

Pr. 6

Trial of ERICH HEYER.
and Six Others.

MILITARY COURTS FOR THE TRIAL OF WAR CRIMINALS

D.J.A.G's Case No.71-77/JAG.....

Name of Accused (including Rank, if any)	Arm or Former Arm of the Service	Age	Date and Place of Trial
Erich HEYER <i>shf</i> Peter KOENEN Johann BRASCHOSS Karl KAUFER Franz HARTUNG Hugo BODDENBERG Erich SAMBOL	All		18th and 19th December 1945 ESSEN-WEST
	German		Convened by
	Civilians		G.O.C. 1 Corps District

CHARGES

COMMITTING A WAR CRIME in that they at ESSEN West, on the 13 December 1944 in violation of the laws and usages of War were with Untereffizier NELGES, Hans BRASCHOSS, Franz KIRCHER, Paul TEWES and other persons unknown concerned in the killing of three unidentified British Airmen, prisoners-of-war

President and Members of the Court (except Legal Member)	Judge Advocate /Legal Member
Lieut. Colonel B. G. MELSOM Major L. E. DICKSON, MC Major C. FREEMAN, MC W/Comd J. G. C. BARNES	East Lancashire Regt 1st Glasgow Highlanders R.A. R.A.F. Capt C. W. E. SHELLEY ERE List

Pleaded	Finding
<u>All Accused</u>	Nos. 1, 2, 3, 4 and 6 - Guilty
Not Guilty	Nos. 5 and 7 - Not Guilty

Sentence and Minute of Confirmation

HEYER and BRASCHOSS - death by hanging
 KAUFER - imprisonment for life
 BODDENBERG - 10 years' imprisonment
 KOENEN - 5 years' imprisonment

When and where Promulgated :--- 7th March 1946

Date of Receipt	To whom sent	Date sent	Purport
	The above sentence imposed at ZUCHTHAUS HAMELN on 8th	on ERICH HEYER was put into execution March 1946 at 1610 hrs	
	The above sentence imposed at ZUCHTHAUS HAMELN on 8th	on JOHANN BRASCHOSS was put into execution March 1946 at 1610 hrs	

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TRIAL BY MILITARY COURT FOR THE TRIAL OF WAR CRIMINALS

of

ERICH HUYER
PETER KOHN
JOHANN BRASCHOS
KARL KAUFER
FRANZ HARTING
HUGO BOLDENBERG
ERICH SAMBOL

German civilians in the charge of No. 4 Civilian Internment Camp,
Recklinghausen, pursuant to Regulation 4 of the Regulations
for the Trial of War Criminals

on

18th and 19th DECEMBER, 1945

FIRST AND SECOND DAYS

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PROCEEDINGS

of a

MILITARY COURT FOR THE TRIAL OF WAR CRIMINALS

held at

ESSEN-WEST, GERMANY

on

18th and 19th DECEMBER, 1945

upon the trial of

ERICH HEYER

PETER KOENEN

JOHANN BRASCHKE

KARL KAUFER

FRANZ HARTUNG

HUGO BODENBERG

ERICH SAMBOL

German civilians in the charge of No. 4 Civilian Internment Camp,
Recklinghausen, pursuant to Regulation 4 of the Regulations
for the Trial of War Criminals

PRESIDENT :

Lieutenant-Colonel B.G. NELSON, R.Lancs.

MEMBERS :

Wing-Commander J.G.C. BARNES, 8501 Air Despatch Wing, RAF.

Major L.E. DICKSON, MC, 1 Glasgow Highlanders.

Major C. FRIEMAN, MC, 107 Medium Regt, RA.

LEGAL MEMBER :

Captain C.W.E. SHULLY, ERE List, Legal Staff, Headquarters British Army of
the Rhine.

FIRST AND SECOND DAYS

FIRST DAY

Tuesday, 18th December, 1945.

The order convening the Court and the charge sheet are laid before the Court.

The Accused are brought before the Court.

The Prosecutor is Major W.St.J.C. TAYLOR, RA, Legal Staff, Headquarters Lines of Communication.

The Defending Officer is Major J.W. STONE, 49 Recon Regiment (Solicitor).

At 1030 hours the trial commences.

The order convening the Court is read, signed by the President and attached to the proceedings.

The President and Members are duly sworn.

The following officers under instruction are duly sworn :

Major G.V. Cooke, 7 RMP.
Major B.M. McDermott, 1 R.Lancs.
Major R.F. Murphy, RA.
Major D.S. McNeill, RA.
Captain R.P. Woods, 2 Welsh Gds.
Captain R.M. West, RA.
Captain R.F. Gibbie, 4/7 R.Dragon Gds.

THE PRESIDENT: Lieutenant Nygh, will you tell the Accused that it is proposed to employ SSM Senders as an independent expert shorthand writer and will you ask each of them in turn if he has any objection.

THE INTERPRETER: They all say they have no objection.

S/1809493 SSM P. Senders, RASC, is duly sworn as shorthand writer.

THE PRESIDENT: Lieutenant Nygh, will you tell the Accused that it is proposed to employ you as an independent interpreter and will you ask each of them in turn if he has any objection.

THE INTERPRETER: They all say they have no objection.

THE PRESIDENT: Will you tell the Accused that it is also proposed to employ Serjeant Enders and Serjeant Lammertsee as independent interpreters and will you ask each of them in turn if he has any objection to either of them.

THE INTERPRETER: They all say they have no objection.

Second-Lieutenant H. Nygh, Serjeant A.J. Enders and Serjeant T.H. Lammertsee, all of the Interpreters Pool, are duly sworn as interpreters.

The charge sheet is marked "2", signed by the President and attached to the proceedings.

THE PRESIDENT: Erich Heyer, is that your correct name ?

THE ACCUSED HEYER: Yes.

THE PRESIDENT: Peter Koenen, is that your correct name ?

THE ACCUSED KOENEN: Yes.

THE PRESIDENT: Johann Braschoss, is that your correct name ?

THE ACCUSED BRASCHOSS: Yes.

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THE PRESIDENT: Karl Kaufer, is that your correct name ?

THE ACCUSED KAUFER: Yes.

THE PRESIDENT: Frens Hartung, is that your correct name ?

THE ACCUSED HARTUNG: Yes.

THE PRESIDENT: Hugo Boddenberg, is that your correct name ?

THE ACCUSED BODDENBERG: Yes.

THE PRESIDENT: Are you all German civilians ?

(All the Accused reply "Yes".)

THE PRESIDENT: Are you in the charge of No.4 Civilian Internment Camp, Becklinghausen, pursuant to Regulation 4 of the Regulations for the trial of War Criminals ?

(All the Accused reply "Yes".)

THE PRESIDENT: You are all jointly charged on a charge sheet containing one charge. You are charged with committing a war crime in that you at Essen-West on the 13th December 1944 in violation of the laws and usages of war were, with Unteroffizier Nelges, Hans Braschoss, Frens Kircher, Paul Tewes and other persons unknown, concerned in the killing of three unidentified British airmen, prisoners of war. That charge sheet is signed by the officer in whose custody you are. Erich Hayer, are you guilty or not guilty of the charge against you which you have heard read ?

THE ACCUSED HAYER: Not guilty.

THE PRESIDENT: Peter Kossen, are you guilty or not guilty of the charge against you which you have heard read ?

THE ACCUSED KOSSEN: Not guilty.

THE PRESIDENT: Johann Braschoss, are you guilty or not guilty of the charge against you which you have heard read ?

THE ACCUSED BRASCHOSS: No, I am not guilty.

THE PRESIDENT: Karl Kaufer, are you guilty or not guilty of the charge against you which you have heard read ?

THE ACCUSED KAUFER: I am not guilty.

THE PRESIDENT: Frens Hartung, are you guilty or not guilty of the charge against you which you have heard read ?

THE ACCUSED HARTUNG: I am not guilty.

THE PRESIDENT: Hugo Boddenberg, are you guilty or not guilty of the charge against you which you have heard read ?

THE ACCUSED BODDENBERG: I am not guilty concerning the killing of three British airmen.

THE PRESIDENT: That is a plea of not guilty.

THE ACCUSED BODDENBERG: Not guilty.

THE PRESIDENT: Erich Sambol, are you guilty or not guilty of the charge against you which you have heard read ?

THE ACCUSED SAMBOL: Not guilty.

THE PRESIDENT (to the interpreter): Will you ask each of the Accused this question and ask them to answer it in turn: Do you wish to apply for an adjournment on the ground that any of the regulations relating to trial have not been complied with, or on the ground that you have not had sufficient opportunity and time to prepare your defence?

(All the Accused reply "No".)

THE PRESIDENT: Major Stone, you are quite satisfied about that, are you?

MAJOR STONE: Yes.

MAJOR PATMURA: May it please you, Sir, and the members of the Court. I appear to prosecute in this case and the seven accused are represented by my learned friend Major Stone, who is an English lawyer.

The charge has been read out to which the seven accused have pleaded not guilty. The wording of the charge alleges that they were concerned in the killing of three British airmen. That is the wording of the charge under the Regulations relating to the laws and usages of war; but for the purposes of this trial I shall invite the Court to take the view that this is a charge of murder and of nothing else than murder. The allegation will be that all these seven Germans in the dock are guilty either as an accessory before the fact or as principals in the murder of three British airmen.

The facts out of which this case arose took place almost exactly a year ago, on the morning of the 13th December, 1944. On the night of the 12/13 December there was a big RAF raid on Essen and a number of aircraft were shot down, and amongst the airmen who were taken prisoners were the three victims in the present case.

The evidence as to what their initial treatment was is somewhat sketchy, but all the evidence that there is goes to show that while they were in the hands of the German police who first took them into custody there was nothing in their treatment to which anyone could take any exception.

You will hear that somewhere between 8 and 10 o'clock on the morning of the 13th they were handed over by the police to the custody of the military unit which was in occupation of the barracks in Hülthelmerstrasse, and that unit was commanded by the first Accused, who was then Hauptmann Heyer, a captain in the German Army.

You will further hear that the news that these three prisoners had been taken had got around the town like wildfire and that outside these barracks there was a considerable crowd of Germans, highly excited and incensed at the damage which had been done to Essen during the raid.

The evidence that will be called before you will show that these three airmen were placed by Hauptmann Heyer under command of an escort consisting of one unit-officer and two or possibly three private soldiers to escort them to the airfield at Mülheim, which was the normal procedure when prisoners were taken; they were handed over to the nearest Luftwaffe unit for interrogation.

The evidence will show you that Hauptmann Heyer gave instructions to this escort that they should take the prisoners by a roundabout way to the airfield to avoid them being welcomed by the crowd; but, while on the face of it those orders were ones to which no exception could be taken, the submission of the Prosecution is that those orders were given out to the escort by Hauptmann Heyer from the steps of the barracks in a loud voice so that the whole of the crowd could hear and would know exactly what was going to take place.

You will further hear evidence that Hauptmann Heyer had ordered the

*Charge of
murder*

HEYER

escort that they were not to interfere in any way with the crowd if they should molest the prisoners. Further evidence will be called before you that not content with those orders, Hauptmann Heyer followed the crowd after the escort and the crowd moved off for a matter of some hundred yards and shouted out incitement to the crowd in words such as: "These are the dogs that have killed your wives and children; kill them".

Evidence will also be brought before you from German witnesses to the effect that prior to this incident Heyer had made remarks to the effect that these three airmen ought to be killed.

From that point Heyer goes out of the picture, because so far as all the evidence goes to show he was not present when the actual murder of these three airmen took place, and the Prosecution will not ask you to say that he was.

In my submission in law a man who incites people to commit a murder, if that murder is subsequently carried out, is guilty as a principal in that he is an accessory before the fact; he has brought about that murder and as such he is as guilty as any of the people whose hands actually did the deed. In my submission Heyer is as guilty as anyone else of this murder.

Passing on from the point where Hauptmann Heyer leaves the picture, you will hear that this crowd marched off down the Mittelstrasse and that as they went along the crowd around grew bigger and bigger and started hitting them and throwing sticks and stones at them. You will hear evidence that an unknown corporal in the German anti-aircraft wing actually fired a revolver at one of the airmen, who is identified as a sergeant, and wounded him in the head, and that the sergeant took out a bandage and put it round his head, and he will subsequently be identified in the story by this bandage.

You will hear that the party moved on in those circumstances until they came to the Widenburg bridge, which is about a third of a mile from the barracks. Apparently as they reached the bridge somebody - it is by no means clear from the evidence who, but the evidence rather suggests that it was the Unteroffizier in charge of the escort, named Helges, who is mentioned in the charge but who is not before the Court - suggested that these three airmen should be thrown over the bridge.

I shall invite the Court at some stage, if it seems fit to them, to go and inspect this bridge, because I feel it will enable them to get a better mental picture of the whole proceedings. To describe it briefly, it is a bridge which goes over a narrow fairly fast-flowing stream in a culvert and also over a railway line a little further on. The height of the bridge varies, the maximum being some 70 to 80 feet.

You will hear that when they got to the bridge the crowd set on these three airmen and attacked them, and that during this period, although there is no evidence that the escort actually laid hands on them, as the crowd were attacking them the escort covered them with their rifles to prevent them from making any movement in escape or self-defence; and you will hear that first one of the airmen was thrown over the parapet of the bridge on the right-hand side and then a second airmen was thrown over. The third airmen, the sergeant who had previously been wounded, ran to make a get-away. He got nearly across the bridge but was chased by some Germans, including one on a bicycle, and he was dragged back to the parapet of the bridge. You will hear that he then produced Franks's wallet a photograph of his wife and children and begged them for his life for their sake; but this had no effect, and he was in turn thrown over on the other side of the bridge; two of the airmen were thrown over on the right-hand side and one, the sergeant, on the left.

The evidence shows that one of the airmen was killed by the fall but that the other two were not dead when they landed, and the evidence which will be called before you will show that a number of shots were fired at them from the bridge and also that members of the crowd then went down below the bridge and some of them enquired if one was dead, and on his saying "No" they proceeded to beat and kick him to death. The bodies were finally stripped and robbed of anything of value on them and were thrown into the stream.

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That, very briefly, is the story of this incident.

So far as the individual accused are concerned, I have already dealt with the part of Erich Heyer. With regard to the second accused, Peter Koonen, he was a member of the Army escort which brought these three airmen to the bridge, and, while there is no evidence that he individually touched any of these airmen, in my submission the evidence that he was a member of this escort who took no part whatever to protect these airmen and actually covered them with his rifle while they were being lynched by this crowd shows that he is equally responsible with the rest.

With regard to the other five accused, evidence will be brought before you that each one of those individuals had some hand in this undertaking, whether it was striking, holding or, in two cases, actually helping in throwing one of the airmen over the bridge.

I do not wish to go in any great length into the evidence at this stage. It will be brought before you in fairly considerable volume, and it is not for me at this stage to indicate what weight you should put on it or the strength of the case against each individual accused.

There are two further observations I should like to make. This case is somewhat unlike any previous War Crimes trial that has taken place yet for this very significant reason. In the other cases of which no doubt you have heard through the publicity, the case at Belsen and so on, the accused have all been members of some organization, the S.S., the Gestapo or something like that. In this particular case the accused are a cross-section of the ordinary inhabitants of this town: an Army officer, an Army private soldier, a carpenter, a factory worker, a miner - ordinary German people.

This crime, in the submission of the Prosecution, is what is vulgarly known as a mass lynching. In such a case it is, of course, very difficult to say who is the ringleader and to apportion blame. In my submission if a crowd together are responsible for the killing of three men in circumstances in which, if one member of the crowd did it, it would amount to murder, then whether the contribution to the sin murder by each individual is large or small, each one who has taken any part in it, provided you are satisfied that he did personally intentionally participate in the lynching of these three men, even if all he did was to prevent them from escaping, to strike them or to kick them, or whether he actually fired a shot at them or helped to throw them over the parapet, is as guilty of murder as anybody else who took part in it.

Finally, looking at these accused in the dock now, they do not look particularly frightening or particularly aggressive; they look rather cowed, you may think. When you consider this case consider the evidence and also consider how they must have looked as members of a large crowd to the eyes of those three airmen who were thrown over the bridge on that day.

