

CROSSING HITLER

The Man Who Put the Nazis
on the Witness Stand

BENJAMIN CARTER HETT

OXFORD
UNIVERSITY PRESS

2008

The Witness

Friday, May 8, 1931: everyone agreed that it would be "Moabit's great day." "Without doubt," predicted the tabloid *World in the Evening*, "one must reckon with a great sensation." "Exciting day," the Nazi Party propaganda director and Berlin party boss Joseph Goebbels noted in his diary. Early in the morning, police cars were lined up outside the huge Berlin criminal courthouse at the corner of Turm and Rathenower Streets. Police were everywhere: two units inside the building, one outside. Squads of National Socialist storm troopers were there too. As the morning wore on, their number rose into the thousands; the endless cries of "Heil Hitler!" echoed from the stone walls of Gründerzeit apartment blocks. The *8 O'Clock Evening News* featured a photograph of these "unemployed Nazis" on its front page, noting that they had been ordered to Moabit for a "spontaneous people's demonstration." The police managed to push them off Turm into the narrow side streets, where they had to content themselves with yelling at passersby and, some said, getting into brawls with each other.¹

On the steps of the courthouse press photographers besieged the grand entry doors. No one could enter without a special permit. Even the great daily newspapers were granted only one entry card each.²

Three days before, a small group of senior officials had met to discuss security arrangements. Afterward, a prosecutor reported confidentially to the Prussian justice minister that all the necessary measures had been taken, "especially insofar as the personal security of the witness Hitler is concerned."³

The personal security of the witness Hitler had been on the minds of these officials since May 2, when the court had acted on Hans Litten's request and formally summoned the leader of the National Socialist German Workers' Party to testify at the Eden Dance Palace trial, the trial of Konrad Hermann Stief and three other Nazi storm troopers for attempted murder. Shortly after Hitler received the summons, a secretary from Goebbels's office phoned the court to say that "the

Communists" were planning to attack Hitler as he entered the courthouse. Several days before Hitler's appearance, court officials therefore told the press that Hitler would be examined at eleven o'clock, following two other witnesses; in fact, they scheduled his appearance for nine o'clock sharp. That morning, the victims of the storm troopers' assault were examined for concealed weapons at the courtroom door. And shortly after nine o'clock, Hitler, along with his adjutant Lieutenant Wilhelm Brückner, was smuggled into the courthouse through a passage closed to the public that connected Turm Street to the holding cells and to the older criminal court building on Alt-Moabit, a long block away.⁴

For this appearance Hitler chose a plain dark blue suit instead of a brown storm trooper's uniform. The only sign of his political role was the small Nazi pin in his buttonhole. As they made their way to Courtroom 664 on the third floor, Hitler and Brückner could not see the crowds of police and storm troopers gathered outside. But the spectators' gallery was packed. Many of Berlin's most prominent officials and politicians were there, but, according to several papers, most of the spectators were storm troopers and members of the Nazi Party. The presiding judge, Superior Court Director Kurt Ohnesorge, lectured the noisier spectators about decorum, but the defendants were undeterred. When their Führer entered the courtroom, they leaped to their feet, raised their arms, and shouted "Heil Hitler!"⁵

Judge Ohnesorge pounded his fist on the table. "I have strictly forbidden demonstrations here," he said. "I least of all expected the defendants to disobey this order. If it happens again I will impose the most severe disciplinary penalties."⁶

In spite of the tight security, one "unauthorized" person had managed to get into Courtroom 664—not an SA thug or an enterprising reporter, but nineteen-year-old Margot Fürst. With the same self-possession that had gotten her out of tedious high school classes and later would keep her safe even from the Gestapo, Margot had stuck a file under her arm and told the police she had to bring it urgently to Advocate Litten's attention. Once inside the courtroom she stayed to watch Hitler's examination. In the file was a single sheet of paper with one line: "A greeting for the Grizzly Bear." Litten read the sheet with a "dignified and straight face," Margot recalled.⁷

After Judge Ohnesorge had lectured the witnesses on the significance of the oath, everyone but Hitler was led out of the courtroom to a nearby waiting room. At ten minutes past nine, Judge Ohnesorge turned to Hitler and intoned formally, "You are summoned here as a witness by request of counsel for the private prosecutor."⁸

Political Soldiers

By May 1931 Adolf Hitler could already look back on a twelve-year career in German politics. He had been a figure of real importance, however, for only eight months.

His biography is mostly common knowledge now. A soldier of the Great War who, in nearly four years at the front, was never promoted past corporal because his regimental officers thought he lacked the leadership qualities to be a sergeant, Hitler gravitated after the war to Munich, which was becoming the center of Germany's mushrooming radical-right political scene. Briefly employed by the army to scout the new parties and factions, he discovered a group called the German Workers' Party, founded by a locksmith named Anton Drexler. Hitler's intervention at one of the Party's meetings impressed Drexler, who pushed Hitler to join, as in fact did Hitler's superior officer. Soon audiences in Munich discovered that Corporal Hitler had one overriding talent: as he put it, "I could 'speak.'" This talent, and the force of his personality, soon brought him the leadership of the little German Workers' Party, which he remade according to his own wishes, adding the modifiers "National Socialist" to the Party's name. At first Hitler believed he could lead the party to a revolutionary overthrow of the shaky Weimar Republic. In November 1923 he made his bid for power, in the "Beer Hall Coup," working alongside several prominent conservative Bavarian politicians and the First World War general Erich Ludendorff. The coup was a failure. Hitler was fortunate to escape with nothing worse than a brief prison sentence for high treason, from which he emerged at the beginning of 1925.⁹

The mid-1920s were not a good time for Germany's radicals. After the runaway inflation of the early 1920s, the German economy recovered and began to return to prewar levels of prosperity. The prosperity brought a stabilization of the democratic system and an increase in votes for the centrist political parties. In the parliamentary elections of 1928, Hitler's National Socialist Party won only 2.6 percent of the vote; in "Red Berlin," dominated politically by the Social Democrats and the Communists, only 1.5 percent. The Nazis were a fringe party, their leader merely one more rabble-rouser.¹⁰

The outcome of the 1928 election was a "grand coalition" of democratic parties led by the Social Democrat Hermann Müller. Prussia, Germany's largest state, with three-fifths of the country's population, was likewise under the rule of a coalition led by Social Democrats. But by the fall of 1928 the ranks of the unemployed in Germany were beginning to grow, and the worldwide economic crisis that hit a year later proved a godsend for Hitler's movement. In that year Hitler joined a campaign launched by the conservative Nationalist Party against an American-led plan to restructure Germany's reparations payments to the victors of the First World War. The association with the Nationalists gave Hitler a veneer of respectability. At the same time, the revolutionary edge of Hitler's party, its violent contempt for the bourgeois certainties of nineteenth-century Europe, promised the only hope for many of the workers, shopkeepers, and unemployed youth who bore the burdens of recent German history. As its name implied, the National Socialist Party held out the promise, however spurious, of a more egalitarian and socially conscious nation. This held a powerful appeal in a Germany that expected the state to care for its citizens and that had become increasingly democratized since the end of the nineteenth century. The more the traditional parties seemed overmatched by the challenges of the twentieth century, the more the Austrian demagogue gained in popularity. On September 14, 1930, Germans went to the polls and this time gave the National Socialist Party nearly 6.5 million votes and 107 seats, 18.3 percent of the seats in Germany's parliament, the Reichstag. Literally overnight, the face of German politics was transformed. Not yet even a German citizen, the Austrian corporal was the coming man.¹¹

With new prominence came new problems. The ideological appeal of the Nazi Party was a mass of contradictions: nationalist and “socialist,” working class and bourgeois, populist and elitist, modern and antimodern. The Party sought a “community of the people” from which huge segments of the people were to be violently expelled—Jews most conspicuously, followed by members of the Socialist and Communist Parties, habitual criminals, the mentally handicapped, and (a little later) gay men. It wanted to restore the health of Germany’s industrial economy and the power of its armed forces while returning people to the traditional rural life. But no contradiction was as fundamental and as politically dangerous for the Party as that between “legality” and “illegality.”

