TWO VIEWS OF GERMANY

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As a visitor to the postwar Germany of 1969, I was struck by the lack of destruction that I had expected to see, for after all, only 24 years had passed since the end of World War II. In the cities and countryside that I visited major reconstruction had occurred. I drove over much of Germany in that summer of 1969, but did not visit either East or West Berlin, Dresden, or other cities that suffered much more from the Allied bombings. I did experience some discomfort, however, in my personal experiences with the older German citizens, noticing their resentment of the Americans touring their country. Of course, this would have been a natural reaction to our presence, but nonetheless contributed to a general feeling of unease. This feeling was exacerbated in visits to such landmarks as the Hafbrauhaus in Munich. The beer halls of Munich had been in our travel plans from the beginning, something that any twenty-one year old would never miss in a visit to Germany. After my first evening of drinking great beer at long tables, talking to our German table mates, and consuming enormous quantities of wonderful food, we were made to feel most uncomfortable by groups of older men who interrupted the cheerful music to stand and sing " Deutschland Uber Alles," all the while standing on their tables with right arms raised in that all too familiar salute. This experience was not enough, however, to prevent our return for several more nights.

Another visit to Germany this past spring was eagerly anticipated from the very time when I learned that I would be returning after some 32 years. The Defense Task Force on Domestic Violence, of which I am a member, was visiting military installations in Germany and Italy as part of our review process. I expected that things would be very different, including the attitudes of the people. I would be visiting sites and cities that I had not seen in 1969. Stuttgart, Heidelberg, and Nuremberg were on our itinerary. The first two cities were short visits where only limited sightseeing would be possible, but Nuremberg was going to be our base for several nights, and included was a weekend where no work was to take

place. Nuremberg has always held some fascination for me, especially after watching Spencer Tracey in "Judgment at Nuremberg." It would, I think, appeal to any lawyer. My knowledge of the city was pretty much limited to viewing that film several times, and for that reason I welcomed information provided by the Department of Defense, the sponsor of this visit. Nuremberg is a beautiful city and one of the oldest in Germany. It lies in the state of Bavaria, about 90 miles northwest of Munich. Like many other European cities, it is noted for its many historical landmarks.

In the middle ages, the city was one of the most important cultural centers in Germany. The first gymnasium, or higher school, was established in Nuremberg. The first German paper mill stood in this city. Sometime around 1500, Peter Henlein invented what might have been the world's first watch. The heart of Nuremberg was once its walled inner quarter, or ring, only one block from the Grand Hotel, the hotel for our stay in Nuremberg. The Grand Hotel has a fascinating history of its own, having been the site where most of the judges, prosecutors, and media resided during the Nuremberg War Crimes Trial. It also had the distinction of having refused to accommodate Adolph Hitler, the management believing, and rightfully so, that he was not worthy of lodging in such "a Grand Hotel." Sharing a common wall with the Grand Hotel is the Deutscherhof Hotel that Hitler built to compete with the Grand after this embarrassing snub. The Burg, or royal palace, built between 1024 and 1158, stood on a hill overlooking this walled city. Albrecht Durer's home was built in about 1420, and still stands and serves as a museum, located near the plasse, or center square of the old city. His home had suffered extensive damage, but has been completely restored, and several drawings of the Renaissance painter and engraver are on exhibit there. Allied bombs destroyed much of this section during World War II, but it has been rebuilt and one would never know that most of the buildings are less than fifty years old, such was the attention to detail.

Nuremberg was known as a city as early as one thousand years ago. It became a Protestant center during the Reformation and was a free city at the time it became part of the kingdom of Bavaria in the early 1800's.

