

STEPHEN P. HALBROOK

Gun Control in the Third Reich



Waffenbesitz für Juden jetzt
Disarming the Jews and "Enemies of the State"
durch Reichsgesetz verboten

THE INDEPENDENT INSTITUTE

Gun Control
in the
Third Reich



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Gun Control in the Third Reich

Disarming the Jews and "Enemies of the State"

STEPHEN P. HALBROOK



Oakland, California

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Introduction

ALFRED FLATOW WAS a German Jew who won first place in gymnastics events at the 1896 Olympics. In 1932, he registered three handguns as required by a decree of the liberal Weimar Republic. The government had warned that the police must carefully store the registration records so that no extremist group could ever obtain them. That fear was realized, however, when an extremist group led by Adolf Hitler seized power the following year and used those very same registration records to disarm “enemies of the state.” In 1938, the records were used to disarm Jewish gun owners such as Flatow, whose arrest report stated: “Arms in the hands of Jews are a danger to public safety.”¹ He would later die in a concentration camp.

Shortly after confiscating firearms from Flatow and numerous other Jews, the Nazis instigated the pogrom known as the Night of the Broken Glass (*Reichskristallnacht*) against a defenseless Jewish population, who were threatened with twenty years in a concentration camp for possession of a firearm.

Countless studies have documented how the Nazi dictatorship repressed its political opponents, Jews, and other “enemies of the state.” For whatever reason, historians have paid no attention to Nazi laws and policies restricting firearms ownership as essential elements in creating tyranny. A skeptic might surmise that a better-armed populace might have made no difference, but the Nazi regime certainly did not act on that premise. While many historically unique factors ultimately led to the Holocaust, Nazi policies prohibiting possession of firearms helped to consolidate Hitler’s power at home, exacerbated

1. Bericht über einen polit. Vorfall, 4.10.38, Alfred Flatow. A Rep PrBrRep. 030/21620 Bd. 5 Haussuchungen bei Juden 1938-39. (FB Bd. 5). Landesarchiv Berlin. For details on Flatow, see chapter 10.

persecution of the Jews, aiding their arrest and deportation, and foreshadowed some of the more severe policies undertaken during the war.

In those days, as now, controversy has raged about whether civilians should have a right to possess firearms at all and, if so, should register with the government any firearms they do possess or whether firearms should be prohibited except to the military and police. Prohibitionists contend that firearms harm civilians who possess them in crimes, suicides, and accidents. Governments must disarm civilians for their own good.

The Nazis had policies to eliminate social ills of many kinds, from guns to cancer.² They did not have in mind the good of the people they disarmed, however. They were not concerned with Jews whose children might have accidents with firearms, who might commit suicide, or who might have a gun taken away by criminals when trying to defend themselves. Instead, the Nazis confiscated firearms to prevent armed resistance, whether individual or collective, to their own criminality.

With selective memory of the historical events, a movement currently exists in the United States and Europe that denies the existence of any right to keep and bear arms and argues that firearms should be restricted to the military and the police. Yet considering the premises of that movement, it can hardly be argued that the Nazis disarmed Germany's Jews for benign reasons or that the Jews were better off without firearms in their homes on the basis that firearms are allegedly more dangerous to their owners than to any aggressor. Nor would it be rational to contend that only the discrimination in the Nazi case was wrong and that not just Jews and other *persona non grata*, but all citizens, should have been disarmed for their own good. The paradigm that government should have a monopoly of small arms implies the surreal normative postulate that citizens—or, rather, subjects—should be treated as the Jews were in Nazi Germany.

Germany had no constitutional tradition similar to that expressed in the Second Amendment to the U.S. Constitution, which declares: "A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed." This is part of the Bill of Rights,

2. See Robert N. Proctor, *The Nazi War on Cancer* (Princeton, NJ: Princeton University Press, 1999).

which Supreme Court justice Felix Frankfurter wrote “reflects experience with police excesses. It is not only under Nazi rule that police excesses are inimical to freedom.”³ The right to have arms, which reflects a universal and historical power of the people in a republic to resist tyranny, was not recognized in Hitler’s Third Reich.

Reacting to the Nazi experience, the U.S. Congress enacted legislation in 1941, just before Japan’s sneak attack on Pearl Harbor, authorizing the president to requisition certain property for defense but prohibiting any construction of the act to “require the registration of any firearms possessed by any individual for his personal protection or sport” or “to impair or infringe in any manner the right of any individual to keep and bear arms.”⁴ A sponsor of the bill explained: “Before the advent of Hitler or Stalin, who took power from the German and Russian people, measures were thrust upon the free legislatures of those countries to deprive the people of the possession and use of firearms, so that they could not resist the encroachments of such diabolical and vitriolic state police organizations as the Gestapo, the Ogpu, and the Cheka.”⁵

What seemed obvious then was no longer so in 1968 when Congress debated whether to include a national firearms registration system in the Gun Control Act. Opponents raised the specter of the—at that time—more recent Nazi experience,⁶ and proponents denied that the Nazis made any use of records to disarm enemies.⁷ It would have been curious, however, had the Nazis, who had detailed blacklists on political enemies, not used registration and licensing records to disarm anyone perceived to be an “enemy of the state.” Although a

3. *Davis v. United States*, 328 U.S. 582, 597 (1946) (Frankfurter, J., dissenting).

4. Property Requisition Act, P.L. 274, 55 Stat. 742 (1941). See Stephen P. Halbrook, *Congress Interprets the Second Amendment: Declarations by a Co-equal Branch on the Individual Right to Keep and Bear Arms*, 62 TENN. L. REV. 597, 618–31 (Spring 1995).

5. Statement by Representative Edwin Arthur Hall, 87 Cong. Rec., 77th Cong., 1st Sess., 6778 (Aug. 5, 1941).

6. Rep. John Dingell (D-MI) argued that “sportsmen fear firearms registration. We have here the same situation we saw in small degree in Nazi Germany.” In *Federal Firearms Legislation: Hearings before the Subcommittee to Investigate Juvenile Delinquency*, Senate Committee on the Judiciary, 90th Cong., 2nd Sess., 478 (1968).

7. Senator Joseph Tydings (D-MD) disputed “that registration or licensing of guns has some connection with the Nazi takeover in Germany.” *Federal Firearms Legislation*, 478–79.

1968 Library of Congress study focused on Nazi policies in the occupied countries, it was “unable to locate references to any German use of registration lists to collect firearms.”⁸ Its research was obviously minimal.

In 2008, the U.S. Supreme Court considered whether the Second Amendment guaranteed only government-approved militias or an individual’s right to possess firearms. Arguing the former, a friend-of-the-court brief by pacifist Jewish and Christian organizations faulted Nazi Germany only for “discriminatory laws that barred Jews from having firearms,” referring to “the myth that arming everyone might allow an oppressed minority” to resist.⁹ Jews for the Preservation of Firearms Ownership argued the latter, focusing on the Holocaust and other genocides against unarmed populations.¹⁰ The Supreme Court agreed with this approach, noting that “when the able-bodied men of a nation are trained in arms and organized, they are better able to resist tyranny.”¹¹

During World War II, Great Britain supplied its citizens with arms contributed by the United States and private American citizens to fight an anticipated Nazi invasion,¹² but it now bans most guns. In 2011 in Switzerland, whose traditional militia army consisting of a populace with arms at home helped to dissuade a Nazi invasion, more than 56 percent of voters rejected an initiative to require registration of all firearms and to prohibit many firearms.¹³ A pro-

8. *Federal Firearms Legislation*, 483. The study included a translation of the Nazi *Waffen-gesetz*. (Weapons Law) of 1938 (*Reichsgesetzblatt* 1938, I, 265). *Federal Firearms Legislation*, 489. (The *Reichsgesetzblatt* was the official publication of German laws.) Senator Thomas Dodd (D-CT), who had been a prosecutor at the Nuremberg War Crimes Trials and would be a chief sponsor of the Gun Control Act, supplied his own copy of “the original German text” to the Library of Congress to translate. *Federal Firearms Legislation*, 489.

9. Brief Supporting Petitioners of Amici Curiae American Jewish Committee, et al., *District of Columbia v. Heller*, No. 07-290, at 31 n. 11.

10. Brief of Amicus Curiae Jews for the Preservation of Firearms Ownership in Support of Respondent, *District of Columbia v. Heller*, No. 07-290.

11. *District of Columbia v. Heller*, 128 S. Ct. 2783, 2801 (2008).

12. Winston Churchill, *The Second World War: Their Finest Hour* (Boston: Houghton Mifflin, 1949), 272; “Sporting Guns Sought: Group Here Also Wants Pistols to Send to Britain for Defense,” *New York Times*, Sept. 12, 1940, 9.