After the ignominious failure of the Beer Hall Coup, Hitler concluded that the National Socialists could gain power in Germany only legally, through the very parliamentary elections they openly despised. This new legal strategy, however, put the Party in a bind. There was nothing in the Nazi Party’s platform, including its anti-Semitism and militarism, that had not been common fare on the German far right for decades. Some Nazi demands, for revocation of the Treaty of Versailles, imposed on Germany in 1919 as the price of surrender in the First World War, and union with Austria, were standard across the spectrum of Weimar German politics. However, what set the Nazis apart were their youth and their use and advocacy of violence. No other political party was as young; even the leaders were in their thirties or forties (Hitler himself turned forty-two while the Eden Dance Palace trial was in progress). And no other party had an auxiliary army as fierce and as fast-growing as the brown-shirted SA or “Storm Sections.” The SA tripled in size in the course of 1931, from 88,000 members in January to 260,000 by the following December.¹²

The young men who were pouring into the SA in 1931 had been born around 1910. Their whole lives had been shaped by war, revolution, economic crisis, and social upheaval. They had never known peace, security, or general prosperity. They belonged to a generation that faced unusually high levels of unemployment and poor access to higher education and apprenticeships. The police official Rudolf Diels, a man who, despite, or perhaps because of, his involvement in many

of the Nazis' crimes was an uncommonly sharp-eyed observer of them, caught the essence of the SA men in his memoirs:

They called themselves "political soldiers." Élan and audacity were their dogmas. . . . Ignorance of the noble and valuable things of culture had made them hostile to culture; the destruction of all social connections had made them rootless. With many, going berserk was overcompensation for their measureless weakness, their camaraderie a product of their fear of being alone.¹³

In smaller German towns it may well have been that the function of the SA was (as it always claimed) purely propagandistic: to stage parades and provide security at Nazi meetings. But the big cities, above all Berlin, required a different approach. "Berlin needs its sensation like a fish needs water," wrote one influential Nazi leader. "That is what this city lives on, and any political propaganda which does not recognize it will fail to hit its target." The man who wrote these words had been named the Party's Berlin boss, or *Gauleiter*, in the autumn of 1926. His name was Joseph Goebbels.¹⁴

Goebbels wasted no time in demonstrating what he meant by "sensation." The role of the Berlin SA was to move into working-class neighborhoods, dominated politically by the Communist Party and the Social Democratic Party, and get control of the streets through virtual gang warfare with the Communist Red Frontfighters' League and the Social Democratic Reich Banner Black-Red-Gold. Soon after his arrival in Berlin, Goebbels ordered a "propaganda march" through the solidly working-class district of Neukölln. He made a point of speaking at the Pharus Hall in the even redder district of Wedding. With incidents such as the beating of a pastor at a Nazi meeting and a brawl between SA men and Communists at the Lichterfelde-East train station, the level of political violence in Germany's capital began a steady escalation to what would become a full-blown civil war by the summer of 1932.¹⁵

But relying on the young toughs of the SA presented an ever more serious dilemma to the calculating politicians in Hitler's inner circle. The storm troopers tended to put as much emphasis on the "socialism" as the "nationalism" in their party's name, and their rhetoric was often hard to distinguish from that of the parties of the left. The Neukölln SA

leader Reinhold Muchow wrote in 1926, "Berlin National Socialists almost without exception devote their energies to the conquest of the German workers (they are fed up with the bourgeoisie of all descriptions)." A few years later, after Hitler had become Germany's dictator, the members of the Berlin SA unit "Storm 33" (to which the defendants in the Eden Dance Palace trial belonged) looked back on what they called the "time of struggle" and recalled that although they had fought hard against the Communists, they would not forget their struggle against "the thoughtlessness and cowardice of the middle class," which neglected "the economic needs of its national comrades so long as things were going well for itself"; which "cravenly left the streets to Marxism"; whose lack of political instinct meant that it had "failed even to recognize the danger of the Jews"; and all in all was "fundamentally just as hostile to us as was the Red Front."¹⁶

As the Nazi movement began to gain electoral support after 1929, this angry, hateful, and semi-articulate SA radicalism sat ever more uneasily with the electorally oriented "legalism" of the Party leadership. The tension between the revolutionaries of the SA and the tacticians of the Nazi Party headquarters in Munich led to repeated crises—before and after Hitler himself came to power. Such a crisis formed the crucial backdrop to Hitler's appearance in Moabit on that May morning.

The crisis centered around the SA leader for Berlin and Eastern Germany, the former police captain Walter Stennes. Stennes had had a checkered career, typical of the men who joined the Nazis in the early days. Born in 1895, the son of a minor official, he was educated in military schools from the age of ten. When war broke out in 1914 he won a commission in an infantry regiment. He served throughout the war, mostly at the front—although he had a brief spell working with "higher staffs"—and was wounded four times. Unable, like so many veterans, to settle down to civilian life after the war, he organized one of the first "Free Corps" units. The Free Corps were squads consisting mostly of recently demobilized veterans along with students frustrated at having missed combat, on which Germany's first postwar Social Democratic administration relied to suppress its more revolutionary enemies. From there Stennes moved to the command of a tactical squad with the Berlin Security Police. In 1923 the Reich government asked him to command the "passive resistance" to the French occupation of the

Ruhr district. Later, as he wrote mysteriously in a 1928 biographical sketch, he was "active with confidential commissions" as an intelligence officer with the Ministry of Defense. He joined the Nazi Party in 1927 and soon became the leader of all SA troops east of the Elbe River.¹⁷

Stennes was one of those SA men increasingly discontented with the Nazi Party's efforts to woo middle-class voters with a program of ostensible legality. The first signs of trouble appeared in the spring of 1928, when Stennes claimed that the SA should be fully independent of the political leadership. Resentments boiled over again just weeks before the elections of September 1930, when the Party refused to put three SA men on its list of parliamentary candidates. Anger over this slight joined frustration with the chronically weak finances of the SA. Stennes traveled to Munich to express the grievances of the northern SA personally to Hitler; Hitler would not see him. As a result the Berlin SA moved into open rebellion. It refused to provide security for an election rally on August 30, and SA men vandalized the Berlin Party headquarters. Hitler was forced to travel to Berlin to meet with Stennes and with much of the rank and file of the Berlin SA. With his usual rhetorical pathos, he was able to save the situation—a promise of improved funding for the brownshirts helped—but the essence of the conflict, violent revolution versus a veneer of legality, could not be so easily or permanently mended.¹⁸

Meanwhile, shortly after the dramatic election success that September, Hitler affirmed his commitment to legality as a witness before Germany's highest court, the Imperial Supreme Court in Leipzig. Three army officers were on trial for plotting to commit high treason. The officers had tried to convince their comrades that the army should support a Nazi coup. The prominent Nazi lawyer Hans Frank (later the governor of Nazi-occupied Poland and, later still, one of those hanged at Nuremberg) summoned Hitler to testify that the National Socialist Party had no plans to overthrow Germany's democratic government by violent means. Hitler insisted that the SA served only as a bodyguard for Party leaders and as a propaganda arm: "We have from the first day forward trusted in the advertising power of the healthy idea; we are a purely spiritual [*geistige*] movement," he told the court. Certainly a movement that drew in "tens of thousands of young and temperamental members" could not be held responsible for the individual

actions of those members. Nonetheless, he had done all he could to keep the SA from becoming militaristic, "as difficult as that is for a people which possesses an inner love of arms," especially when the Party's Communist opponents came out with the slogan "Beat the fascists wherever you find them!" The climactic moment of Hitler's evidence came when the presiding judge, Senate President Alexander Baumgarten, read out a quote attributed to Hitler from an article by the Neukölln SA man Reinhold Muchow. According to Muchow, Hitler had said, "Heads will roll in the sand in this struggle, either ours or the others'. So let's make sure that it is the others'." Hitler assured Baumgarten that Muchow merely "had his eye on the great spiritual revolution in which we find ourselves today," and insisted that he had no plans and had given no orders for a coup. But he added ominously, "I may assure you: when our movement wins its legal struggle, there will come a German Supreme Court, and November 1918 will find its retribution, and heads will also roll."¹⁹

In the months that followed, Hitler maintained this awkward dance, espousing legality while also trying to throw the SA enough red meat to keep its frustrations in check. In February 1931 he wrote that the SA was "no moral institution for the education of upper-crust girls, but rather a band of rough fighters." At the same time, he sent a steady stream of orders to the SA to be patient with the party's legal course. On February 18, for instance, he warned the SA of "provocateurs" who sought to "push the SA into the role of the attacker" to provide a pretext for the suppression of the movement. In March, speaking to an SA meeting in Munich, Hitler said, "I am accused of being too cowardly to fight illegally. For this I am certainly not too cowardly; I am only too cowardly to lead the SA into machine-gun fire." And yet he also told the men that they must learn "to defend [themselves] with the fist," and he closed by urging them to raise their right fists and swear to him that "with the fist the new Germany shall arise."²⁰