The city became an important political center after the National Socialist Party, better known as the Nazis, came to power in Germany in 1933. The Nazi Party from its very genesis chose Nuremberg as the city

symbolic of its roots and its heritage. The Nazis held their nationwide assemblies and congresses in Nuremberg, and not in Berlin as I had always believed. The film clips that one sees with Adolph Hitler reviewing the seemingly endless lines of soldiers are from Nuremberg, not some other German city. In 1935, the Nazi controlled Reichstag, or national assembly, approved the so called "Nuremberg Laws," which forbade Germans to marry persons of Jewish descent, deprived Jews of citizenship, and made the swastika the flag of Germany. Hitler conferred the title of "City of the Party Rallies" on Nuremberg in 1933. The intention was to establish a link between the Nazi movement and its ideology and Nuremberg, an imperial city rich in tradition, center of trade, art and culture in the middle ages. With this history it became apparent to me why the United States, France, Great Britain, and Russia chose Nuremberg for the International Military Tribunal.

On our weekend off, many activities had been planned. The group had the opportunity to visit Rothenberg, a lovely medieval city, and I had planned to co-host a Kentucky Derby party, for this was the first Saturday in May. That Saturday morning two other Task Force members, Major General Tom Fiscus, the Deputy Judge Advocate General for the Air Force, Dr. Jackie Campbell, a researcher from Johns Hopkins University, and I decided to run together, and, as part of the run, visit the Nazi Rally Grounds.

In 1934 Hitler ordered the creation of appropriate architecture to form a suitable backdrop for his mass rallies. He named Albert Speer as chief architect for the task. Extensive grounds for the planned buildings were soon found - the recreation area that already existed around Dutzendteich Lake. The area was transformed into the Nazi Party Rally Grounds during the period of 1933 to 1938. The Luitpold Arena, a stone grandstand, was erected in the Luitpold Grove. A path paved in granite, 18 meters wide and 240 meters long, created the connection between the grandstand and a war memorial in existence since 1929, in order to symbolize the link between the spirit of the Nazi movement and the nation's dead warriors. 150,000 persons could assemble before the Fuhrer in these grounds. The Luitpold Arena served for the stage-managing of mass parades by the military and the SS. It was here, too, that the ritual in honor of the dead took place: Hitler swore the masses gathered at the war

memorial to the "legacy" of the dead warriors of the Nazi movement. The Zeppelin Grandstand and the Zeppelin Field, combining to form a basically square shape, offered space for 60,000 persons in the grandstands and about 100,000 field spectators, and were constructed between 1934 and 1937 on the Zeppelin Field, named after Count Zeppelin, who landed there in one of his airships in 1909. The National Socialists used the Municipal Stadium for parades and the swearing in of the German Youth. The Congress Hall was designed by architects Ludwig and Franz Ruff. This monumental building was planned as congress center for the National Socialist Party after World War II. The foundation stone was laid in 1935. The facade is reminiscent of the Coliseum in Rome. A cantilever roof was to cover the inner court, which was designed for some 50,000 people. The Congress Hall is the largest remaining monumental building from the Nazi era in Germany, but it remains unfinished.

The Great Road was designed by Albert Speer as a central axis of the Party Rally Grounds. It was built of 60,000 granite slabs and was more or less finished by 1939. The Great Road was aligned to the north directly with Nuremberg's imperial castle in order to emphasize visually the imagined tie between the city of the Imperial Diets and that of the Nazi Party Rallies. Speer also designed the March Field as an exercise area for the purposes of the Wehrmacht. It was officially named Marsfeld in March of 1935, the month in which compulsory military service was reintroduced in Germany, but the name can also be traced to Mars, the god of war. Construction was not begun until 1938. By the start of the war, eleven of the 24 planned March Field towers had been constructed. Speer again was the architect for the German Stadium planned for the same site. He designed it for 405,000 spectators, as the largest sports stadium in the world. This was to be the last major building project for the Party Rally Grounds. Nazi combat games were to take place in the gigantic building. The ground is reminiscent of the ancient Olympic stadium in Athens. The foundation stone, laid in 1937, and an excavation filled with ground water - the present Silbersee, or Silver Lake, are all that remain of this intended project.

