

stand at the time and the chairman of the Aufsichtsrat of the company were Jews. During this period his smooth cooperation with his Jewish colleagues and his constant contacts with the leading representatives of the gradually rising resistance movement are noteworthy. This I shall prove by documentary evidence.

In 1936 Buschfeld, a member of the Friedr. Krupp AG Direktorium for many years died in Essen. Herr Gustav Krupp von Bohlen und Halbach had originally planned to fill this post with Herr Dr. Goerdeler, who a short time ago had been forced, for political reasons, to give up his post as Oberbuergermeister of Leipzig. Dr. Goerdeler, too, was willing to join the directorate of the Fried. Krupp AG., all the more so as he promised himself a more potent influence on the elimination of the Hitler regime. The negotiations between Herr Gustav Krupp von Bohlen and Dr. Goerdeler, however, came to nothing because Hitler had vetoed Goerdeler's joining the Krupp Direktorium. Thereupon Dr. Goerdeler proposed to Herr Gustav Krupp von Bohlen his former closest collaborator from Leipzig and his co-conspirator in the fight against Hitler, namely Dr. Loeser, for the vacant post in the Direktorium. He thereby wanted to ensure that this important position did not go to someone politically neutral, not to mention to any henchman of Hitler's.

When Dr. Loeser in autumn 1937 joined the firm of Krupp, he received the special order from Goerdeler to be his confidential man in heavy industry. Goerdeler at that time had gone to the United States and to England in order to give warnings of Nazi intentions and to find out whether in those countries any support for anti-Hitler activity within Germany could be found. Goerdeler at the time was the heart of the German opposition to Hitler which then developed into the German resistance. He was the "motor" or "agitator". To begin with he tried in a large measure to spread over industry and the bourgeoisie of the whole country a net of confidential agents and to place everywhere liaison men who were not only to recruit followers of the resistance movement and to undermine the regime, but who also had to prepare for the event

of a victory of the resistance the possibility to take over leading positions in the new state and economy. What could be more obvious to him than to select a man whom he had come to value and to know as reliable with all his knowledge and ability as his deputy in Leipzig and who could free himself for this work to join one of the most important industrial enterprises which appeared to be safe from arbitrary Gestapo interference, in order to have in him a true pillar of the movement? In this respect I shall offer proof by the presentation of documents and by calling of a witness. If in addition financial reasons are claimed to have played their part for Dr. Loeser, this may be true. They were, however, not decisive. On the strength of the evidence to be presented by me the High Tribunal will come to the conclusion that Dr. Loeser had been from the very beginning picked out by Dr. Goerdeler as an exponent of the resistance movement. This duty assumed ever greater importance after Dr. Goerdeler started to really organize the resistance movement, i.e., the conspiracy against Hitler. This happened in 1938 subsequent to the above-mentioned journey of Dr. Goerdeler to America. At that time a circle was formed which one may properly describe as a conspiratorial centre of the resistance movement. In this circle Dr. Loeser played an outstanding part.

The outbreak of war and the constantly growing influence of the Party and the state following its development into "total war" on industry, as well as the constantly increasing pressure of the governmental and party offices on industrial enterprises, caused Dr. Loeser to have qualms of conscience in an ever increasing degree. If he did not want to render himself liable to persecution by the Nazi authorities as saboteur, he was forced to comply with the wishes of the government under the pressure of draconian laws. If he objected to this, he would have had to take the consequences and to give up his position. Thereby, however, the resistance movement would lose this important

observation post. In order to avoid even worse he put on the brake wherever he could. That in doing so he confined himself within the firm of Krupp to the limits of his department and supported himself on financial considerations rather than on political reflections, is obvious. The constellation in Germany at the time demanded that he keep in the background as far as possible. I shall give the Court a drastic example demonstrating the necessity for such reserve out of my own practice as defense counsel before the People's Court, namely the case of the mining director, Ricken, who for a so-called defeatist remark in the Vorstand of a large Essen enterprise was sentenced to death by the People's Court and executed. In 1943 Dr. Loeser left the firm of Krupp.

