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TRANSLATION OF REPORT OF INVESTIGATION

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Public Prosecutor of Tübingen
PO Box 2526, 72015 Tübingen
Street Address: Charlottenstraße 19, 72070 Tübingen
Telephone: 07071 – 200-0 Telefax: 07071 – 200- 2660
Referencenumber: 4 Ls 15 Js 1535/95
Tübingen, August 30, 1995 sdr

To:
The District Court of Tübingen
Doblerstraße 15
72074 Tübingen

The investigation of this case is completed.

Enclosed: 5 Federal Central Register Excerpts (= police records)
5 indices of evidence
2 Binders investigation files sheets 1 – 588
1 copy of the book “Grundlagen zur Zeitgeschichte” (Foundations for
Contemporary History / Dissecting the Holocaust)

The Accusations of:

Wigbert Grabert born Feb. 18, 1941 in Tübingen
Publisher, married
German citizen
Residing at Am Apfelberg 18, 72076 Tübingen
Legal Counsel:
Lawyer Dr. Dr. Thor von Waldstein, Dr. Sigwalt von Waldstein,
Augustaanlage 21-23, 68165 Mannheim (power of attorney: sheet
214 of encl.)

Germar Scheerer born Oct. 10, 1964 in Limburg
Other name: Rudolf
Diploma Chemist, married

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German citizen

Residing at Meisenweg 18
71144 Steinenbronn
Defense lawyer:
Lawyer Thomas Mende
Am Marktplatz 5/2, 73728 Esslingen (power of attorney: sheet 219
of encl.)

Udo Bruno Walendy born Jan. 21, 1927, in Berlin-Charlottenburg, district Berlin
Diploma Political Scientist, married
German citizen
Residing at Hochstraße 6, 326032 Vlotho

Wieland Körner born Jan. 7, 1958 in Vienna (Austria)
Austrian Citizen
Residing at Alte Heerstr. 5, 28529 Bremen

Arnulf Franz born Nov. 13, 1922 in Munich

Xaver Neumaier Pensioner, married
German citizen
Residing at Ringstr. 38, 86911 Dießen

Are accused of the following:

They jointly and illegally, in a single act:

- a. distributed writings (§ 11 para. 3) which deny or trivialize, in a way which threatened to disturb public peace, an act of §220a para. 1

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committed under the rule of National-Sozialism;

- b. libeled others with a printed work,
- c. denigrated the memory of the death with a printed work.

The accused Grabert and Scheerer furthermore in a single act,

- d. kept writings (§ 11 para. 3) in stock with the intention to distribute, which deny or trivializes, in a way suitable to disturb public peace, an act of §220a para. 1 committed under the rule of National-Sozialism, because of which all copies of the printed work "Grundlagen zur Zeitgeschichte: Ein Handbuch über strittige Fragen des 20. Jahrhunderts" (Foundations for Contemporary History: A Handbook on Points at Issue of the 20th Century) ISBN-No. 3-87847-141-6, ISSN-No. 0564-4186 are to be confiscated nationwide, as far as they are in possession of persons involved in the distribution or its preparation, or are publicly exhibited, or have not yet reached the addressee when distributed by mail, and it is to be ordered that the devices used to, or intended to, produce these writings, like plates, molds, printing sets, films or matrices, being made unusable -.

The Public Prosecutor makes the following assertions:

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The Grabert Press, whose address is Am Apfelberg 18, released its first publication on 22 November 1994. The proprietor of the Grabert Press is the defendant Wigbert Grabert. The editor is the defendant Germar Scheerer, pseudonym Ernst Gauss. The title of their publication is "Grundlagen zur Zeitgeschichte: Ein Handbuch über strittige Fragen des 20. Jahrhunderts", ISBN-Nr. 3-87847-141-6, ISSN-Nr. 0564-4186.

This publication contains contributions by the defendants Germar Scheerer / Ernst Gauss, Udo Walendy and Arnulf Neumaier. It also contains contributions by the authors Johannes Ney, Dr. Claus Jordan, Ingrid Weckert, Robert Faurisson, John Clive Ball, Carlo Mattocono, Friedrich Paul Berg, Werner Rademacher, Manfred Köhler, Franco Deana and Herbert Tiedemann. 17,677 copies of this publication were printed by the Koesel Corporation in Kempten on order of the defendant Grabert. 5,829 copies were delivered to Grabert Press on Nov. 22., 1994. 1,368 copies were delivered to the publishing house Buchdienst Nation Europa in Coburg, also on order of the defendant Grabert.