I was quite eager to see these massive building projects, even though it was known that some were not finished and some had fallen into disrepair. I really was quite amazed that the German people had not

removed all evidence of their past association with the Nazi party. General Fiscus knew that the Rally Grounds were about three to four miles from the Grand Hotel, having visited Nuremberg on an earlier tour of duty. However, he was not exactly sure where to go other than across the wide boulevard passing in front of our hotel and the main train station across the street. We went to the concierge of the hotel to ask for directions and I then experienced some of the same feeling that I had experienced some 32 years before. He knew nothing of what we were talking about, had never heard of the Rally Grounds, and could not give us directions. I was not sure if he really did not know what we were asking about even though he spoke perfect English, or simply did not know of what we were inquiring. I had heard of how the German people to this day did not acknowledge some of the horrors of the past, but had never experienced it first hand. Margaret, my wife, had traveled to Europe the same summer I did in 1969 and had described the same eerie feeling when she went to visit Dachau, the only prison and extermination camp still existing in Germany. Dachau is a suburb of Munich and the camp is on the very edge of the village. It would be impossible not to know what it was and where it was, but she remembered taking the train from Munich to Dachau and asking for directions to the camp, only to be told by everyone that no such place even existed. Some of us visited Dachau on the day after our arrival and the day before we began our actual Task Force work. It was small in relation to what I expected, but it was, after all, where only 32,000 persons were put to death. We asked the concierge for a map of the city and took off on our own, marveling to ourselves of either the ignorance of the German people or their choice to ignore their ignoble past. Our run carried us through beautiful parts of the city, and when we approached the SS Barracks, an enormous dormitory that was designed to house thousands of SS troops, Tom said we were near, because it was located on the edge of the Rally Grounds. We ran through the Grounds and spent time in the Zeppelinfield, standing where Hitler would have stood some 60 to 65 years before. On our way back to the hotel, we happened upon a marker that displayed a detailed map of the entire Rally Grounds, which had proven too large to run through. The grounds must have occupied several square miles. While at the marker two couples came up and were viewing the map. One couple was young, I say young, they were about my age, and the other

was elderly. We struck up a conversation, as they were obviously American, and learned that the elderly man was visiting this site for the first time since 1945, when he had been there as a soldier. He was an Army engineer who assisted in the destruction of the massive swastika located on the top of the central block of the Zeppelinfield on April 24, 1945. I experienced history with a firsthand account in our conversation with him. I felt cold chills on our run back to the hotel, knowing that the concierge could not have ignored the existence of such an enormous area and one that had meant so much to the Nazi party.

Our plans for the rest of the day included several hours in Rothenberg, but before our bus left for the medieval city several of us decided to visit the site of the International Military Tribunal, having learned the day before from the Army Staff Judge Advocate stationed at Ansbach, located some 26 miles from Nuremberg, that tours of the courtroom had started just the week before. We marveled that it had taken some 56 years for tours to start at this historic site. In addition to Nuremberg having been the site of the Nazi rallies, it also had a large judicial facility that had not been destroyed by the Allied bombing. The Palace of Justice was a perfect location for the war crimes trials. Why, we wondered, was the facility just now made available for tours? The massive courthouse was still in use. We surmised that it was simply a national reaction, similar to what we had received from our concierge - either the choice to remain ignorant or the choice by the nation not to educate the young about that part of Germany's history. We asked the concierge about the tours - surprise! He knew nothing of the tour, and also professed to know nothing of the trials themselves. He was, however, able to give us directions to the facility, because after all, it was still in use as an active courthouse. The courthouse was a short subway ride from the hotel and a short walk from the subway. I was amazed that this beautiful building was marred by a service station that was built in the courtyard of the entrance to Courtroom 600, the site of the trials. I thought that this again was an effort to hide the past, as this was the only aesthetic change to the entire facility. We entered the building and went up a short flight of stairs to the courtroom itself. We were among only about 15 persons there. Apparently the news had not yet spread about the opening of the courtroom, or else if the information was made available, the citizens did not know what the site

represented. It was a strange and eerie feeling, to sit and stand in the spots where Herman Goering and others had sat or stood, just like I felt that morning to stand on the reviewing stand where Adolph Hitler had stood while reviewing the German troops.