Hitler and the Munich Party leadership were also working hard to limit the influence of the Berlin SA in general and Walter Stennes in particular. In September 1930 Hitler ordered that important eastern regions—North Saxony, East Prussia, and the city state of Danzig—be detached from Stennes's territory. A second order forbid all SA leaders to give speeches on behalf of the Nazi Party, an order that was aimed

not only at Stennes but also at another popular SA leader from Silesia. Stennes refused to comply with these orders, even when SA Commander Ernst Röhm was dispatched from Munich to bring him to heel.²¹

Matters came to a head on April 1, 1931, when Hitler sacked Stennes as the OSAF-Ost, or supreme SA commander in the east. At first Stennes thought he could persuade Hitler to change his mind. He sent Hitler a telegram asking about this possibility, to which Hitler replied sternly, "It is not for you to inquire, but rather to obey my orders." The Berlin SA leaders declared their solidarity with Stennes, and Stennes led SA units in occupying the Berlin Party offices and those of Goebbels's own newspaper, the *Attack*. The next day, the Berlin SA leadership published an attack on Hitler's "un-German despotism" and "irresponsible demagogy." Goebbels confided to his diary that the Party was passing through its "most serious crisis" yet.²²

He might have added that it was *his* most serious crisis as well. Goebbels occupied an awkward and anomalous position in the Nazi Party. In a movement of grizzled war veterans turned political gangsters, he was a failed intellectual whose clubfoot had kept him out of combat in the First World War. This predicament left him with a serious inferiority complex. Rudolf Diels wrote that for any theater director, Goebbels "could have served as the very image of the classical mask of Mephistopheles." But "from his face shone soulful, gleaming eyes, from which knowledge of beauty and greatness beamed. . . . The contradiction between his nature and brilliant gifts and his bodily constitution unleashed in his soul a constant antagonism."²³

There were two poles in Joseph Goebbels's world. Like many frustrated intellectuals in politics, he was a true revolutionary, siding emotionally with Stennes and the SA in their battle with the Munich leadership. "Long live legality!" he wrote sarcastically in his diary on March 29, as the Stennes revolt was brewing. "Makes me want to puke." A month before, he had written a careful note of a pact with Stennes: "We are making an alliance. SA + me. That's power." He noted that Göring had reproached him for standing too close to Stennes, and his diary entries played constantly on the gulf within the Nazi Party between "Munich" and "Prussia," which he equated to the gulf between socialism (as he understood it) and reaction: "The Party must become more Prussian, active and socialist," he wrote on April 28 in a typical entry.²⁴

But the other pole was his fanatical personal loyalty to Adolf Hitler. Goebbels's inner conflict ensured that there would always be some doubt about his role in the Stennes revolt. The Berlin political police believed he had been wholly on Stennes's side and jumped back to ostentatious displays of loyalty only when it became clear to him that the Stennes revolt would fail. According to police sources, the Munich leadership was well aware of Goebbels's near betrayal, and his position in the Party had consequently been weakened. Goebbels's most bitter rival within the Nazi Party, Hermann Göring—perhaps because after 1933 the records of the political police fell into his hands—gladly shared this belief, as did Göring's subordinate Rudolf Diels, who became the first head of the Gestapo: "Even Goebbels had ridden two horses," Diels wrote after the Second World War. But the more plausible interpretation is that advanced by Goebbels's biographer Georg Reuth, who argues that although Goebbels was emotionally on the side of the northern, "socialist," revolutionary, and antibourgeois Stennes people, his devotion to Hitler ensured that he could never go into open revolt. Either way, however, Goebbels had reason to be afraid of Stennes and what he represented in the Party—reason, indeed, to fear any and all exposure of the divide between the Nazis' "legal" and "revolutionary" wings. Goebbels's balancing act would turn out to be a key factor in the Eden Dance Palace trial.²⁵

For Stennes's revolt did fail. On April 4, the Nazi newspaper the *Nationalist Observer* printed Hitler's statement on the Stennes revolt. As he did so often, Hitler drew a political moral out of an interpretation of his own life experience as the man who, a product of poor parents and without benefit of a university education, had been "drawn through the hardest school of life, poverty and misery." Yet he had founded a movement "for the salvation of the nation" at a time when "all of those intellectuals who cannot do enough in socialist phrase-making," the "con-men [*Possenreisser*] of salon-bolshevism and salon-socialism," were nowhere to be seen. SA men would be expected to recognize in this a reference to Stennes and his faction. Hitler dealt cleverly with the regional tensions that underlay the Stennes revolt: "Herr Stennes must know best of all that Prussiandom was and is not a geographical but a moral concept." All Nazis were Prussians, said Hitler, no matter where they came from. But "the Prussians are above

all those National Socialists who know the meaning of loyalty and obedience, and not [those who are] mutineers!" He reminded the Party faithful that in Leipzig he had sworn the Party to legality, and he would not allow Stennes to make him "a perjurer." He closed with an attack on Stennes's capabilities, which he would very soon regret making: "Herr Stennes himself has, in his entire life, accomplished no more than the formation of a few pitiful roll-commandos." Yet Stennes had seen fit "in the moment of the greatest success of our movement" to oppose the leadership and thus to "deliver the party to ruin."²⁶

Hitler's appeal succeeded. Only a few hundred SA men followed Stennes out of the Nazi Party. But the bitterness lingered. And along with Adolf Hitler, Walter Stennes had been summoned as a witness at the Berlin courthouse on that same May morning in 1931.²⁷

The Eden Dance Palace

The Eden Dance Palace trial grew out of a grimly typical Berlin story of the early 1930s. It was this very typicality that Hans Litten wanted to demonstrate in order to make a political point about National Socialist "legality."

Even as Nazi political fortunes rose in the early 1930s, Berlin remained unpromising territory for the Party and its SA. The city had been a bastion of the Social Democrats since the 1890s. During the First World War it had been the center for liberal and Socialist politicians who opposed Germany's war effort and pushed to democratize the country, and in 1919 it became the birthplace of Germany's Communist Party (KPD). In the national elections of 1930 the Communists emerged as the most popular party in Berlin, winning 27.3 percent of the city's votes; the Social Democrats were right behind with 27.2 percent. Against this solid left majority the Nazis had to content themselves with 14.6 percent of the vote. Certain neighborhoods—such as Wedding, north of the city center, with its massive electronics factories and textile works, as well as Friedrichshain in the east, Neukölln toward the southeast, and parts of Charlottenburg in the west—were Communist

strongholds: Wedding voted 43 percent for the Communists in 1930, Friedrichshain 38 percent, Neukölln 34.9 percent. These were the Berlin districts where the Great Depression struck most cruelly; the KPD drew its greatest support from the unskilled, the unemployed, the unwanted.²⁸

The Nazis met the challenge of “conquering” Berlin head on. When the Berlin SA emerged in 1928 from a one-year ban following the deadly Lichterfelde-East brawl, it embarked upon a new strategy for gaining support in those grim KPD districts. Taverns had long been central to working-class culture. The SA moved to take them over, generally making arrangements with the tavern keepers to guarantee a minimum sale per month and driving out customers sympathetic to the SPD or the KPD. These taverns became known as “Storm taverns,” homes to particular SA units, or “Storms.” From these Storm taverns the SA men would go forth, night after night, looking for members of the Communists’ Red Frontfighters’ League or the Social Democrats’ Reich Banner or Iron Front, sometimes even members of more conservative groups, such as the veterans’ organization known as the “Steel Helmet,” loosely associated with the Nationalist Party. This was politics as gang warfare, bearing more than a passing resemblance to what went on in contemporary Chicago. Newspapers brought daily reports of the dead and wounded from these street battles, which, as in gang warfare, had an intimate, neighborhood quality; the SA men, like their opponents, were usually from the neighborhoods in which they fought. Often, these tough young men switched from one gang to another, sometimes even from one side of the political spectrum to the other. In 1932 the Berlin police reported that over half of the men in some SA Storms were former Communists. Everyone, therefore, knew his neighbors’ political affiliations. The SA’s gritty image, the promise of camaraderie, and the uniform appealed to rootless young men. At the same time, because the victims of SA violence almost always came from the ranks of the political left, the Nazis could present the “struggle” of the SA as a defense against forces highly unpopular with the German middle classes. At the end of 1931 the *Attack* wrote of how “in Charlottenburg the red mob terrorizes the streets” and described what it saw as a typical nightly incident, as around a “calm Storm tavern” suddenly “shots whip through the nighttime streets, men in their prime are taken away, wallow in their red blood. . . . And the bourgeois sticks his head in the sand—has

heard nothing, has seen nothing of what our boys suffer—and for him, too.”²⁹

The Storm tavern for Berlin’s SA Storm 33 was called the Old Town, or Reisig’s Tavern, after its owner. Reisig’s Tavern was at 20 Hebbel Street in the western district of Charlottenburg, near the famous palace, but in an area so poor it was also known as “Little Wedding” after the famous slum. On the evening of November 22, 1931, about thirty people were in the tavern, almost all of them members of the Storm. A few short blocks away at the Eden Dance Palace, a regular haunt of left-leaning political groups, two different parties were under way. On the ground floor was a dance put on by a union of bakers and pastry makers. On the upper floor the hiking and social club Wanderfalke 1923 was holding a party.³⁰