13. “Swiss Voters Stick to Their Gun Tradition,” *SwissInfo.com*, Feb. 13, 2011, http://www.swissinfo.ch/eng/Specials/Gun_debate/News/Results/Swiss_voters_stick_to_their_gun_tradition.html?cid=29485688 (visited Jan. 31, 2013); Stephen P. Halbrook, *Citizens in Arms: The Swiss Experience*, 8 TEX. REV. L. & POLITICS 141, 162–74 (2003).

posal to ban civilian possession of firearms in Brazil in 2005 initially seemed headed to victory but was defeated near the end of the campaign.¹⁴ The United Nations holds that whereas governments should be armed, individuals have no right to armed self-defense, and it seeks to repress private firearms ownership at the international level.¹⁵

Just a year before Hitler took power in 1933, the German interior minister directed “the secure storage of the lists of persons who have registered their weapons. Precautions must be taken that these lists cannot . . . fall into the hands of radical elements.”¹⁶ As examined in this book, the minister’s caution was well founded: those records would fall right into the hands of the Nazi Party, which used them to disarm its political enemies and the Jews. In 2013, the eightieth anniversary of the Nazi seizure of power, Germany implemented a central database of all registered, lawful firearms, which is required of all European Union countries by the following year.¹⁷ The German interior minister was said to have “promised to guarantee a very high level of security of the data,” although one skeptic noted that “everything that is registered can be taken away by the government.”¹⁸

In the wake of the domestic and international controversy about whether to require registration of firearms or even to prohibit civilian firearms ownership, interest by U.S. legal scholars on the subject of Nazi firearm policies has

14. Todd Benson and Terry Wade, “Violence-Torn Brazil Votes to Keep Gun Sales Legal,” <http://www.njcsd.org/forum/archive/index.php?t-78.html> (visited Feb. 9, 2013).

15. See Human Rights Council, *Subcommission on the Promotion and Protection of Human Rights*, 58th sess., agenda item 8, Adoption of the Report on the Fifty-Eighth Session to the Human Rights Council, A/HRC/Sub.1/58/L.11/Add.1 (Aug. 24, 2006) (advocating prohibition of civilian firearms as a “human right”); David B. Kopel, Paul Gallant, and Joanne D. Eisen, *The Human Right of Self Defense*, 22 *BYU JOUR. OF PUBLIC LAW* 43 (2008).

16. Reichsminister des Innern(RMI) to Landesregierungen, Feb. 8, 1932, Massnahmen gegen Waffenmissbrauch, Bundesarchiv (BA) Lichterfelde, R 1501/125940, Gesetz über Schußwaffen und Munition Bd. 4, 1931–32, 416–17. Throughout this work, “ss” or “ß” is used depending on the original German source.

17. “German Weapon Registry to Take Effect in 2013,” *Deutsche Welle*, Dec. 18, 2012, <http://www.dw.de/german-weapon-registry-to-take-effect-in-2013/a-16461910> (visited Feb. 9, 2013).

18. Michael Birnbaum, “New Gun Database ‘Not a Problem’ for Owners in Germany,” *Washington Post*, Jan. 20, 2013, A16, <http://www.highbeam.com/doc/1P2-34142374.html> (visited April 17, 2013).

emerged.¹⁹ In response to the theses they present, firearm prohibitionists have minimized the significance of Nazi firearms policies, contending that Hitler wished only to disarm and kill Jews.²⁰ Yet that would seem to be the most critical issue in the debate.

This book seeks to highlight hitherto unknown historical facts to advance the scholarly literature on the development of Nazism, particularly before World War II, which was the prelude to the Holocaust, with respect to the repression of civilian firearm ownership. Given the enormous literature in the related fields, it seems incredible that the disarming of the German Jews is rarely if ever mentioned. Virtually none of the many tomes on the Third Reich so much as hints at the role that Weimar-era legislation and decrees were used by the Hitler government to consolidate power by disarming political enemies, Jews, and other “enemies of the state.”

Gun control laws are depicted as benign and historically progressive. However, Nazi firearms laws and policies, together with hysteria created against Jewish firearm owners, played a unique role in laying the groundwork for the eradication of German Jewry. Disarming political opponents was a categorical imperative of the Nazi regime. National Socialist leaders and police officials saw the disarming of such “enemies of the state” as an essential component of the consolidation of Nazi power. Adolf Hitler, Heinrich Himmler, Werner Best, Wilhelm Frick, and other members of the Nazi hierarchy were deeply involved in this process. This is the first book to address Nazi firearms laws

19. Stephen P. Halbrook, “*Arms in the Hands of Jews Are Danger to Public Safety*”: Nazism, Firearm Registration, and the Night of the Broken Glass, 21 ST. THOMAS LAW REVIEW 109 (2009); David B. Kopel, *Lethal Laws*, XV NYL SCH. J. INT’L & COMP. L. 15 (1995); Don B. Kates and Daniel D. Polsby, *Of Genocide and Disarmament*, 86 CRIM. L. & CRIMINOLOGY 297 (1995).

20. See Stephen P. Halbrook, *Nazi Firearms Law and the Disarming of the German Jews*, 17 ARIZ. J. INT’L & COMP. L. 483 (2000), <http://www.stephenhalbrook.com/article-nazilaw.pdf>. This article was criticized in Bernard E. Harcourt, *On Gun Registration, the NRA, Adolf Hitler, and Nazi Gun Laws: Exploding the Gun Culture Wars (a Call to Historians)*, 73 FORDHAM L. REV. 653 (2004); Deborah Homsher, *Response to Bernard E. Harcourt’s “On Gun Registration,”* 73 FORDHAM L. REV. 715 (2004); Robert J. Spitzer, *Don’t Know Much about History, Politics, or Theory: A Comment*, 73 FORDHAM L. REV. 721 (2004). I responded to Harcourt and the others in Stephen P. Halbrook, *Nazism, the Second Amendment, & the NRA: A Reply to Professor Harcourt*, 11 TEX. REV. L. & POLITICS 113 (2006), http://www.stephenhalbrook.com/law_review_articles/nazism.nra.pdf.

and policies that functioned to disarm German citizens, in particular political opponents and Jews.

The book does not crudely argue that gun control led inexorably to the Holocaust, nor does it claim an intrinsic connection between firearms restrictions and genocide or Nazism, as some polemicists would have it. Of course, the Holocaust itself was in many respects a singular event that was only possible due to a very large number of factors that historians are still attempting to understand.

This book does present the first thorough treatment of Germany's gun control policies before the Second World War, and the first extensive exploration of how Hitler used these policies in coordination with his persecution of Jews and political opponents. Some polemicists might overstate the relationship between gun control and genocide, but what is worse is the failure of scholars to come to terms with the real connection between disarming policies and oppression.

The book is divided into four parts representing distinct historical periods from 1918, at the birth of the Weimar Republic, through 1938, at the time of the Night of the Broken Glass. Part I, "Dancing on a Volcano: The Weimar Republic," describes the post-World War I chaos, in particular the repression of Communist insurgency and the rise of the Nazi Party. In 1928, the liberal Weimar Republic adopted Germany's first comprehensive gun control law. The era ended with a decree requiring registration of all firearms and authorizing officials to confiscate all firearms, which could only have been enforced against persons who had registered them. Officials warned that the registration records must not fall into the hands of an extremist group.

Part II, "1933: Enter the Führer," describes how just such an extremist group seized power. Chapters tell about the massive searches for and seizures of firearms from Social Democrats and other political opponents, who were invariably described as "Communists." Nazi raids on Jewish quarters to search for firearms also took place in this period, and Nazi power was consolidated in part by disarming "the politically unreliable" and the "enemies of the state."

Part III, "Gleichschaltung: Forcing into Line," concerns the next five years of repression. Nazi leaders leisurely conferred on amendments to the Weimar Firearms Law, which could be revised as society was cleansed with National Socialism. But that theoretical legal discussion was a sideshow. The significant events were the Night of the Long Knives (Nacht der langen Messer), which verified that Hitler could murder any opponent, and the Nürnberg Laws, which reduced

the rights of citizenship from Jews. The Secret State Police (Geheime Staatspolizei, or Gestapo) banned independent gun clubs and decreed against issuance of firearm permits to Jews. In 1938, Hitler signed a new gun control law that benefitted Nazi Party members but denied firearm ownership to the perennial “enemies of the state.”

Part IV, “Reichskristallnacht: Night of the Broken Glass,” sets forth how the groundwork for the pogrom against the Jews was laid weeks beforehand by the systematic disarming of Germany’s Jews. With the shooting of a German diplomat in Paris by a teenage Polish Jew, Hitler approved and Joseph Goebbels orchestrated a massive search-and-seizure operation, allegedly for weapons, entailing the ransacking of homes and businesses. Himmler decreed the punishment of twenty years in a concentration camp for possession of a firearm by a Jew. Diaries and other sources record how the Jewish victims themselves, including gun owners as well as those not remotely connected to gun ownership, described the onslaught.

The book’s conclusion presents a potpourri of events during World War II, the second half of the “thousand-year Reich,” to explore effects of the disarming policies of the previous two decades. Why was there no armed partisan movement in Germany against Hitler? Did the prior disarming of the Jews facilitate his widening aggression against them? In the occupied countries, the Nazis decreed the death penalty for possession of a firearm, but there were instances of heroic resistance, from various resistance movements to the heroic Warsaw ghetto uprising.

Hannah Arendt perceptively observed: “It was not until the outbreak of the war, on September 1, 1939, that the Nazi regime became openly totalitarian and openly criminal.”²¹ Yet that was possible in part because of policies adopted in the prewar period, which is the focus of this work. While the Nazi regime’s repression of civilian gun ownership in the occupied countries represents a complex history that is beyond the scope of this book,²² it is yet another “hidden history” that has been ignored but should be brought to light.

21. Hannah Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil* (New York: Penguin Books, 1992), 68.

22. See Stephen P. Halbrook, *Why Can’t We Be Like France? How the Right to Bear Arms Got Left Out of the Declaration of Rights and How Gun Registration Was Decreed Just in Time for the Nazi Occupation*, 39 *FORDHAM URBAN LAW JOURNAL*, 101 (2013).