I am not asking you to bring any sentiment or feelings into this matter, I am asking you to judge this case on the evidence and on the evidence alone, and I know that these men will obtain every bit as fair a trial as if they were British soldiers or civilians on a similar charge. The Prosecution has to prove its case beyond reasonable doubt. The Prosecution accepts that burden and claims that it will fulfil it. I do not think I need say anything further. The evidence will be brought out to you, and I shall now proceed to call it.

Not under
trickly
speaking

THE TOWN MEMBERS: Before you do so, Major Taylor, perhaps you could elucidate one or two points. This is not a trial under strictly English law. You have used the word "murder" several times. Murder, as we know, is the killing of a person under the King's Peace. Strictly speaking, the charge here is not murder; but I take it that you are not using the word in the strict legal sense but in the popular sense?

MAJOR TAYLOR: That is so. What I am suggesting to the Court is that if I prove to you facts which in an English Court would justify that Court under English law in convicting these men of murder, then I will have proved the necessary facts to justify you convicting them of this charge.

THE JURY: As long as everybody realizes what is meant by the word "murder" for the purposes of this trial, I do not think there is any difficulty.

MAJOR TAYLOR: The reason why I used that word is that the words "concerned in the killing" are apt to sound a little loose in the minds of some people, because there are certain circumstances in which killing may not be a crime. I know that that was a point which was in the mind of the Defending Officer, and therefore I wanted to make the position of the Prosecution quite clear. I am not in any way wishing to improve on or criticize the wording of the charge, but I wish to make the position of the Prosecution quite clear by saying that had this charge taken place under English law it would have been a charge of murder, and it is on that footing within the Regulations that I propose to present the case.

THE JURY: We have also been using words like "accessory before the fact" and so on which are applicable to English law and to foreigners. Again I see no objection to that, as long as we know exactly what we are talking about. We are using the words almost in inverted commas as analogies to English law. Are you clear about that, Major Stone?

MAJOR STONE: Yes, I am quite satisfied.

MAJOR TAYLOR: I will drop the English law analogy and refer to the exact facts on which I am relying.

MARTIN WITSE is called in, and, having been duly sworn, is examined by Major TAYLOR through the interpreter as follows:--

THE PRESIDENT: Major Stone, I do not myself speak German nor do I understand it, but I believe the WIT sitting next to you (Sergeant Sanders) speaks the language, does he not?

MAJOR STONE: Yes.

THE PRESIDENT: If you are at all worried about any interpreting please do not hesitate to let me know.

MAJOR TAYLOR: What is your full name? A. Martin Witse.

Q Are you a member of the German police in Essen? A. Yes.

Q Were you employed as a policeman in Essen on the 13th December 1944?
A. Yes.

Q Were any British prisoners brought into your custody on that date?
A. Yes, three prisoners.

Q To what branch of the Forces did these prisoners belong, Army, Navy or Air Force?
A. They were airmen.

Q Where were those airmen taken? A. They have been brought to the police office by civilians.

Q How long did they stay at the police office? A. I was not there, so I cannot say when they were brought in and when they were brought away.

Q Did you see them at the police office? A. I have seen only one man.

Q What became of the prisoners after they left the police office?

A. They have been given to the Landesschutz battalion by the police.

Q Where was the headquarters of the Landesschutzen battalion ?

THE LAYAL WITNESS: Interpreter, do not ask the witness questions; just translate what the Prosecutor or the Defending Officer asks and then repeat the answer. It does not matter to you whether it makes sense or not; that will be cleared up later. You are just a mouthpiece to translators.

THE WITNESS: The headquarters of the battalion were in the school, in the same school as the police office.

MAJOR FAYLBER: In what street ? A. In Halbernerstrasse.

Q Do you know Hauptmann Abel ? A. Yes; he was the president of this police office.

THE PRESIDENT: Is that the correct interpretation ?

MAJOR FAYLBER: I imagine it is a sort of old inspector, or officer in charge. (To the witness): Do you know a Hauptmann Hoyer ?

A. Yes, I have seen him, but I have seen him only one time.

Q Can you recognise him in Court today ? A. Yes.

Q Will you point him out ? A. The first man in the dock (indicating the Accused Hoyer).

Q Did you hear any conversation between Hauptmann Abel and Hauptmann Hoyer about these three British airmen ? A. Yes.

Q Will you repeat to the Court as closely as you can the words of that conversation ? A. Captain Hoyer came over the court of the school to Captain Abel. Three airmen with guards of the Landesschutzen battalion were there, and Captain Abel came to Captain Hoyer, and he said to him the following: "What must I do with the prisoners ? What is the reason you are sending them to me ? They are to be shot."

Q Who said that ? A. Captain Hoyer.

Q What did Captain Abel say to that ? A. Captain Abel said: "I have the order to deliver these prisoners to the next Wehrmacht office".

Q Where were the prisoners taken ? A. In Essen-Fest, in the neighbourhood of the 13 police office.

Q After that conversation between the two, who took the custody of the prisoners, Abel or Hoyer ? A. Captain Hoyer.

Q As nearly as you can remember, at what time of day did this conversation take place ? A. Between 9 o'clock and half past 9 in the morning.

Q Of the 13th December ? A. The 13th December, a.m.

Q While the airmen were in the custody of the police how were they treated ? A. They have been treated very well; Captain Abel has offered them even a cigarette. The flying officer coming first to this office had lost one of his shoes. After that the wife of Captain Abel offered one shoe to this flying officer.

Q After the three airmen were handed over to Hauptmann Hoyer at 9.30 did you see them again ? A. Captain Hoyer has returned his prisoners to the school and I have not seen any more.

Q Do you know what the ranks of the three prisoners were ? A. I have heard that these men were a sergeant, a second Lieutenant and a Lieutenant.

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MAJOR TAYLOR: I take it that would be pilot officer and flying officer.

THE LEGAL MEMBER: Perhaps if you framed your question in a different way it might help you. Ask the witness how they were dressed.

MAJOR TAYLOR: How were they dressed? A. The lieutenant had a fur collar and a leather coat.

Q Did you see any badges of rank on him? A. I have not.

Q Did the one you referred to as a sergeant have any badges of rank? A. I have not seen.

MAJOR STONE: I am quite happy except for one thing. The witness, according to the interpreter, said that Heyer had said to Abel: "They are to be shot", which I think is not a strictly accurate translation; what he said means: "They should be shot", which I think bears a different interpretation.

THE LEGAL MEMBER (to the witness): Do you remember the exact words which Heyer used about the prisoners? A. I do not exactly remember the words which were used, but I know more or less.

Q Tell us as far as you can remember the exact words? A. "What shall I do with the prisoners? They will be killed."

MAJOR STONE: I think he has said something different now. Last time he said: "They should be shot", and this time he says: "They will be shot".

THE PRESIDENT: Major Stone, are you happy or not happy about the interpreting so far?

MAJOR STONE: Frankly I am not.

THE PRESIDENT: Would you like to have the interpreter sitting next to you (Sergeant Enders) as an interpreter or would you like application to be made to Military Government for another interpreter?

MAJOR STONE: I am completely confident in this sergeant who is with me.

THE PRESIDENT: Very well; we will have him as interpreter.

Cross-examined by Major STONE.

Q Do you recognise anybody else in this dock? A. No.

Q When Hauptmann Heyer and Hauptmann Abel had this conversation, was it in the hearing of the escort? A. The escort were there too; there were two of the escort.

Q Can you try and remember the exact words used by Hauptmann Heyer to Hauptmann Abel as to the shooting of the prisoners? A. No.

Q Will you tell us once again as near as you can what Heyer said? A. Hauptmann Heyer came to Hauptmann Abel, he was very excited and he asked Hauptmann Abel why he took those prisoners to him, and furthermore he said: "What am I to do with these prisoners? They will be shot."

Q Have you any views as to Hauptmann Heyer's meaning when he said: "They will be shot"? A. I do not know whether Hauptmann Heyer meant: "They will be shot by someone else" or "They will be shot by me".

Q Was that remark made in a loud voice, a voice capable of being heard by the escort? A. Yes, he spoke quite loudly.

Q Were there any civilians present when the remark was made? A. No.

Re-examined by Major TAYLOR.

- Q Did you understand from the remark that Hauptmann Heyer meant that they deserved to be shot or that they were going to be shot?
A. I really do not know whether there is a difference in the meaning.

THE PRESIDENT: Major Stone, in the opinion of the Court and the Legal Member, as there is a shorthand writer we do not think it is necessary to read the evidence back to the witness; but if you would like any of it read back, or any of the Accused would, it will certainly be read back at any time. Do you want the evidence read back now?

MAJOR STONE: No, not of this witness.

(The witness withdraws.)

Frau KLARA GIESE is called in, and, having been duly sworn, is examined by Major TAYLOR through the interpreter as follows :-

- Q Is your name Frau Klara Giese? A. Yes.
Q Do you live at 44, Heimaldabakstrasse, Essen-West? A. Yes.
Q Do you remember the morning of the 13th December 1944, just about a year ago?
A. Yes.
Q Were you in Mulheimerstrasse that morning? A. Yes.
Q Did you see any British prisoners in Mulheimerstrasse then? A. Yes.
Q How many? A. One.
Q Did you see any more later? A. No.
Q Would you describe him? A. Do you mean the Allied soldier?
Q Yes. A. There were two small ones.
Q That is what I am asking you. How many were there? A. Three.
Q Will you describe them? A. One was a tall man with a small pocket under his arm; the other one had a bandage around his head, and the other was injured in the arm.
Q Who were looking after these three airmen? A. I saw a German soldier first and later on another German soldier.
Q Were there many civilians about? A. Where I saw them there were hardly any civilians at all.
Q Did anyone say anything to these airmen? A. A German civilian said to one of them: "It is your fault that my wife was killed last night".
Q Did he do anything? A. He beat him.
Q Did anybody else say anything to him? A. A German officer came up and told the civilians: "I give you the right to lynch them".
Q To lynch who? A. The Allied airmen.
Q Can you describe this German officer? A. He was of an average height but I do not know his rank.
Q Do you think you could recognise him if you saw him again?
A. Perhaps by his voice.

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MAJOR TAYLOR: Will the Accused stand up. (All the Accused stand up in the dock.) (To the witness): Can you say whether any of these men is the officer concerned? A. I think the one with the bandage on his head. (Indicating the Accused Heyer.)

- Q What did the people do after that? A. They followed the Allied airmen.
- Q Did the officer go after them too? A. No.
- Q Did you follow the crowd yourself? A. I went with a young girl to the Schwertstrasse and I stopped there.
- Q Did you hear any noise? A. I heard the child crying and I went down to the child to quieten it and that is why I stopped.
- Q Did you hear any shooting? A. Yes.
- Q Did you later go down to the bridge? A. Yes.
- Q What bridge was that? A. I had to go across that bridge because I live there.
- Q What is the name of the bridge? A. Holwardurk Bridge.
- Q Does the bridge cross a stream and a railway line? A. Yes.
- Q When you went down to the bridge what did you see there?
A. I went down to the bridge and I saw a German soldier there who told me he was not allowed to shoot unless one of those airmen tried to escape.
- Q Did you see any of the airmen? A. Yes, two of them.
- Q Where were they? A. In the river.
- Q What were they doing? A. One of them seemed to be dead and the other one tried to swim.
- Q Which one was that? A. The one with the bandaged head tried to swim.
- Q What did the soldier do then? A. The soldier shot at him then.
- Q Did he hit him? A. Yes.
- Q Did he kill him? A. I do not know.
- Q Did he move after he was shot at? A. No.
- Q Will the Accused stand up again. (All the Accused stand up in the dock.)
Do you recognise there the soldier that shot or not?
A. No, I did not look at the soldier at all so I would not be able to recognise him.
- Q Apart from the one with the bandage who you have told us about already do you recognise any of those Accused? A. I met Mr. Bruchoss at the bridge.
- Q Which is he of the Accused? A. The third from the right (indicating the Accused Bruchoss).
- Q Did he speak to you? A. Yes.
- Q Was he carrying anything with him? A. I pointed the little parcel lying on the bridge out to him and he told me not to touch it.
- Q Did he say anything else? A. He told me: "We are going down the bridge to rob the bottles", and I said: "You are not allowed to do that".

Q Breschoss said that he was going down to rob the bottles?
A. No, Breschoss said: "The people are going down to rob the bottles."
Q What else did he say? A. And Mr. Breschoss left the bridge and I did not speak to him again.
Q Had Breschoss anything in his hand at that time?
A. He had his stick in his hand.

Cross-examined by Major SPOFF.

Q Would you recognize the civilian with whom you spoke at the beginning, the one you said was idly dressed and who struck one of the airmen in the face?
A. Yes.
Q Is that the man? (Indicating the accused Serbok.) A. No.
Q You said that the German officer addressed the crowd. How many people were there then? A. The officer did not speak to the crowd but the crowd only heard him. He told another soldier.
Q You said in your evidence: "I heard the German officer address the crowd: 'I give these Allied airmen to the civilians'". Did he say that to the crowd or did he say it to somebody else? A. The soldier was just passing when he said those words.
Q Did he say those words to the soldier? A. Yes, but not to the soldier who escorted the Allied airmen.
Q Just to one soldier who happened to be passing?
A. Somebody of the Fire Guard who was just passing.
Q With regard to the German soldier on the bridge who did the shooting, did you recognize if he had any rank? A. No.
Q Had he anything peculiar about his appearance?
A. I did not look closely and I went home as soon as I could.
Q But you said that this German soldier spoke to you and said: "Now we have the right to shoot"; is that right? A. He told it to one of the civilians.
Q He did not say it to you? A. He did not say it to me.
Q Did you see anything of the third airman at all?
A. I only saw one of them lying near the railway.
Q So you saw three all told? A. Yes.
Q How many of them were dead when you saw them?
A. Afterwards they all were dead.
Q One, you said, was swimming in the water; he cannot have been dead?
A. They were lying in the stream when I arrived.
Q When you first arrived there were three airmen then down below the bridge. How many were then dead and how many were alive? A. I only saw one of them alive.
Q He was the one who was shot by the unknown soldier? A. Yes.
Q When you left the bridge was Breschoss still on it? A. He was just coming down to the bridge.
Q Were there already civilians below the bridge when you spoke to Breschoss on the bridge? A. I did not notice.

Re-examined by Major TAYLOR.

Q When you say that the officer told this soldier of the Fire Guard that the prisoners could be lynched, was that in a very loud voice? A. Yes.

Q How far were you standing away from him? A. About the distance to the table here.

THE PRESIDENT: Do you mean to the corner of the table or to where I am?
A. Up to where you are sitting.

THE PRESIDENT: What is that, Major Stone - five or six yards?

MAJOR STONE: Yes, perhaps a little more.

MAJOR TAYLOR: Could you hear him say it clearly? A. Yes.

Q Were there a number of other civilians within hearing distance or not?
A. Yes.

THE LEGAL MEMBER: How old are you? A. 48 years of age.

Q Are you married? A. Yes.

Q You said there were three airmen whose bodies were in the stream; is that right? A. Yes.

Q Were they all on one side of the bridge or not?
A. I have only seen when the airmen were coming down to the bridge.

Q Were the airmen's bodies all on one side of the bridge or were some on one side and some on the other? A. Two were lying in the stream and one was lying the other side of the bridge.

Q Does the bridge cross the stream? A. Yes.

Q Therefore one side of the bridge could be said to be upstream and one downstream? A. I do not understand.

THE PRESIDENT: Were you walking or were you not walking from the direction of the police barracks towards the bridge? A. Yes.

Q When you got to the bridge you saw two men down below on the ground?
A. I saw two of them lying in the water.

Q If you had your back to the barracks on which side of the bridge were the men lying, on the right hand side of the bridge or the left hand side?
A. They were lying in the stream and they were being carried along by the stream, down-stream.

Q If you were standing on the bridge with your back facing towards the barracks -- A. Which barracks?

Q The police barracks? A. This is the bridge and this is also the bridge, and I stood like this, and this is the stream in which the bodies were lying.

Q That is on the right hand side of the bridge if your back was towards the police barracks? A. The barracks are over there. (Indicating.)

Q Yes, that is right; it is on the right hand side. Were the three bodies on the right hand side or not? A. I only saw two of them lying in the stream and one of them was lying on the ground under the bridge.