3,192 copies were delivered to to the Verlag für Volkstum und Zeitgeschichtsforschung ("Publishing House for Folkways and Modern History Research") in Vlotho, whose owner is the defendant Udo Walendy, on Nov. 24, 1994. 4,000 copies were sent to to Faksimile Verlag GmbH in Bremen, whose business manager is the defendant Wieland Körner. The remaining 3,288 copies were sent to the warehouse of Grabert-Verlag on 30 Nov 1994. From that date until 27 March 1995, the defendants, knowingly and willingly and with full knowledge of the contents of this publication, sold and delivered to buyers the following numbers of copies: From Grabert Press, 7,041 copies; from Buchdienst

Nation Europa, 1,368 copies; from Faksimile Press, 4,000 copies; and from Folkways Press, 3,288 copies.

From these numbers however we deduct 2080 copies seized from Grabert; 912 copies seized from the Dill firm in Leinfelden-Echterdingen, (work address of the defendant Scheerer;) and 4 copies seized from the Verlag für Volkstum.

In the banned publication, the planned and systematic killing of persons of Jewish belief by the National Socialist

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regime under the label "Final Solution of the Jewish Problem" is examined from a so-called Revisionist viewpoint and the impression is given that no intentional annihilation of the Jews took place. The historical facts are handled in such a way that in many of the contributions a structure of doubt is built; the contributions especially of the defendants Scheerer, Walendy and Neumaier, as well as of the publication as a whole, pursue the aim of making the Holocaust appear as not real, as a deception. Some pieces of this mosaic of argumentation are, for example, that eyewitnesses can lie or be mistaken, that witness testimony may be questionable in content (fabricated, extorted, twisted) or untrue, that photographic and film documents can be retouched, fabricated, and misattributed, and that the mass murder would have posed technical, chemical, logistical and other problems which can not be shown to have been solved. The content of the publication repudiates the organized, million-fold murder of Jews and other persecuted peoples by the NS state and characterizes the gas chambers as myths and fairy tales. It depicts the the ghastly histories of Majdanek, Treblinka and Auschwitz as falsehoods. This purpose is manifested through the use of certain key words and phrases repeated as a leitmotif throughout the work, which puts the Holocaust in the realm of the unreal, of fantastic and legendary: These include, for example, such phrases as "supposed gas chambers of Auschwitz and Birkenau" (page 22 – author "Gauss" –), of the "myth of the NS gas chambers" (pages 101, 105 – author Faurisson –), of "legend" and of the "supposed gas chamber of Auschwitz" (page 103 – author Faurisson –), of the "alleged death camp" Treblinka (page 353 – author Neumaier –) and of the "supposed gas chamber of Majdanek" (page 404 – author "Gauss" –). Along the same lines are the assertions that it is not possible "to dispute that the mass murder of Babi Yar did not take place" (page 33 – author "Gauss" –), and that

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the murders must be considered "supposed crimes", whose permanent criminal liability opens the possibility of a "never-ending witch hunt" (page 92 – author Köhler –), and also the invented terms "Auschwitz club" (page 351 – author Neumaier –), and "Holocaust religion" (pages 347, 349 – author Neumaier –). The claim of a fantasy component is expressed in the following defamatory statement on page 86 by author "Gauss:": "If we are not to say all the Jewish witnesses are telling lies, but are only mistaken, then we have to look for another explanation. Howard F. Stein pointed out another possible explanation when he recognized that the Holocaust has become a central

focus of modern Jewish identity: the majority of the Jewish people lose themselves in identity-creating group fantasies of martyrdom."