Despite the significance that the Nazis themselves perceived of the need to ruthlessly disarm political enemies and Jews, no historian has addressed the subject. This book, the first comprehensive account of this topic, is based on never-before-used documents from archives in Germany, German firearms laws and regulations, German and foreign newspapers from the period, diaries, and the historical literature. It presents the first scholarly analysis of the use of firearm laws and policies to pave the way for, establish, and consolidate the Hitler regime, rendering all “enemies of the state” defenseless.

Every manner in which the Hitler regime created a tyranny during 1933–1938 should need no justification as a legitimate historical topic. How significant portions of the German population were disarmed in this process, particularly Social Democrats and other political opponents beginning in 1933 and the Jews most prominently in 1938, has hardly been so much as mentioned in the vast literature on the Third Reich. That would not be an extraordinary omission if only the police and military had firearms but substantial portions of the German population did not. But a significant number of Germans, including persons of all political persuasions as well as both “Aryans” and Jews, did possess rifles, handguns, and shotguns.²³

Subject to ambiguities, much of this private possession of firearms was lawful, and they included everything from bolt-action rifles and multi-barrel guns to semiautomatics and revolvers. But much of it was not, such as machine guns left over from the Great War and secreted by paramilitary groups. The term “assault rifle” (*Sturmgewehr*, or storm rifle) would not enter the lexicon until introduced by Hitler in World War II.²⁴ But well before that, extremist groups were adept in using any kind of weapon to assault their opponents.

Both the Weimar and Nazi regimes sought to regulate, register, and prohibit firearms, differing of course on who would be subject to such measures and the outer extremes of the punishment for violation. The end result was the monopolization of firearms by the Nazi dictatorship so that it could dispense them to favored groups and deny them to disfavored groups.

23. Obviously no statistics are available about levels of gun ownership in Germany or any other country in the 1920s and 1930s, and even estimates of current levels in various countries would be somewhat speculative.

24. Peter R. Senich, *The German Assault Rifle 1935-1945* (Boulder, CO: Paladin, 1987), 79.

As to its relevance today, some may warn that history may repeat itself and has indeed done so elsewhere, while others may suggest that the Nazi experience was unique and not capable of repetition. Other than to note this divergence of opinion, this book says nothing more about current controversies. But denial of what actually occurred in the historical record is not an option.

PART I

Dancing on a Volcano
The Weimar Republic

Insurrection and Repression

IT MAY HAVE been “all quiet on the Western Front,” but it would be anything but quiet in Germany. Defeat in World War I heralded the demise of the Second Reich and the birth of the Weimar Republic. The reforms enacted in the early days of the republic to bring the country under control and into compliance with the Treaty of Versailles were both chaotic and draconian. In a country with no strong tradition for keeping private arms and certainly no established, protected right to do so, the Weimar Republic laws and policies regarding firearms were vague and at times enforced harshly. Like the country itself, the legal status and political significance of arms were in constant flux. A decade and a half of dancing on a volcano would pass before Hitler seized power, but the groundwork would be laid for Nazi rule.

In the November Revolution of 1918, workers and soldiers’ councils assumed political power and proclaimed the republic. The drive to democratize the military and establish civilian militias was countered by the military command’s plans to use combat troops to seal off Berlin, disarm the population, and assume dictatorial powers.¹ Although the armistice signed by Germany and the Allies allowed the troops to return home, collecting the weapons was something else.

“The recovery and surrender of weapons and other army materiel have been very slow,” explained a German legal periodical. “Large numbers are still held by private citizens, without title or right, and are a danger to public security.”²

1. Hans Mommsen, *The Rise and Fall of Weimar Democracy* (Chapel Hill: University of North Carolina Press, 1996), 32–33; James M. Diehl, *Paramilitary Politics in Weimar Germany* (Bloomington: Indiana University Press, 1977), 23.

2. “Militärrechtliche Notverordnungen” (Military Emergency Decrees), *Deutsche Juristen-Zeitung*, Jan. 1, 1919, S. 67.

The Reich government thus issued an emergency decree on December 14, 1918, authorizing the German states to set a deadline for surrender of arms. Anyone in illegal possession of a firearm after the deadline expired would be subject to five years imprisonment and a fine of 100,000 marks.³

In January 1919, the National Assembly (Nationalversammlung) was elected, and Friedrich Ebert of the German Social Democrat Party (Sozialdemokratische Partei Deutschlands, SPD) became chancellor. The German Communist Party (Kommunistische Partei Deutschlands, KPD) instigated the Spartacist Uprising, which was brutally suppressed by government forces and volunteer Free Corps (Freikorps) under the leadership of Social Democrat Gustav Noske.⁴

As part of the repression, the Decree of the Council of People's Representatives on Weapons Possession of January 13, 1919, provided that "[a]ny and all firearms and ammunition of all kinds to be used with firearms must be surrendered immediately."⁵ The states were directed to set another deadline to surrender weapons, to designate the checkpoints, and to enact exceptions.⁶ Once again, whoever kept a firearm or ammunition was subject to imprisonment for five years and a fine of 100,000 marks.⁷ The decree would remain in force until repealed in 1928.⁸

Two days after the firearm ban was decreed, in Berlin Freikorps members murdered the Spartacist leaders Rosa Luxemburg and Karl Liebknecht. The Freikorps defeated the poorly armed Communists in street fighting in several other cities, including Weimar itself.⁹

When Spartacists attacked a Berlin police station in March, killing five officers, Gustav Noske, who was now Reich minister of defense, declared that "any person who bears arms against government troops will be shot on the spot."¹⁰ This order was simplified by the Garde-Kavallerie-Schützen Division

3. *Reichsgesetzblatt* 1918, 1425.

4. Diehl, *Paramilitary Politics in Weimar Germany*, 28–39; Robert G. L. Waite, *Vanguard of Nazism: The Free Corps Movement in Postwar Germany, 1918–1923* (Cambridge, MA: Harvard Univ. Press, 1952), 59–61.

5. Verordnung des Rates der Volksbeauftragten über Waffenbesitz, *Reichsgesetzblatt* 1919, Nr. 7, 31, § 1.

6. *Id.* § 2.

7. *Id.* § 3.

8. *Reichsgesetzblatt* 1928, I, 143, 147, § 34(1).

9. Waite, *Vanguard of Nazism*, 62, 65–71.

10. Waite, *Vanguard of Nazism*, 72–73, quoting *Vorwärts*, Mar. 10, 1919 (morning edition); Diehl, *Paramilitary Politics in Weimar Germany*, 316 n. 64.

to state that anyone who merely possessed a firearm would be executed.¹¹ Based on these orders, hundreds of civilians in Berlin were indiscriminately killed, many just for owning firearms.¹²

A Communist uprising in Bavaria in April was also easily repressed and produced more atrocities.¹³ Referring to the decree by Freikorpsgeneral Burghard von Oven,¹⁴ Lieutenant Rudolf Mann, a regimental adjutant, found humor:

The supreme commander tacked proclamations to the walls: "Warning! All arms are to be surrendered immediately. Whoever is caught with arms in his possession will be shot on the spot!" What could the poor citizen of average intelligence do? Surrender—but how? If he took his rifle under his arm to take it to the place where arms were collected, he would be shot on the steps of his house by a passing patrol. If he came to the door and opened it, we all took shots at him because he was armed. If he got as far as the street, we would put him up against the wall. If he stuck his rifle under his coat it was still worse. . . . I suggested that they tie their rifles on a long string and drag them behind them. I would have laughed myself sick if I had seen them go down the street doing it.¹⁵

In periods of calm, persons caught with a firearm were prosecuted in court rather than shot on the spot. Mere possession of a pistol was interpreted to violate the decree requiring surrender of firearms, and ignorance of the law was no excuse.¹⁶

Meanwhile, pressure to disarm came from the victorious Allies. The Versailles Treaty strictly limited the quantities of arms that the German army, the

11. Waite, *Vanguard of Nazism*, 73 and n. 42, citing *Freiheit*, Mar. 18, 1919.

12. Waite, *Vanguard of Nazism*, 73; Diehl, *Paramilitary Politics in Weimar Germany*, 316 n. 64.

13. Waite, *Vanguard of Nazism*, 84–87.

14. Waite, *Vanguard of Nazism*, 92, quoting E. J. Gumbel, *Vier Jahre politischer Mord*, 5th ed. (Berlin, 1922), 111–12.

15. Rudolf Mann, *Mit Ehrhardt durch Deutschland, Erinnerungen eines Mitkämpfers von der 2. Marinebrigade* (With Ehrhardt Through Germany, Memoirs of a Comrade-in-Arms of the 2nd Naval Brigade) (Berlin, 1921), 71–72, quoted in Waite, *Vanguard of Nazism*, 91–92.

16. Decision of 10/16/1919, III 490/19, Regional Court (Landgericht) Güstrow, in *Entscheidungen des Reichsgerichts in Strafsachen* (Decisions of the Reich Court in Criminal Matters) (Berlin: Gruyter, 1920), Band 54, S. 4.

Reichswehr, could possess.¹⁷ For instance, a maximum of 102,000 rifles and carbines was authorized.¹⁸ Provisions of the treaty appear to apply to the entire population, not just to the armed forces, a result perhaps not unintended. It provided that all arms must be surrendered to the victors to be destroyed.¹⁹

The manufacture of arms was severely limited, and the importation of arms prohibited.²⁰ Universities, “shooting or touring clubs,” and any other associations “will be forbidden to instruct or exercise their members, or to allow them to be instructed or exercised, in the profession or use of arms.”²¹ Although these measures had the ostensible purpose of suppressing German militarism, they promoted the monopoly of power in the government and discouraged citizens’ keeping of arms and knowledge of their use.