Q If you went to the bridge again could you show the Court where those bodies were? A. Yes.

THE PRESIDENT: Do you wish to ask anything on that?

MAJOR TAYLOR: No.

MAJOR STONE: No.

(The witness withdraws.)

HENRICH SCHAFERS is called in, and, having been duly sworn, is examined by Major TAYLOR through the interpreter as follows:

- Q Is your name Heinrich Schafers? A. Yes.
- Q How old are you? A. 61.
- Q Do you live at 34 Richard Wagner Strasse, Essen? A. Bahrelle 6, Essen.
- Q Did you formerly live at 34 Richard Wagner Strasse? A. Yes.
- Q From October to Christmas 1944, were you in the Army? A. I was.
- Q Who was your commanding officer? A. Hauptmann Heyer.
- Q Do you recognise him in Court? A. Yes, there (indicating the accused Heyer).
- Q Was Hauptmann Heyer a Nazi or not? A. I do not know for certain, but in my opinion he was.
- Q Do you remember the 13th December of last year? A. Yes.
- Q Did you see three British airmen as prisoners in your barracks? A. Yes, in the school, in the canteen.
- Q At the barracks in the Mulheimstrasse? A. Yes, our company was there.
- Q Were the three prisoners marched off by an escort? A. When I came from the town I went down to the canteen and I saw these three prisoners sitting in the canteen.
- Q Were they taken off later under escort? A. I went upstairs and after a time I came down again and I just saw them being taken away in the direction of the town.
- Q Who did the escort consist of? A. Unteroffizier Helgus; I could not recognise any of the others because people were crowding about the prisoners.
- Q Did you find out later the names of the escort? A. It is said that Koeman was there too.
- Q Can you identify Koeman in Court? A. The man sitting next to Hauptmann Heyer (indicating the accused Koeman).
- Q Just as the prisoners and the escort were being marched off was Hauptmann Heyer there? A. Hauptmann Heyer and Hauptfeldwebel Grosses accompanied them for a certain distance, but after that they came back again.
- Q Did Hauptmann Heyer speak to any of the civilians? A. I did not hear it.
- Q Do you mean by that that he spoke to them but you did not hear what he said, or you did not see him speaking to civilians at all? A. I was at a distance from the crowd, from the witness stand to the well there, and the civilians were all crowding around the soldiers, so I could not see Hauptmann Heyer saying anything and I could not hear him either.
- Q How many civilians were there crowding round the soldiers? A. They came running up from all directions; twenty or thirty.
- Q Were they excited? A. Yes.

Q What was the next time that you saw the escort? A. I went down to town and in the evening I came back.

Q Did you see any of the escort at your mid-day meal? A. I was not there at the mid-day meal.

Q Do you know whether Koeman got leave directly afterwards or not?
A. I do not know.

Cross-examined by Major SWAN.

Q Did Koeman get a lot of leave then? A. I do not know whether he got leave or not; he would probably be the best man to tell you.

(The witness withdraws.)

FRIEZ GOUDAISENUS is called in, and, having been duly sworn, is examined by Major SWAN through the interpreter as follows:

Q Is your name Friez Goudaiseenus? A. Yes.

Q Are you 42? A. Yes.

Q Do you live at 600 Wickenburgstrasse, Essen-West? A. Yes.

Q Do you remember the morning of the 17th December last year, 1944? A. Yes.

Q On that morning were you repairing the roof of your house? A. Yes.

Q How far is your house from the Wickenburg bridge?
A. About 100 metres.

Q From where you were could you get a clear view of the bridge?
A. I was sitting on the roof.

Q Could you get a clear view of the bridge from the roof?
A. I only had a good view of the right hand side of the bridge.

Q While you were on the roof did you hear a lot of noise? A. Yes.

Q What did you see? A. I saw three English airmen being thrown over the parapet of the bridge.

Q What was the first thing that you saw? A. That was the first thing I saw.

Q Were they all thrown over at exactly the same moment? A. No.

Q Where were the English airmen at the first time you saw them?
A. At the spot where they had been thrown over the parapet.

Q Pull yourself together and listen to the questions before you answer them. Did you see the airmen before they had reached the bridge or not? A. No.

Q Did you see them before they were thrown over the bridge? A. Yes.

Q Is it correct that they were actually on the bridge when you first saw them?
A. Yes, I saw them on the bridge.

Q Who was with them on the bridge? A. Do you mean civilians?

Q Civilians or soldiers? A. I saw one soldier and one or two other.

Q How many civilians? A. About 30 or 40.

Q Did you hear anything shouted out by anyone? A. Yes.

- Q What was that? A. "Throw them off the bridge."
- Q What did the crowd do then? A. Then the English airmen were thrown down the bridge.
- Q Were they thrown over one at a time? A. On the right hand side of the bridge two were thrown over and on the left hand side one.
- Q The question I asked was whether they were thrown over one at a time? A. Yes.
- Q Apart from actually throwing them over were they hit or struck at all by the civilians? A. As far as I could see they were beaten.
- Q Will the Accused stand up. (All the Accused stand up in the dock.) Will you tell the Court if you can identify any of those men as taking part in the beating or the throwing over of the airmen? A. No.
- Q Are you quite sure? A. Yes.

*hostile
witness*

MAJOR TAYLEUR: I think I must make an application to have this man treated as a hostile witness, in view of his answer.

THE LEGAL MEMBER: On what grounds? If the witness does not say what you want him to say, that is no ground for treating him as a hostile witness.

MAJOR TAYLEUR: I agree; but when a witness makes a statement which is contrary in a material particular to one which has been made before, and particularly, I submit, when that witness is of the same nationality as the Accused, it is a matter which calls for very strong comment, and I submit that that is a ground in this case.

THE LEGAL MEMBER: What have you got to say about it, Major Stone? Major Tayleur has made an application to treat this witness as hostile, which means that he wishes to cross-examine him.

MAJOR STONE: I do not honestly see that I can object to his doing that. I feel that in his place I would do the same, if he says "No" when he said "Yes" two or three months ago in a sworn statement. I am not prepared to object to his application because I do not think I have any right to.

THE LEGAL MEMBER: Do you wish to make this formal application now, or do you wish to ask him any other questions in the ordinary method of examination-in-chief?

MAJOR TAYLEUR: I should much prefer to avoid this course if I can do so consistent with my duties as Prosecutor; so if I may I would like to ask a few more questions.

THE PRESIDENT: Very well.

MAJOR TAYLEUR: Do you know a man named Johann Branchoss? A. Yes.

Q Do you see him in Court today? A. Yes.

Q Do you know a man named Karl Kaufer? A. Yes.

Q Do you see him in Court today? A. Yes.

Q Were either of those two men on the bridge at the time you have been talking to us about? A. Yes.

Q Did you see them take any part in either beating any of the airmen or throwing them over the bridge? A. I cannot say for sure.

Q Why cannot you say for sure? A. The form of the bridge is such that I could only see things which are breast high.

Q But you were up on your roof, were you not?
A. Yes, but my house is situated at a declivity; it is rather low.

Q What were Druschows and Kaufer doing when you saw them on the bridge?
A. After the airmen were thrown over the bridge -----

Q I want to know before the airmen were thrown over the bridge?
A. I saw Druschows going from the left side of the bridge to the right hand side.

Q What was Kaufer doing? A. I saw Kaufer after the Allied airmen had been thrown over the bridge.

Q Did you see him before the Allied airmen were thrown over? A. No.

MAJOR TAYLOR: I must persist in my application.

THE LEGAL MEMBER: Do you wish to object, Major Stone?

MAJOR STONE: No.

THE PRESIDENT: The Court will adjourn until 2.15.

(At 12.50 hours the Court is closed.
At 14.15 hours the Court re-opens.)
(The Accused are again brought before the Court.)

THE PRESIDENT: The Court allow the application made by the Prosecutor.

THE LEGAL MEMBER (to the interpreter): Will you explain this to the Accused, that the Prosecutor has made an application to the Court to treat this witness as hostile and accordingly to cross-examine him, and that application has been granted.

Cross-examined by Mr. for TAYLOR.

Q Fritz Grossdehnus, do you remember making a sworn statement to a British officer in July? A. Yes.

Q After that statement was made was it read over to you in German? A. Yes.

Q Did you then sign the statement as correct? A. Yes.

Q Will you look at that statement. (Handed.) Is that your signature at the bottom? A. Yes.

Q Would you agree that your memory about these events would be more likely to be accurate in July than it is now? A. Yes.

MAJOR TAYLOR: I have the original German statement here as well as the English translation, and I think it would be better if the interpreter could put the passages I want to put to this witness in the exact words of the original German statement. (To the witness): I am going to read a passage from the statement that you made on oath in July: "I heard my wife and children shout and looked up and saw a crowd on the bridge moving about. Among this crowd I perceived three Allied soldiers dressed in blue-grey uniforms, one German soldier and many civilians. The civilians and also the German soldier I saw beating the airmen. I heard from the crowd exclamations as 'Throw them from the bridge'. Among the crowd who were fighting I saw with certainty Druschows, Kaufer and Kirober". Is that correct, what you said on oath in July? A. Yes, it is quite according to the things I put down in my notebook. (Witness produces notebook.)

Q What does the writing in that notebook consist of? A. In German.

Q What is in that notebook? A. Everything I saw.

Q When did you record the writing in that book? A. About a fortnight after the thing happened on the bridge.

Q Why did you write it down? A. Because I was sure that the case would be tried some time or other.

MAJOR PAYLSTER: I do not think that is sufficient for me to apply that he may refresh his memory from that; a fortnight later is a bit too long. (To the witness): Will you put the book away. The point is this: are the facts as read over by the interpreter a minute ago correct? A. Yes.

Q Then it is correct, is it, that amongst the crowd who were on the bridge fighting with the soldiers were Braschoss and Kaufner? A. Yes.

Q You say that two airmen were thrown over one side of the bridge? A. Yes.

Q Which side of the bridge, looking from Mulheimstrasse, was that? A. It seemed in the direction from my house it was to the right.

Q Is your house the same side of the bridge as Mulheimstrasse? A. Yes.

Q After the two airmen had been thrown over what happened to the third airmen? A. I saw the third airmen falling down the bridge through one of the spans.

Q Did the third airmen make any effort to get away? A. Yes.

Q Did anyone go after him and bring him back? A. He ran as far as the place where he was thrown down and at that spot he was thrown down.

Q Was that on the other side of the bridge? A. Yes, on the left side of the bridge.

Q After that had happened did you come down from the roof? A. Yes.

Q Did you make your way to underneath the bridge? A. Yes, I went to the place where one of the airmen was lying on the left of the bridge.

Q Were there any other civilians under the bridge? A. I saw Braschoss with an adult, a man, two boys and an unteroffizier.

Q What were they doing? A. They were busy with the body, and when I came to the spot they ordered me -----

Q What do you mean by saying they were busy with the body? A. They were undressing the body.

Q What did they do with the clothes and articles that they took from the body? A. I saw Braschoss taking something from the body but I did not see what it was, and the unteroffizier took a watch, a purse and I think it was a wallet and a map.

Q Then you say Braschoss asked you to do something. What was that? A. I think to help them to throw the body in the water.

Q Was that what Braschoss asked you to do? A. Yes.

Q Did you agree to do so? A. No.

Q Did Braschoss do it himself? A. Braschoss with two youths and an adult.

Q Did you then go back on to the bridge? A. After that I went on the bridge.

Q Could you look down under the bridge from the bridge? A. Yes.

Q How many bodies did you see from the bridge? A. Three.

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Q Where were they? A. One body was lying to the left and two bodies were lying to the right.

THE PRESIDENT: Do you mean to the left of the bridge?

A. To the left of the bridge.

MAJOR TAYLOR: Were the bodies on the banks or actually in the water?

A. When I was on the bridge the bodies were lying in the water.

Q Could you tell whether they were alive or dead? A. In my opinion the body lying to the left side of the bridge had a shot through his head.

Q Were any of the three bodies which you saw still alive? A. The two on the right side of the bridge were still living.

Q Was Kaufer on the bridge with you at that time? A. Kaufer was standing next to me on the bridge with a woman and the unteroffizier.

Q Did Kaufer say anything to the unteroffizier about the airmen who were still alive? A. Kaufer spoke to the unteroffizier and he wanted his rifle.

Q Why did he want his rifle? A. He probably wanted to shoot the soldier.

Q Did you actually hear him say why he wanted it? A. Yes.

Q What did he say? A. "Shoot those dogs who killed our wives and children."

Q What did the unteroffizier do? A. The unteroffizier tried to keep his rifle and said: "I am not allowed to shoot at those men".

Q Were any shots fired by either of them? A. The unteroffizier shot those two men lying in the stream.

Q How long did he do that after he had refused to give his rifle to Kaufer? A. It was a matter of seconds.

Q Can you describe the unteroffizier? Was there any peculiarity about him? A. He was blind in one eye.

Q Do you know Braschoss and Kaufer fairly well? A. I only know Braschoss after I saw him at the bridge, and I know Kaufer for a longer time.

Q Do you think there is any possibility of your being mistaken in identifying those two? A. Yes, I am certain that I would know them.

Q Is there any possibility of your being mistaken about them? A. There is not a possibility of my mistaking them, but they were looking so badly that I did not recognise them at first.

Q When you say "looking badly", what do you mean by that? A. They were very pale and thin; I did not recognise them.

Q Do you mean that they now look so pale that you did not recognise them as the same people you knew before; is that right? A. Yes.

Cross-examined by Major SERGE.

Q How far did you say your house was from the bridge? A. About a hundred metres.

Q How many people were there on the bridge? A. About 30 or 35 people.

Q How much of those people on the bridge did you say you could see from your house? A. It was a terrible riot really and I could not really say how many I saw.

- Q How much could you see? Did you not say you could only see them from here upwards? A. Yes.
- Q Is your eyesight very good? A. Yes.
- Q You think you could recognise three people among 30 or 40 of whom you could see only the heads at a range of 100 metres? A. Yes.
- Q One of whom you have told us you had never seen before you saw him on the bridge? A. Yes.
- Q Have you been consulting your notebook during the past two hours? A. Yes.
- Q I put it to you that your change in attitude during the last two hours may be due to your having consulted this notebook? A. No.
- Q Do you not regard it as strange that your memory should have improved so suddenly before and after lunch? A. I did not know.
- Q You did not know what? A. I did not know that I declared something else.
- Q I do not understand. Will you explain what you mean?
A. I have only declared what I have seen and I cannot declare anything else; I cannot declare what I have not seen at all.
- THE LEGAL MEMBER: If you are asking him about a change of attitude and you wish to pursue that, I suggest it might be plainer to the witness if you brought his attention to such details as in regard to which you think his attitude has changed.
- MAJOR STONE: I will do that in a moment. (To the witness): What exactly from your roof, 100 yards away, did you see Braschoss doing, this man you had never seen before? A. I only saw riots, and probably the airmen were defending themselves. I could just see a crowd of people milling around there.
- Q I am not interested in what the crowd was doing but in what Braschoss was doing? A. I saw Braschoss beat the airmen with his stick.
- Q How could you see Braschoss clearly among this crowd at all?
A. I could not make a mistake with Braschoss because he is lame and needs a stick to walk with.
- Q How could you see he was lame if you could only see his head? A. Yes.
- Q That does not answer my question. How could you see he was lame if you could only see his head? A. Because after the happenings on the bridge I saw Braschoss under the bridge.
- Q I put it to you that you saw Braschoss under the bridge and because you had seen him under the bridge you now assume he was also on the bridge?
A. I know for certain he was beating those airmen on the bridge.
- Q How do you know for certain? Did you see him with your own eyes doing so?
A. Yes.
- Q Did you see him doing anything else on the bridge? A. No.
- Q What did you see Kaufer doing on the bridge?
A. Kaufer wanted to take the rifle away from the unteroffizier ----
- Q No; what was Kaufer doing on the bridge when you were sitting on your roof?
A. I did not see him from my house.
- Q You say you saw nothing of Kaufer from the roof of your house?
A. No, I only heard voices.