In addition to the above general observations that the book contains many assertions aimed at controverting the Holocaust can be shown by the following several citations:

pp. 12/13 (Author Faurisson:)

"We must understand the disarray of Germany's accusers in the face of revisionism's successes. For half a century they have sincerely believed that the tragedy undergone by the Jews during the Second World War was of exceptional seriousness and magnitude, whereas, when reduced to its proper proportions – that is, without genocide and without gas chambers – their tragedy was just one of many other tragedies of that terrible conflict. Under the thrust of revisionist inquiries their historians step by step have had to admit that there was neither an order, nor a plan, nor a budget for the alleged genocide of the Jews;¹⁵ that 'Wannsee' was at best only a 'silly story';¹⁶ that there existed no expert testimony supporting the authenticity of reports of the crimes concluding that 'the building (whether intact, "*reconstructed*", or in ruins) served as a homicidal gas chamber'; that there are no autopsies that would allow us to conclude: 'This is the corpse of a deportee killed by poison gas'; that the confession of Rudolf Höß was no longer of any value ("*Höß was always a very weak and confused witness*"¹⁷); that their alleged witnesses had probably never seen gas chambers or gassings inasmuch as the best of them, the famous Rudolf Vrba, in 1988, had been obliged to admit before a Canadian judge and jury that in his famous book on the subject he had made use of '*poetic licence*'"¹⁸

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or '*licentia poetarum*'¹⁹; that the figure of four million victims at Auschwitz was only a fiction²⁰; and that the 'Sources for the study of the gas chambers are at once rare and unreliable [...]. Besides, from 1942 to 1945, certainly at Auschwitz, but probably overall, more Jews were killed by so-called 'natural' causes [starvation, disease, sickness and overwork] than by 'unnatural' ones.'²¹ Since 2 July 1982, at the end of an international symposium which the exterminationists had organized at the Sorbonne (Paris) to attempt to answer me, they had shown themselves incapable of producing the slightest proof of the existence and the operation of a single gas chamber. In March of 1992, I presented my challenge: 'Show me or draw for me a Nazi gas chamber!' Jean-Claude Pressac, on whom the exterminationists so much counted, had proven himself incapable of producing anything but what he called 'traces of the crime;' and he had taken great care not to provide us with a total physical representation of the device used in the crime.²² On 30 August 1994, I had a meeting with Michael Berenbaum, the scientific director of the Holocaust Memorial Museum in Washington, in his office and in the presence of four witnesses (two on his side and two on mine). I forced him to admit that, paradoxically, his museum contained no actual representation of a 'Nazi gas chamber' (the model of Krema II being only an artistic creation bearing no relation to reality.) I asked him why. He finally replied: 'The decision had been made [by us] not to give any physical representation of the Nazi gas chambers.'" His response was equivalent to that of a Catholic priest – Mr. Berenbaum is a Jewish theologian – who would decide to eliminate any representation of the cross from his church. To be driven to such extremities, one must surely feel that he has his back to the wall.

I think that the co-religionists of Mr. Berenbaum will at last abandon the gas chamber as they have abandoned the Jewish soap and the Auschwitz 4 million. They will go farther than that. As in the two previous cases, they will present themselves as the discoverers of the myth and accuse the Germans, the Poles, or the Communists of having fabricated the 'myth of the gas chambers.'

2. pp. 95/96 (Author Köhler)

“Under the conditions of the Nuremberg trials set out in the preceding, the eyewitness testimony and confessions made in these trials can be accorded next to no evidential value. From a scientific point of view, and in this case in particular, eyewitness testimony can never suffice to document historical events, much less to prove them.

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Confessions and statements were extorted from alleged perpetrators and participants by means of torture, threats of criminal charges, more severe punishment and prison terms, detriments to personal welfare and professional advancement, as well as by the complete hopelessness and helplessness imposed by the show trials as described. Similar means were also employed to manipulate witnesses for the prosecution, who in turn engaged in manipulation of their own. In these cases it was a matter of threats of violence as well as deliberate manipulation by the media, governmental, judicial and private institutions. What is more, the absolute free rein that was granted these witnesses, and the tendency to portray them belatedly as heroes of anti-Fascist resistance and to reinforce their thirst for vengeance, have resulted in this testimony being taken *ad absurdum* in its inconsistency and exaggeration. Some of the most glaring examples of such statements are listed at the end of this article.

The decisive prerequisite for these conditions is the worldwide climate of persecution and defamation to which anyone and everyone is subjected who may possibly have been in any way connected with alleged National Socialist crimes or who is suspected of doubting the truth of these. The allegedly unprecedented nature of these crimes induces an unparalleled moral blindness in 'Nazi-hunters' and in the guardians of the fundamental anti-Fascist consensus that prevails in politics, in the media and even among the broad masses, which suspends the rules of common sense and justice guided by the rule of law, so that the corresponding court cases vividly call to mind the medieval witch trials. One proof of this attitude held by the majority of our fellow men and women is the fact that to date books such as the present volume have not been favored with rational discussion, but rather are countered with hysterical cries for the public prosecutor, even if those shrieking the loudest have never read the book or have not bothered to confirm the correctness of its contents by checking the source material. Nowadays, there are things which *cannot* be true because they are not *allowed* to be true.