Neither Reisig’s Tavern nor the Eden Dance Palace (despite its pretentious name) was a fancy place. Their grimness and squalor were altogether typical of Little Wedding. Later, the members of Storm 33 would give depositions before the examining magistrate, and their testimony spoke eloquently of the blighted lives that had led them to join the SA and to frequent such establishments. The lead defendant, Konrad Stief, twenty-two, already had two prior convictions for theft. He had attended the basic primary school (*Volkschule*), and had then been employed as an unskilled worker, most recently as a domestic servant, earning a net pay of 37 Marks per month after paying 55 per month for room and board. He had joined the SA in May 1930. Rudolf Wesemann, who at twenty-five had a prior conviction for the unauthorized carrying of a firearm, had trained as a mechanic but had been unemployed since a metalworkers’ strike earlier that year. He claimed not to be receiving any relief payments due to his participation in the strike. He had belonged to the Nazi Party for five years and the SA for two years. Twenty-one-year-old Max Liebscher had dropped out of the parish school to train as a mason; now unemployed, his last job had been at the Siemens Building Union, where he earned 70 Marks per week. He had been a member of Storm 33 since the elections of the previous September. The comparatively elderly Albert Berlich—he was forty-two—had a different kind of story, but one also typical of recruits to the Nazi movement. He had served as an infantryman since the beginning of the First World War but was discharged as a result of

a "serious stomach and intestinal ailment." He had been completely unable to work since 1926. He drew a military pension of 71 Marks and an invalid's pension of 22 Marks monthly. Berlich had been a member of the NSDAP for two months and had attempted to join the SA. He had prior convictions for embezzlement and begging.³¹

The SA men had composed a story to explain what happened at the Eden Dance Palace on the night of November 22, 1930. At around 9:30 that night, two members of Storm 33, one of them Liebscher, claimed to have been attacked as they passed by the Eden Palace by men "dressed in their Sunday best." Liebscher retreated to Reisig's Tavern and told the other SA men what had happened. Aroused to righteous indignation by Liebscher's story, about twenty storm troopers from the tavern hurried to the Eden Dance Palace. They forced their way into the building and went first to the ground floor room, where the bakers' party was in progress. The storm troopers clearly knew whom they were looking for—another sign of the personal nature of the political warfare on Berlin's streets, casting doubt on the SA defense that the raid was a spontaneous response to an attack on storm troopers by unknown opponents. When the Nazis reached the bakers' party one of them looked around and exclaimed, "They're not here! They're up above!" The SA men then ran up the stairs to the main hall, which at the time held an estimated 120 people from *Wanderfalke* 1923.³²

The *Wanderfalke* people had been forewarned: a few moments before, two men had run into the hall shouting, "The Nazis are coming!" Witnesses reported that the dancers took the news calmly, with cries of "Music, keep playing!" and "Keep dancing!" Twenty-four-year-old Willi Köhler testified that he was "just about to ask a girl to dance" when he "noticed that something was up in the anteroom." Köhler testified that he saw Stief, Wesemann, and Berlich in the doorway of the hall. A few shots were fired into the room, he said, but he could not say who the shooter was. He saw another young man, twenty-year-old Norbert Budzinski, fall, and then Köhler himself was shot in the left wrist. Budzinski's wound—he was shot in the stomach—was described as "extremely life-threatening" by the doctor who treated him. At the time of the trial the bullet remained lodged near his spine, and he was unable to work. Walter Braun, twenty-four, was also shot, but, like Köhler, his injuries were comparatively minor.³³

After firing the shots, the Nazis left the Eden Palace as quickly as they had come. The porter managed to telephone the police before being clubbed in the face by a passing storm trooper. In fact, two officers had seen the storm troopers heading for the Eden Palace and were already on the scene as the Nazis fled.³⁴

The police and judicial investigations determined that Konrad Stief had been the leader of the attack. He, Berlich, Liebscher, and Wesemann were charged with the shootings of the three Wanderfalke men. Stief denied everything. He claimed that he had been at the Storm tavern until about nine o'clock and then gone home. On the way he passed the Eden Dance Palace, where he heard a disturbance and was arrested when he went to "see what was happening." Berlich, who was also arrested on the spot, claimed that he had been a guest at the Wanderfalke party. Liebscher admitted that he had been at the Eden Dance Palace but denied any involvement in the violence; Wesemann denied he had been there at all.³⁵

"Murder Storm 33"

The Eden Dance Palace attack launched a three-month spree of SA violence in Charlottenburg. In the small hours of January 1, 1931, men from Storm 33 attacked and seriously wounded the brothers Erich and Robert Riemenschneider. Later that month, in a brawl outside Reisig's Tavern, men from the Storm stabbed to death a worker named Max Schirmer; and on February 2 they stabbed and then shot to death one Otto Grüneberg. The left-wing press began referring to the unit as "Murder Storm 33."³⁶

For most of 1930 and 1931 the leader of Storm 33 was Fritz Hahn, a native Berliner, born in 1907. Hahn joined the SA shortly after his nineteenth birthday. As the *World in the Evening* reported sardonically, "By day he works quietly and modestly in the Commerce and Private Bank under Jewish management. By night he is the most notorious Nazi-chieftain in Berlin." In February 1931 Hahn was arrested in connection with the killing of Grüneberg, and in March he was picked up

again for the attack on the Riemenschneider brothers. However, the prosecutor, State Advocate Paul Stenig, only filed charges of breach of the peace against him, and the Berlin Court of Appeal ordered Hahn's release. A judge intervened and ordered that Hahn face attempted murder charges for the assault on the Riemenschneiders. On July 11 the state prosecutor's office charged Hahn and four other members of Storm 33 with taking part in the "public formation of a mob, which with its combined strength commits acts of violence against persons"—the language of paragraph 125 of the German Criminal Code. Prosecutors deemed Hahn the "ringleader," which involved a higher penalty. Stenig did not attempt to rearrest Hahn, however, and by the time the case came to trial Hahn had vanished.³⁷

This contrast between the savagery of Storm 33's tactics and the indulgence with which official Berlin seemed to treat the group formed an essential part of the background to Hitler's appearance in the Eden Dance Palace trial. This trial was not the first time Hans Litten had confronted members of Storm 33 in court. On March 31 the jury of Berlin's Superior Court III had begun hearing the trial of Paul Markowski and five other members of Storm 33 for the murder of Max Schirmer. Defending the SA men were the prominent Nazi lawyers Curt Becker and Dr. Otto Kamecke. Paul Stenig, the specialist in political trials for Berlin's Superior Court III, led the prosecution, as he would in the Eden Dance Palace trial. Litten joined the Markowski trial only after the evidence had been heard. Although the brutality of Schirmer's murder and the guilt of the defendants were clear, Stenig had asked for sentences of only one year's imprisonment against one of the SA men, who was still underage, and two years for each of the other five. Litten described what happened in a letter to his parents: "I had a great fight with Stenig. I had joined in . . . after Stenig's final pleading, with the declaration that his mild sentencing requests would be taken in the affected circles as an incitement to further murders. Success! Return to the hearing of evidence, Stenig raised his requests; the court even went beyond them." One of the storm troopers, Kurt Becker, was convicted of stabbing Schirmer and sentenced to five years' imprisonment for unpremeditated murder. Four other SA men received sentences ranging from one year to three years for inflicting grievous bodily harm. One was acquitted for lack of evidence.³⁸

One of the results of the Markowski case was an enduring and bitter enmity between Litten and Stenig. Over the next two years these men would fight a kind of duel, despite often finding themselves, as in the Markowski and Eden Dance Palace cases, theoretically on the same side. Theoretically: as Litten wrote to his parents while in the thick of the Eden Palace trial, Stenig was "definitely none too comfortable" in the role of prosecuting Nazis alongside Litten. In the summer of 1932 Litten would characterize Stenig as "the fiercest Moabit opponent of proletarian defendants"; Stenig would denounce Litten repeatedly, publicly and privately, as a "dangerous irritant" in the justice system. Yet after 1933 they would both become targets for the Nazis.³⁹

Like Litten, Paul Stenig was from East Prussia; in earlier days he had been a guest at the Litten Court in Königsberg. Newspaper artists' sketches show a beefy, balding man, with several chins, a hawk nose, and a severe expression. Litten and Stenig had known each other since 1920, when Litten was still in high school and Stenig a law clerk. Born in 1894, Stenig had volunteered for military service in August 1914 and served with distinction throughout the war. He was promoted to lieutenant and earned the Iron Cross Second Class. After the war he resumed his legal career, working for most of the 1920s as a judicial clerk and then a prosecutor in East Prussian provincial towns. In 1929 he was transferred to Berlin, and in October 1930, at the age of thirty-six, was named to the very visible position of political prosecutor at Superior Court III.