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- Q When you went below the bridge and found a number of men robbing a body was that body dead? A. He was not dead because I could see balls of air coming through the blood running from his face.
- Q How many unteroffiziers did you see round about the bridge, either on it or below it? A. I saw one unteroffizier beneath the bridge and that was the unteroffizier with only one eye.
- Q Was that the only unteroffizier you saw? A. Yes.
- Q Who was the unteroffizier who Kaufer is said to have asked for a rifle? A. It was the unteroffizier with only one eye.
- Q He had come up from below the bridge on to the bridge, had he? A. Yes.
- Q When you made your statement in July, part of which has already been read to you, you said that you heard Kaufer ask the unteroffizier for the rifle in order to shoot the men in the stream? A. Yes.
- Q Now you have just given us the exact words that Kaufer said. Are you absolutely certain that you heard Kaufer say those very words? A. Yes, I know for sure because I warned Kaufer to take care because things would come to a bad end.
- Q Are you quite certain that Kaufer was not trying to get the rifle from the soldier in order to prevent the soldier shooting at the airmen? A. No.
- Q Do you mean you are not quite certain or what? A. In my opinion Kaufer wanted the rifle to shoot the soldier lying in the stream.
- Q I am not interested in your opinion; I am only interested in what Kaufer said or did. When you say "in my opinion", do you mean you assume that is why Kaufer wanted the rifle? A. I am sure Kaufer wanted the rifle to shoot the soldier because I warned Kaufer beforehand that if he did so things would come to a bad end.

Re-examined by Major RAYLEUR.

- Q Was the first time that you saw Kaufer that morning when he was on the bridge with the unteroffizier? A. What do you mean - on the same day?
- Q Yes. A. Yes.
- Q Why did you say in your statement in July that you saw Kaufer, Kircher and Braschoss before the bodies were thrown over? A. It was all a matter of seconds.
- Q Whether it was a matter of seconds or not, did you or did you not see Braschoss, Kaufer and Kircher on the bridge before the airmen were thrown over? A. I saw them right on the bridge and I saw Kaufer, Kircher and Braschoss among the crowd before the airmen were thrown down the bridge.
- Q You say that before Kaufer asked the unteroffizier for his rifle you had spoken to him and warned him. When was that? A. After the airmen were thrown from the bridge I heard Kaufer asking for his rifle.
- Q You told the Defending Officer that when you heard Kaufer ask for the rifle you warned him? A. Yes.
- Q Why did you warn him? A. I saw Kaufer trying to tear the rifle away from the unteroffizier and then I warned Kaufer: "Do not go on because things will come to a bad end".
- Q Was that before or after Kaufer said: "Shoot those dogs because they have killed our wives", that you warned him? A. It was after.

Q Was it because of his saying that that you warned him?
A. Yes, I warned Kaufer after Kaufer had said; "Shoot down these people" and so on.

Q Did you warn him because of what Kaufer said? A. Yes.

THE JURAL MEMBER: When you first saw this scene were you not on your roof?
A. Yes, I was on the roof of my house.

Q When did you come down from the roof of your house?
A. I heard my wife calling me to come down and see what was up on the bridge and then I came down.

Q Had the English airmen been thrown over the bridge before you left the roof?
A. Yes.

Q When you came down from the roof what did you do? A. I went up to one of the airmen lying in my garden.

Q How was it that the airmen came to be lying in your garden?
A. My garden extends to under the bridge and he came down in a piece of my garden.

Q You said this morning that Braschoss and Kaufer were not ill-treating the prisoners; is not that so? A. Probably it will be a mistake of mine.

THE JURAL MEMBER: Will the shorthand writer read the passage; it is just before the mid-day adjournment.

(The shorthand writer reads the following (page 16 of this transcript): "(Major Taylor): Did you see then (Kaufer and Braschoss) take any part in either beating any of the airmen or throwing them over the bridge? (A) I cannot say for sure. (Q) Why cannot you say for sure? (A) The form of the bridge is such that I could only see things which are breast high.")

THE WITNESS: That is right, what I recalled this morning; I could not be sure because there was such a riot.

THE JURAL MEMBER: Is your memory quite clear as to what you did see? A. Yes.

Q Did you or did you not see Braschoss beat the airmen?
A. I am not absolutely sure because it was such a riot.

Q You have told us that the unteroffizier fired a shot at one of the bottles. Where was Braschoss at that time; do you know?
A. Braschoss went over to the other side, to the left, where one of the bottles had come down.

Q Do you know where Kaufer was when the shot was fired? A. No.

THE PRESIDENT: Will you repeat what it was that Kaufer said to the unteroffizier when he asked him for a rifle? A. So Kaufer told the soldier to hand him the rifle because he wanted to shoot -----

Q Can you or can you not remember what the words were which were used by Kaufer?
A. In my opinion Kaufer said -----

Q You mean to the best of your recollection, do you? A. Yes, to the best of my recollection - "Shoot those dogs who have killed our wives and children".

Q How long after that was it when you say Kaufer tried to tear the rifle away from the unteroffizier? A. It was all in one second.

Q You said it was a matter of seconds after that when the unteroffizier fired the shots? A. It was just a matter of seconds and then the soldier

took his rifle and shot at the body in the stream.

Q Had Kauffer gone away by then or was Kauffer still there?

A. As soon as the soldier took his rifle and aimed at the body we dispersed — where was Kauffer? Was Kauffer still there or was he not?

A. Kauffer also went away and then about ten rounds were fired.

Q Was it before Christmas or after Christmas that you made the notes in the notebook?

A. It was about a fortnight after the things happened on the bridge.

Q Was what you wrote in that notebook than a true account of what you saw and heard?

A. I was interested in the case and I also added things I heard from other people.

Q Was what you wrote in the notebook at the time a true account of what you yourself had seen and heard?

A. What I wrote down are partly things I saw and remembered myself and partly things other people told me.

Q What did you write down that was told to you by other people?

A. I put down the address of the Unteroffizier and I was looking for the boys who were concerned in the case, the boys who helped Braschows to throw the bodies into the water. I also put down these addresses in my notebook. I also put down the address of Klyeber, who was in hiding.

THE PRESIDENT: Do you wish to ask anything arising out of that?

MAJOR PAYLNER: No.

MAJOR SPORN: No.

(The witness withdraws.)

ATTORNEY GENERAL'S is called in, and, having been duly sworn, is examined through the interpreter by Major PAYLNER as follows:—

Q Is your name Annewerte Conradshaus?

A. Yes.

Q Do you live at 600 Wickenburgstrasse, Essen-West?

A. Yes.

Q How old are you?

A. I am going to be 17; I am 16 now.

Q Do you remember the 13th December 1914?

A. Yes.

Q Were you out shopping that morning?

A. Yes.

Q Did you pass the Wickenburg bridge on your way back?

A. Yes.

Q What time were you at the bridge?

A. About 10 o'clock.

Q Will you tell the Court what you saw on the bridge when you got there?

A. Yes.

Q What was the first thing that attracted your attention?

A. I saw a crowd of civilians and I thought there must have been somebody they were trying to throw from the bridge.

Q Did you go up close to see what was happening?

A. Yes.

Q What did you see when you got close?

A. I saw three Allied soldiers and a German soldier too.

Q Can you describe the three Allied soldiers at all?

A. Yes.

Q Will you do so?

A. There was a sergeant with dark hair and there was a

taller than with light fair hair, and the third was of average height.

Q Did you notice anything about the sergeant's head? A. He was wounded and had a bandage round his head.

Q Do you know what rank the German soldier was? A. Unterofficer.

Q What were the civilians doing to the airmen, if anything? A. They were beating them with their sticks.

Q Will the Accused stand up. (The Accused stand up in the dock.) Will you say whether you can identify any of those men there as having beaten the airmen? A. I do not recognise any of them.

Q Do you know a man named Johann Braschoss? A. Yes.

Q Did he beat the airmen? A. Yes, with his stick.

Q Do you recognise Johann Braschoss in Court? A. I do not.

Q Is there anything particular about Johann Braschoss by which you can identify him? A. Yes, he limps.

Q Would you be able to recognise him if you saw him walking? A. Yes.

MAJOR PAYLOR: Sir, it is not very satisfactory to identify people when only half of them can be seen. I do not know whether the witness might see the Accused standing out in the well of the Court?

THE PRESIDENT: Yes. I think the witness had better be taken out of Court while the Accused are taken from the dock.

(The witness withdraws, and the Accused are brought into the well of the Court.)
(The witness is again called in.)

MAJOR PAYLOR: Will you walk up and down this row of men and tell the Court if you can recognise Johann Braschoss here.

(The witness walks along in front of the Accused, who are standing in line, and indicates the Accused Johann Braschoss.)

Q Do you know a man named Karl Kauffer? A. Yes.

Q Was he on the bridge on that morning? A. Yes.

Q Did you see him beat the airmen? A. Yes.

Q Can you see him in Court now? (The witness indicates the Accused Karl Kauffer.)

(The witness returns to the witness-box and the Accused are taken back to the dock.)

Q Do you know a man named Kircher? A. Yes.

Q Was he on the bridge too? A. Yes.

Q Was he also concerned in beating the airmen? A. I do not know for sure.

Q You have told us that Braschoss was beating the airmen. What was he beating them with? A. With his stick.

Q Do you know what Kauffer was beating them with? A. I am not sure about that.

Q Did you notice anything else that was being used by anyone to beat the airmen with? A. With a pump of a bicycle.

- Q Do you know who was using that? A. Kircher.
- Q For how long did the beating of the airmen go on on the bridge before anything further was done? A. About five minutes.
- Q What was the next thing that happened? A. Then they threw the Allied soldier of the average height from the bridge.
- Q On which side of the bridge, looking from your home, did they throw them over? A. Our house stands in such a position that we see the span of the bridge.
- Q If you were coming from Mulheimerstrasse which side of the bridge was it? A. On the right.
- THE LEGAL MEMBER: Do you know which way the stream flows underneath the bridge? A. Yes.
- Q The right-hand side from the Mulheimerstrasse, is that upstream or downstream? A. Downstream.
- Q So the first airmen was then thrown downstream? A. Yes.
- MAJOR TAYLOR: Did the first one that was thrown over actually land in the stream? A. No, on the railway.
- Q Who threw him over? A. I could not say for sure.
- Q Did any of the people that you have identified in Court have any hand in it? A. I do not know.
- Q Where did you go after the first airmen was thrown over? A. I stayed there.
- Q What happened then? A. Then they threw another soldier down the bridge, the left-hand side.
- Q Was that the second or the third soldier that was thrown? A. The second.
- Q Which one was that? A. The tall one.
- Q Did he say anything before he was thrown over? A. No.
- Q What happened to the third soldier? A. He said: "Please leave me alone, I have got a wife and children", and he pulled a photo from his wallet.
- Q What did the crowd do? A. He ran to the other side of the bridge to jump down.
- Q Did he jump down by himself or was he thrown? A. Kircher followed him on his bicycle and at the moment the soldier jumped up Kircher pushed him over.
- Q Where did you go after all three British airmen had been thrown over the bridge? A. I wanted to go home but when I saw that one of the soldiers was being undressed under the bridge I stopped.
- Q Did you go down close to the body? A. No.
- Q How near were you to it? A. About 30 metres.
- Q Was your father with you? A. No, my father was under the bridge.
- Q Who was undressing the body? A. It was Braschoss.
- Q Anyone else? A. I do not know the other two men.

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- Q Was Kaufer there? A. I do not know for sure.
- Q What did they do after they had undressed the body? A. They threw the body into the water.
- Q Did anyone ask your father to do anything? A. They wanted my father to help them, but my father answered them that he would not do it.
- Q Who asked your father to help them? A. My father says it was Kaufer; I could not say who it was.
- Q Was Kaufer there? A. According to my father he was.
- Q Did you see him yourself? A. No, I did not, because I was at too far a distance.
- Q Did you see an unteroffizier there? A. Yes.
- Q Did he do anything after the three bodies had been thrown from the bridge? A. He also went down below the bridge.
- Q Did he go back on the bridge at all? A. Yes.
- Q Were any shots fired at any time? A. Yes.
- Q Who fired them? A. The unteroffizier.
- Q Where was he when he fired them? A. He fired the shots before he went down below.
- Q He was on the bridge when he fired them? A. He was on the bridge when he fired them.
- Q Were all three airmen finally thrown into the stream? A. Yes.

Cross-examined by Major STONE.

- Q I want to try and get exactly what you know about the throwing over of the three airmen. Do you know who threw the first airman over the bridge on the right-hand side? A. No, I do not.
- Q Do you know who threw the second airman over the bridge on the left-hand side? A. Kircher.
- Q Do you know who threw the third airman over the bridge on the right-hand side? A. No, I am not sure.
- Q To the best of your knowledge Braschoss and Kaufer did not throw any of the three airmen over the bridge? A. I cannot say for sure because it is such a long time ago.
- Q To the best of your knowledge the answer is "No", is it? A. No.
- Q After the three airmen had been thrown over were any of them still alive? A. Yes, two.
- Q Which two were those? A. The two on the right-hand side.
- Q Do you know how those airmen ultimately came to die? A. Yes.
- Q How? A. One got a shot in his head.
- Q Who fired that shot? A. The unteroffizier.
- Q And the second one? A. A shot in the belly.

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- Q Who fired that one? A. The unteroffizier.
- Q Did you see any German soldiers except the unteroffizier either on or below the bridge? A. I saw a German unteroffizier of the Anti-Aircraft.
- Q Did you see any private soldier in the German Army? A. No.
- Q Have you seen this man before? (Indicating the Accused Koenen.) A. No.
- Q You have told us that two of the airmen were shot dead after they had been thrown over the bridge? A. Yes.
- Q Do you know how the third one died? A. Just about the same time he was thrown over he got a shot through his head.
- Q So you think he was partly killed by being shot in the head and partly by being pushed over? A. Yes.
- Q Who fired that shot? A. I do not know.
- Q Who pushed him over? A. Kircher.
- Q Do you know Franz Hartung? A. Yes.
- Q Do you recognise Franz Hartung, or did you recognise him when you were walking up and down the line of these men? A. Yes.
- Q Which is he? A. The third from the left (indicating the Accused Hartung).
- Q Did you see Franz Hartung on the bridge? A. No.
- Q Was he among the people you saw beating the airmen? A. No.
- Q Do you know Hugo Boddenberg? A. No.

Re-examined by Major TAYLOR.

- Q At the time the three British airmen were being beaten and thrown over the bridge how many civilians do you think there were on the bridge altogether? A. About fifty or sixty.
- Q Were they all trying to get at the prisoners or were some of them just watching? A. There were some who were just watching.
- Q How many of those fifty or sixty do you think were actually attacking the prisoners? A. Seven or eight.
- Q How many took part in the actual throwing of each prisoner over? A. There were two men who threw the first one over.
- Q What about the third? A. There was only one who threw the third man over.
- Q And the second? A. I could not say for sure, because at that moment I went away.
- Q Were you able to see the faces of the people who threw them over? A. Yes.
- Q Every one? A. No, not every one.
- Q If the seven or eight people who were attacking the airmen were all in Court today do you think you could identify every one of them? A. No.
- THE LEGAL MEMBER: You said that there were seven or eight men attacking the prisoners? A. Yes, about seven or eight who were occupied in throwing them over the bridge.

Q What were the others doing? A. While the first man was being thrown over the bridge the others were beating the two other airmen.

Q But there were about fifty or sixty civilians on the bridge? A. Yes.

Q Some of them spectators? A. Yes, there were a certain number of spectators.

Q Were some of those people shouting and cheering? A. Yes.

Q Encouraging those who were throwing them over the bridge and beating them? A. No, they cried that they should leave these men alone.

Q There were two very distinct parties, were there, those who wanted to kill the airmen and those who did not want the airmen killed? A. Yes.

Q In which party did Brasscross come? A. To the party who wanted to kill the airmen.

Q In which party did Kauffer come? A. I do not know.

Q You saw Kauffer, you have told us, on the bridge; is that correct? A. Yes.

Q Was he with the party of people that wanted to stop the crime that had been committed? A. No.

Q Do you remember making a statement before about this crime on the 20th July? A. Yes.

Q Do you remember saying then that the first airmen was thrown over by Brasscross, Kircher and Kauffer? A. Yes.

Q Why then do you say you are not sure who threw the first airmen over today? A. I did not know for sure.

THE PRESIDENT: How far down do you say the stream is from the bridge?
A. I could not say.