In view of all the facts one is probably correct in the assumption that where the Holocaust is concerned our society is in a state of permanent mass suggestion fostered by the Holocaust Survivor Syndrome (cf. note 240), by the hysterical prosecution mania of all sorts of social groups extending to the upper echelons of the German Federal justice system. This mania is directed at anyone holding a dissenting opinion, and of course reenforced by the never-ending traumatizing of coping and mourning rituals conducted in schools, politics and the media. Bender comments:

'Mass suggestion, frequently bordering on the hysterical, has an even stronger formative influence than the good example of so-called opinion leaders. Enhancing factors include: solemn rituals,³¹² the incessant repetition of the same catch phrases,³¹³ emotionally stimulating signals (music, flags etc.)³¹⁴ ...What is more, mass suggestion lends itself more than almost any other phenomenon to the induction of extreme distortions of perception.'³¹⁵

Taking into consideration all the circumstances involved in the ways in which Holocaust testimony comes about, suspicions may arise that the accusations made are not only not provable, but that in fact the opposite of the claims advanced by the established Holocaust stories may be true. This is the only thing that could explain why the

Establishment saw and continues to see itself forced to resort to unjust, even unlawful measures.”

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3. p. 260 (Authors Rudolf and Gauss)

“Fortunately, precisely that so-called gas chamber in which the most people were allegedly killed with poison gas during the Third Reich has survived to the present in an almost perfectly intact state. That is mortuary 1 of crematorium II. It is an engineering certainty that, contrary to all eyewitness testimony, these facilities had no Zyklon B input openings in their ceiling during the time of their alleged operation. And if this is so, then this room cannot have been used as site for mass murder with poison gas. Until and unless the question of how the poison gas substance should have been introduced into this putative gas chamber is answered, all further speculations as to the nature of the killings and the possible chemical evidence for them are merely academic exercises without substance.”

4. p. 275 (Authors Rudolf and Gauss)

“Therefore, it is our conviction that the only conclusion which can explain all factors involved is that in the facilities alleged, no mass gassings with Zyklon B can have occurred under the conditions attested to.”

5. p. 279 (Authors Rudolf and Gauss)

“It is not just technical and toxicological impossibilities, chemical and construction-technical evidence which suggest that witnesses did not tell the truth, regarding either Auschwitz or Majdanek. Logic also proves that the witnesses tangled themselves helplessly in their own contradictions. The contradictory findings of Auschwitz and Majdanek take the eyewitness stories about homicidal gassing *ad absurdum*.”

6. p. 312 (Author Berg)

“Some fifty years have elapsed since the end of World War Two. The Holocaust specialists have had more than enough time and opportunity to examine documents and alleged mass murder sites as well as the testimony from the most extensive trials in the entire history of the world. Throughout this period they have certainly been active, and yet they have found little. Aside from a few bits and pieces of so-called ‘confessions’ and ‘eyewitness testimony’, they have, in fact, found next to nothing. The vast information gaps regarding the actual mechanics of the alleged extermination process should arouse the gravest suspicions.

The information gaps are bad enough; what is far worse is that the bits and pieces of information, which one does find are simply incredible. To characterize the alleged mass murder methodology as ‘hare-brained’, ‘crackpot’, or ‘weird’ is to understate the situation. The more one examines scientifically what little evidence there is, the more obvious it becomes that the people who repeat the Holocaust story in one form or another have no idea as to what they are talking or writing about. The testimony of the so-called eyewitnesses is especially bizarre. The statement by Kurt Gerstein, which for a long time was widely used by the Holocaust specialists, is probably the best example of such testimony, but all of the other ‘statements’ or ‘confessions’ are as bad, if not even worse.”

7. p. 347 (Author Neumaier)

“Legislation and the justice system make it a criminal offense in the Federal Republic of Germany to ‘deny’ the Holocaust, the ‘immolation of the Jews’. The term ‘Holocaust Religion’, on the other hand, has not yet drawn judicial displeasure.