In attempting to prove my case I am confronted by not inconsiderable difficulties, because to a large extent I have to establish internal facts and events. The classical witnesses of this period from the civilian sector of the resistance movement, such as: Dr. Goerdeler or the former Prussian Minister of Finance, Popitz, or the former mayor of Berlin, Dr. Elsas, the former attache in Rome, von Hassell and the trade union leaders Leuschner and Habermann - to name but a few of the more important men - are no longer alive. They in common with many others connected with the attempt on Hitler on 20 July 1944, became victims of the Gestapo and of the People's Court. Nevertheless I am confident to be able to give the Tribunal a complete picture of the political line pursued by Dr. Loeser. This will show how Dr. Loeser during the period prior to and during and after his activities with Krupp was an outstanding member of the resistance movement. Therefore, he had been envisaged already since 1938 as a member of the Reich government which was to be formed after the removal of Hitler and his system in order to set up once again a state founded on law in Germany.

I do not believe that the prosecution can seriously argue that this man is supposed to have utilized precisely the years 1938 to 1942/43 for the preparation of aggressive wars or to commit war crimes or crimes

against humanity.

This consideration forces the question to whether Dr. Loeser should have been arraigned before the present military tribunal in the first place. Article 1 of the Allied Control Council Law No. 10 points out that the Moscow Declaration of 30 October 1943 "concerning the responsibility of Hitler's adherents for atrocities committed" and the London Treaty of 8 August 1945 are integral parts of the Allied Control Council Law No. 10.

As transpires from the title of the Moscow Declaration, the latter is directed exclusively against Hitler's supporters.

THE PRESIDENT: The sound track is about out. We will take a recess for 15 minutes.

(A recess was taken.)

(The hearing reconvened at 1135 hours, 22 March, 1948.)

THE MARSHAL: The Tribunal is again in session.

PRESIDENT: You may proceed.

DR. BEHLING: I stopped at this place, "I do not believe that the prosecution can seriously argue that this man is supposed to have utilized the years 1938 to 1943 for the preparation of aggressive wars or to commit war crimes or crimes against humanity," And I continue:

This consideration forces the question upon us of whether Dr. Loeser should have been arraigned before the present military tribunal in the first place. Article 1 of the Allied Control Law No. 10 points out that the Moscow Declaration of 30 October 1945 "concerning the responsibility of Hitler's adherents for atrocities committed" and the London Treaty of 8 August 1945 are integral parts of the Allied Control Council Law No. 10.

As transpires from the title of the Moscow declaration, the latter is directed exclusively against Hitler's supporters.

Supplementary hereto the London agreement says "that those German officers and men as well as members of the National Socialist German Labor Party were responsible for brutalities and crimes or gave their consent to same should be returned ... in order to be tried. "Since the Moscow Declaration as well as the London Treaty are inseparably with the Control Council Law No. 10, they have to be applied to the limitation of the group of persons liable to prosecution under Control Council Law No. 10. Dr Loeser never was a supporter of Hitler but on the contrary one of his most pronounced opponents. The injuries to his health inflicted in the prisons of the Third Reich are eloquent proof of this. Hence, Dr. Loeser does not belong to the group of persons enumerated in the Moscow Declaration and in the London Treaty as well as in the Allied Control Council Law No. 10.

DR. PESCHKE: Dr. Peschke for the defendant, Professor Houdremont,
May it please the Tribunal!

The Prosecution made the general events which were in part the natural historical development of the past decades in Germany the basis of its charges and burdens individuals with the problematics of today's evolution of mankind. This obliges me to deal not only with the defense of my client but also with some subject matters, which if at all are only connected with any one of the defendants insofar as they were people living in Central Europe during the past decades.

The indictment and also the "Opening Statement" of the prosecution characterizes the "Four Year Plan" which was promulgated in 1938, as the criminal instrument by virtue of which Germany was to be prepared for a war of aggression within four years. Even the conception of the Four Year Plan would have to be considered a crime *per se*, if collaboration and planning, which incidentally the evidence submitted by the prosecution up to now has not proved for any one of the defendants, or if their participation in every partial implementation should establish a crime. The world historical and the economic events of our time connected with it are apt to furnish the answer to the question raised. Four Year or Five Year Plans, were nothing new even in 1936. In neighboring Russia, a country abounding in raw materials, one Five Year Plan followed the other.

It has not yet become known that the Russian Five Year Plans have been designated as criminal, although they are said to be continued with ruthless commitment of indigenous and foreign manpower. There is reason to believe that consensus of opinion takes it for granted that no distinction can be made between ordinary industrial and armament - developments. Every kind of strengthening of economy includes in itself a stronger potential for the armament industry without making the latter a specific target. Should in the future every scientist, political economist or technician be afraid to participate in the economic recovery of a country or a continent, because a policy on which he is unable to exercise any influence may lead to war, in which naturally the general economy would play an important role?