In early 1920, the Communists called a general strike in the Ruhr and attacked the Freikorps, which counterattacked and smashed the Communists.²² A young Freikorps member wrote: “Our battalion has had two deaths; the Reds 200–300. Anyone who falls into our hands first gets the rifle butt and then is finished off with a bullet. . . . We even shot 10 Red Cross nurses (Rotkreuzschwestern) on sight because they were carrying pistols. We shot those little ladies with pleasure—how they cried and pleaded with us to save their lives. Nothing doing! Anybody with a gun is our enemy.”²³

Versailles restrictions on the size of the Reichswehr encouraged the development of unofficial paramilitary forces that increasingly operated underground, hand in glove with the military.²⁴ Although the Weimar Republic proclaimed that it would no longer rely on the Freikorps, the latter continued obtaining

17. Charles I. Bevans, comp., *Treaties and Other International Agreements of the United States of America, 1776–1949* (Washington, DC: U.S. Department of State, 1969), 2:117–23 (chap. 2). The treaty was signed on June 28, 1919, and was effective January 10, 1920.

18. Bevans, comp., *Treaties and Other International Agreements*, 123 (table 3).

19. Bevans, comp., *Treaties and Other International Agreements*, 118 (Art. 169). Also in *Reichsgesetzblatt* 1919, I, p. 926, Art. 169.

20. Bevans, comp., *Treaties and Other International Agreements*, 118–19 (Art. 168, 170).

21. Bevans, comp., *Treaties and Other International Agreements*, 120 (Art. 177).

22. Waite, *Vanguard of Nazism*, 172–77, 180–81.

23. Waite, *Vanguard of Nazism*, 182, quoting *Blut und Ehre*, ed. Maximilian Scheer (Paris, 1937), 43.

24. Diehl, *Paramilitary Politics in Weimar Germany*, 18, 75.

financial support and arms from the government, often by theft or fraud. Freikorps members would go on to become part of the backbone of Nazism.²⁵

The Law on the Disarmament of the People, passed on August 7, 1920, provided for a Reichskommissar,²⁶ who defined which weapons were “military weapons” and thus subject to seizure.²⁷ Ordinary Mauser bolt-action rifles with five-shot magazines were put in the same class as hand grenades.²⁸

Massive police raids and house-to-house searches followed, confiscating enormous quantities of “military” weapons from civilians.²⁹ In Berlin, police established weapon-surrender posts, paying 100 marks for a rifle or carbine. The police hid and kept many weapons for their own use.³⁰ Berlin’s secret police routinely searched for arms, violated privacy rights, and infiltrated organizations.³¹

German citizens had no legal right to bear arms. A Prussian high court opined that such freedom was at the sole discretion of the police without judicial review.³² Nor was any right to keep arms in the home recognized. The Kassel regional court upheld a conviction for possession of hunting rifles and military firearms found in a search of the defendant’s apartment.³³

Meanwhile, the Communists, manipulated by Stalin’s Comintern, continued to pursue violent tactics.³⁴ Such adventurism encouraged the growth of the emerging Nazi Party—the National Socialist German Workers Party (Nationalsozialistische Deutsche Arbeiterpartei, or NSDAP)—under the leadership of

25. Waite, *Vanguard of Nazism*, 182, 194–95, 200–201, 268, 281.

26. Gesetz über die Entwaffnung der Bevölkerung, *Reichsgesetzblatt* 1920, Nr. 169, I, 1553–57, §§ 1, 7.

27. *Id.* § 2.

28. *Id.* § 6.

29. Hsi-Huey Liang, *The Berlin Police Force in the Weimar Republic* (Berkeley: University of California Press, 1970), 97.

30. John R. Angolia and Hugh Page Taylor, *Uniforms, Organization, & History of the German Police* (San Jose, CA: R. James Bender, 2004), 61.

31. Liang, *The Berlin Police Force in the Weimar Republic*, 6, citing Rumpelstilzchen [Adolf Stein], *Berliner Allerlei* (Berlin Potpourri) (Berlin: Tägliche Rundschau, 1922), 54–55.

32. Decision of Jan. 27, 1921, “Waffenschein” (Gun License), *Deutsche Juristen-Zeitung*, Oct. 1, 1921, 703.

33. Decision of Feb. 23, 1922, Regional Court (Landgericht) Kassel, in *Entscheidungen des Reichsgerichts in Strafsachen*, Band 56, S. 283.

34. Mommsen, *The Rise and Fall of Weimar Democracy*, 126.

Adolf Hitler. Its paramilitary wing was the Storm Troopers (Sturmabteilung, or SA).³⁵

SA leader Kurt Ludecke, who would be purged in Hitler's Night of the Long Knives in 1934, described the situation:

As the bearing arms, or even the possession and concealment of them, was severely punished, usually with several years' imprisonment, it was naturally no easy task to obtain them and keep them in secret. Arms were being bootlegged, and it was an exciting business. One had to risk danger a hundred times to find a single weapon that was intact, rustless, and uniform with the rest.

By the end of December 1922, . . . I had managed to secure and hide outside Munich, fifteen heavy Maxim guns, more than two hundred hand grenades, one hundred and seventy-five perfect rifles, and thousands of rounds of ammunition—a real arsenal.³⁶

As this description illustrates, members of extremist parties took risks to arm themselves. Law-abiding citizens did not.

Germany was a decade away from the Nazis' taking power, but fascism had just taken hold in Italy. Prime Minister Benito Mussolini told the Italian Senate in 1923 that he had restored order by eliminating subversives, noting: "On the morrow of each conflict I gave the categorical order to confiscate the largest possible number of weapons of every sort and kind. This confiscation, which continues with the utmost energy, has given satisfactory results."³⁷

The German Communists pointed to Mussolini's new dictatorship and to the "German fascists" as reasons to organize and arm the "Proletarian Hundreds."³⁸ On October 24–25, 1923, with prodding from Stalin's Comintern, the Reds launched the Hamburg Uprising, attacking police stations and seizing arms. As revealed in an account by its leader, twenty-five-year-old student Hans

35. Diehl, *Paramilitary Politics in Weimar Germany*, 105.

36. Kurt G. W. Ludecke, *I Knew Hitler: The Story of a Nazi Who Escaped the Blood Purge* (New York: Charles Scribner's Sons, 1938), 103.

37. *Mussolini as Revealed in His Political Speeches* (London: J. M. Dent & Sons, 1923), 308–9.

38. Diehl, *Paramilitary Politics in Weimar Germany*, 133, 141.

Kippenberger,³⁹ some 1,300 insurgents with only eighty poorly maintained firearms, mostly revolvers, faced some 5,000 policemen armed with rifles, pistols, and machine guns.⁴⁰

The Communists seized some police stations and obtained more arms. Some insurgents lacked minimal firearm training—they captured three submachine-guns but had to obtain instruction from the police prisoners on how to use them!⁴¹ Barricades were erected, and street fighting ensued, but government forces predictably smashed the insurgency.⁴²

Without regard to whether the Communists really represented the working class and would have established a tyranny had they seized power, as they did in Russia, this episode provides insight into why the proletariat did not resist Hitler a decade later. The working class had few firearms and no tradition of keeping and using them. If it is accurate that “the Proletarian Hundreds contained 250,000 workers in 1923, but there were only arms for a few thousand of these,”⁴³ proletarians with no political incentive to obtain arms—those who were just working and trying to survive—may have had a far lower rate of firearm ownership.

The Hamburg Uprising and other insurrections demonstrated, according to the Communist account, that “[a]s a result of ruling-class terror, and its own lack of financial resources—the military organization of the proletariat is often unable to procure enough arms and ammunition before the insurrection even to arm itself, let alone the broad proletarian masses. . . . Another weakness of the proletariat is the fact that most of the insurgents . . . do not have any adequate knowledge of how to handle weapons.”⁴⁴ To the extent that workers in general lacked arms, they had little means to resist the tyranny that Nazism would later impose.

39. Kippenberger and general author Erich Wollenberg wrote the chapter on the Hamburg Uprising in the book *Der bewaffnete Aufstand* (Armed Insurrection), published in 1928 by “A. Neuberg,” a penname for several Comintern-approved collaborators. The translation is used here: A. Neuberg, *Armed Insurrection* (New York: St. Martin’s Press, 1970), 9, 12.

40. Neuberg, *Armed Insurrection*, 88–89.

41. Neuberg, *Armed Insurrection*, 94–95.

42. Neuberg, *Armed Insurrection*, 96–98.

43. Neuberg, *Armed Insurrection*, 199.

44. Neuberg, *Armed Insurrection*, 194–95.

Just two weeks after the failed Hamburg Uprising, Hitler staged his own failed putsch in Munich. As elsewhere, in Bavaria the government and Reichswehr had large quantities of arms left over from World War I. In the face of the Versailles Treaty, the government had secreted some, allowed paramilitary groups known as the Verbände (Units) to have some, and surrendered others to the Allies for destruction. After the collapse of the Bavarian Soviet Republic in 1919, authorities “painstakingly disarmed the city workers, and kept them pretty well disarmed by a continuous campaign of searches.” At the same time, it armed the Verbände.⁴⁵

This was the context of Hitler’s Beer Hall Putsch in Munich on November 8–9, 1923. In addition to government-issued arms already possessed by the Nazis, SA leader Ernst Röhm acquired arms from the Reichswehr under the pretense that his group was conducting night exercises.⁴⁶ In the putsch, Hitler took officials hostage at gunpoint at the Bürgerbräukeller, a large beer hall in Munich; a failed attempt was made to seize the main police station; and the Nazis tried to advance but were stopped by the police. The police fired and killed fourteen Nazi “martyrs” as Hitler ran away.