The Palace of Justice was previously known as a regional appellate court facility. It is an impressive four story stone building with four similar sections connected across the front and the rear. In renovating the Palace of Justice courtroom, millions were spent on elegant carpeting, furniture, and furnishings from Switzerland, France, and many other European countries. We were among only about 20 people who visited the courtroom that day. It was obviously still unknown to the German population, as the other visitors included some American college students and several other young people from other European countries, but no Germans.

The Potsdam Declaration of July 26, 1945, by the United States, Great Britain, and the U.S.S.R., stated that at the time of granting any armistice to Germany that those officers and men, and members of the Nazi Party responsible for massacres, atrocities, and executions in occupied territories, would be tried and punished. The International War Crimes Tribunal established in Nuremberg had two other legal authorities for existence. One, the so called London Agreement, was signed by representatives of the United States, the United Kingdom, France, and the U.S.S.R. in London on August 8, 1945, and the other, Law N. 10, was issued by the Allied Control Council in Berlin on December 20, 1945.

The London Agreement provided for the establishment of the International Military Tribunal, composed of one judge and one alternate judge from each of the signatory nations, to try war criminals. Under the London Agreement, the crimes charged against defendants fell into three general categories: crimes against peace, that is, crimes involving the planning, initiating, and waging of aggressive war; war crimes, or violations of the laws and customs or war as embodied in the conventions adopted at the Hague Conferences of 1899 and 1901; and crimes against humanity, such as the extermination of racial, ethnic, and religious groups and other large scale atrocities against civilians.

On October 18, 1945, the chief prosecutors, including Justice Robert H. Jackson of the United States Supreme Court, lodged an indictment with the tribunal charging 24 individuals with a variety of crimes and atrocities,

including the deliberate instigation of aggressive wars, extermination of racial and religious groups, murder and mistreatment of prisoners of war, and the murder, mistreatment and deportation to slave labor of hundreds of thousands of inhabitants of countries occupied by Germany during the war.

Among the accused were National Socialist leaders Herman Goering and Rudolf Hess, diplomat Joachim von Ribbentrop, munitions maker Gustav Krupp von Bohlen und Halbach, Field Marshal Wilhelm Keitel, Grand Admiral Erich Raeder, Albert Speer, Hitler's chief architect and Minister for Weapons and Munitions, and 18 other military leaders and civilian officials. Seven organizations that formed part of the basic structure of the Nazi government were also charged as criminal. These organizations included the SS, or Schutzstaffel, German for Defense Corps, the Gestapo, or secret police, the SA, or Sturmabteilung, German for Storm Troops, and the General Staff and High Command of the German armed forces.

The trial began on November 20, 1945. Much of the evidence submitted by the prosecution consisted of original military, diplomatic, and other government documents that fell into the hands of the Allied forces after the collapse of the German government.

The judgment of the International Military Tribunal was handed down on September 30 andOctober 1, 1946. Among notable features of the decision was the conclusion, in accordance with the London Agreement, that to plan or instigate an aggressive war is a crime under the principles of international law. The tribunal rejected the contention of the defense that such acts had not previously been defined as crimes under international law and that therefore the condemnation of the defendants would violate the principle of justice prohibiting ex post facto punishments. It also rejected the contention of a number of the defendants that they were not legally responsible for the acts because they performed the acts under the orders of superior authority. According to the tribunal, the true test is not the existence of the order, but whether moral choice in executing it was in fact possible.

With respect to war crimes and crimes against humanity, the tribunal found overwhelming evidence of a systematic rule of violence, brutality, and terrorism by the German government in the territories occupied by its

forces. Millions of persons were destroyed in concentration camps, many of which were equipped with gas chambers for this extermination of Jews, Gypsies, and members of other ethnic or religious groups. Under the slave labor policy of the German government, at least 5 million persons had been forcibly deported from their homes to these camps. Many of them died because of inhuman treatment. The tribunal also found that atrocities had been committed on a large scale and as a matter of official policy.

Of the seven indicted organizations, the tribunal declared criminal the Leadership Corps of the National Socialist Party, the SS, the SD, or Sicherheusdienst, German for Security Service, and the Gestapo.

Twelve defendants were sentenced to death by hanging, seven received prison terms ranging from ten years to life, and three were acquitted. Those who had been condemned to death were executed on October 16, 1946. Herman Goering committed suicide in prison just a few hours before his execution was to take place.