There was no doubt that politically Stenig stood far to the right. As a young judicial clerk he had been praised for his volunteer work with anti-Polish groups in East Prussia. But he was wholly engaged by work on the trials that came his way and did not belong to any political parties or lobby groups. He "is devoted with body and soul to his prosecutorial profession," said one official, and "throws himself completely into the individual matters entrusted to him." At the outset of the Markowski trial, in an article titled "New Faces in Moabit," the *Berlin Stock Exchange News* had written that there was something "uncommonly fresh" about the style of the "robust and rather temperamental" Stenig, who possessed the gift of quickly bringing his listeners round to his own point of view, even when they were "among the ranks of the defense counsel or the defendants." In later years even former oppo-

nents would speak respectfully of Stenig. One described him as “a knowledgeable man on criminal and procedural law, a quick-witted fighter and a diligent worker.”⁴⁰

In the Eden Dance Palace trial, the three wounded men—Budzinski, Braun, and Köhler—retained Litten to bring a private prosecution alongside the state prosecutor’s case. In theory the trial was about determining whether any of the four defendants had shot the three victims. In practice the real meaning of the trial went far beyond the simple question of who had fired at whom. Litten was determined to use the trial to make a broad political point: that the violence committed by Storm 33 was an essential element of the Nazi program, carried out on orders directly from Hitler.

In the wake of the Stennes revolt, Litten happily took advantage of the tensions between the SA and the Nazi Party, revealing how well disaffected Nazis kept him informed. Midway through the trial, in a written request to ask questions of Storm Leader Fritz Hahn, who appeared as a witness, Litten claimed that “on April 24, 1931, in the afternoon, there was a meeting of Storm 33” at which members of the Storm had threatened Hahn that they would “spill the beans” on his involvement in another murder if he did not break with Stennes. In court Litten made the point explicit. “The witness Hahn is a Stennes follower,” he said. “Two Hitler people threatened him that if he defected to Stennes, they would testify that Hahn was the murderer of the worker Grüneberg.” For this Litten referred not only to “confidential information” he had received, but to “the reaction of the witness Hahn to my suggestion.” According to the *Red Flag*, Hahn “visibly changed color” when Litten raised these questions.⁴¹

Litten was in fact working behind the scenes with the lawyer for the four Nazi defendants, Curt Becker. Becker himself was a Stennes follower, and therefore supported Litten’s intent to use the trial to discredit Hitler, Goebbels, and the whole political leadership of the Nazi Party. For his part, Litten knew that the rank and file of the SA came from the same pool of workers as the Communists whom he represented, and he believed that the desperate men of Storm 33 could not be judged in the same way as their Party’s cynical leadership.⁴²

Leaks were not Litten’s only source of information, however. Just a few days after the attack on the Eden Dance Palace he had organized

a public meeting at a Charlottenburg assembly hall called the Turkish Tent. Anyone who knew anything about the SA assault was invited to come forward and “testify.” Litten presided over the meeting and questioned the witnesses. As the Eden Dance Palace trial progressed and the young lawyer began to pose a greater threat, the Nazis fought back by attacking his professional ethics. It was improper for a lawyer to hold such a meeting and to shape the witnesses’ evidence to suit his case. A “question and answer game, carried out with witnesses on whose testimony the fate of the defendants could hang, can lead to the gravest conflicts,” read an editorial in the *Attack*. On April 30, presiding judge Ohnesorge directed Litten to testify about this meeting. Litten duly removed his black robe and entered the witness box. Under oath he acknowledged that the occasion had been less a protest meeting than an investigation. The “witnesses” were asked to step up to the podium and give their version of events; then Litten questioned them about what they had seen. One of the supporting judges asked Litten whether “as a lawyer” he did not have “serious doubts” about this kind of proceeding. Somewhat defensively, Litten explained that the Red Aid had urged him to hold the meeting. “I made all of the witnesses aware that they were not now standing before a court, but rather before a proletarian tribunal. However they had to testify exactly as they would in court. Beyond that, I advised the witnesses that they would certainly have to testify in court later, probably under oath.” What Litten had done—which amounted to coaching witnesses on the content of their testimony—was as much a breach of professional conduct for a German lawyer in 1930 as it would be today. (“You just can’t do that,” as the eminent lawyer Gerhard Jungfer said of Litten’s conduct in a 2006 interview.) It was the tactic of someone who, as Max Fürst wrote, always felt that he was fighting the last battle.⁴³

Litten’s behavior formed only one of the threads in the pattern of the Eden Dance Palace trial as the court prepared to hear from Hitler. Many Germans, especially those on the center and left of the political spectrum, wondered whether this time the state would hold Nazi leaders accountable for their Party’s violence. The tensions between the SA and the Nazi Party simmered; important Nazis, perhaps Goebbels most of all, feared what would come of refighting the Stennes revolt in a

courtroom. The Party leadership worried about how much the revelations of the Berlin SA's systematic violence would undermine its carefully constructed claim of legality. A few years later Rudolf Olden described the "difficult task" that Hitler faced in his testimony. To protect himself from a possible prosecution he had to "affirm loudly that he would use only constitutional methods in his political struggle." However, he had to do this in a way that would convince the SA that his affirmation was "a sham," a "successful fraud on the wealthy donors." It was, Olden wrote, not easy to "lie in such a complicated way." Hitler was caught between Litten and Stennes. A few days before Hitler's testimony, Stennes's newspaper, *Workers, Peasants, Soldiers*, announced that the evidence would reveal whether Hitler had perjured himself in Leipzig or made false accusations against Stennes in print. "In any case it will be determined that [Hitler] has lied, one way or the other."⁴⁴

"The Boss comes today," Goebbels wrote in his diary on May 7. With characteristic sensitivity to the theatricality of the moment, he noted, "He must play the witness tomorrow in the Eden Palace trial." His worry seeping through, Goebbels added that this was "embarrassing, since Stennes has also been summoned." When Goebbels wrote the next day, "I am anxious for today's results," for once the propaganda chief was not lying.⁴⁵

Roll Commandos

In the spring of 1931 German newspapers were full of stories about criminals. In Düsseldorf a notorious serial killer named Peter Kürten was about to be executed. In Berlin, the trial of Charlie Urban for the murder at the Mercedes Palace Theater began in May. On April 3 the *Berlin Morning Post* noted that the hit play *Preliminary Investigation*, written by the prominent lawyer Max Alsberg, had marked its 125th performance at the New Theater by the Zoo to enthusiastic applause, especially for its author (even Goebbels liked it, apparently overlooking Alsberg's Jewish heritage); it would soon be made into a film. On

May 12 came the premiere of Fritz Lang's first sound film, *M*, a lightly fictionalized story of a Berlin serial killer. This fixation on criminals—especially on serial killers—had its political side. Lang had wanted to call his film “Murderers among Us,” a title that had alarmed a studio executive sympathetic to the Nazis. The film dealt with the ways fear, paranoia, and violent rhetoric could incite crowds to commit atrocities against selected scapegoats. The *Berlin Morning Post* thought Lang's film a product of the “darkest” part of “today's Berlin.” An ironic confirmation of this assessment comes once again from Goebbels, who went to see the movie on May 21 and praised it enthusiastically: “Fabulous! Against the humanity-rubbish. For the death penalty! Well made. Lang will be our director someday.” Berlin's mass press and general public, however, had all but ignored the Eden Dance Palace trial. It was only Hitler's appearance that now brought the case into the headlines.⁴⁶

While Litten had been fighting his legal battles against Gustav Noske and Karl Zörgiebel, Germany's political landscape had changed beyond recognition. In the spring of 1930, the Weimar Republic, which in the late 1920s had been functioning tolerably well as a parliamentary democracy, had begun to slide into a condition of de facto dictatorship. A group of powerful men, operating behind the scenes but with the ear of Reich President Paul von Hindenburg, came to the conclusion that as a parliamentary democracy shaped by Social Democrats, Germany would never recover its economic strength, shake off the Treaty of Versailles, or reassert itself as the preeminent European power. At the center of this circle was General Kurt von Schleicher, head of the army's political office, who in the early 1930s became the Iago of German politics, always scheming and whispering in powerful ears (appropriately, the name Schleicher means “creeper”). Schleicher engineered the collapse of Chancellor Hermann Müller's “Grand Coalition” government in the spring of 1930, and Müller's replacement as chancellor by the far more conservative Heinrich Brüning, who came from the right wing of the Catholic Center Party. The real significance of the shift from Müller to Brüning lay not in the leaders' respective ideologies, however, but in Schleicher's plan for how Brüning was to govern. Rather than relying on a majority in the Reichstag, Brüning's administration would be supported by emergency decrees that President Hindenburg could issue under Article 48 of the Weimar Constitution. With these decrees

Brüning could rule largely independently of parliamentary approval, opening the door to an authoritarian system of governance. This alarming trend was compounded by the dramatic surge in Nazi votes in the elections of September 1930.⁴⁷

It seems to have been this Nazi success that led Litten to reverse the political direction of his legal work. After the September elections and the Eden Dance Palace attack of November, Litten moved away from attacking Social Democrats such as Noske and Zörgiebel. The powerful man he was after now was Hitler.