It is permissible today to deny that Jesus, whom the Jews managed to get nailed to the cross, was the Son of God, even though his alleged divine existence has been the basis of a world religion for almost 2000 years. Not too long ago, denying or doubting the divinity of Jesus was punishable by death. Jesus, the founder of a religion, and his mother Mary, both of them from the tribe of David, ascended to Heaven without leaving any tangible traces for posterity, and analogically according to the Holocaust Religion six million Jews burned up without a trace left on Earth, while the clouds of smoke vanished heavenward.”

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8. p. 357 (Author Neumaier)

“According to the expositions of the supporters of the Holocaust dogma, the deportation, internment and killing of the Jews during the Second World War was a systematic and methodical program for purposes of exterminating the European Jews. The supposedly methodical and systematic nature of this campaign requires that there was a plan providing for it. To date, however, the sources available to researchers have yielded no evidence for a plan or its systematic implementation – unless all orders and decrees that are supposed to have been issued with respect to the solution of the Jewish Question were in the form of a secret code. But even for this no evidence has been uncovered, for no source has yet been found which contained a definition of the codes comprising such a secret language; however, such a ‘Rosetta Stone’ would have been indispensable to ensure a proper understanding between the issuers and the receivers of the orders. It was and remains a characteristic habit of the Germans to organize and document every measure taken right down to the smallest detail, and this practice was particularly evident among the authorities of the Third Reich. The Holocaust dogmatists’ theory that the mass murder was guided by improvisation, coincidences and spontaneity, and even by a decision-making process based on mind-reading,⁵⁰ is utterly implausible and downright ludicrous, not only for Germany but on the whole.”

8. p. 371 (Author Neumaier)

“The witnesses have described how the skeletal remains of the corpses were broken up, and screened and sifted over and over again to ensure that no evidence would remain. Given the primitive equipment described by the witnesses – wooden rollers and thin sheets of metal for crushing the bones – it might have been possible for a man to break up and sift two skeletons per hour in the manner specified. Thus, if one Jewish laborer had pulverized 20 skeletons per day, 240 Jewish laborers would have been needed for this task alone. Adding up the required personnel – 2,800 Jewish laborers for obtaining the wood, 240 for pulverizing the bones, and 150 to stoke the fire sites – fully 3,200 Jewish workers were needed to complete all the required tasks in a solid seven-day work week. Additionally, further hundreds of Jewish workers would have been needed to carry out various other tasks reported by witnesses: excavating and filling trenches, camouflage activities, sorting the valuables of the murdered Jews, cutting the hair and extracting the gold teeth of the victims, rendering services to the SS, administration, rations and supplies for the camp, etc. There would also have to have been reserve labor standing by at all times. Thus the camp would have had to have a permanent workforce of at least 5,000. This number stands in glaring contrast to the mere 700 Jewish laborers attested to for Treblinka.”¹⁰¹

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10. page 223 (Author Walendy)

“Ill. 4 allegedly shows victims of mass murder in Auschwitz. The bodies are actually those of inmates who had succumbed to typhus in the concentration camp Bergen-Belsen. To date no similar photos have been found of Auschwitz or other sites of alleged mass exterminations. The deliberate misrepresentation of victims of starvation, typhus, supply shortages of all kinds, and unhygienic conditions in the camps of the Third Reich towards the end of the war is thus probably done out of sheer necessity, due to the painful lack of other, real pictures.

It was no doubt the case that the hellish conditions prevailing in the western camps gave the uninformed western Allied observers the impression that mass killings had been carried out deliberately in these camps, so that the corresponding initial Allied reports may be understandable enough. In truth, however, these conditions were the result of external circumstances such as, for example, the evacuation of camps near the Front, whose inmates were (foolishly enough) transferred into the national interior at this time on Himmler’s orders; the total overcrowding resulting from this measure for the remaining camps, as well as the break-down of sanitary, medical and food supply lines to the camps due to the collapse of the infrastructure of the Third Reich which was being bombed to death at this time...”