A week later the Bavarian government decreed that Nazis would be denied the privilege of possessing state-owned arms that had been accorded to patriotic Verbände loyal to the state. Loyal groups could keep the arms if they reported to the Reichswehr within ten months. The decree did not affect possession of firearms in the homes of private individuals.⁴⁷

Hitler wrote *Mein Kampf* during his nine-month prison sentence for treason. Although largely raving about liberals, Jews, and Bolsheviks, he opined on how German youth should be training: “To me boxing and jiu-jitsu have always appeared more important than some inferior, because half-hearted, training in shooting.” Ideology, not arms, would protect the “folkish State” from its enemies: “Then the best protection will not be represented in its arms, but in its citizens; not fortress walls will protect it, but the living wall of men and

45. Harold J. Gordon, *Hitler and the Beer Hall Putsch* (Princeton, NJ: Princeton University Press, 1972), 160.

46. Gordon, *Hitler and the Beer Hall Putsch*, 262.

47. Gordon, *Hitler and the Beer Hall Putsch*, 496–98.

women, filled with highest love for the country and with fanatical national enthusiasm.”⁴⁸

The aftermath of all these disturbances saw the creation in 1924 of the largest paramilitary group, the republican Reichsbanner. Although overwhelmingly SPD, it included German Democratic Party (Deutsche Demokratische Partei) and Center Party (Deutsche Zentrumspartei) members.⁴⁹ Not to be outdone, the Communists formed the Red Front Combat League (Roter Frontkämpferbund, or RFB).⁵⁰ Already in existence was the Stahlhelm (Steel Helmets), which required members to have served six months at the front in the Great War and which was open to Social Democrats, Jews, and conservatives alike.⁵¹

Fueled by unemployment and extremism, violence flared in 1925–26 between the KPD, the NSDAP, the Stahlhelm, and the Reichsbanner. They fought with flagpoles, bicycle chains, brass knuckles, and knives.⁵² Berlin authorities banned the carrying of walking sticks and prohibited sticks and other weapons at political rallies—all to no effect.⁵³

Licenses to carry weapons for self-defense were theoretically available, but denial of a license by the police was not subject to judicial review.⁵⁴ Neglect to renew a license was grounds for a conviction for unlawful possession of a weapon.⁵⁵

Whether the 1919 Weapons Possession Decree was intended to confiscate all firearms or only military firearms remained unsettled. Noting recent cases of confiscations of and prosecutions concerning private firearms, legal scholar

48. Adolf Hitler, *Mein Kampf* (My Struggle) (New York: Reynal & Hitchcock, 1939), 801, 634–35. This was the first full length translation of the work into English, but its translator was not identified.

49. Diehl, *Paramilitary Politics in Weimar Germany*, 153, 159, 176, 179.

50. Diehl, *Paramilitary Politics in Weimar Germany*, 184.

51. Diehl, *Paramilitary Politics in Weimar Germany*, 96.

52. Liang, *The Berlin Police Force in the Weimar Republic*, 101.

53. Diehl, *Paramilitary Politics in Weimar Germany*, 194, 355 n. 133; “Polizeiverordnung betreffend Waffentragen vom 16. Februar 1926,” in Bernhard Weiss, *Die Polizeiverordnungen für Berlin* (Berlin: C. A. Weller, 1931), vol. 1, 3.

54. “Polizeiliche Befugnis zur Entziehung von Waffenscheinen” (Police Authority to Confiscate Weapons Licenses), *Deutsche Juristen-Zeitung*, Aug. 1, 1925, S. 1197.

55. Decision of 11/4/1926, Regional Court (Landgericht) Stade, in *Entscheidungen des Reichsgerichts in Strafsachen*, Band 60, S. 419.

Hugo Preuss argued that even though the law referred to “all firearms,” it distinguished rifles and carbines, military designations for the infantry rifle and the shorter carbine. If literally all firearms were included, the law would have similarly distinguished shotguns, target rifles, hunting rifles, and even air guns, he claimed.⁵⁶

Fritz Kunze, an official with the Reich Commissioner for the Protection of Public Order (Reichskommissar für die Ueberwachung der öffentlichen Ordnung), responded that the 1919 decree was intended to confiscate military firearms as well as all other rifles and handguns, but not .22-caliber rifles and *teschings*, small-caliber salon or parlor rifles.⁵⁷ But in a 1926 decision the Reich Court (Reichsgericht) held that the duty to surrender “all firearms” under the 1919 law included all firearms without any exceptions, including parlor rifles.⁵⁸

Many hunters and sport shooters owned small-caliber firearms without permits and thus were not in compliance with the law as interpreted by the court’s decision, noted a retired judge from Leipzig. Pointing out that the case involved a Baden farmer who had possessed an unlicensed parlor rifle for years, he admonished the need for publicity of this ruling given the large number of small-caliber sports clubs.⁵⁹

As usual, the liberty of ordinary persons to pursue such harmless activities was clouded by political strife. In 1926, rightist paramilitary leagues began taking up legal small-caliber rifle shooting. The leftist Reichsbanner founded its own republican small-caliber shooting association.⁶⁰

Yet firearms played only a minor role in some parties’ increasing radicalization. On May Day 1927, a major fight broke out between Communists in

56. Hugo Preuss, “Beschlagnahme von Privatwaffen” (Confiscation of Private Weapons), *Deutsche Juristen-Zeitung*, Jan. 1, 1926, S. 78.

57. Fritz Kunze, “Zur VO über Waffenbesitz v. 13. Jan. 1919” (Decree Concerning Weapons Possession Dated January 13, 1919), *Deutsche Juristen-Zeitung*, Jan. 15, 1926, S. 161.

58. Decision of 6/4/1926, I 231/26, Court Sitting with Professional Judges and Lay Judges (Schwurgericht) Mosbach, in *Entscheidungen des Reichsgerichts in Strafsachen*, Band 60, S. 266.

59. “Ist der Besitz von Kleinkaliberschusswaffen jedermann, auch ohne behördliche Erlaubnis, gestattet?” (Is Everybody Allowed to Own Small-Caliber Weapons Without Permit?), *Deutsche Juristen-Zeitung*, Nov. 1, 1926, 1554.

60. Diehl, *Paramilitary Politics in Weimar Germany*, 250, 368 n. 22.

Berlin's Scheunenviertel District and the police. The Communists largely used rocks, knives, and other hand weapons, but not firearms. A single policeman out of fifty-one injured was shot.⁶¹

Unlike the Communists, the Nazis did not prepare for armed conflict with the police. Joseph Goebbels, the future Nazi propaganda minister, wrote: "At the present time, all resistance against the police and the state is senseless, because you will always be weaker than they."⁶² The Nazis wished to co-opt the police for their own agenda.

Debate on the meaning of the firearms decrees continued in the courts. In January 1928, the Bavarian Supreme Regional Court in Munich (Bayerisches Oberstes Landesgericht München) ruled, contrary to the Reich Court, that acquisition of a firearm after expiration of the duty to surrender firearms under the 1919 decree did not violate that law.⁶³

In some cases, such issues were being resolved in the courts, not in the streets by extremist groups, much less by government forces. Yet given that the judicial decisions were contradictory, not communicated to ordinary persons, and not necessarily recognized by the authorities, the enforcement of the laws and decrees was uneven, impractical, and occasionally violent. These qualities of enforcement meant that only the average citizen would have been deterred from obtaining firearms for personal protection and to defend liberty. In any event, there was certainly no well-established legal right to arms, much less a *de facto* protection of gun ownership. Quite the opposite—the police had unbridled discretion when it came to enforcing the unclear laws surrounding gun possession and ownership.

Conversely, the laws seemed to be largely ineffective in quelling the violence. Extremist factions armed themselves by any means necessary, legal or illegal. Indeed, the street fighting between the Nazis and the Communists would only accelerate the chaos, prompting further revision of the firearms laws.

61. Liang, *The Berlin Police Force in the Weimar Republic*, 107.

62. Joseph Goebbels, *Instructions to the S.A. Man* (1927), quoted in Liang, *The Berlin Police Force in the Weimar Republic*, 95–96.

63. "Verbotener Waffenbesitz" (Illegal Weapons Possession), *Deutsche Juristen-Zeitung*, June 1, 1928, S. 810.

The 1928 Law on Firearms

THE WEIMAR REPUBLIC'S weapons laws following the Great War were draconian and vague and could be implemented only in an arbitrary and chaotic manner. To add to the confusion, the German states not only determined how these laws were implemented but also continued to pass their own laws. The resultant patchwork of differing laws sparked the Weimar government to propose a uniform law for the entire republic. The wishful thinking was that such a law would bring armed violence by extremist groups under control.

The Law on Firearms and Ammunition (*Gesetz über Schußwaffen und Munition*) of 1928, however, would focus not on repression of armed violence, but on regulation of the predominately peaceable citizenry. The millions who died in the Great War were killed by armies raised by nation-states. The violence of the 1920s did not compare with and indeed was in part the result of the war. The Versailles Treaty, with its harsh reparations, was in part to blame for the unemployment, depression, and chaos in Germany. Instead of blaming private firearm owners for the disorder, one can more justifiably blame war and the nation-state.