When Hitler finally reached the witness stand in the Eden Dance Palace trial, presiding judge Kurt Ohnesorge got right to the point. "The claim has been made by counsel for the private prosecutors," Ohnesorge explained to Hitler, referring to Litten, "that Storm 33, to which the four defendants belong, is a 'roll commando.' He claims this roll commando was deliberately organized with the goal of carrying out planned and premeditated killings, and that this plan was known to the party leadership and approved by it. Do you know Storm 33? Do you know its leaders?"⁴⁸

Ohnesorge held the rank of superior court director (*Landgerichtsdirektor*), the highest level of trial judge in the Weimar legal system. Superior court directors presided over jury courts and the most important civil trials, typically backed up by supporting judges at the lower ranks of superior court counselor (*Landgerichtsrat*), superior court judge (*Landrichter*), and recent graduates still holding only the status of assessor. Because a jury court tried the Eden Dance Palace case, Ohnesorge and his two supporting judges also had with them on the bench six "jurors." As a result of a 1924 reform, however, these were not jurors as in Britain or America, sitting and deciding separately from the judges. They sat with the judges and shared in all deliberations, but they were ciphers; the point of the reform had been to ensure that the judges could intimidate and control them.⁴⁹

German criminal procedural law, then as now, assigned the presiding judge a dominant role in questioning a witness. This was why Ohnesorge and not Litten opened the questioning. But this was merely a matter of form. Litten had summoned Hitler and outlined the direction of the examination; Ohnesorge was, therefore, merely serving as a mouthpiece for questions that were really Litten's.

Hitler responded to the first question by giving a speech he would give at a political rally. It was "absolutely impossible" that any Berlin SA Storm had been formed to act as Litten alleged. The Nazi Party, Hitler insisted, "utterly rejects violent methods." The SA served only to protect the party "against the terror from the left" and "to carry out propaganda functions." "I have already explained," he said, "that the National Socialists are fundamentally legal." Though he had no love for the Constitution of the Weimar Republic, he knew that any attempt to come to power against the Constitution would only lead to "unnecessary bloodshed," which, for Hitler, would amount to a breach of the "blind trust" his followers had placed in him as leader.⁵⁰

Without any prompting, Hitler turned to the matter of Walter Stennes. It was laughable, he insisted, to suggest that Stennes had formed roll commandos on the instructions of the Party. When Stennes held a position within the Party he had commanded twenty thousand men. The very size of this "mass" proved that it could not be a roll commando. "Now some within Party circles have accused me of being a coward, a conformist [*verspiessst*], a party boss, a bourgeois. Naturally I have defended myself and I have pointed to my success, which is seen in the building up of a gigantic organization of millions. Before he entered the Party Captain Stennes had two hundred men."⁵¹

Simply by bringing up Stennes and the roll commandos Hitler had placed himself in jeopardy. In an article in the *Nationalist Observer* published on April 4, as he tried to rally the Party against Stennes, Hitler had noted snidely that "Herr Stennes himself has in his entire life managed to accomplish nothing more than forming a few wretched roll commandos." Hitler's language suggested that he had at least known if not approved of Stennes's activity. Ohnesorge asked him, "In what sense did you use the term 'roll commando' in your article? The private prosecutors base themselves on your article. Did you mean that these roll commandos had orders to kill people?"⁵²

Hitler tried to evade the question, claiming that when he wrote of roll commandos he had been referring to what Stennes had done before joining the Nazis. Hitler repeated that Stennes had failed to build up anything more than a few small, miserable organizations. "But even in this context," said Hitler, "I did not use the word 'roll commandos' in the sense that is imputed to me here."

Ohnesorge pressed the point: "I find the expression at least prejudicial."⁵³

"Naturally I did not know," said Hitler, "that one day I would be nailed by a lawyer for this expression." He tried to find a way out. "The concept 'roll commando' has taken on an absolutely ridiculous meaning here," he said. He explained that the term came from the Western Front. It originally referred to a small section of men who had the job of "rolling up" an enemy trench. The military source seemed to cast an incriminating light on the SA's approach to its political enemies, but Hitler tried to emphasize that a roll commando therefore could refer only to a small unit of ten men, thirty at the most, and that the term "obviously in and of itself has nothing at all to do with the elimination of people." "The SA is forbidden to commit violence or to provoke it," he continued. "But in a case of self-defense it is hard to say where the line is between self-defense and attack. When an SA man is pursued for months by Red murderers..."⁵⁴

Ohnesorge interrupted Hitler: "I ask that you refrain from using this expression," he warned. Hitler continued: "When an SA man is pursued for months, I can imagine that in an emergency he would fail to recognize the moment of self-defense. But if an SA man really oversteps the boundary of self-defense, you can't hold a person responsible for that. Not once has the leadership of the Party given out the slogan: 'Beat the opponent to death! Beat the Communists to death! Beat the SPD to death!' Those kinds of expression have only been used by the other side." (In 1929 and 1930 the Communists had, in fact, used the slogan "Beat the Fascists wherever you find them!")⁵⁵

Ohnesorge tried to summarize the gist of Hitler's evidence: "So you say you are not conscious of using the term 'roll commando' in the manner in which you have been accused by the private prosecutors, and most especially not to refer to Storm 33?" Again Hitler's response was conspicuously evasive: "I do not know Storm 33." Ohnesorge pressed on: "You are also unaware whether any kind of plan, as is claimed by the private prosecutors, existed among the members of Storm 33?"

"That I consider to be absolutely impossible."⁵⁶

It was at this point that Litten stepped in. By all accounts his manner was cool and reserved. When fellow lawyers like Rudolf Olden, Hilde Benjamin, and Götz Berger talked about Litten's way of handling

a case, they always mentioned his memory, his knowledge of the law, his preparation (Litten always retained the contents of all the case documents in his photographic memory); and his persistence. "He gave up none of his rights, even the most minor," remembered Olden. "His way of asking questions was calm and measured, but very penetrating."⁵⁷ Calm and measured his questions may have been, but they were not any less dangerous for that.

"You have nonetheless raised the accusation," said Litten, "that Captain Stennes did not accomplish anything more than the formation of a few miserable roll commandos. Anyone would have to take this to mean that Captain Stennes had set up roll commandos within the National Socialist movement." Litten held up Hitler's *Nationalist Observer* article.⁵⁸

"I did not mean to make any such accusation against Stennes," replied Hitler. "I did not mean to say that he worked illegally within the party. I only meant to explain that if I wanted to refute the criticism that was made of me by Stennes and the other radical leaders, I would have to leave the legal path, and I will not do that under any circumstances." Striking his own chest with his fist, Hitler insisted, "The legality of the party would only be placed in question if I were to approve roll commandos."⁵⁹

"According to your testimony, you were afraid of Stennes," Litten stated coolly.

"Not of his forming roll commandos, but of the hopes and wishes that were in Stennes' newspaper, which you can read there," Hitler replied, referring to Stennes's new paper, *Workers, Peasants, Soldiers*, its very title a Socialist-sounding contrast to the violent monikers of other Nazi papers, such as the *Attack* and the *Stormer*. Later in the year Stennes's paper was taken up as the SA supplement to a paper edited by another Nazi apostate, Otto Strasser, who had also broken away from Hitler's movement because it was insufficiently Socialist and revolutionary: Strasser's paper was called the *German Revolution*.⁶⁰

"So you were afraid of Stennes' illegal ideas?"

Sensing that the young lawyer was trying to trap him, Hitler took an evasive tack. "I am not in a position to judge them," he replied.