When Professor Dr. Goerens, whom the prosecution characterized as a "co-conspirator", in his capacity as the chairman of the "Verein deutscher Eisenhuettenleute" (Association of German Foundrymen) spoke on 17 December 1936 about the economy plan ordered by the Government, he said: "The first Four Year Plan is behind us". He referred thereby to the crisis years 1931/32 which initialed the Four Year Plan program. With these words he voiced the prevailing opinion. At that time an impoverished country for which even the Brüning government was unable to secure aid from abroad was obliged to try that way out.

Today we are in the fortunate position of viewing this necessity more clearly from the given facts. The development of the world economic situation proved clearly that Four-and Five Year Plans became a necessity far beyond the scope of Germany and without any connection with warlike intentions. The British Labor Government carried out universal government control. America calls on Europe to participate in the Marshal Plan, and this plan, apart from its economic design includes a political anti-communist program.

America, rich in oil, utilizes a process for the extraction of gasoline from coal, which 12 years ago production, the Four Year Plan developed for large-scale. Is it therefore unjustified to ask whether the German economists, well aware of the desperate situation in Central Europe, did not anticipate this development correctly as early as 1936? The statement of Professor Goerens confirms this. An essay of my client Houdremont concerning purely technically-scientific problems of the iron industry of the year 1938 - the lectures were held in 1937/38 at international meetings - shows at least the worldwide conception concerning the events which took place at that time in the field of the iron industry in Germany. That conception is more than the personal opinion of my client, because it was expressed in almost all publications about the Four Year Plan. If the prosecution now drags in isolated tempermental outbursts, which Goering made behind closed doors, none of which were known to the defendants,

then those statements are contradicted by others even contained in the same speech, which had quite a different meaning. The preface with which Goering in 1937 inaugurated the new monthly magazine "The Four Year Plan" refutes explicitly any thought of warlike preparations. Enterprises of the Four Year Plan were planned for many years ahead and are incompatible with short-termed war intentions; re-arming and Four Year Plan are often apt to be at cross purposes. I need not waste any time which is so essential for other stages of the trial and will present my views briefly. Apart from diverse documents I will call only one witness, who by virtue of his leading position, was acquainted with all details of the Four Year Plan, and who is able to give information about its basic purpose.

This expert in the field of steel engineering problems, whom I shall yet mention, will testify in a similar manner as has been done in my client's publication that, apart from the general economic considerations of the Four-Year-Plan, the results achieved in the iron industry under the Four-Year-Plan really constituted a definite warning against war.

The second point which I must treat is concerned with the claim of the Prosecution that the so-called economic mobilization represents a specific preparation for aggressive warfare. It is a generally recognized fact that every state which supports an army must as a consequence of its armed forces make preparations for using it in case of emergency and take the necessary economic measures in this case, if the Government and the armed forces are not to expose themselves to the charge of gross neglect. There was an interesting hearing of a witness in the Prosecution's case in chief by which it was established that the so-called mobilization planning was begun a long time before the National Socialist government, that a German officer was assigned to the Army of the United States of America in order to study their economic mobilization plans and that the ideas brought back from there were only partly realized by the outbreak of the war in 1939. Again, the prosecution documents show no connection of any sort of any one of the defendants with the mobilization planning of the iron industry. On the contrary, it may be clearly seen from the documents that the participants in that type of discussions - none of the defendants belong to this circle - were sworn to the strictest secrecy. Furthermore the numerical quotas of the mobilization planning of the iron industry amounted to about - two-thirds of normal production. For every intelligent person, this was a further portent of war, like the Four-Year-Plan.