But the Weimar leaders acted on the illusion that power would be exercised for the common good. They did not anticipate losing power and a new regime's seizing power and using the Weimar laws to repress the citizenry at large. The 1928 Firearms Law would be one of many such laws.

During 1926–28, the Reich Council (*Reichsrat*) circulated draft laws to the states, which made comments and counterproposals.¹ In addition to the usual

1. See Reichsratsausschüsse III, II und VII, Zusammenstellung der Anträge der Länder zum Entwurf eines Gesetzes über Schusswaffen und Munition—Nr. 116 der Drucksachen—

arguments on gun control that persist to today, an ethnic element was included in the debate. Bavaria demanded a prohibition on issuance of firearm licenses to “Gypsies [Zigeuner] or persons traveling like gypsies.” Bands of gypsies allegedly overwhelmed rural police and routinely used weapons illegally, and a 1926 Bavarian law prohibited them from possessing firearms.

A revised draft law included Bavaria’s proposal to deny firearm licenses to Gypsies.² It was not limited to a general classification applicable to everyone, such as persons convicted of serious crimes. The precedent was now set to demonize an entire ethnic group, which could be any group chosen by the government in power. A decade later this demonization would be extended to Jews.

Reich interior minister Walter von Keudell of the German National People’s Party (Deutschnationale Volkspartei) submitted the draft law to the Reichstag in mid-March 1928.³ On March 31, the Law on Firearms and Ammunition was adopted without debate.⁴

The Weimar Republic was led at this time by a center–right coalition government, just before the elections that led to the SPD’s taking of power. On April 12, 1928, the government passed the Gesetz über Schusswaffen und Munition (Law on Firearms and Ammunition).⁵ This comprehensive law required a license to manufacture, assemble, or repair firearms and ammunition or even to reload cartridges.⁶ A license was also required to sell firearms as a trade.⁷ Trade in firearms was prohibited at annual fairs, shooting competitions, and other events.⁸

nebst Stellungnahme der Reichsregierung, Dec. 1926, Generallandesarchiv Karlsruhe (GLAK) 234/5748. This GLAK file includes numerous such documents through 1928.

2. Reichsratsausschüsse III, II and VII, Anträge des Berichterstatters zur zweiten Lesung des Entwurfs eines Gesetzes über Schusswaffen und Munition—Nr. 116 der Drucksachen von 1926, in der Fassung der Beschlüsse der Reichsratsausschüsse in erster Lesung, Feb. 3, 1928, GLAK 234/5748.

3. Reich Ministry of the Interior, Entwurf eines Gesetzes über Schusswaffen und Munition, Mar. 1928, GLAK 234/5748.

4. Badischer Bevollmächtigter zum Reichsrat, Gesetz über Schusswaffen und Munition, Apr. 1928, GLAK 234/5748.

5. *Reichsgesetzblatt* 1928, I, 143. A reprint of the German text with English translation is available in Jay Simkin and Aaron Zelman, “*Gun Control*: Gateway to Tyranny (Milwaukee: Jews for the Preservation of Firearms Ownership, 1992), 15.

6. *Reichsgesetzblatt* 1928, § 2(1).

7. *Id.* § 5.

8. *Id.* § 7.

Acquisition of a firearm or ammunition required a *Waffen-oder Munitions-erwerbsschein* (license to obtain a weapon or ammunition) from the police.⁹ The requirement applied to both commercial sales and private transfers. It did not apply to transfer of a firearm or ammunition to a shooting range licensed by the police for sole use at the range.¹⁰ Exempt were Reich authorities and various government entities.¹¹

Although these provisions meant that firearms already possessed would not require a license or registration, anyone who needed more ammunition than they already had would require an acquisition license for it. Because the police would thereby have records on ammunition purchasers, the absence of a firearm registration requirement was somewhat illusory.

Carrying a firearm required a *Waffenschein* (license to carry a weapon). The issuing authority had discretion to limit its validity to a specific occasion or locality.¹² “Firearm and ammunition acquisition licenses and firearm carrying licenses may be issued only to persons whose reliability is unquestioned, and firearm carrying licenses may be issued only with proof of a need.”¹³ Licenses were automatically denied to “Gypsies or persons traveling like Gypsies”; persons with convictions under various laws, including this law; and “persons for whom police surveillance has been declared admissible, or upon whom the loss of civil rights has been imposed.”¹⁴

These categories of persons who were disqualified from obtaining an acquisition or carry license were also prohibited from possession of a firearm or ammunition. Persons not entitled to possess firearms were ordered to surrender them immediately but could designate transfer thereof to an eligible person or would receive compensation.¹⁵ Further, a license was required to possess a firearms or ammunition “arsenal,” which was defined as more than five firearms of the same type or more than 100 cartridges.¹⁶ (These quantities would have

9. *Id.* § 10(1).

10. *Id.* § 10(3)1.

11. *Id.* § 11.

12. *Id.* § 15.

13. *Id.* § 16(1).

14. *Id.* § 16(2).

15. *Id.* § 17.

16. *Id.* § 23.

been very low for collectors or target competitors.) Also included in the definition was more than ten hunting arms or more than 1,000 hunting cartridges.¹⁷ Licenses were available only to “persons of unquestioned trustworthiness.”¹⁸

It was forbidden to manufacture or possess firearms that were adapted for “rapid disassembly beyond the generally usual extent for hunting and sporting purposes.”¹⁹ Firearms with silencers or spotlights were prohibited.²⁰

The unlawful carrying of a firearm was punishable with up to three years in prison and a fine, as was inheriting a firearm and failing to report it in a timely way.²¹ The same punishment applied to a person who deliberately or negligently failed to prevent a violation of the law by a member of his household younger than twenty.²² Other violations were punishable with fines and unspecified terms of imprisonment.²³

The new law would take effect on October 1, 1928, on which date the 1919 law requiring immediate surrender of all firearms would be repealed.²⁴ That date would allow individuals more than six months to comply with the new law while leaving the more draconian but widely ignored law on the books for the same period.

Hermann Kuenzer was the government’s point man to explain the new law. A member of the left-liberal German Democratic Party, he headed the Political Department of the Reich Interior Ministry and was Reichskommissar for the protection of public order.²⁵

Kuenzer’s office collected intelligence about extremist groups on the left and right and shared it with urban and state police forces.²⁶ During the 1923 insur-

17. *Id.*

18. *Id.*

19. *Id.* § 24.

20. *Id.*

21. *Id.* § 25.

22. *Id.* § 26.

23. *Id.* § 27.

24. *Id.* § 34(1), citing *Reichsgesetzblatt* 1919, Nr. 7, 31.

25. Herrmann A. L. Degener, *Wer ist’s?* (Who’s Who) (Berlin: Hermann Degener, 1928), 888.

26. James M. Diehl, *Paramilitary Politics in Weimar Germany* (Bloomington: Indiana University Press, 1977), 341 n. 81.

rection, he was aware that the Communists were armed mainly with rubber truncheons and few firearms—they were thus viewed as militarily worthless but politically dangerous.²⁷

The day after the new Firearms Law's passage, Reichskommissar Kuenzer published a detailed explanation of its background and meaning in the newspaper *Deutsche Allgemeine Zeitung*.²⁸ He attributed the lengthy time it took to be adopted to the fact that it interfered with the police authority of the *Länder* (states). But when sent to the Reichstag in 1928, it was considered so urgent that it was not reviewed by committee and was adopted by the Reichstag without debate on the second to last day of the session.

The goal of the law was to disarm unauthorized persons and to have a clear, uniform law for the whole Reich. "The difficult task," Kuenzer explained, "was to find the appropriate limits between this necessity of the state on the one hand and the important interests of the firearms industry that was employing a large number of workers and had been heavily damaged through the peace treaty, the interests of the legal sporting industry, and the personal freedom of the individual."

The law required a police permit to carry a firearm, but not merely to possess one in the home, unless one possessed a cache of arms. "The legislature has the duty to adopt only laws that can be executed in practice because nothing is more demoralizing for the population than laws that exist only on paper, but cannot be implemented," Kuenzer clarified.

Kuenzer also published an analysis of the new law in the legal periodical *Deutsche Juristen-Zeitung*. He candidly expressed misgivings about how the law was drafted by the Reich Council without any input from the legislature: "This is the first time in the history of the Reichstag that such an important statute with far-reaching consequences for economy and jurisprudence was adopted in the Reichstag without any debate, as an afterthought as part of the budget of

27. Josef Schwarz, "Einheitsfront: Die linkssozialistische Regierung der republikanischen und proletarischen Verteidigung in Thüringen 1923" (United Front: The Republican and Proletarian Defense of the Left-wing Socialist Government in Thuringia 1923), <https://www.jungewelt.de/loginFailed.php?ref=/2003/10-29/003.php> (visited Feb. 9, 2013).

28. Reichskommissar Kuenzer, "Das Gesetz über Schußwaffen und Munition" (The Law on Firearms and Ammunition), *Deutsche Allgemeine Zeitung*, Apr. 13, 1928, 1.

the Reich Department of the Interior. We hope that this manner of adopting laws will remain a great exception.”²⁹

Kuenzer noted that Austria, Portugal, Russia, and Hungary required a police permit for mere possession of a firearm. So had Germany’s 1919 decree. “But we all know that this provision has absolutely no effect, is completely disregarded and only occasionally is used for denunciations.” To restore respect for the law, the legislature must adopt only laws that are enforceable.