Litten stuck stubbornly to the question of roll commandos. "Did you not accuse Captain Stennes," he asked, "of appointing an SA leader

in Danzig, who formed roll commandos and even broke up your own party meetings?" Hitler had made this accusation in his *Nationalist Observer* article.⁶¹

"But that has nothing to do with this case," Hitler protested. He continued to argue, somewhat irrelevantly, that Stennes's activities in Danzig proved his incompetence. Further, he said that Danzig SA men had been given permits for their weapons. He would not say more unless the public was excluded from the courtroom, because it was a matter of national security.⁶²

Ignoring Hitler's comment, one of the supporting judges interjected, "You have characterized the expression 'roll commando' as blurry and fantastically misunderstood. Now I don't understand how you can reproach Captain Stennes with the formation of roll commandos."⁶³

Hitler's response was again contradictory: "I used this expression in an article that I wrote in protecting the interests of the movement. Had I known the expression 'roll commando' would be interpreted as it has been in this trial and used against me, I would not have used it."⁶⁴

Litten's other main line of questioning had to do with the Party's approval of statements by Goebbels. In January 1930, following the killing of a Berlin SA man (and pimp) named Horst Wessel, Goebbels had written in the *Attack* that the killers "must be beaten to pulp and muck." Nazi propaganda went on to trumpet Wessel as the Party's leading martyr. Litten asked Hitler about Goebbels's language: "You said that no violent actions are carried out by the National Socialist Party. But didn't Goebbels come up with the slogan 'The enemy must be beaten to a pulp'?"⁶⁵

"That is not to be taken literally!" Hitler protested. "It means that one must defeat and destroy the opponent organizations, not that one attacks and murders the opponent."⁶⁶

"For now I do not want to cast doubt on the honesty of your oath in Leipzig," said Litten, "but I am asking, does your struggle for power involve only the struggle against the state as it now exists, or does it also involve the struggle against the organizations of the working class that are opposed to you?"

"What does the struggle for power consist of?" Hitler began rhetorically. "It consists of defeating parties opposed to us. And of the struggle for the great masses. So if we use legal methods in the struggle

against the state, we will use them in the struggle against the opposition workers' organizations also."⁶⁷

Litten wanted to show Hitler the exhibits, which were weapons allegedly owned by the four defendants. Hitler brushed this off with the vague comment that sometimes a wrench or something similar might be found on an SA man. It was understandable if a man whose life was under constant threat took to carrying such a weapon. "I know what the fear of death is," he said.⁶⁸

Curt Becker, the defense lawyer for Stief, Wesemann, and Lieb-scher, now stepped in with some questions about Stennes's relationship to the Party. Hitler may not have known that Becker was a Stennes man. According to *Voss's News*, when Becker rose to question Hitler, the Führer turned to him with "a friendly smile," apparently under the illusion that Becker would ask questions that would "give him the opportunity to sparkle." Once Hitler began to realize that Becker was not there to help him, his expression grew darker and his voice rose. He "stuck his hands in his pockets, then clasped them behind his back, then folded them across his chest; he was in a dilemma." Becker's questions amounted to a defense against Hitler's insinuations that Stennes was a police informer and therefore was trying to provoke the SA into committing criminal acts. Becker went on to suggest that the legality of the National Socialists was a sham, and he invited Hitler to prove it was not. Hitler replied that the SA was not armed: "I intervene when I hear of a weapon, and the leaders responsible are expelled from the party." Continuing with what some of the papers called "highly energetic political speechmaking," Hitler argued that if Germany was oppressed by an individual, by a conqueror like Napoleon, he would be prepared to follow a revolutionary course. But Germany was oppressed by a spiritual conqueror. To be liberated, the German people had to be conquered spiritually—in other words, through a legal political and propaganda campaign.⁶⁹

By this time Hitler's testimony had already lasted two hours. He had remained standing while being questioned. The four defendants had likewise remained standing, a practice common at the time for defendants in German criminal courtrooms. Ohnesorge invited the four SA men to sit, but they refused. "Upright and zealous, genuine SA

men,” said Goebbels’s *Attack* approvingly. “They showed their Führer that even in the slammer they were not to be brought low.”⁷⁰

Litten had three more questions for Hitler that, before asking, he had to submit in writing for the court’s approval. The first challenged Hitler to characterize an organized assault by fifteen or twenty SA men with firearms as self-defense arising out of fear of Communist attack. The third involved the allegation that at a private meeting in October 1930, Hitler had promised Reich Chancellor Heinrich Brüning that he, Hitler, would dissolve the SA were he invited to join Brüning’s administration.⁷¹

But it was Litten’s second question that gave Hitler the most trouble. In 1927 Goebbels had published a small pamphlet entitled *The Nazi-Sozi*, whose purpose was to instruct Nazi Party recruits. If the Nazis could not in the end come to power through parliamentary elections, Goebbels had written, “then we will make revolution! Then we will chase the parliament to the devil and found the state on the basis of German fists and German brains!” The passage was cut from the second edition, brought out by the Nazi publisher Franz Eher in 1929. But it underlay Litten’s question: Had Hitler known about this passage (which Litten cited precisely) when he named Goebbels the Party’s propaganda director?⁷²

It took the court three-quarters of an hour to decide to allow the second and third questions. Judge Ohnesorge put Litten’s second question to Hitler: “Herr Hitler, you heard the question about appointing Herr Goebbels as Reich Propaganda Director. What do you have to say about that?”

“I cannot say under oath whether I knew Goebbels’ book at that time,” Hitler replied. “The thesis in Goebbels’ book is entirely without value for the Party, since the pamphlet does not bear the Party emblem and is also not officially sanctioned by the Party. Only what is officially sanctioned has validity. Goebbels was appointed because of his extraordinary ability for propaganda, and must stay within the guidelines which I, as Party leader, give him.”⁷³

“Is it correct,” Litten asked, “that Goebbels had already been made Party boss [*Gauleiter*] of Berlin in 1926?”

“I cannot confirm the date.” (It was, in fact, correct.)

"Must it not be so, that something which a man like Goebbels says outside of his official Party position exerts an extraordinary influence on the members of the Party who read his pamphlet?"

Hitler replied with platitudes. "Our movement is a continuous melting pot," he said, "to which people come from all camps, from the Communists to the German Nationals." No party should be judged by an individual member; it should be judged only by its official policies. Hitler insisted once again on the Party's "granite-hard" commitment to legality.⁷⁴

Litten could not be so easily deflected. "You didn't discipline or expel Goebbels, but instead made him Reich Propaganda Director," he pointed out. "Mustn't Goebbels' example rouse the idea in the Party that the program of legality hasn't gotten very far?"

According to the account in *Voss's News*, Hitler began to stutter and appeared to "search convulsively for an answer" that would cover him without too obviously abandoning Goebbels. He could only repeat that the Party operated legally and that this applied to Goebbels as well. "[Goebbels] is in Berlin and can be called here any time." Pressing the point, Litten asked if Goebbels had been forbidden to disseminate his pamphlet.

"I don't know."⁷⁵

"And are you aware," Litten continued, "that numerous SA men and Party members, especially in northern Germany, hold to Goebbels' program of illegality?"

"If that were the case," said Hitler, "these people would have left me a month ago. Because a month ago they were all asked if they were in agreement with the course of one hundred percent legality. The result was overwhelming." Hitler turned to the judges and asked that the Party's investigation committee, the leader of the SA, and all the Party's district leaders (*Gauleiter*) be summoned to confirm what he had said. Ohnesorge ignored the request and asked Litten's third question: "Did you promise Reich Chancellor Brüning to dissolve the SA in the event of your joining the administration?" According to one account, Ohnesorge helpfully explained to Hitler the drift of Litten's question: it would suggest, he told Hitler, "that you yourself saw the SA as something illegal."⁷⁶

According to the reports, Hitler was now "extraordinarily excited," and it is easy to see why: at a moment in which he had barely sur-

mounted a crisis with the SA, any suggestion of willingness to betray his private army could be politically disastrous. "I insist," said Hitler, "that Brüning has not offered me any participation in his government, nor have we asked for any participation on the basis of any sort of concession. Dissolving the SA would mean for me the end of the Party. The SA men are the first men of the Party. To ask me to dissolve the SA in order to join a government would amount to asking me to commit suicide or asking my Party to commit suicide."⁷⁷

In his memoirs, published long after the Second World War, Heinrich Brüning confirmed that he had met with Hitler in the fall of 1930 but said nothing of an offer to disband the SA. One of the many democratic politicians who went into exile in the United States during the Nazi years, Brüning had no reason to hold back information that would discredit Hitler.⁷⁸

Becker, too, pressed Hitler to comment on allegations concerning meetings between Nazi and German army leaders at which the topic was the abolition or reorganization of the SA. When Becker asked point blank if "a reorganization of the SA" was presently under way, Hitler replied that the reorganization of the SA was a permanent condition. New members always had to be taught to feel 100 percent members of the Party and not to follow "the spirit of the Free Corps."⁷⁹

Litten pounced. "In your opinion, what is the spirit of the Free Corps?"