Q Could you give the Court some idea? Is it 10 feet, 30 feet or 100 feet?
A. About 10 or 15 metres.

Q You say that one airmen fell on the railway line; is that correct? A. Yes.

Q Is it as far from the bridge to the railway line as it is from the bridge to the stream down? A. No.

Q About how far would you say it was down from the bridge to the railway line?
A. About 5 or 6 metres.

Q How far away is the stream from the railway line? A. The railway line is somewhat higher than the stream.

Q How far is it from the railway line to the stream?
A. About 15 metres.

(The witness withdraws.)

(At 1615 hours the Court is closed.
At 1630 hours the Court re-opens.)
(The accused are again brought before the Court.)

AGNESS HUBERMAN is called in, and, having been duly sworn,
is examined by Major TAYLOR through the interpreter as follows:-

Q Is your name Agness Huberman? A. Yes.

Q Do you live at 5 Neckenbockweg, Nurem? A. Yes.

- Q How old are you ? A. I will be 75 in January.
- Q Do you remember the morning of the 13th December 1944 ? A. Yes.
- Q Is your house near a bridge which passes over a stream and a railway ? A. Yes, it is very near.
- Q On the morning of the 13th December did you see any British airmen being taken towards that bridge ? A. They stood with their hands up on the bridge.
- Q Who else was there apart from the British airmen ? A. One body was lying under the bridge ----
- Q Who else was there on the bridge apart from the British airmen ? A. Many civilians.
- Q Were there any German soldiers ? A. No soldiers, only German policemen standing near.
- Q Were they armed ? A. The policemen ?
- Q Yes. A. The British airmen were not armed.
- Q The British airmen, you say, were standing with their hands in the air. Why had they their hands in the air ? A. Because the soldier who was with them told them to put their hands up.
- Q What soldiers were with them ? A. The tall soldier told them to put their hands up.
- Q You have just told me that there were not any German soldiers but only policemen. Were there any German soldiers ? A. There were no soldiers, there were only German policemen.
- Q Who was it who told the British airmen to put their hands up ? A. The tall soldier told them to put their hands up, and they both pointed their rifles at them.
- Q Both who ? A. The soldiers who were escorting the airmen.
- Q How many German soldiers were escorting the airmen ? A. I only saw two.
- THE LEGAL MEMBER: There were in fact two German soldiers guarding the airmen; is that so ? A. There were only two of them, and they told the airmen to put their hands up.
- MAJOR TAYLOR:
- Q Were they pointing their rifles at them ? A. Yes, they were pointing their rifles at them.
- Q What were the civilians doing ? A. One of the civilians tore a wallet out of the hands of one of the airmen and he shook it and letters fell out, and the second airman showed a photograph of his wife and children.
- Q Did any of the civilians attack the airmen ? A. Many civilians beat the airmen.
- Q Did you notice what they used to beat them with ? A. They had rubber truncheons.
- Q Did you recognise any of the people who were beating any of the airmen ? A. I only recognised Hartung.
- Q Do you know Hartung well by sight ? A. Yes.
- Q Have you any doubt that it was he who was beating the airmen ?

- A. One of the other civilians took the trenchon away from Hartung and he beat the airman with it.
- Q Before the trenchon was taken away from Hartung did you actually yourself see him hitting the airman with it? A. Hartung did not do much, he only beat them once or twice and after that the trenchon was taken away by somebody else.
- Q Will the Accused stand up. (The Accused stand up in the dock.) Can you see Hartung there? A. The fifth from the right (indicating the Accused Hartung).
- Q What did he do after the stick was taken away from him?
A. He went home.
- Q Do you know where he got the stick from in the first place?
A. He must have taken it away from somebody else.
- Q Why do you say that? A. I would not know where else he could have got it because those civilians were just taking away the trenchons from each other.
- Q Could it have been his own property? A. No, because he went home without the trenchon, so it could not have been his.
- Q What happened on the bridge after he went home?
A. He went away and after about seven minutes -----
- Q I want to know what happened while he was away. A. Then the tall soldier told the civilians to beat the airman up and then soldier told them to put the airman against the parapet and then one of the airman jumped up on the parapet and fell down, and when he was below the bridge he lay there with his head on his arms.
- Q What happened to the other two airmen? A. One of the airmen jumped down, the other was thrown over and the third tried to escape. Then several civilians went down under the bridge.
- Q Had all three been thrown down there? A. Only two were thrown over at first and the other one went over the other side of the bridge.
- Q Was he thrown over? A. Yes, he was thrown over too, but on the other side of the bridge.
- Q What were the soldiers who had the rifles doing while these three prisoners were being thrown over the bridge? A. Both soldiers stayed on the bridge at first and the small one just looked on while the tall one aimed his rifle at the airman.
- Q When Hartung had the stick taken away from him and went home did he walk home or did he run home? A. He ran home rather quickly.
- Q Did he come back again to the bridge? A. Yes, he came back with a hammer in his hand.
- Q Was that after the three airmen had been thrown over the bridge?
A. Yes, he came back after the airmen were thrown over.
- Q Did you see where he went? A. He was at the entrance of the bridge.
- Q Did you see whether he went down under the bridge? A. No, Hartung did not go down.
- Cross-examined by Major STONE.
- Q Is it right to say that Hartung was not on the bridge when the three airmen were thrown over? A. No, Hartung was not there.

- Q Were all the three airmen still alive when Hartung left the bridge?
A. They were still standing there with their hands up.
- Q Were they all conscious?
A. When Hartung left the bridge the three of them were all conscious.
- Q How hard was Hartung hitting them with his rubber truncheon?
A. He only beat them two or three times and then they took his truncheon away from him.
- Q Can you say where he was hitting them - on the head or shoulders or where?
A. On their bodies.
- Q Could you recognise either of the two German soldiers again if you saw him?
A. I do not know; one was small, the other was a bit taller.
- Q Is that the small soldier?
(Indicating the Accused Koeman.) (The Accused Koeman and the Accused Hoyer both stand up.)
A. Yes, that is him.
- Q Which of them?
A. The tallest one of the two. (Note: the Accused Hoyer is taller than the Accused Koeman.)
- Q The one on the left or the one on the right? Would you like to go a little closer?
(The witness moves closer to the dock.)
A. One of them has something wrong with his eye. I do not know either of them.
- Q Do you know Branches?
A. Yes. (Indicating the Accused Branches.)
- Q Did you see Branches on the bridge at all?
A. No.
- Q Do you know Kauffer?
A. Yes. (Indicating the Accused Kauffer.)
- Q Did you see Kauffer on the bridge at all?
A. No. There were so many people on the bridge; I did not see Kauffer among them.
- Q How many people approximately were engaged in beating the airmen?
A. There was a large number of them.
- Q Five, twenty, thirty, or how many?
A. You could say about twenty.
- Q All beating the airmen?
A. About twenty were beating the airmen but not all at the same time.
- Q Will you care to the dock and see if you recognise this man?
(Indicating the Accused Bodenberg.)
A. No. There were so many there.

MAJOR SEXTON: No re-examination.

THE LEGAL COUNSEL: Were some of the people on the bridge shouting and encouraging the others to attack the airmen?
A. There were a number of people. I only know there were a number of people who said: "It is awful, what they are doing now; they should not do it". Then a very well dressed man came along the bridge on a motorcycle. He stopped the cycle and told the people to stop all-treating prisoners.

- Q Were the people excited?
A. Yes, very.
- Q Is it a high bridge?
A. About seven metres.
- Q From the bridge to the stream?
A. Yes. The soldier was lying here and the stream was about seven metres away.
- Q If you were standing on the bridge looking over the side of the bridge to the stream, how far do you say it is from where you are standing to where the water is?
A. I have just told you it was seven or eight metres.

- Q Would you say that the bridge was higher from the stream than this roof is?
A. It is about this height.
- Q How many metres do you say that is?
A. About eight metres.
- Q How far do you say the railway line is down from the bridge?
A. It would be about the same height.

(The witness withdraws.)

ANNA PRYCKE is called in, and, having been duly sworn, is examined by Mr. Justice EATLICK through the interpreter as follows:--

- Q Is your name Anna Prycke?
A. Yes.
- Q Do you live at 11 Wendenstrasse, Essen-West?
A. Yes.
- Q How old are you?
A. 49.
- Q Do you remember the morning of the 13th December 1944?
A. Yes.
- Q Is your house near the bridge that the Milbelstrasse runs down over?
A. Yes, it is the first house.
- Q Did you see anything that morning from your house which attracted your attention?
A. Yes, from my window I saw three Allied airmen with their hands up.
- Q Who else was on the bridge?
A. When I came to the bridge I did not see any people I knew.
- Q What people were there there, whether you knew them or not?
A. When I came to the bridge there were several people there, but I did not know them.
- Q What happened when you got to the bridge?
A. One of the men beat the Allied soldiers.
- Q Who was guarding the Allied soldiers?
A. The interpreter and another soldier.
- Q When the one civilian beat the airmen what happened next?
A. Then they threw them down the bridge.
- Q Who is "they"?
A. I do not know those people who threw them down.
- Q I do not want their names, but who were they? Were they soldiers or were they civilians?
A. They were civilians.
- Q How many of them were there, roughly?
A. At first there were about ten and after that there were about twenty, and after that a lot more came up.
- Q Were they all attacking the airmen?
A. Not all of them.
- Q How many were attacking or trying to attack the airmen?
A. I was very excited so I do not know for sure how many, but I think it was about four or five men attacking the airmen, and I was seeing them.
- Q What were they attacking him with?
A. With sticks.
- Q What did you do?
A. As soon as the first civilian beat one of the airmen I told him not to do so.
- Q What happened then?
A. After that the interpreter came up to me and pushed me away and said: "If you do not stop doing what you are doing now I

will have you put against the wall".

- Q Did you at any time recognise any of the people in the crowd? A. Yes.
- Q Who did you recognise? A. Broschke or Broschke.
- Q Can you see him in Court? A. Yes, he is here.
- Q Will you point him out? A. What he did I should not be able to tell, but I knew he was there.
- Q Did you see him there? A. Yes, he was there.
- Q Will you point him out now? (The witness indicates the Accused Broschke.)
- Q Anybody else? A. Kaufor was there too. (Indicating the Accused Kaufor.)
- Q Do you see anyone else there who you recognise?
A. Hartung. (Indicating the Accused Hartung.) He was there too, but he came at the end and everything was finished then.
- Q Apart from those three do you recognise anyone else? A. Yes, I would be able to recognise the unteroffizier.
- Q But do you recognise any of these seven men other than the three you have already pointed out? A. No.
- Q When Hartung came towards the bridge after the alarm had been thrown over did you notice if he was carrying anything in his hand? A. Yes, he had something in his hand.
- Q What was it? A. It was a hammer or some other kind of tool.
- Q Was he coming in a hurry or slowly? A. He just came walking down slowly and stopped beside me.
- Q Do you know whether he had been on the bridge before?
A. Before that time he was busy repairing his house.
- Q How do you know? A. I can see it from the window of my room.
- Q But if you were on the bridge yourself amongst the crowd would you know whether Hartung was in that crowd or not? A. No, he was not there while I was there.
- Q Did you see every single person who was on that bridge?
A. The people I know, I saw them.

Cross-examined by Major SEWELL.

- Q Did you see Broschke beat the alarm at all? A. I was so excited; I saw Broschke among the crowd, but I could not see what he did there.
- Q Did you not go down to the bridge with Herr Kaufor and Frau Kaufor?
A. No, I stayed on the bridge.
- Q But did you go down there to the bridge with Herr Kaufor and Frau Kaufor from your house? A. No, I was not with them together; we were not together; we were not in one party.
- Q Were you close to them on the bridge? A. Yes, I was in the neighbourhood of them.
- Q How close to Kaufor were you? A. He was in the midst of the crowd and I was standing on the outside of the crowd.
- Q Did you see anything of what Kaufor did? A. I did not see that either,

because I was so very much excited.

Q Can you remember anything at all of what you saw when you were on the bridge about individuals? A. I did not see anything about persons known to me, and I did not know the others.

MAJOR TAYLOR: No re-examination.

THE JURY: You say that Hartung came up slowly and stopped beside you?
A. Yes, he stood beside me.

Q Did he say anything to you? A. No, he did not say anything at all.

Q Did you say anything to him? A. No; I was crying. I was weeping, and he looked at me in a sad way and he did not say anything at all.

THE PRESIDENT: Do you wish to ask anything outside of that?

MAJOR TAYLOR: No.

MAJOR STORE: No.

(The witness withdraws.)

HENZ LOBER is called in, and, having been duly sworn, is examined by Major TAYLOR through the interpreter as follows:--

Q Is your name Heinz Lober? A. Yes.

Q Do you live at 56 Wickenburgstrasse, Essen-West? A. Yes.

Q How old are you? A. 15.

Q Do you remember the 13th December of last year? A. Yes.

Q Were you on that morning busy repairing the roof of your house? A. Yes.

Q Is your house near the Wickenburg bridge? A. Yes.

Q Did anything attract your attention on the bridge? A. Yes.

Q What did you see? A. My mother drew my attention to the things that were happening.

Q What did you see? A. I saw the three airmen walking down the road with their hands up.

Q Who was guarding them? A. There were three German soldiers escorting these airmen.

Q Do you know what rank they were? A. One of them was an unteroffizier, and I did not know what rank the other two were.

Q Were there civilians there as well? A. There were some civilians there too.

Q What happened when the soldiers reached the bridge? A. They were put with their backs against the parapet and they had to keep their hands up.

Q What did the civilians do then? A. They began to beat the Allied soldiers with sticks and other things.

Q How many civilians were beating or trying to beat the airmen, roughly?
A. I do not know for sure, but I think there would be about four or five.

Q Did you recognise any of them? A. Only one.

Q Who was that? A. Mr. Braschoss.

- Q Did you actually see him beat the alarm? A. Yes, with a stick.
- Q Do you know Herr Braschoss well? A. Yes, I know him well because he lives in our neighbourhood.
- Q Was he a member of the Nazi party? A. As far as I can remember I think he was a member of it.
- Q Can you see Braschoss in Court now? A. Yes.
- Q Which is he? A. The third from the right (indicating the Accused Braschoss).
- Q While the civilians were beating the alarm what were the German escort doing? A. They were just standing there with their rifles.
- Q What were they doing with their rifles? A. They pointed their rifles at them.
- Q How long did the beating go on? A. I cannot say for certain, but it must have been some minutes.
- Q What was the next thing that happened? A. Two of them were thrown from the bridge from the right-hand side and one from the left-hand side of the bridge.
- Q Were the two first ones thrown over on the right-hand side? A. Yes, the two first were thrown over the right-hand side.
- Q Did the third one try to escape at all? A. Yes, on the other side.
- Q What happened to him? A. He was also thrown over the bridge.
- Q Were they all killed by being thrown over the bridge? A. I do not know for sure, but I do not think so.
- Q Were any shots fired? A. When the third tried to escape I think one shot was fired.
- Q Were there any others at any other time? A. After those first two were thrown over and after they had been thrown into the stream they were shot at while they were in the water.
- Q Who fired the shots? A. I do not know for sure.
- Q Was it one of the soldiers? A. It must have been one of the soldiers because they were the only people who had rifles.
- Q Can you tell whether it was the unteroffizier or one of the other two? A. I do not know for certain.
- Q Did any of the civilians go down to the bottom under the bridge? A. While standing near the parapet of the bridge Mr. Braschoss passed us.
- Q Where did he go? A. He went down under the bridge to the left-hand side where the third airman was lying.
- Q Did you see anyone touch the bodies? A. I think they robbed the bodies.
- Q Did you see them doing that? A. I saw them robbing the bodies, but who robbed them I do not know.

Cross-examined by Major SPOFF.

- Q Apart from Herr Braschoss did you recognise any civilians you know on the bridge? A. No, none of the civilians.

Q If you were to see any one of the three German soldiers again would you recognize him? A. Yes, I know the unteroffizier.

Q But neither of the private soldiers? A. No, I do not know them.

MAJOR TAYLOR: No re-examination.

THE JUDGE: Did you actually see these airmen being thrown over the parapet of the bridge? A. Yes.

Q Did you see who threw them over? A. I do not know who threw them over; I only recognize Mr. Bruschoos beating the airmen.

