bloodthirsty nature of Hitler’s Nazi regime. They began in a fledgling manner during Hitler’s invasion of Czechoslovakia in March 1939. By September 1939, with Hitler’s invasion of Poland, some six such groups followed the invading German armies. In the rear areas, their primary task was to root out members of the Polish intelligentsia for liquidation. Next, perform the same societal hygiene on Poland’s Jewish population. Then on June 22, 1941, 3,300,000 German troops invaded the Soviet Union. Four large *Einsatzgruppen* followed the German Army spearheads. The round up and killings of Jewish people began. At Minsk alone some 30,000 were swept up and shot. With Hitler’s Commissar Order, Soviet party commissars were rounded up and shot. *Einsatz Kommandos* next were employed in the anti-partisan campaign on the Eastern Front. “Actual numbers of Jews killed by units under the HSSPF [Senior SS and Police Commanders] during the early months of the Eastern Campaign cannot be accurately established. It is known, however, that when the *Einsatzgruppen* and HSSPF formations suspended operations at the end of 1941 to gather strength for the following spring, 500,000 Jews had been murdered, 300,000 by the *Einsatzgruppen.* See page 362, Chapter 14, “Final Solution,” The Order of the Death’s Head, by Heinz Hohne.

[4] “’None who participate in these acts of savagery shall go unpunished. All who share in the guilt shall share the punishment. . . ‘ President Franklin D. Roosevelt, March 24, 1944.” See page 10, Chapter 1, “Escape From Auschwitz,” *Justice at Nuremberg,* by Robert E. Conot.

[5] See page 27, “Foundation,” *Nuremberg Trials,* by Leo Kahn.

[6] See page 27, Kahn.

[7] Articles 6 and 7, “Nuremberg Trial Proceedings Vol. 1, Charter of the International Military Tribunal,” Yale Law School. Lillian Goldman Law Library, The Avalon Project: Documents to Law, History and Diplomacy.

[8] Referencing here the infamous, “Night of the Long Knives,” June 30-July 1, 1934, by which Hitler ruthlessly decapitated the leadership of the Sturmabteilung or SA.

[9] General Werner von Blomberg, War Minister. Following Hitler’s bloody decapitation of the Storm Troopers’ leadership, von Blomberg wrote, “the Fuhrer had attacked and crushed the traitors and murderers with exemplary courage and soldierly precision.” See page 56, Chapter 3, “The Triumph of the Black Over the Brown,” *The History of the SS,* by G.S. Graber.

Yet early in 1938, when Hitler was seeking to refashion the command staff of the military so he could assert greater control, von Blomberg was considered excess baggage. Von Blomberg, a widower, had just married Erna Gruhn. And as the happy couple went off on their honeymoon, Hermann Goering, who wanted to be War Minister, and Count von Helldorf, the Berlin Police President, produced a “file” on Mrs. von Blomberg., complete with compromising photos. Von Blomberg had to step down. Another impediment to dictatorial control had been dealt with. See pages 240 and 241, Chapter 10, “The RSHA,” *The Order of the Death’s Head,* by Heinz Hohne.

[10] See pages 185 and 186, Chapter 5, “The Seizure of Power, 1933-1934,” 133, *Nazism: A* *History of Documents and Eyewitness Accounts, 1919-1945*, Vol.1, J. Noakes and G. Pridham.

[11] See pages 506 and 507, 57, “Execution,” *Justice at Nuremberg,* by Robert E. Conot.

[12] “The Nuremberg Trials,” United States Holocaust Memorial Museum, encyclopedia,ushmm.org.../nuremberg-trials

[13] See page vii, “Preface,” *The Scourge of the Swastika,* by Lord Russell of Liverpool.

[14] See page 11, “Introduction,” *Commandant of Auschwitz,* by Rudolf Hoess.

Bibliography

Chant, Christopher, Consultant Editor, *Warfare and the Third Reich: The Rise and Fall of Hitler’s* *Armed Forces,* A Salamander Book, Smithmark Publishers, New York, NY., 1996.

Conot, Robert E., *Justice at Nuremberg,* Harper & Row, Publishers, Inc., New York, NY., 1983.

Graber, G.S., *The History of the SS,* David McKay Company, Inc., New York, 1978.

Hitler, Adolf, *Mein Kampf,* Houghton Mifflin Company, Boston, Mass., 1943. Originally published, 1925, by Verlag FRZ EHER NACHF G.M.B.H.

Hoess, Rudolf, *Commandant at Auschwitz,* Popular Library edition, in conjunction with the World Publishing Company, 1959. Originally published, 1951, Wydawnietwo Prawnicze, Warsaw.

Hohne, Heinz, *The Order of the Death’s Head: The Story of Hitler’s SS,* Published by the Penguin Group, Penguin Books, Ltd., London, England, 2000. Originally published 1966.

Kahn, Leo, *Nuremberg Trials,* Politics in Action No. 8, Ballantine’s Illustrated History of a Violent Century, Ballantine Books, Inc., New York, NY., 1972.

Lord Russell of Liverpool, *The Scourge of the Swastika: A Short History of Nazi War Crimes,* Military Book Club edition, Cassell & Co., Ltd., London, UK. Originally published, 1954.

Megargee, Geoffrey P., *Inside Hitler’s High Command,* University Press of Kansas, Lawrence, Kansas, 2000.

Musmanno, Justice Michael A., *The Eichmann Kommandos,* Macfadden-Bartell Corporation, New York, NY., 1961.

Noakes, J and Pridham, G., Editors, *Nazism: A History in Documents and Eyewitness Accounts,* Vol. 1, Schocken Books, Inc., New York, 1984. Originally published, 1983 and 1984, Department of History and Archeology, University of Exeter, Great Britain.

“Nuremberg Trial Proceedings Vol. 1, Charter of the International Tribunal,” Yale Law School: Lillian Goldman Law Library, The Avalon Project: Documents in Law, History and Diplomacy.

Proctor, Dr. Robert N., *Racial Hygiene: Medicine Under the Nazis,* Harvard University Press, Cambridge, Massachusetts and London, England, 1988.

Reitlinger, Gerald, *The SS: Alibi of a Nation, 1922-1945,* Arms and Armour Press, London, UK., 1981.

Snyder, Dr. Louis J., *Encyclopedia of the Third Reich,* Paragon House Publishers, New York, NY., 1989.

“The Nuremberg Trials,” United States Holocaust Memorial Museum, encyclopedia.ushmm.org . . . /Nuremberg-trials

Williamson, Gordon, *The SS: Hitler’s Instrument of Terror,* Motorbooks International Publishers & Wholesalers, Osceola, Wisconsin, 1994.