Finally, in the indictment and in the Opening Statement, it was stated several times that in particular research at Krupp was based on the sinister aggressive plans of the National Socialist system. It was even intimated that the employment of Herr Houdremont and Herr Korschan in 1926/27,

at the time when the inter-allied disarmament commission dissolved, took place with regard to laying a metallurgical technical foundation for rearmament and for preparation for aggressive warfare. One cannot help if one desires to follow the ideas of the prosecution, attributing a special skill in concealment to the Krupp firm, that it entrusted its preparation for aggressive warfare in the metallurgical field to two foreigners in order to cloak their dark plans, having already camouflaged these plans as much as possible by employing the Jewish Professor Strauss and the former foreigner, Professor Goerens. This theory of disguise is refuted by the facts. The Krupp factory was founded for the purpose of research and development of steel technology. The reputation of Krupp crucible steel existed before one Krupp cannon was made. Krupp steel technology arose, not as a result of production of cannons, but the quality of the steel developed in the Krupp plants led among other things to the advantageous substitution of bronze by steel in cannons and thus to the application of Krupp steel products for military purposes. Krupp was, as the name of the Essen factory clearly intimates, first and foremost a steel plant, and every qualified steel plant must keep up its steel development in fields of technology, if it is to survive the struggle for existence.

The part played by armament engineering in steel development has always been very small as compared with the incentives which this branch of industry received in the field of tool steel, machine construction, electrical engineering, transportation industry, etc. As an indication, I should like to mention to the Tribunal that of more than one thousand different compositions of steel which have been produced in the last decade by the Essen Gusstahl plant, less than one hundred, that is, approximately 7% were steels for armament purposes, and even that quantity of steel which was used for armament engineering during the war at no time exceeded 20% of the total amount of steel produced in Essen.

Alfried Krupp had already discovered that scientific metallurgy had to form the basis of his plant, if it was to be successful in its struggle for existence. As a pioneer with acumen in engineering, he had already made his plant a center of fundamental metallurgic research during the last quarter of the last century. According to his own directives, this research place was to be independent to a considerable extent and was to make efforts along lines of general scientific knowledge. On the basis of this directive, research has always maintained its place in the Krupp plants independent of manufacture, Corleiss, Salomon, Striebeck, Strauss, Goerens and last but not least, Houdremont with their worldwide reputation, stand for the work achieved for the benefit of mankind in the field of scientific metallurgy. We will take an opportunity of submitting to the court some of the published works of my client, among others, the book "Manual on the Science of Special Steel" which was published in 1935 and the second edition of which was printed in 1943 during the war, thus being accessible to all the world. We will furthermore submit the expert opinion of a well-known specialist which will give us an insight into the internal research work carried out under the direction of Professor Houdremont. The Tribunal will be able to see from the publications which are going to be submitted and which are essential contribution to the general metallurgical knowledge of the world, that this is the life work of a man who served pure science and mankind. These works will thus speak for themselves. I am convinced that even the Prosecution and particularly their metallurgical experts will agree with my statement. Or is it their intention to show Professor Houdremont as the Dorian Gray of metallurgy, who tried to hide the criminal night-life of a war-mongering metallurgist behind the front of a great life work, which is accessible to all?

In making this statement I deviated from the general topic and discussed my client. It will require particular attention to trace his life and his responsibility in the organization during the various phases

of his activity. He rose gradually from the position of an assistant executive to the technical manager in 1926 to the position of a technical manager in the concern which he held in the end partly due to the circumstances existing at the end of the war. Up to 1932, he was not concerned in his field of activity with questions regarding steel for armament purposes, including tool steels, automobile, airplane, and construction steels, non-corrosive and heatproof steels, and steels with special physical properties. As the director of the management of the steel center after 1932 and of the research institutes after 1936, he was not concerned with questions of planning in the field of production proper.

Opening Statement HOUDREMONT

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One can hardly see how he could have participated in the conspiracy for the preparation of an aggressive war. Up to 1935 he was a foreigner. Only special circumstances, that is a denunciation by his colleague Dr. FRY for alleged treason, caused his naturalization in 1935.

According to the indictment Professor HOUDREMONT is said to have closely co-operated with the procurement offices of the Wehrmacht, to have been advisor to the Four-Year-Plan and at the founding of the Herman-Goering-Werke as well as to have participated in the central planning during the war. We have looked in vain for pertinent evidence in the prosecution's case in chief. I shall introduce evidence that Professor HOUDREMONT exercised the functions of an advisor neither in the Four-Year Plan nor in the Herman Goering-Werke and that he was called to the meetings of the Central Planning Office only twice in order briefly to give information concerning problems of synthetic materials. His activity as Plenipotentiary for Conversion in the exchange of metals during 1942/43 can be elucidated by testimony of one of his colleagues.

Contrary to a charge by the prosecution he never held high government office. He never played an important role in industry apart from the fact that at home and abroad he was known as a great scientist.