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The crime is:

- a joint offense of inciting the masses (Volksverhetzung) according to §§130 para. 3 in connection with para. 4 and para. 2 no. 1 a, 25 para. 2 German Penal Code in coincidence (§ 52 StGB) with
- a joint offense of libel acc. to §§ 185, 194 para. 1 phrase 2, 25 para. 2 German Penal Code;

and

- a joint offense of denigrating the memory of the dead acc. to §§ 189, 194 para. 2 phrase II, 25 para. 2 German Penal Code
- and in case of the accused Grabert and Scheerer additionally in coincidence with
- a joint offense of inciting the masses (Volksverhetzung) according to §§ 130 para. 3 in connection with para. 4 and para. 2 phrase. 1 d, 25 para. 2 StGB, in connection with § 74 d German Penal Code and § 20 para. 1 of the Baden-Württemberg Media Law (Landespressegesetz).

Evidence:

Translator’s Note: A list of witnesses, documents, etc., is omitted

Translated by J. M. Damon

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B. Facts and law of the case:

1. A full discussion of the facts and the law pertaining to the charges will be given first.
2. The defendants Grabert, Scheerer and Körner have not given statements. The defendant Walendy made only a brief statement, wherein he confirmed that in Summer 1994 he received, corrected and returned the proofs for the chapter "Bild-Dokumente zur NS-Judenverfolgung?" ("Picture-Documents on the NS persecution of the Jews?)" and therefore knew that a book of this nature was forthcoming. When he was questioned, the defendant Neumaier referred to Art. 5 para. 3 Basic Law and claimed that the charges against him constituted breach of the constitution.
3. In the main hearing the defendants will be proven guilty as stated above on the basis of the evidence presented.

That the defendants Scheerer, Walendy and Neumaier acted in the capacity of authors is shown by the printed work itself. That the defendant Scheerer acted in the capacity of editor is shown by his written declaration to the 17th Criminal Justice Chamber of the Land Court of Stuttgart in case 17 KLS 83/94 on March 05, 1995, in which he admits to use of the pseudonym Ernst Gauss (sheets 304 - 307; if necessary, officials of the 17th Criminal Justice Chamber could be called to testify to this.

That the defendant Grabert acted in the capacity of publisher is shown by the publication data in the printed work itself. The witness Heinz Kurtz can confirm that the firm Koesel GmbH and Co. received the order from the defendant on Sept. 09, 1994 (first request) and that the book was bound on Nov. 22, 1994, and delivered the same date. The written records of Koesel GmbH

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(sheets 361 - 370) confirm the number of copies printed, dates, number and addressees of deliveries. They also show that the deliveries to Buchdienst Nation Europa, Verlag für Volkstum und Zeitgeschichtsforschung and Faksimile-Verlag GmbH were done on the order of the defendant Grabert.

The computer lists of the Faksimile-Verlag GmbH pertaining to the delivery of the book (sheets 375 - 441) show that by the defendant Körner as business manager at least 4000 copies were delivered to 4000 different purchasers. It can be seen from a letter of the defendant Körner (sheets 441 of encl.) that this continued at least up until Dec. 30, 1994. The computer records of the computer system of Grabert-Verlag (sheets 174f.) show several deliveries undertaken by Grabert (such or purchasers and [recte: of] more than two copies) in a time frame between Nov. 22, 1994, and March 21, 1995. In particular, the dates of the deliveries to Buchdienst Nation Europa (sheet Dec. 13, 1994, Faksimile-Verlag plc Dec., 21, 1994) and to Verlag für Volkstum und Zeitgeschichtsforschung (Dec. 21, 1994) are wrong according to the aforementioned delivery documents of the printing company. The fact that 2,086 copies can not be found shows that the remaining copies were distributed by the defendants Grabert, Walendy and Körner and also by the staff of the Buchdienst Nation Europa in Coburg, now under separate prosecution.

4. With respect to the law of the case, the following supplemental points apply:
 - a. Not only the work taken as a whole, but also the individual contributions of the defendants Scheerer, Walendy and Neumaier fulfill in themselves the criteria for the offense of incitement of the masses acc. to § 130 para. 3 German Penal Code in the form of denying or diminishing the genocide of the Jews committed under the rule of the National Socialism,

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libel and denigration of the memory of the dead.