Moreover, “the possession of firearms in one’s residence, business, or enclosed property does not, in general, represent a great danger to public security and order.” Licenses should be required only of persons who collect numerous weapons or carry firearms.

A Reich-wide firearms carry license, Kuenzer noted, would rein in the chaos from having separate license requirements by every jurisdiction. “The result [of separate licensing] was that individuals who would have needed 10 to 15 firearm licenses to travel through several States and administrative districts, simply disregarded existing regulations.”

Kuenzer’s assurance that persons denied licenses to engage in commerce in firearms were entitled to judicial review was disputed.³⁰ Following Prussian legal practice, judges could decide only whether the police acted in their discretion and could not review the facts.

Meanwhile, the Weimar government changed hands with the Reichstag elections of May 20, 1928. The SPD took power after being in the opposition since the end of 1923, and the KPD made significant gains.³¹

Carl Severing, the newly installed Reich interior minister, promulgated regulations for the Firearms Law on July 14, 1928.³² The regulations provided

29. “Die Bedeutung des Gesetzes über Schusswaffen und Munition für das Rechtsleben” (Impact on Jurisprudence of the Law Concerning Firearms and Ammunition), *Deutsche Juristen-Zeitung*, May 1, 1928, S. 632.

30. “Die Rechtsmittel im Schusswaffengesetz” (Remedies with Respect to the Firearms Law), *Deutsche Juristen-Zeitung*, June 15, 1928, 871.

31. Hans Mommsen, *The Rise and Fall of Weimar Democracy* (Chapel Hill: University of North Carolina Press, 1996), 247.

32. Ausführungsverordnung zu dem Gesetz über Schusswaffen und Munition (Implementing Decree of the Law on Firearms and Ammunition), July 13, 1928, *Reichsgesetzblatt* 1928, I, at 198. See “Cabinet of Personages,” *Time*, July 9, 1928. Available at <http://www.time.com/time/magazine/article/0,9171,723466,00.html> (visited May 12, 2013).

that an acquisition permit entitled one to acquire only one firearm and fifty cartridges.³³ The seller would submit the permit to the police,³⁴ who could inspect dealer records on demand.³⁵

Legal treatises on the new law would be published by Werner Hoche, assistant to the interior minister, and Fritz Kunze of the Office of the Reichskommissar for the Protection of Public Order. These same authors would a decade later serve a new regime's firearms prohibitions by publishing commentaries on the 1938 Nazi law.³⁶

Restrictions on firearms were aimed not so much at armed crime as at political violence.³⁷ But such policies had little effect and instead served primarily to restrict law-abiding citizens. Those whose agenda was overthrow of the state could have cared less about jumping through the hoops to obtain arms according to the bureaucratic requirements imposed by the existing authorities.

Directed by Moscow, the KPD became increasingly aggressive through its combat league, the RFB, which clashed with the police, the Nazi SA, and the SPD's Reichsbanner. The Reich interior minister warned the states to increase surveillance of the RFB to detect weapon law violations.³⁸

Finally, the RFB was banned on the basis of the Law for the Protection of the Republic.³⁹ In introducing that law, Prussian Interior Minister Carl Severing (SPD) explained in March 1930: "The right of assembly has become the wrong of assembly, and press freedom has become press licence. We cannot permit demagogues to inflame the masses any further."⁴⁰ Like the right to have arms, the rights to free speech and assembly were curtailed.

33. See *Reichsgesetzblatt* 1928, I, S. 197, 199, § 12.

34. See *id.* at § 14(3).

35. See *id.* at § 10.

36. Werner Hoche, *Schusswaffengesetz* (Firearms Law) (Berlin: Vahlen, 1st ed. 1928, 3rd ed. 1931; Hoche, *Waffengesetz* (Weapons Law) (Berlin: Vahlen, 1938); Fritz Kunze, *Das Waffenrecht im Deutschen Reich* (The Weapons Law of the German Reich) (Berlin: Parey, 3rd ed. 1929, 5th ed. 1938).

37. Hsi-Huey Liang, *The Berlin Police Force in the Weimar Republic* (Berkeley: University of California Press, 1970), 137.

38. Diehl, *Paramilitary Politics in Weimar Germany*, 255–56; Mommsen, *The Rise and Fall of Weimar Democracy*, 233–34.

39. Diehl, *Paramilitary Politics in Weimar Germany*, 256, 370 n. 46; Gesetz zum Schutze der Republic, *Reichsgesetzblatt* 1922, I, 585.

40. Quoted in Franz von Papen, *Memoirs* (London: Andre Deutsch, 1952), 132.

In early 1930, Communists killed SA leader Horst Wessel, whom the Nazis then made into a martyr extolled in a famous song. Nazis quietly infiltrated the police, who saw the SA—which, after all, did not attack the police—as a potential ally against Communist assaults. The officers at Police Station III in the Kreuzberg area of Berlin thus welcomed Joseph Goebbels's SA headquarters in their precinct.⁴¹ It was at such police stations throughout Germany that firearm licensing and registration records would be kept. These records would be useful to the Nazis when they came to power.

The SA's strength was also enhanced by the growing use of its services by the Reichswehr, the strength of which was limited by the Versailles Treaty. Although the Stahlhelm and even the Reichsbanner were also seen as sources of a militia that the Geneva Disarmament Conference might approve, the SA was of particular use as border patrol in East Prussia to defend against possible Polish encroachment. But the Left saw the SA as increasingly terrorist, leading to the Reichsbanner's founding of the paramilitary Iron Front (Eisernen Front).⁴²

As Communist versus Nazi fights and riots escalated in 1930–31, Berlin enacted more stringent restrictions on handgun sales and possession of other weapons.⁴³ Berlin police proposed to criminalize the carrying of edged and blunt hand weapons in the same manner as firearms rather than to focus on misuse.⁴⁴

It goes without saying that the world was in the midst of the Great Depression and that Germany's unemployment and dire economic conditions were exacerbated by the Versailles Treaty reparations and other harsh terms. Extremism flourished, and armed extremists or "unauthorized persons" felt only limited and scattered effects from the 1928 gun control law. In contrast, these laws restricted average citizens who voluntarily submitted to the state's rule, so that little room existed for the development of a significant body of armed citizens who supported democracy to play a dissuasive role against tyranny or extremism.

41. Liang, *The Berlin Police Force in the Weimar Republic*, 109.

42. Mommsen, *The Rise and Fall of Weimar Democracy*, 422–23.

43. Liang, *The Berlin Police Force in the Weimar Republic*, 110–11.

44. *Deutsche Juristen-Zeitung*, July 1, 1930, S. 877.

In this period, the content, purpose, and effect of the Firearms Law were already problematic, but this was not yet recognized to be the danger to the citizenry that would materialize. It was the disconnect between the law's avowed purpose and its actual effect that pointed to a more complex reality. The law's ineffectiveness in being able to eliminate extremist fighting pushed some to restrict even further the innocent sale and possession of arms rather than criminal behavior and weapon misuse. Indeed, the law lent itself to the disarming by those in power of political enemies who had complied with it simply because they trusted in its benign purposes. Registering firearm owners, challenging or limiting judicial review, limiting licenses to "need" as subjectively defined by the authorities, and excluding certain ethnic groups (rather than categories, such as persons convicted of violent crimes) from eligibility for gun ownership—troubling developments in any free society—would become the norm.

Though the Weimar Republic certainly did not anticipate its own demise or the exploitation of gun control norms and laws at the hands of the Nazis, it continued its dangerous dance. The effect of its laws was to limit and discourage arms possession by average citizens—the very people most likely to support democratic government against communism or National Socialism—while at the same time failing to control the destabilizing in-country conflict.

Keeping Firearm Registrations out of the Wrong Hands?

AT THE END of 1931, the Weimar government authorized the German states to require registration of all firearms and to order confiscation thereof. But the proponents agonized over the abuse of firearm owner lists. After the Nazis took power, the Weimar leaders must have rued the day when they endorsed registration—some of them would be the first to be disarmed. Both liberal and conservative parties paved the way for the repression of themselves and others.

Wilhelm Elfes, Krefeld police president and a member of the Prussian Council of State, wrote to Reich interior minister Joseph Wirth that a permit to possess any weapon based on proof of reliability and need should be required. “It is my opinion that any possession of arms, not based on express lawful permission, should be prohibited and punished with heavy penalties.”¹

Although the authorities were not ready to go that far, the Reichstag passed the Law Against Unauthorized Use of Weapons (*Gesetz gegen Waffenmißbrauch*), which Reich president Paul von Hindenburg and Interior Minister Wirth signed into law on March 28, 1931. It banned the carrying of a truncheon or stabbing weapon off of one’s premises, exempting police, persons with firearm carry permits, and hunters. It also made it a crime to assemble armed in a public place for political purposes.² The police were given unbridled discretion in the issuance of permits and in enforcement of these laws, though as practice revealed, the police authorities themselves were not neutral or even apolitical

1. Wilhelm Elfes Polizeipräsident to Reichsminister des Innern (RMI) Dr. Wirth, Mar. 20, 1931, Bundesarchiv (BA) Lichterfelde, R 1501/125939, *Gesetz über Schußwaffen und Munition* Bd. 3, 1929–31, S. 475–76.

2. *Gesetz gegen Waffenmißbrauch*, *Reichsgesetzblatt* 1931, I, 77, § 3.

in their application of the law. Nevertheless, it was generally presumed that the police were the primary social entity responsible for the protection of individual citizens, and this societal and legal norm, rather than any right to bear arms, served as the underpinning for restrictive laws.