Hitler explained that the "Free Corps spirit" was the belief that "a change in the fate of the German nation" could be brought about by placing physical strength at the disposal of a particular government. "The National Socialist knows that the fate of the nation depends on a complete spiritual transformation of the German people."

"Do you also include the notorious crimes and killings that were committed by the Free Corps as part of this spirit?"

Hitler became enraged. "I refuse to acknowledge that that kind of thing happened. The Free Corps committed no killings. They defended Germany."⁸⁰

The court took a short recess, during which the *Attack's* correspondent claimed to see Litten talking with Becker in the corridor: "It is very clear to us that [Litten] received 'his information' in this conversation," wrote the Nazi reporter, as interested in discrediting the one

as the other. Litten's line of questioning after the break seemed to confirm the point. Just two weeks before the 1930 elections, Hitler had been faced with the first act of the Stennes revolt and in response had gone on a public relations tour of the SA taverns in Berlin. According to some reports, heavily armed SS men escorted him (the SS, later the most powerful organization in Nazi Germany, began as a small corps of body guards within the SA). The success of this campaign was mixed: at least some of the Storms had greeted their leader with icy hostility. Litten asked Hitler if it was true that armed escorts had accompanied him on these visits.⁸¹

This question, too, made Hitler furious: "That is complete lunacy!" Apparently unconscious of the pun, he went on, "In all the taverns I was greeted with stormy enthusiasm." His remark provoked laughter in the spectators' gallery.⁸²

It was now 12:45. Hitler had been testifying for over three and a half hours and looked, according to *Voss's News*, "rather exhausted." The court broke for lunch. Hitler strode out of the courtroom. Playing sarcastically on Hitler's remark about "stormy enthusiasm," the *8 O'Clock Evening News* noted that there was no chance of "stormy appearances of any kind" during the break, as Hitler repaired to a private waiting room. Walter Stennes was standing in the corridor as Hitler passed; he ostentatiously turned his back on the leader from Munich.⁸³

After the break the court took up the questioning of Stennes and the former commander of the Berlin SA, Ernst Wetzel. Rudolf Olden described Stennes as "a slender young man, agile like a lieutenant, but with some gray among the brown hairs, a man who makes an honest impression . . . one who speaks simply, who does not have the silver tongue that is seductive to some and disgusting to others." Stennes said that he had known nothing in advance about the attack on the Eden Dance Palace and did not know if it had been planned. SA formations, he explained, "have not forged such plans." He also denied having formed roll commandos within the Nazi Party. There was, he said, a "crass disproportion" between the Party's organization and its propaganda. The message the "ordinary" SA man would take away from a Nazi rally diverged sharply from the discipline the Party sought to impose on him. Stennes meant that the Party preached violence to its SA while posing as legal to middle-class voters. The ordinary man,

naturally, paid the price of this hypocrisy. Stennes claimed that he had tried to impress the SA's plight on the Party leadership, to no avail.⁸⁴

Stennes stood down, and Wetzel took the stand. Forty years old and, like Storm 33's Fritz Hahn, employed as a bank clerk, Wetzel also testified to long-standing SA grievances against the political leadership. "We SA leaders," he told the court, "take the position that the leadership remains responsible for what the individual men do." The men were not responsible for the violence of Germany's growing civil war; the guilt lay with "those who in speech and writing inflame the passions of the crowd." SA leaders, he said, had known for six months that Hitler, contrary to his earlier beliefs, had committed himself to legality. "We believe that he is serious about it," Wetzel added, "even if Goebbels tried to make his oath in Leipzig seem ridiculous to us." This was a striking piece of testimony, underscoring the murky role that Goebbels had played in the Stennes affair. Ohnesorge intervened abruptly: "That is not relevant to the case."⁸⁵

Litten chose this moment to raise new questions for both Stennes and Wetzel dealing with the SA's attitude to the Nazi policy of legality and the responsibility of the Party's leadership for violence. A brief conference took place between Hitler, the Nazi Party's leading legal expert, Hans Frank, and Hitler's lawyer, Otto Kamecke, at the end of which Kamecke strongly opposed Litten's requests, arguing that Litten was abusing his position. The *Berlin Daily News* reported that by this time Hitler and the other National Socialist leaders present had been "seized by a considerable nervousness." The ground for this nervousness, the *Daily News* believed, lay in the fact that in the morning session "Hitler's protestations of legality had gone extraordinarily far." The court rejected all of Litten's questions, dismissing them as irrelevant, along with his request to summon a senior official from the Prussian Interior Ministry.⁸⁶

Litten now asked that Hitler be brought back to the witness box. "Do you still maintain," he asked the Führer, "what you said in the morning session: that if you had followed Stennes's course you would have had to leave the path of legality?"

"I said the following," Hitler replied carefully. "I am a dutiful guardian of my Party's interests. The view that Captain Stennes puts forward in his paper would lead me to leave the path that I have taken."

Hitler still wanted to have it both ways so as not to antagonize the SA. "But I have to insist that it must be left to Captain Stennes to refer to his goals as legal. That is a matter of opinion."⁸⁷

Litten returned to Goebbels's pamphlet *The Nazi-Sozi* and asked whether it was correct that it had now been published by the Nazi Party and that 120,000 copies were in print. Kamecke objected to the question. Litten made clear his intent with a startling revelation: "I have just learned," he said, "that this pamphlet is sanctioned by the party, that it is sold at all Goebbels' meetings, and that it is available in all party bookstores, contrary to Hitler's declarations about legality."

Even Ohnesorge seemed to be impressed by the dilemma now facing the witness. "Herr Hitler," he said, "you in fact testified in the morning session that Goebbels's text was not an official party publication."

"Nor is it," replied the Führer with growing heat. "A text becomes official if it bears the printed seal of the Party. In any case it is the Propaganda Chief who must be heard on these things, and above all—"⁸⁸

It was here that Hitler lost all composure. It has been said that he was prone to outbursts of uncontrolled fury at those moments when he felt circumstances moving beyond his control. Talking to the Fürsts after the trial, Litten said that Hitler had "screamed like an hysterical cook." Hitler turned to Litten, his face deep red, and yelled: "—above all, Herr Advocate, how can you say that that is a call to illegality? That is a statement that can be proven by nothing!"

Unfazed, Litten moved in for the kill: "How is it possible that the Party publisher took over a text that stands in clear contradiction to the Party line?"⁸⁹

We need to imagine how Hitler must have felt at this moment. This was a man who liked to call himself the leader of a movement of millions, surrounded by a cult that revered him as a virtual messiah come to deliver Germany from defeat and humiliation. He had triumphed in the elections of the previous fall and now presided over the fastest growing political party in Germany's volatile political environment. Now he was being pushed to the wall by an irritatingly persistent young lawyer. For all Hitler and his inner circle knew, the future of their movement might hang on what Hitler said in this Berlin court-

room. Litten's question forced him to face the contradictions that lay in his protestations of legality. Disavowal of the revolutionary spirit of the SA would arouse the storm troopers' suspicions, never far below the surface, that Hitler would betray them someday. It would play into the hands of the Stennes faction and possibly splinter the National Socialist movement. On the other hand, embracing illegality would jeopardize the electoral strategy that Hitler had followed with such success since the failure of his 1923 coup. Hitler had tried evasion, rhetoric, and extravagant rage. Nothing had worked.

And now, while he might have been wondering how to field Litten's latest question, Ohnesorge saved him.

"That has nothing to do with this trial," said the judge.

It was Litten's turn for outrage: "I can only say that the court now..."

"I must ask that you not criticize the court," said Ohnesorge, cutting off Litten's protest.⁹⁰

Hitler's dangerous moment had passed. Litten sat down.

The Oath

One more issue remained: the question of whether or not Hitler and the other witnesses should be sworn in. In German trials witnesses are usually given the oath after testifying, rather than before, as in an American courtroom. The oath then "strengthens" the testimony. If the court has significant doubts about the honesty of a witness, it may refuse to have the witness sworn, which correspondingly devalues the testimony.

State Advocate Stenig wanted all three of the day's witnesses—Hitler, Stennes, and Wetzel—to be sworn. Litten thought that Stennes should be sworn, but not Hitler or Wetzel. He argued that Stennes's testimony had cast the veracity of Hitler's into great doubt, a claim that brought Hitler to his feet in rage, demanding to intervene. (The official protocol records dryly that Hitler, along with the lawyers, "was heard