Q How far away were you from the airmen when they were thrown over the bridge? A. When the first two airmen were thrown over the bridge I was looking through the window.

Q What about the third airmen? A. I was in the street then on the same side as where he was thrown over.

THE PRESIDENT: When the third airmen was thrown over how far away were you in the street from the airmen? A. I could not say for a certainty, but about 20 to 30 metres.

Q But you do not know who it was there when he was being thrown over? How many people threw him over? A. I think there were two.

Q Do you know who they were? A. I do not know them, I only know one of them was a cyclist and came down the bridge on a cycle.

Q How many threw the first two airmen over? A. I do not know. I did not see them.

Q What do you mean, you did not see them? You have told us that you saw them being thrown over? A. I really could not say how many caught hold of him and threw him over the parapet.

MAJOR STONE: May I ask one question arising out of what you have asked?

THE PRESIDENT: Yes.

MAJOR STONE: Did you see Herr Bruschoos have anything whatever to do with throwing the airmen over the bridge? A. No; I did not see anything at all.

(The witness withdraws.)

(At 1200 hours the Court is adjourned until 1015 hours tomorrow, Wednesday, 19th December, 1945.)

SECOND DAY

Wednesday, 19th December, 1945.

(At 1030 hours the Court re-assembles, pursuant to adjournment, the same President and Members being present.)
(The Accused are again brought before the Court.)

TUGG LODGE is called in, and, having been duly sworn, is examined by Major TAYLOR through the Interpreter as follows :-

Q Is your name Inge Lober ? A. Yes.

Q Do you live at 56 Wickenburgstrasse, Essen-West ? A. Yes.

Q How old are you ? A. 17.

Q Do you remember the morning of the 15th December last year ? A. Yes.

Q Were you in your house then ? A. Yes.

Q Is your house close to the Wickenburg bridge ? A. Yes.

Q Did something on the road attract your attention ? A. On which road ?

Q The road leading to the bridge ? A. Yes, I saw everything on that morning.

Q Will you tell the Court what you did see ? A. After a heavy attack on Essen, in the morning at about 10 o'clock my mother was busy carrying the broken furniture and the ruins from our house, and then I noticed a large crowd in the street, a crowd following three Allied airmen.

Q Who was guarding the airmen ? A. Three German soldiers were guarding them.

Q What happened ? A. The soldiers were driven to the middle of the bridge and then ---

THE LEGAL MEMBER: When you say "soldiers" do you mean the German soldiers or who ? A. I mean the Allied airmen.

MAJOR TAYLOR: How far was the crowd from the bridge when you first saw it ? A. They were just passing our house.

Q How far is your house from the bridge ? A. Perhaps about 50 metres.

Q Were there a lot of civilians there too ? A. Yes.

Q How many, roughly ? A. Perhaps thirty.

Q What were they doing ? A. They threw stones at the Allied airmen.

Q Were they excited ? A. Yes.

Q You say that then the British airmen were driven on to the bridge. What happened when they got on to the bridge ? A. They were driven to the middle of the bridge and then they were beaten.

Q Who beat them, the soldiers or the civilians ? A. The civilians.

Q What were the three German soldiers doing while the civilians were beating the airmen ? A. I do not know; I did not notice that.

Q How many of the civilians were actually beating or trying to beat the airmen ? A. I do not know.

Q How many roughly of the thirty people in the crowd were trying to get at the airmen to beat them ? A. Nearly all of them were throwing stones or beating them.

- Q Of the people who were beating or throwing stones, did you recognise any of them? A. Yes, I recognised Mr. Braschoss.
- Q Do you know him well by sight? A. Yes.
- Q Can you see him in Court now? A. Yes.
- Q Which is he? A. The third gentleman from the right (indicating the Accused Braschoss).
- Q You actually saw him beating the airman? A. Yes, with his stick.
- Q How long did the beating go on before anything else was done? A. I did not notice.
- Q What was the next thing you did notice? A. Then I saw them being thrown over the bridge.
- Q Were they thrown over one at a time? A. One after the other.
- Q How many civilians did it take to throw each one over? A. I did not notice.
- Q Did you notice who any of the civilians who threw them over were? A. No.
- Q Which side of the bridge were each of the airman thrown over? A. Two were thrown over from my side of the bridge.
- Q Which side is that? A. I was standing at the right-hand side of the bridge and two were thrown over the right-hand side.
- Q Did the third one try to get away at all? A. Yes.
- Q What happened to him? A. There were shots.
- Q Who fired the shots? A. A soldier.
- Q One of the three escorts? A. Yes.
- Q Did he hit the airman? A. I do not know.
- Q What happened to the airman then? Was he caught? A. He was thrown over the bridge but I do not know by whom.
- Q Which side of the bridge was he thrown over? A. The left side of the bridge.
- Q After the third one had been thrown over were any further shots fired? A. Two of them were already lying in the stream, and after that shots were fired.
- Q From the bridge? A. Yes.
- Q Did you then go down underneath the bridge at all? A. No.
- Q Did you see any civilians or soldiers go down under the bridge? A. Yes.
- Q Did you see anyone touching the bodies of any of the airman? A. No, I did not notice that; I only saw the airman being carried to the stream.
- Q Do you know if anything was taken from the bodies of the airman? A. Yes.
- Q What was that? A. The airman was undressed and he -----
- Q When you say he was undressed, do you mean that you saw some people taking his clothes off? A. Yes. He could only keep on his trousers.
- Q Did they take anything away and hand anything round? A. Yes.

Q What was that? A. I saw them taking the sweats out of his pockets.

Q Did you recognize any of the people who were undressing the airman?
A. I only saw Mr. Braschoss standing there, but whether he took anything I could not say.

Q How close was he to the body when you saw him?
A. He was standing just in front of the body.

Q After the body had been undressed what was done with it?
A. The body was thrown into the stream.

Q Did you see who threw it in?
A. Yes.

Q Who? A. I think it was a soldier, but I am not sure of it.

Cross-examined by Major STONE.

Q How close were you to the civilians who were beating the airman?
A. I was standing at the beginning of the bridge.

Q How far would that be - five or 10 meters?
A. About 15 meters.

Q Did you recognize anybody else besides Herr Braschoss among the people you saw beating the airman?
A. I did not notice anybody else.

Q Do you know Herr Kaufner?
A. Yes.

Q Did you see Herr Kaufner there?
A. No.

Q Can you see Herr Kaufner in this Court?
A. Yes.

Q Where?
A. The fourth gentleman from the right (indicating the Accused Kaufner).

Q Do you know Herr Hartung?
A. Yes.

Q Did you see Herr Hartung on the bridge?
A. No.

Q Can you see Herr Hartung in this Court?
A. Yes.

Q Where?
A. The third gentleman from the left (indicating the Accused Hartung).

Q Did you notice anybody that you knew among the civilians throwing the airman over the bridge?
A. No.

Q Or Herr Kaufner?
A. No.

Q Or Herr Hartung?
A. No.

Q Could you remember any of the three German soldiers who were on the bridge if you saw them again?
A. I do not know for sure, but it is possible.

Q Can you see any one of those soldiers in Court now?
A. Yes.

Q Which one is that?
A. The second gentleman from the right (indicating the Accused Koesten).

Q What, if anything, did you see him doing on the bridge?
A. I only saw him unfolding the map.

Q Did he make any attempt to prevent the civilians maltreating the airman or throwing them over the bridge?
A. I do not know.

- Q Do you know if he was the soldier who fired the shots?
A. I do not remember.
- Q Do you know if he was the soldier who threw the body into the stream?
A. I do not know.

Re-examined by Mr. J. S. GAVLER.

- Q Did you see the faces of all the people who were concerned in throwing the airman over the bridge?
A. I saw all these people, but they have not stayed in my memory; I do not know.
- Q So is it correct to say that your answer just now means that you cannot say whether any of these seven men were concerned in throwing them over or not?
A. No.
- Q I do not think that is quite as clear as it might be. Are you definitely saying that none of these seven had any hand in throwing the airman over the bridge, or are you saying that you do not know whether they had or not?
A. I did not see at all who threw the people over the bridge.
- Q You said just now that you saw the second man from the right (the Accused Koenen) unfolding a map. What map was that?
A. It was a map of Germany.
- Q Where had it come from?
A. He had a bag with him and he pulled out the map from this bag.
- Q Where was he standing when he did that?
A. On the left side of the bridge.
- Q Was he pointing his rifle all the time at the airman, until they were thrown over the bridge?
A. I do not know.
- Q Did you see him go down under the bridge at all?
A. There were three German soldiers who went down I could not say.
- Q How many German soldiers did you see go down?
A. I do not know for sure, but at least there was one.
- Q Do you know the ranks of the German soldiers? Were they all the same rank or was there one in command?
A. There was an unteroffizier.
- Q Was the one you saw under the bridge the unteroffizier or one of the others?
A. I did not notice.
- THE JURY, HERBERT: When you first saw this matter happening were you inside your house?
A. Yes.
- Q Did you later go down on to the end of the bridge?
A. Yes.
- Q What was happening when you left the house?
A. When I was in the street I saw the three Allied airmen walking in the direction of the bridge.
- Q So that you saw everything from the street from the time the Allied soldiers came on to the bridge?
A. Yes.
- Q Did they come from the end of the bridge you were standing on or from the other end?
A. From my side of the bridge.
- Q So they came past you?
A. The airman was walking towards the bridge in front of me and I came later.
- Q Were they far in front of you?
A. Perhaps about 30 metres.
- Q There was quite a large crowd behind the airman, was there?
A. Yes, I told you before there were about 30 people there.

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- Q Were you looking at the backs of the crowd then? A. At first, yes.
- Q Why do you say "at first, yes"? What happened to make the crowd turn round?
A. The crowd did not turn about, but the airmen were stopped and they were beaten and then there was a riot and people were looking this way and that way.
- Q Did you follow with the crowd? A. I stopped at the beginning of the bridge.
- Q Were there shots coming from among the crowd?
A. They were shouting, but what they shouted I did not hear.
- Q Were they shouting threats against the airmen? A. I cannot remember.
- Q Think carefully. Do you remember anyone shouting: "Throw them off the bridge"? A. No.
- Q Do you remember anybody shouting: "Shoot those dogs who killed our wives and children"? A. No.
- Q You saw quite plainly that the airmen were being beaten? A. Yes.
- Q Were they heavily beaten? A. Yes.
- Q So much so that they might have been injured or could have been injured by the blows they received? A. Yes.
- Q Do you think they might have had bones broken by the weight of the blows?
A. I do not know; it could be so, but I am not certain.
- Q Do you know Braschoss quite well? A. Yes.
- Q Did you watch what he was doing all the time?
A. I saw Braschoss beating one of the airmen with his stick, and after that I turned about and I did not see anything else and I do not know how many times he hit one of the airmen.
- Q When the airmen were thrown over the bridge were they facing you, were they half-face or were their backs to you? A. I cannot remember.
- Q Were you looking when these airmen were thrown over the bridge?
A. I only saw the last one clearly.
- Q Were the soldiers who formed the escort between you and the airmen? A. Yes.
- Q How far away were the German soldiers from you, approximately?
A. I was in the immediate vicinity of the soldiers, standing close to them, and after a while I was at a larger distance from them.
- Q Were you close enough to see clearly that it was a map of Germany that one of the escort was looking at? A. Yes.
- Q Did you at any time see any of the soldiers try to protect the airmen from the crowd? A. No.
- Q Did they keep the airmen covered with their rifles? A. I do not know.
- Q You were quite close to the soldiers, were you not?
A. Yes, I was quite close to one of the soldiers.
- Q Did he have a rifle? A. I do not remember.
- Q Was the soldier you were quite close to the soldier you have identified in Court today? A. Yes.

THE PRESIDENT: Do you remember making a statement about this matter to an

officer last July? A. Yes.

- Q Do you remember saying in that statement: "I went somewhat further down towards the bridge up to the bank of the valley"? A. I do not remember.
- Q Do you remember saying this: "and saw the third Allied soldier lying underneath the bridge"? A. I saw him lying there while I was standing on the bridge.
- Q Do you remember saying: "At least one of the German soldiers with Braschoss were busy undressing and robbing the airman"? A. I only saw Braschoss standing there, but whether he did anything or took anything ---
- Q That was not the question I asked. The question I asked was: do you remember saying that in the statement that you made last July?
A. I only said that Mr. Braschoss stood there and whether he took anything or did anything I could not say.
- Q Did you sign that statement after you had made it? A. Yes.
- Q Did you read it? A. Yes.
- Q Do you know this bridge quite well? A. Yes.
- Q If you are standing on the bridge looking down at the water in the stream how far down is the water from you? A. 10 metres.
- Q If you are standing on the bridge looking down at the railway lines how far down from you are the railway lines? A. Perhaps five metres.

THE PRESIDENT: Do you wish to ask anything arising out of that?

MAJOR TAYLOR: No.

MAJOR STONE: No.

(The witness withdraws.)

ELISABETH SCHMIDT-PFEIFFER is called in, and, having been duly sworn, is examined by Major TAYLOR through the interpreter as follows :-

- Q Is your name Elisabeth Schmidt-Pfeiffer? A. Yes.
- Q What is your address? A. 22 Bingerstrasse, Essen-West.
- Q How old are you? A. 34.
- Q Do you remember the morning of the 13th December last year? A. Yes.
- Q Were you out for a walk that morning? A. I went to see if I could get some water or some bread after the attack.
- Q Had you a friend with you? A. I had my neighbour with me.
- Q What was her name? A. Mrs. Lipninski.
- Q While you were out with Frau Lipninski did you see a crowd coming from the direction of Kruppstrasse? A. We were walking down Mulheimerstrasse and we saw the crowd coming up Mulheimerstrasse.
- Q What did the crowd consist of? A. Three foreign airmen, and behind the airmen was a German soldier.
- Q Were there many civilians there? A. Very many.
- Q Was there anyone behind the civilians? A. What do you mean?

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Q Was anyone else walking apart from the civilians, the escort and the airmen who was concerned with the crowd? A. Near Burgostrasse there was a hauptmann and a feldwebel.

THE LEGAL MEMBER: A hauptmann is the equivalent to a captain, is it?

MAJOR TAYLOR: Yes.

THE LEGAL MEMBER: What is a feldwebel?

MAJOR TAYLOR: A serjeant.

MAJOR STONE: I think the man about whom she is speaking was a hauptfeldwebel, roughly equivalent to an RSM.

THE LEGAL MEMBER: Interpreter, would you translate them to the equivalent ranks.

THE INTERPRETER: Yes.

THE LEGAL MEMBER: What is the equivalent of an unteroffizier?

MAJOR TAYLOR: That is a corporal or a senior lance-corporal. (To the witness): You say that you saw a captain and a serjeant walking along behind; is that correct? A. The hauptmann and the feldwebel came out of school, and then he told one of the escorting soldiers to come back.

Q Did you recognise the hauptmann? A. I would not be able to recognise him because I had not seen him before.

Q Can you see him in Court today? A. No, I would not be able to recognise him.

Q Will the Accused stand up. (All the Accused stand up in the dock.) Will you go up and look at each one of those men closely and then tell me whether you can recognise him? (The witness walks over to the dock.) A. I know for sure I would not recognise him.

Q How do you know you are sure? Will you do what you are told and look at each one individually and carefully and then tell me? (The witness scrutinises the Accused.) A. No.

Q Will you do what I told you to do, stand in front of each one of those Accused individually and look at them carefully and then tell me? (The witness scrutinises the Accused.) A. No.

Q Have you ever heard of a man named Hauptmann Hoyer? A. Yes.

Q In what circumstances have you heard of him? A. Before that time or at the time the affair took place?

Q At any time? A. I only heard the name "Hoyer" on the morning of the affair.

Q What did you hear about him on the morning of the affair? A. I heard Hauptmann Hoyer telling the civilians ---

Q You said you heard Hauptmann Hoyer; how did you know it was Hauptmann Hoyer? A. I heard that afterwards on the way home.

Q Who was the person that you later heard to be Hauptmann Hoyer? A. I would not be able to say.

Q Pull yourself together and listen to the question.

THE LEGAL MEMBER: Major Taylor, I am inclined to think that you will probably get the answers to your questions in a roundabout way if we hear all she says in reply and you then repeat the question if the answer does not satisfy you.