- b. The criteria for the violation of § 130 para. 1 German Penal Code, new version, is not fulfilled by the distribution of the printed work. To dispute the gas chamber murders can constitute an assault on the human dignity of others only if the defendants supports the National Socialist race ideology or if their statements are otherwise connected with same (Federal Supreme Court, NStZ [German Law Journal] 1981, 258) or when the defendants describe the fact of the systematic murder of Jews as a false story intentionally conceived for the purpose of gagging and plundering Germany for the benefit of the Jews (Federal Supreme Court, decision 15.03.1994 – I StR 179/93 –). No such statement can be found in the printed work.
It is true that the book tends unmistakably to exonerate National Socialism; however, there is nothing which indicates support of the race ideology of National Socialism.
- c. Since not all copies were distributed, and it was possible to confiscate 2,086 copies, the defendants Grabert and Scheerer are coincidentally subject to the charge of one offense of inciting the masses according to §§ 130, paragraphs 3 together with 4 and 2, number 1 d of the German Penal Code. The fact of distribution according to §§ 130, paragraph 3 together with paragraph 4 and paragraph 2 Nr. 1 a, supersedes acts of preparation criminalized according to no. 1 d only with respect to such publications as were actually distributed. In addition, the deeds coincide (Federal Supreme Court NJW (New Jurist's Weekly) 76, 720 and Federal Supreme Court by Holtz, MDR (Monthly journal for German law) 77, 809 on the similar § 184 German Penal Code). The copies confiscated were kept in stock

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by the defendants Grabert and Scheerer.

- d. The short statute of limitation of § 24 para. 1 of the Baden-Württemberg Press Law, that moreover does not apply to acts of preparation acc. to § 130 para. 3 together with para. 4 and para. 2 num. 1 d, began on Nov. 22, 1994, at the earliest (publication of the printed work), and was interrupted by the general confiscation decree of the County Court Tübingen on March 03, 1995, – 4 Gs 173/95 – the interrogation of the defendants, which occurred at various times, and especially by the filing of the accusation.

- e. The offense of distribution of publications acc. to § 130 paragraphs 3 together with para. 4 and para. 2 num. 1 a StGB is a unitary deed, successively committed with the individual acts of distribution. At the time of the first publication of the printed work, § 130, new version, was not in force. However, the offense continued after Dec. 01, 1994, so that all acts of distribution after Dec. 01, 1994, are subject to punishment acc. to § 130 StGB.

C. Other matters:

- 1. In a decree on March 03, 1995, – 4 Gs 173/95 – the Tübingen District Court ordered the general confiscation of the printed work "Grundlagen zur Zeitgeschichte: Ein Handbuch über strittige Fragen des 20. Jahrhunderts" throughout the Federal Republic (sheets 78/89). The time limit given by of § 111 n para. 2 German Penal law was twice extended by the County Court Tübingen with decrees form May 02, 1995, (sheet 92/93) and June 30, 1995, (sheet 102/103).

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- 2. a. The proceedings against the suspects Werner Rademacher, Manfred Köhler, Franco Deana and Herbert Tiedemann have been discontinued according to § 170 paragraph of the 2 German Penal Law, since their identities could not be determined (cf. Bl. 584/585 d. A.).
- b. The proceedings against the suspect Dr. Claus Jordan have been discontinued because he died (sheet 586 of encl.).
- c. The proceedings against the suspects Robert Faurisson, John Clive Ball and Friedrich Paul Berg have been separated, inasmuch as a discontinuance acc. to § 205 StPO is considered likely.
- d. The proceedings against the suspects Johannes Peter Ney, Ingrid Margareta Elisabeth Weckert and Carlo Mattogno have been discontinued acc. to § 170 para. 2 of the Criminal Code of Prosecution (cf. sheets 587 / 588 of encl.).
- e. The proceedings against the suspects Günter Deckert and Peter Paul Gustav Wilhelm Müller have been separated (Deckert: 15 Js 8831/95; Müller 15 Js 15271/95).
- f. For reasons of time limitation, the request for permission to have access to the court records by attorney at law Thomas Mende could not yet be dealt with; it is therefore requested that access to the court records be granted.

It is requested that the principal hearing begin.

Signature: (Teschner)
State Attorney

TRANSLATOR'S AFFIDAVIT:

I CERTIFY THAT I POSSESS EXPERT COMPREHENSION OF BOTH THE
ENGLISH AND GERMAN LANGUAGES AND THAT THE ABOVE IS A TRUE
AND ACCURATE TRANSLATION.

J. M. Damon, MA, The University of Texas at Austin
25 October 2000

Translated by J. M. Damon