On account of his neutral position in the management of the Central Steel Office and the Research Division and ability, Professor HOUDREMONT after 1939 was entrusted with the task of mediating occasionally between the various factions in the field of raw materials and power management. Prior to April 1943, when he took over the management of the Huetterwerke he was not connected with production nor was he actually in charge of any workers. At that time, and this is true to an increasing degree for the period June/July 1944 when in addition he took over the tool plants, and for September 1944 when he became plant leader, all questions concerning the procurement of labor from a variety of sources were answered

by basic government decisions. No individual could change the course of events, just as little he could have made the Mississippi disappear into its source just before the estuary. As will be further shown Professor HOUDREMONT was sick from December 1943 until June 1944 and during this decisive period when with the approaching end of the war conditions became chaotic he was 500 kilometers away from his office and confined to his sickbed. It will be the task of my colleagues to present details concerning the situation of the labor allocation and the chaotic conditions in general. I shall confine myself to introducing evidence for those facts which characterize the basic attitude of my client. It was always known that he insisted on decent and humane treatment. In addition his closest collaborators can testify that reports on maltreatment of workers were never submitted or related to him, still less that he approved of or tolerated them. This appears credible from the very fact that they had to pass through the various channels of worker, section-leader, foreman, chief-foreman, assistant plant leader, group leader, plant director, director of the Friedrich KRUPP and member of the Vorstand in technical questions. Although as an internationally renowned scientist he was accustomed to sit together with his professional colleagues from all countries in peaceful collaboration, he avoided on purpose visiting a single factory in any of the countries occupied by Germany despite his technical interest and his linguistic knowledge, and still less did he participate in any so-called spoliation. I have to stress this explicitly since I have taken it upon myself to deal within the entire defense with those cases which the prosecution has advanced under the viewpoint of the so-called spoliation of Holland, that is the "Lageraktion" (confiscation of stocks) and including the Rademaker and De Vries Debbe cases. These abuses, as results from evidence previously introduced, were incidents for which government authorities will have to be taken to account.

May it please the Court. Behind the documents and other evidence there stands in the final analysis the personality of every individual defendant. It is necessary that the judges gain a clear picture of this personality if they want to evaluate his action correctly. I considered it my task to gather not unnecessarily many, but on the other hand essential evaluations concerning the person of my client. In this effort I have had the support to an unexpected degree of many persons at home and abroad, from highly placed personalities down to plain workers.

A substantial part of these statements which I have received reflects the recognition which Professor HOUDREMONT has come to enjoy in all countries as one of the most outstanding metallurgical experts of the world. Special attention is to be called also to the testimonies which were proffered me dealing with the further intellectual activity and the character of my client. He was the center of a cultural circle of the city of Essen. His study of music, literature, and philosophy show him as a man who far from being narrow-minded had a broad conception with regard to all problems of life.

With such an attitude it was impossible for Professor HOUDREMONT to adopt the ideology and the fanaticism of the National Socialists. In his own vivacious way he often did not hold back his expression of dislike for the political regime in power.

A number of affidavits prove how during the times when Gestapo and terror ruled he in an unselfish manner and compromising his own person helped people who were in distress. As a devout Catholic it was a matter of course to him not to deny his assistance even to Jewish or foreign fellow-men. He joined the NSDAP in 1940 only in order to render better assistance to his brother-in-law, Bruno KUROWSKI, who had been arrested by the Gestapo.

The generally recognized character of my client will make it easier for me to attain the goal of the evidence introduced by me i.e.

to convince the High Tribunal from the objective and subjective side that the indictment as untenable.

THE PRESIDENT: Just one moment, please. It is only about five minutes before the regular recess time. Perhaps we had better suspend and recess for lunch now, Doctor, before you begin your opening statement. Did you understand that? We are going to take a recess now for our lunch. Let me say this in that connection with the schedule, since the time for the presentation of the defense case has been limited as heretofore stated by the Tribunal, we thought that it is proper to allow defense counsel to suggest the schedule on which the daily sessions would be held hereafter. I am informed by Dr. Wecker that you would prefer to begin as we have been beginning the daily sessions, at 9 in the morning, but that you would prefer to change the time for luncheon recess from an hour to an hour and fifteen or twenty minutes, from 12:15 to 1:35, the old time. Is that correct, Doctor? So, if that is the wish of defense counsel, why, we will observe that schedule unless notified to the contrary. We will now recess for lunch until 1:30.

(A recess was taken.)