MAJOR TAYLOR: I do not know what she was saying in reply.

THE INTERPRETER: She said that on her way back someone told her that Hauptmann Hoyer said those words.

MAJOR ZWITSER: What words? A. "Civilians, attack those dogs and kill them because they are the people who killed your wives and children."

Q Did you hear that said yourself? A. Yes, because that was repeated a few times.

Q Was that said by the Hauptmann that you have just told us about who was walking with the Feldwebel? A. Yes.

Q You said you were later told that that man was Hauptmann Hoyer; is that right? A. Yes.

Q How many times did he say that? A. He repeated his words several times.

Q Did he shout them out or just say them in an ordinary voice? A. Yes, he said them in a loud voice.

Q Did the words have any effect on the crowd? A. Yes.

Q What effect did they have? A. One of our neighbours went up to the tall airman who was injured and hit him.

Q How did he hit him? A. With his hand against his shoulder.

Q Was it with his open hand or his closed hand?

A. I could not say; I can only say he struck him on the shoulder.

Q How many times did he do that? A. Several times.

Q What is the name of the man who did that? A. Mr. Sembol.

Q Can you see him in Court today? A. Yes.

Q Would you point him out? A. The last gentleman (indicating the Accused Sembol).

Q Has Sembol spoken to you at all about this incident after it?

A. He did not say anything to me, he only said something to a young woman. He said: "What I did not they do anything at all? Just have a look at my house."

Q When did he say that? A. On the road back home, because Mr. Sembol went home with us.

THE LEGAL MEMBER: To whom did he say those words? A. To a young woman.

Q How do you know? A. Because we were together.

Q Did she tell you or what? A. I heard it myself.

MAJOR ZWITSER: Were those words in answer to any remark made by the young woman? A. Yes.

Q What had she said? A. "What have they done? They have only done their duty."

Q Did Sembol know that you had seen him hit the airman? A. Yes, he must have.

Q Did he at any time later speak to you about your knowing it? A. Yes, later.

Q How much later? A. Then Germany was already occupied.

Q Was that after the investigation of this case had started by the British authorities ? A. No.

Q What did he say to you about the case ? A. That he had not done anything, he followed the crowd but he did not do a thing.

Q Had you in any way made it known that you knew about what he had done ? A. Yes.

Cross-examined by Major SEQUE.

Q Do you think that the airman who Herr Sembol hit was hurt by the blows he received ? A. No.

Q Could he walk perfectly well afterwards ? A. Yes.

Q And after the blows had been delivered did Herr Sembol go home with you ? A. Yes.

THE LEGAL MEMBER: When you saw the crowd of people around the airman were they being ill-treated generally by the crowd ?

A. No, I did not recognise anybody, I only saw Sembol.

Q I am not asking you whether you recognised anybody in the crowd. Was there a crowd of people there ? A. There were several people standing round the airman and there were also people coming down on their knees and they got off their bikes and mixed with the crowd.

Q Did you see anyone other than Sembol hit any of the airman ? A. No.

Q Sembol was the only one that hit any of the airman ?

A. I did not see anybody else.

Q What is the name of the young woman to whom Sembol made the remark you have mentioned ? A. I do not know.

Q Is she a friend of yours ? A. No.

Q Did you walk away from the crowd or did you stand still and let the crowd leave you ? A. We met the crowd and the crowd passed us and then we turned round and after that we went straight home.

THE PRESIDENT: Do you wish to ask any questions arising out of that ?

MAJOR TAYLOR: No.

MAJOR SEQUE: No.

(The witness withdraws.)

(At 1130 hours the Court is closed.

At 1140 hours the Court re-opens.)

(The Accused are again brought before the Court.)

THE PRESIDENT: Will you tell the Accused that it is now proposed to employ Sergeant Klyn as an independent interpreter and ask them if they have any objection to his being so employed.

(All the Accused reply that they have no objection.)

(Sergeant P. Klyn, Interpreters Pool, is duly sworn as interpreter.)

Mrs. MARY SCHMIDT-FRIEDER is again called in and is further questioned by the Legal Member through the interpreter as follows :--

Q You told us that a crowd of people collected round the three airman ?

A. Yes, there was one on the left and the rest were on the right.
Q Do you know who the one on the left was ? A. Yes.
Q Who was it ? A. Herr Sembol, on the left-hand side of the tall airman.
Q Did you see anyone from the crowd on the right-hand side hit the airman ?
A. No.

THE PRESIDENT: Do you wish to ask any questions arising out of that ?

MAJOR TAYLOR: No.

MAJOR STORE: No.

(The witness withdraws.)

Frau WILMA JANSEN is called in, and, having been duly sworn, is examined by Major TAYLOR through the interpreter as follows :--

Q Is your name Frau Wilma Jansen ? A. Yes.
Q Do you live at No.2 Hofengarten, Essen ? A. Yes.
Q How old are you ? A. 34.
Q Do you remember the morning of the 13th December 1944 ? A. Yes.
Q On that morning were you walking in Kruppstrasse near where it joins Mulberrastrasse ? A. Yes.
Q Did you see a crowd passing the road junction just in front of you ?
A. I met the crowd near the barracks of the O.F.; that is a German organisation for building things.
Q What did the crowd consist of ? A. Many civilians and three soldiers.
Q What nationality were the soldiers ? A. Germans.
Q Were those Germans escorting anybody ? A. They were following the crowd with their rifles under their arms.
Q Who were the crowd following ? A. In front were the airman.
Q What airman ? A. Allied airman.
Q How many ? A. Three.
Q Who were nearest to the three airman, the crowd of civilians or the three German soldiers ? A. The civilians.
Q What were the civilians doing ? A. They beat the Allied airman.
Q What did they beat them with ? A. They beat them with sticks and they were throwing stones at them, and one of them beat the airman with his belt.
Q How many civilians altogether were attacking the airman ?
A. I could not say for certain, but there would be about 20 or 25 of them.
Q Did you recognise any of the civilians who were striking the airman ? A. Yes.
Q What was his name ? A. Hugo Boddenberg.
Q In what way was he attacking the airman ? A. He had a belt in his hand.
Q How many times did you see him strike the airman with a belt ? A. I could not say.

- Q More than once? A. Yes.
- Q Was he hitting him hard with it? A. Yes, he kept on beating.
- Q Do you think he hurt the airman? A. No, I could not say for sure.
- Q Will the accused stand up. (All the accused stand up in the dock.) Can you see that man in Court now? A. Yes.
- Q Which is he? A. The second from the left (indicating the accused Boddenberg).
- Q Do you know him well? A. Yes.
- Q Where did the crowd go to? A. In the direction of the cemetery.
- Q Where is the cemetery? A. That is in the neighbourhood of Wickenburg.
- Q Do you know the Wickenburg bridge? A. Yes.
- Q Did the crowd go in that direction? A. Yes, in the direction of the bridge.
- Q Did you follow them? A. Yes, I had to go in the same direction because that was on my way home.
- Q How far were you behind the crowd? A. About four or five metres.
- Q Did Boddenberg go with the crowd as far as the bridge? A. Yes.
- Q What happened to the airman when they got to the bridge? A. They were thrown over the parapet.
- Q Did you see them thrown over? A. Yes, in all that riot I saw them being thrown over.
- Q Who threw them over, civilians or soldiers? A. Boddenberg was in the centre of the crowd, but I did not see who threw them over.
- Q What were the three German soldiers doing while the airman were being thrown over? A. They were in the neighbourhood; they kept in the neighbourhood.
- Q Had they got their rifles pointing at the airman? A. Yes.
- Q Did you see any shots fired? A. After the airman were thrown into the water, yes.
- Q Who fired the shots? A. A soldier with a glass eye; I did not notice the others.
- Q How many shots did he fire? A. Several times, but I do not know how many times.
- Q Apart from Hugo Boddenberg do you know any of these seven men? A. No.
- Cross-examined by Major SMYTH.
- Q Was it on the bridge that Boddenberg was beating the airman with his belt? A. Yes.
- Q Did you happen to notice with which end of his belt he was beating them? Was it with the buckle end or was it with the leather end? A. I do not know.
- Q You say that when the crowd threw the airman over the bridge Boddenberg was in the centre of the crowd? A. Yes.

Q Did you actually see him lay a hand on any of the airmen who were thrown over the bridge? A. No, I did not see.

Q Can you remember anything of the three German soldiers that you saw, that they were like? A. I only saw one of the infantryman and I saw he had a glass eye.

Q Do you remember a little soldier among the three? A. The little one was a Flak unteroffizier.

Q Do you remember a small infantry private soldier? A. No, I do not remember.

Re-examined by Major TAYLOR.

Q What type of belt was it that Boddenberg was using to beat the airmen?
A. An Army belt, I think it was.

Q Leather? A. Yes.

THE LAYAL WISHER: Did Boddenberg say anything or shout anything in your hearing during this incident? A. I told him to stop, and he said to me that it was their fault that we had had such a bad time the night before.

Q Did he say that in a loud voice? A. No, only that I could hear.

Q This crowd formed rather a tumult, did it not? A. Yes.

Q There was a good deal of shouting? A. Yes.

Q Were the people very excited? A. Yes.

Q Did you understand from what was going on what the crowd intended doing with the airmen? A. I heard the Flak unteroffizier saying: "Throw them down the bridge".

Q Did the crowd seem to agree with that suggestion? A. No.

Q Were you surprised to find that the airmen had been thrown over the bridge?
A. Yes, I was, and I told the Flak unteroffizier he should not do it.

Q I did not ask you whether you were shocked at seeing the airmen thrown over the bridge but whether you were in all the circumstances surprised? I want to know whether the death of these airmen was the natural result of what was happening, not whether you were horrified? A. I thought they would throw the airmen down after hearing the words of the Flak unteroffizier, but at first I did not expect the crowd to do it.

Q At what stage did the Flak sergeant shout out that remark which you have mentioned? A. When they came to the beginning of the bridge.

Q Was Boddenberg among the crowd on the bridge? A. Yes.

Q That was after the Flak sergeant's remark? A. Yes.

Q Were there ringleaders in the crowd? A. I do not know.

THE PRESIDENT: Do you wish to ask any questions arising out of that?

MAJOR TAYLOR: No.

MAJOR SPENCE: No.

(The witness withdraws.)

JOSEFINE RELING is called in, and, having been duly sworn, is examined by Major TAYLEUR through the interpreter as follows :-

Q Is your name Josefina Reling ? A. Yes.

Q Do you live at 14 Wienbuschstrasse, Essen-West ? A. Yes.

MAJOR TAYLEUR: This witness concerns one of the persons mentioned in the charge but who is not before the Court, and for the purpose of proving the charge as laid I have to get evidence on this; but as it is formal so far as my friend is concerned he has no objection to me leading on it. (To the witness): How old are you ? A. 31.

Q Do you remember the killing of three British prisoners of war on the 13th December last year ? A. I only heard about it from others but I was not here myself.

THE LEGAL MEMBER: Do you wish to refer to Article 8 ?

MAJOR TAYLEUR: No, not at this moment. (To the witness): Do you know a Frau Ganssere ? A. Yes.

Q Shortly after the incident did you visit her house and discuss the incident ? A. Yes.

Q Was Frau Ganssere's sister there as well ? A. Either her sister or her sister-in-law.

MAJOR TAYLEUR: I think I should refer to Article 8 in the sense that this is hearsay evidence.

THE LEGAL MEMBER: It naturally goes to weight although not to admissibility, and therefore I think it is useful that we should know on what grounds this evidence should be admitted.

MAJOR TAYLEUR: I am referring to Article 8 of the Regulations for the Trial of War Criminals, which says this: "If any witness is dead or is unable to attend or to give evidence or is, in the opinion of the Court, unable so to attend without undue delay, the Court may receive secondary evidence of statements made by or attributable to such witness."

THE LEGAL MEMBER: Can you satisfy us as to the condition in this case ?

MAJOR TAYLEUR: In this case I can assure you that every effort has been made to find this witness but she cannot be traced. (To the witness): Is this sister or sister-in-law of Frau Ganssere married to a man named Paul Tews ? A. I did not know at the time that his name was Tews.

Q Have you ascertained that since ? A. Only a short time ago I heard his name was Tews.

Q Did Frau Tews give her view of the rights or wrongs of the killing of Allied airmen ? A. Yes.

Q Did she think it was right or wrong that they should have been killed ? A. That it was right that they should have been killed.

Q Did she say whether or not her husband had taken any part in the killing ? A. Yes.

Q What did she say he had done ? A. He shot.

Q At who ? A. I do not know.

Q On the bridge ? A. I do not know whether it was on the bridge or under the bridge.

Q Did she say that he had taken part in the killing of the airman? A. Yes.

MAJOR STORE: No questions.

(The witness withdraws.)

MAJOR TAYLOR: That concludes all the living witnesses whom I am calling. I have several affidavits which I shall proffer to the Court as the witnesses cannot be traced.

THE PRESIDENT: The Court have decided to view the bridge this afternoon. The Court will adjourn now and will re-assemble at the Wickenburg bridge at half past 2.

(At 12.45 hours the Court is closed.)

(At 14.30 hours the Court re-assembles on the Wickenburg bridge. The President, Members, Prosecutor, Defending Officer, the seven Accused, the Interpreter and shorthand writer being present.)

FRAN KARA STINE is recalled on her former oath and is questioned through the Interpreter as follows:--

THE PRESIDENT: Frau Glase, will you point out the three places on the ground where you saw the three bodies lying.

(The witness goes down underneath the bridge and points out to the Court in the presence of the Accused a spot on the ground about 15 feet on the downstream side of the bridge.)

THE WITNESS: One of the men was lying here. The other two airmen were lying in the stream; one was dead and the other was still alive.

THE PRESIDENT: Where were the other two?

(The witness proceeds along the bank of the stream to a spot about 200 yards on the downstream side of the bridge.)

THE WITNESS: I was standing near the house here and I saw it happen. Two were lying in the stream and going downstream in the water; one was still alive, one was dead.

THE PRESIDENT: Did you see any of these airmen thrown over the bridge? A.No.

Q About what time was it that you saw these two and the other one?
A. I do not know.

THE PRESIDENT: Major Taylor, do you want to ask any questions?

MAJOR TAYLOR: Was the level of the stream then the same as it is now?
A. About the same.

Q What sort of day was it, frosty or wet or what?
A. It was about the same kind of day as today. (Plms and mldd.)

THE PRESIDENT: Major Store, do you wish to ask any questions?

MAJOR STORE: No.

THE PRESIDENT: That terminates the view.

(At 15.15 hours the Court re-assembles at the place of trial.)
(The Accused are again brought before the Court.)

MAJOR TAYLOR: Two more of my witnesses have arrived, and with your permission I will now call them.

Frau HEINIG IRPINSKI is called in, and, having been duly sworn, is examined by him for EVIDENCE through the interpreter as follows :-

- Q Is your name Frau Hedwig Lypstineid ? A. Yes.
- Q What is your address ? A. Bingerstrasse 22, Essen-West.
- Q How old are you ? A. 45.
- Q Are you a friend of Frau Schmidt-Pelffer ? A. Not a friend, a neighbour.
- Q Were you in her company on the morning of the 13th December 1944 ? A. Yes.
- Q Were you near the entrance of the Mulheimerstrasse barracks ?
A. The Mulheimerstrasse school.
- Q Was that being used as a barracks at the time ? A. Yes.
- Q Did you see anyone coming out of there ? A. Yes.
- Q Who did you see ? A. I saw three airmen taken out.
- Q Who was escorting them ? A. A captain, a warrant officer and two soldiers.
- Q Were there any civilians there as well ? A. In the street.
- Q Do you know the name of the captain ? A. Yes.
- Q What was his name ? A. Hoyer.
- Q Did you hear him say anything ? A. Yes.
- Q What did he say ? A. "Civilians, attack these airmen; they are not men but murderers."
- Q Did he say that in a loud voice or in an ordinary talking voice ? A. Loud.
- Q Did he say it once or more than once, or words to that effect ?
A. More than once.
- Q Did those words of his have any effect on the civilians ?
A. Not at first, but afterwards.
- Q What happened afterwards ? A. After that these civilians gathered and beat the airmen.
- Q Did Captain Hoyer, do you think you could recognise him again ?
A. I only saw him for the first time then.
- Q Do you think you would be able to recognise him now if you saw him ?
Will the Accused stand up. (All the Accused stand up in the dock.)
A. I think it is the first man.
- Q Will you point to the man you call the first.
A. The first one, with the bandage. (Indicating the Accused Hoyer.)
- Q Did you notice what the three British airmen looked like ? A. Yes.
- Q Can you describe them at all, how they were dressed or what they looked like ?
A. The airmen walking to the right was a tall man, and he could be about 22 or 23 years of age.
- Q And the next one ? A. The airmen walking in the middle was slightly smaller and he could be about 30 to 32 years of age, and he had a bandage round his head.