Dr. Roy A. Martin, of Louisville, is the step-father of a close friend of ours. Dr. Martin's wartime assignment was actually post-war in that his initial assignment was with the 6850th Internal Security Detachment, the unit that was in charge of the top Nazi prisoners held in the Nuremberg prison during the International War Crimes Tribunal. The military patch that Dr. Martin wore on his uniform was shield shaped and bordered in black. The top had a gold key, with the Nazi emblem on the end, which represented the Nazis being incarcerated. In the blue center background was the gold scales of justice, which represented the tribunal. The bottom of the patch displayed the Nazi eagle being consumed in flames. He arrived in Nuremberg on August 6, 1946, and shared duties with another Army physician, Lieutenant Charles Roska, who was already stationed in Nuremberg. Dr. Martin's lodging for the duration of the trials was the same Grand Hotel that served as our accommodations during our stay. The two cared for the prisoners until the end of the trials, and were present for their executions on October 17, 1946. It was their duty to pronounce that those executed were in fact dead. Dr. Martin provides a fascinating look at the personalities involved. He spent a great deal of time with each of the defendants and describes each of the defendants in ways that most of us have never heard. It was Dr. Martin who pronounced Goering dead from ingesting cyanide, which Dr. Martin believes was smuggled into the

prison in Goering's leather boots. He also had two other ampules that were concealed in a jar of cold cream that was found after his suicide, and one that was found in a jar of Nescafe, which was discovered in his original incarceration. Dr. Martin believed that Goering committed suicide because he was denied the request to be executed by firing squad, which Goering believed to be more honorable than hanging. Dr. Martin believes that after Goering retired for the night on October 15, he accomplished his apparent long planned suicide by chewing a glass ampule containing cyanide. He believes that Goering knew that the next night was scheduled for his execution, even though the date had not yet been announced by the International Tribunal. He had heard the sound of the gallows being constructed, as had the other defendants and all of those who worked in the Palace of Justice. He also probably estimated the date, as had everyone else, including Dr. Martin. He was also aware of the difference in food preparation, as apparent last meals were being served, and finally, he was aware that the lights had been turned up to their brightest settings, because at night the prison was usually quite dark. Dr. Martin asked the convicted defendants who were not executed what they thought of Goering's suicide and the responses were fascinating. Admiral Raeder stated, "Frankly, I have never had much respect for Goering." Albert Speer said, "Goering missed any opportunity of being considered a hero, as he wished to do, as a result of his suicide."

The bodies of the executed men had been laid in their coffins in the execution chamber behind the Palace of Justice and Goering was brought in to join them. On the instructions of the Tribunal four photographs were to be taken for official records, but never to be published. At 5:30 a.m. following the executions two vans with escorting jeeps, manned by military policemen, took the bodies away. When last seen, they were heading in the direction of Furth, where there was an airport. It was assumed by many that the bodies were being taken to Berlin for cremation and an official announcement the next day disclosed that the twelve bodies had been "cremated and the ashes disposed of." Cremation and the secret scattering of the ashes had been agreed upon at a meeting on October 10. According to German law the families had the right to the remains but the Allies

believed that if the location of their remains was known that shrines would spring up and along with them, a possible resurgence of Nazism. There seems to be no official record of what actually happened, but many believe that the bodies were actually taken to the former concentration camp at Dachau and cremated in its ovens. Dachau was not far away and there seems to be a ghoulish appropriateness for them to end up there. It seems unusual that the actual truth of what happened to the men's remains is unknown.

Dr. Martin also accompanied Hess, Speer, and the others who were to be incarcerated in Spandau Prison in Berlin. He tells of the pilot spending some thirty minutes flying over Berlin for the benefit of the prisoners, knowing that they would be spending years, if not life, in prison.

I returned only last month from another Task Force visit overseas, this time to Japan. The Japanese have a strangely revisionist view of World War II, and perhaps I will reserve that distorted view for my next paper. But then again, some of you may wish that that idea be shelved, especially in light of this paper tonight.