Q What was the third one? A. The third airman was older; he could be about 36 or 37 years of age.

Q How were they dressed? A. They were very well dressed, but the airman walking between the other two had no shoes on.

Q What colour uniform were they wearing? A. They had leather jackets.

Q You say that you saw some of the civilians hitting these airmen. Did you recognise any of those civilians? A. Yes.

Q How many did you recognise? A. One.

Q What was his name? A. Mr. Sambol.

Q Do you see him in Court? A. Yes.

Q Which is he? A. The last one.

Q Will you come across to the dock and point to the one you identify as Sambol? (The witness goes to the dock and indicates the Accused Sambol.)

Q Do you know him well? A. Yes.

Q In what way did he strike the airman? A. With his hands.

Q Where did he strike the airman? A. On his back.

Q Did he hit him more than once? A. Only once.

Q Was it a hard blow? A. No.

Q Did Sambol say anything to you then or later about what he had done? A. No.

Q What did he do after he had struck the airman? A. He went back with us home.

Q Was it after Captain Hoyer had called out these words that Sambol hit the airman? A. Yes.

Q While Sambol was hitting the one airman were other civilians hitting the others? A. Yes.

Q Was the crowd excited? A. Yes.

Q Did you follow the crowd when they moved off? A. No.

Q You say that there was a Hauptfeldwebel with Hauptmann Hoyer. Can you describe him at all? A. Yes.

Q What did he look like? A. He was tall and heavy and he limped slightly.

MAJOR SPENCER: No questions.

THE JUDGE: Do you know the Wolkensburg bridge? A. Yes.

Q How far is it from the barracks from which these airmen came out? A. About ten minutes walking.

Q You say that Sambol came back with you? A. Yes.

Q How long did he stay with you? A. Not long, because we live in the neighbourhood.

Q Did he go into your house with you? A. To his own house.

Q When the civilians gathered round the airmen and started beating them were they excited? A. Yes, some of them were all for beating them up and the others were against beating them.

Q Were the crowd shouting? A. We did not stay there long enough to hear anything.

Q Was Sembol the first of the crowd to hit the airman?
A. I could not say for certain.

Q Was he one of the first? A. Yes.

Q Do you know why he suddenly stopped hitting the airman and decided to go away? A. I do not know.

MAJOR STONES: The witness has just been asked if she knew why Sembol suddenly stopped beating the airman, but she said he only hit him once; he could hardly stop beating him after he had only hit him once. In my submission the fair question would be: why did he only hit him once?

THE LADY NEEBE: I do not think that is quite the same thing, but I will ask her. (To the witness): Do you know why he only hit him once? A. No.

THE PRESIDENT: Do you know where it was intended to take the airman?
A. We had heard they would be taken to Hildesheim airport.

Q When they left the police barracks do you know where it was intended to take them at that time? A. Yes, we heard it there.

Q How far away was the airport? A. It is about an hour's walk.

Q Is the bridge in question on the road to the airport? A. Yes.

(The witness withdraws.)

HERRIOTH DIERKMAN is called in, and, having been duly sworn, is examined by Major DAVIES through the interpreter as follows:--

Q Is your name Herrioth Dierkman? A. Yes.

Q Do you live at 7 Dellbachstrasse, Essen-Snyderdren? A. Yes.

Q How old are you? A. 39.

Q On the 13th December 1944 were you in the Wehrmacht? A. Yes.

Q Were you stationed at Hülshorststrasse barracks? A. In the Widsenburg school.

Q Was that being used as a barracks? A. Yes.

Q Who was your commanding officer? A. Captain Heyer.

Q Can you see him in Court today? A. Yes, the first man with the bandage round his head (indicating the accused Heyer).

Q Do you remember going into the canteen at the school on the morning of the 13th December? A. Yes.

Q Who did you see in there? A. Three English officers.

Q What were they doing when you went in? A. They were sitting on a table, and the Feldwebel told them not to sit on the table but take a chair.

Q What was the name of the sergeant? A. Grosche.

Q Can you describe him? A. He was rather fat, black hair and one of his legs was slightly crippled.

- Q Did anyone else come into the canteen while you were there ?
A. I only just looked in because I was going on leave.
- Q Did anyone else come in at that moment ? A. There were more people in the canteen, but I cannot remember because we had an attack the night before and I was a bit confused.
- Q Did Hauptmann Hoyer come into the canteen at all ? A. While I was there he did not.
- Q Did you meet him somewhere else in the building ? A. In the basement.
- Q Did you hear him talking to anyone ? A. He only said a few words to the sergeant, but I did not hear what he said.
- Q Did you hear him say anything about what was going to happen to the airmen ?
A. No, I did not hear; at that moment I did not hear anything, but later on I heard something more.
- Q Did he make any remark to Grosche about what was going to happen to them ?
A. Yes.
- Q What did he say ? A. "Shoot them."
- Q Are those the exact words or as near as you can remember ?
A. Those are the words I can remember.

Grosche-continued by Major STONE.

- Q Do you remember making a sworn statement about this happening ? A. Yes.
- Q Did you say in that statement that Hauptmann Hoyer's words were: "The airmen will be shot" ? A. Yes.
- Q Will you tell us which were his words, the ones you have given today or the ones you gave in the sworn statement ? A. Those in the sworn statement.
- Q What did you understand the Hauptmann to mean by those words ?
A. I understood that they were to be taken away and then shot.
- Q Did you understand it as an order to the Feldwebel to shoot them ?
A. Yes, it was an order.

THE PRESIDENT: Were you living in the barracks prior to this event ?

- A. Yes, I was with the Home Guard and I lived there.
- Q How long had the airmen been in the barracks ?
A. I am not certain but it could be from half an hour to three-quarters of an hour.
- Q Do you know where they came from ? A. They came from the police office somewhat further on.
- Q Do you know who brought them from the police office to the barracks ?
A. No, I did not see them.
- Q Who took them over when they arrived at the barracks ? A. When I arrived there they were already in the canteen.
- Q Had there been a raid the previous night ? A. Yes.
- Q What time did it finish ? A. Shortly after half past 10; it could perhaps be a quarter to 11.
- Q Had there or had there not been very much damage in the vicinity of the police barracks ? A. I had not been there so I could not say.

Q Where was the mid the night before ? A. Essen-Fulheim and Essen-West.

Q Were you not there the night before at all ? Where were you ? A. At home.

Q Where is that ? A. Essen-Dyfforden.

Q How far away is that from the police barracks ? A. About five minutes walk from the police office at Kupferdren.

Q How far away do you live from the police barracks at Mulhensstrasse where the airmen were taken the following morning ? A. About 2 1/2 hours walk.

THE JURAL MESSRS: Were you in the barracks when the airmen left ? A. Yes.

Q Did they leave under escort ? A. There was an unteroffizier, a sergeant and a private escorting them.

Q Do you know the names of the escort ? A. Nelges or Helges; Koonen or Koenen or Koomen.

Q Do you know the third ? A. I did not see any more escorting them because I had to go out to the office.

Q Do you see any of the escort here today ? A. The sergeant sitting beside Heyer (indicating the accused Koonen).

Q Is he one of the escort whose names you have given us ? A. Nelges.

Q Do you know the name of the man sitting next to Heyer ? Is that the man you referred to as Nelges ? A. Yes.

THE PRESIDENT: On the morning of the 13th December was there any fresh damage done or not as a result of the mid the night before round about the neighbourhood of where the police barracks is ? A. Where the tramway runs there was quite a lot of damage; you had to go on foot.

Q How far away was that from the police barracks in the school ? Was there any fresh damage done in that area of the police barracks as a result of the mid on the night of the 12th December ? A. I do not know much about it, but I do know there was quite a lot of damage on the way from the main station to the Mulhensstrasse and the school which was used as our billet.

MAJOR TAYLOR: I think there is a misunderstanding there. The place where he was was not the police barracks; that is further up the road. The place in the Mulhensstrasse was a school which was used as barracks by the Landwehrinfanterie battalion.

THE PRESIDENT: I thought that normally he lived and worked in that place.

MAJOR TAYLOR: No, he lives at Kupferdren, which is 2 1/2 hours walk away, and he comes each day to these barracks in Mulhensstrasse.

MAJOR STORE: He is Home Guard, and lives our Home Guard he does not necessarily live in the barracks.

THE PRESIDENT: He comes there every day ?

MAJOR STORE: Yes.

THE PRESIDENT: Do you know whether there was any fresh damage in the area close to and round about this police barracks where the airmen had been kept on the night of the 12th ? A. A few houses were damaged, but the principal damage was done in the direction of Brudenheim.

(The witness withdraws.)

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MAJOR TAYLOR: That is my last living witness. I now wish to proffer two affidavits; in each case the witness is not available. The first affidavit is by Edmund Hartmann of 5 Maschdenbockswag, Essen-West, oven-builder, 37 years of age, who having been duly sworn states: "On the morning of the 13th December 1944 I was repairing the roof of my house", etc. (reading the affidavit).

(Affidavit by Edmund Hartmann is marked "A", signed by the President and attached to the proceedings.)

THE PRESIDENT: Major Stone, do you wish this to be translated into German for the benefit of the Accused, or have they all had a copy and read it?

MAJOR STONE: They have all had a copy.

THE PRESIDENT: Then it is not necessary to translate it?

MAJOR STONE: No.

THE PRESIDENT: Interpreter, will you ask each of the Accused in turn if he wishes this to be translated into German or is he well aware of the contents of this document?

THE INTERPRETER: Kaufer says it would be much better if Edmund Hartmann came down here himself.

THE PRESIDENT: I was not asking him that question. I am asking them if they are or are not aware of the contents of that document.

THE INTERPRETER: They are quite satisfied.

THE PRESIDENT: Each of the Accused says that he does not wish it translated into German and they are aware of what the document contains?

THE INTERPRETER: That is right.

THE LEGAL MEMBER: What has happened to Edmund Hartmann?

MAJOR TAYLOR: Edmund Hartmann is the son of Agness Hartmann, who is a witness in this case who has already given evidence. I am informed he has left Essen and is believed to be in the Munster district, but efforts to trace him have been unsuccessful.

THE LEGAL MEMBER: I take it every effort has been made to trace him?

MAJOR TAYLOR: I have had Military Government officials looking for him since Sunday and each day I have been asking for reports of any success, but up to now it has been completely hopeless.

There is only one other statement I want to put in, and that is a statement made under caution by the Accused Koenen to Captain Waddington. Captain Waddington is now in the UK, having been demobilised from the Army, and it has not been practicable to bring him here for this trial. The document is signed by the Accused Koenen and by Captain Waddington. It reads as follows: "I, Peter Koenen, aged 35 years", etc. (reading the statement).

(Statement by the Accused Koenen is marked "B", signed by the President and attached to the proceedings.)

THE PRESIDENT: Peter Koenen, the document you have just heard read was the statement made by you on the 24th July last. Do you wish it read to you now in German or are you quite satisfied?

THE ACCUSED KOENEN: I agree that it has been read to me in English and that is quite sufficient.

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THE PRESIDENT: You do not want it read in German ?

THE ACCUSED KOENEN: I do not want it read in German.

THE PRESIDENT: Major Stone, you are quite satisfied, are you ?

MAJOR STONE: Quite satisfied.

THE PRESIDENT: Major Stone, as this statement does mention the Accused Hoyer it may be that you would like him to know what is contained in it.

MAJOR STONE: Yes, he could be asked. He has in fact seen it and read it in German.

THE PRESIDENT: Hoyer, have you seen a copy in German of the statement made by Koenen on the 24th July last ?

THE ACCUSED HEYER: Yes.

THE PRESIDENT: That is the statement which has just been read in English. Do you wish it to be read to you in German or not ?

THE ACCUSED HEYER: No, I have read it for myself.

MAJOR TAYLOR: That completes the case for the Prosecution.

(At 1630 hours the Court is closed.

At 1640 hours the Court re-opens.)

(The Accused are again brought before the Court.)

MAJOR STONE: Sir, I wish to apply to you to dismiss the case against the Accused Erich Sembol. The only evidence which has been offered against this Accused has been that of Frau Schmidt and of Frau Lipsinski. Frau Schmidt has said that Sembol struck one airman several times with his hand, that the airman was not badly hurt and that he walked away perfectly healthy apparently after being struck. Frau Lipsinski has said that Sembol hit the airman once with his hand on his back and did not hit him hard, that having hit the airman once, or a number of times according to Frau Schmidt, both witnesses say that Sembol went away to his house with them.

As far as Sembol is concerned, the incident took place outside the barracks from which the airman had just been brought. We have been told that that barracks is ten minutes walk from the bridge. It is reasonable to assume, I think, that on the day in question the interval between their leaving the barracks and their being thrown over the bridge would have been greater than ten minutes, partly because it would probably take longer for them to walk down there and also we know that an interval of time elapsed between the arrival of the airman on the bridge and their being thrown over. It is agreed by all the witnesses that when the airman reached the bridge they were all alive, conscious and apparently as healthy as they had been at first. One of the airman was wounded and was wearing a bandage, but he is admitted to have been wounded and to have been wearing a bandage at the first moment we hear about him.

I submit that the evidence against Sembol cannot conceivably be said to be evidence of his being concerned in the killing of an airman. It has been said by those two witnesses that he struck one of the airman - though if you do not allow this application and I put Sembol in the box he will deny that - but with his hand only on his shoulders and back only and not on the head, and that the blows struck, if there were more than one, were not hard blows and appeared to have no effect whatever on the airman. I ask you to dismiss the case on the ground that that is no evidence whatever of Sembol being concerned in the ultimate deaths of these airman.

THE PRESIDENT: Do you wish to resist this submission, Major Taylor ?

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MAJOR TAYLOR: Yes, I do. In my submission if somebody puts a match to a fairly long fuse which leads to a barrel of gunpowder and then walks off and the fuse burns and eventually the gunpowder explodes and people are killed, that person, although he is not present at the explosion, is responsible for the explosion and responsible for any deaths that result. In my submission that is precisely what has happened in this case.

You remember the evidence that Hauptmann Hoyer came out of the barracks and called out to the civilians that they should kill these airmen who had been responsible for the deaths of their wives and children and that thereupon the civilians reacted by attacking the airmen. The evidence we have regarding Sasbol is that one witness says that he was the first person to strike and the other says that he was one of the first.

In my submission you have here an incitement to murder from Hauptmann Hoyer, and the first blow, or if not the first one of the first, is struck by Sasbol. That was the act which incited the crowd, which as it were put the match to this inflammable material, a crowd of people who were enraged at the damage done to Essen, and were ready to burst into flame if it was given the slightest incentive. That incentive came from a blow by Sasbol, and the fire ran down Mulheimstrasse, getting fiercer and fiercer, until the final explosion came on the bridge.

In my submission although the blows in themselves were not ones which were in any way mortal or deadly in their physical effect, they were a very definite link in this whole incident, which started with incitement, went from light blows to more serious blows and ended up in the death of these three men. I say that the whole incident is so bound up together from the moment they came out of the barracks and the mob was incited by Hoyer until the moment when three dead bodies were floating down that stream that anyone who was concerned in any way is concerned in the killing of these three men.

THE PRESIDENT: Do you wish to reply, Major Stone?

MAJOR STONE: No.

THE PRESIDENT: The Court will close to consider the submission made by the Defending Officer and will then adjourn until 1.15 tomorrow morning.

(At 1645 hours the Court closes and is adjourned until 1015 hours tomorrow, Thursday, 20th December, 1945.)

(For third, fourth and fifth days see separate transcript.)