Advocating stiff penalties for violation of the new law, Dr. Hagemann of the Higher Administrative Court in Berlin recited a maze of laws, decrees, and orders that instead suggested the futility of broad, technical weapons prohibitions. He averred that “weapons and firearms often end up in the hands of radical political organizations, which can only acquire them through weapons smuggling or other illegal means.”³ Thus, like previous measures, the new laws served primarily to impact individual gun owners rather than to restrict politically motivated groups.

Firearm carry permits were hard to come by. As the Prussian Administrative Appeals Court held, “The fact that someone has political adversaries does not prove a need for a weapons license.” The court rejected the plaintiff’s argument “that he is at higher risk because his political or religious adversaries could lie in wait for him,” holding that “the police are responsible for the protection of the public.” Otherwise, “representatives of extreme political parties could request a weapons license.”⁴

The applicant for the license in this case was a member of an association that propagated the belief that “Christianity is the source of all evil for our people, that Christianity is nothing more than Judaism and that Christianity delivers not only the German people, but all peoples to Judaism.” Although “such ideas create indignation with people who beg to differ,” the court noted that the plaintiff had a right to utter these thoughts. “He also has the right to reasonable police protection, if his remarks cause agitation, and he did receive such protection after the meeting in H. However, he does not have the right to protect himself with a firearm.”

The ruling exemplifies the adage that bad facts make bad law. The same reasoning would have applied to a person of the Jewish faith who had been attacked by Nazi gangs.

3. *Deutsche Juristen-Zeitung*, July 15, 1931, S. 949.

4. Decision of July 9, 1931, *Deutsche Juristen-Zeitung*, Dec. 15, 1932.

A lively debate took place in legal circles. Dr. Flegel, Senior Court-Martial Judge for the Navy (Obermarinekriegsgerichtsrat), abhorred the recent increase in riots in which people were killed. But the existing weapons laws that sought to address this violence were counterproductive, he argued in August 1931:

Are the authorities justified to call the carrying of a weapon a “misuse” that is subject to punishment if the person carries the weapon exclusively for the purpose of self-defense, a right that every citizen has by law? May a state, which is unable to protect life and liberty of its citizens from unlawful attacks, keep these citizens from exercising their right to self-defense? It is clear that even a strong, but unarmed man will be helpless when confronted by an armed attacker. The fact is that peaceful citizens who respect the law are forced to forego weapons because of the penalties contained in the weapons laws. On the other hand, peace breakers who intentionally violate law and order are not deterred by a prison term.

He concluded with the classic argument: “Allow the orderly citizen to carry the weapon he needs for his self-defense, but severely punish the person who actually misuses a weapon.”⁵

Herr Frey, a senior army attorney from Dresden, countered that “existing firearms laws are encouraging weapons misuse and therefore need to be amended.” He deemed the 1928 law too liberal because it allowed “anybody ‘who is reliable,’ over 20 years old, competent, not mentally handicapped,” and without a criminal record to “keep a weapons arsenal of 5 rifles and 5 firearms, as well as 100 rounds, and the police may not impose any restrictions. This represents a grave danger, particularly in times of unrest.” Moreover, “this perfectly legal weapons depot can be extended considerably through hunting rifles,” which required a license from the police only if the hunter owned more than ten. This was “a dangerous incentive for incited persons to obtain such weapons illegally.” Although not explaining how disarming persons with spotless records and licensed hunters would curtail violence, Frey made the valid point that “the assessment of the ‘reliability’ of a person is open to interpretation and gives

5. *Deutsche Juristen-Zeitung*, Aug. 1, 1931, S. 1015.

great importance to the political views of the respective police authority.”⁶ He did not anticipate how this point would apply when the Nazis came to power.

For now, Communists must have been considered unreliable. Apparent Reds murdered two policemen in Berlin in August 1931. A gun battle ensued around the offices of the Communist Party, which the police occupied.⁷

A conference of state interior ministers took place in Berlin in September to discuss restrictions on political expression and possession of arms.⁸ Reich interior minister Joseph Wirth recommended measures against subversive writings, the shutting down of pubs where radical elements gathered, and a ban on the Communist Party. Stricter arms controls were discussed. Wirth opposed a prohibition on wearing uniforms in demonstrations, noting that President Hindenberg was himself a member of the Stahlhelm, a veterans movement that paraded in uniform.

At a follow-up conference in November, most interior ministers advocated a stricter arms law, including either registration of all arms or a total prohibition.⁹ But it was warned that registration lists could be misused by unauthorized persons to seize arms. Law-abiding citizens would be burdened, but criminal and subversive elements would obtain weapons illegally. Police might not recognize any need for hunters and sport shooters to obtain arms.

The conference minutes continued: “The thesis asserted by some speakers in the Conference of the Interior Minister that firearms only belong in the hands of the Reichswehr [military] and the police is probably theoretically correct. Unfortunately, the circumstances in Germany are not so ideal that the citizen can deal with criminal attacks, or at least always have immediate police protection.” Indeed, a prohibition on arms, now again advocated by some speakers, had existed for nine years from the 1919 decree without a discernable effect. When the 1928 Firearms Law was enacted, the Reich government and every state had agreed to repeal the 1919 decree.

6. *Deutsche Juristen-Zeitung*, Sept. 1, 1931, S. 1171.

7. Hsi-Huey Liang, *The Berlin Police Force in the Weimar Republic* (Berkeley: University of California Press, 1970), 112.

8. Niederschrift über Ministerkonferenz, Sept. 26, 1931, BA Lichterfelde, R 1501/125940, Gesetz über Schußwaffen und Munition Bd. 4, 1931–32, S. 198–99.

9. Dem Herrn Min., Nov. 23, 1931, BA Lichterfelde, R 1501/125940, Gesetz über Schußwaffen und Munition Bd. 4, 1931–32, S. 275–77.

There were advantages to the Reich government's not requiring a permit to possess firearms. "This also avoids the danger that, in chaotic times, the lists of firearms owners would fall into the wrong hands, allowing unauthorized persons to seize arms and use them to commit unlawful acts." Ironically, this anticipated seizure is what would occur in 1933—registration lists fell into the "wrong hands," the Nazi government, which seized arms of political opponents and arrested their owners.

Just as the November 1931 conference was taking place, it became public what the "the wrong hands" might do if they came to power—use the records to identify and execute persons who failed to surrender their firearms. A Nazi group under Werner Best, deputy judge in the Hessian Department of Justice, made plans to seize power, supposedly in the wake of an expected Communist revolution. Known as the "Boxheim documents" (named after the Boxheimer Hof, the house where the Nazis met), the plans were disclosed to Hesse police by Dr. Hermann Schäfer, a recently expelled Nazi Party member.¹⁰

The plans called first for the execution of anyone who failed to obey SA (Storm Trooper) orders and second that "[e]very firearm . . . be surrendered to the SA within twenty-four hours. Whoever is found in possession of a firearm after expiration of this deadline will be shot on the spot without trial as an enemy of the SA and the German people."¹¹ The plans included the National Socialist economic program, which outlined abolition of private property, conscription of the labor force, and rationing of food except to Jews.¹²

Reich chancellor Heinrich Brüning and criminal prosecutors investigated the matter as possible treason but concluded that the document was only

10. Ulrich Herbert, *Best: Biographische Studien über Radikalismus, Weltanschauung und Vernunft 1903–1989* (Best: A Biographical Study of Radicalism, World View, and Reason) (Bonn: J. H. W. Dietz Nachfolger, 1993), 112–19. See also Hubert Beckers, "Das Boxheimer Dokument vom November 1931" (The Boxheimer Document of November 1931), <http://www.shoa.de/content/view/full/590/102/> (visited Feb. 3, 2008).

11. Quoted in Martin Loiperdinger, "Das Blutnest vom Boxheimer Hof" (The Bloody Nest of the Boxheimer Hof), in *Hessen unterm Hakenkreuz* (Hesse Under the Swastika), ed. Eike Hennig (Frankfurt am Main: Insel, 1983), 435, and in Anton Maria Keim, "Entwurf einer Diktatur: Am 26. November 1931 wurden die 'Boxheimer Dokumente' enthüllt" (Blueprint for a Dictatorship: The "Boxheimer Documents" Revealed on November 26, 1931), *Mainzer Vierteljahresshefte* 4 (1981), 117, 119.

12. Loiperdinger, "Das Blutnest vom Boxheimer Hof," 436–38.

theoretical. Hitler distanced himself from the Boxheim plans, feigning that he sought power only by legal means. Making the most of the episode in the media and elections, opponents of the Nazis publicized it as a plot against the republic.¹³

Publication of the Boxheim documents in the international press influenced the perception of Nazism in the United States and elsewhere. *Time* magazine reported that, according to the Nazi plan, “[a]ny citizen caught bearing arms or disobeying the orders of a ‘Storm Commander’ should be shot without trial.”¹⁴

As fate would have it, when the Nazis came to power, Werner Best would become police commissioner and then governor in Hesse in March 1933. In that role, Best had Dr. Schäfer, who had revealed the Boxheim documents to the police, taken into “protective custody.” In July, when Schäfer was in transport supposedly to be released, he was shot and thrown onto the road. After World War II, Best was tried for the murder but was acquitted for lack of evidence.¹⁵

Best became chief legal adviser to the Gestapo. Anti-Hitler conspirator Hans Gisevius noted, “It was Best who composed the notorious Boxheimer document, the first draft of the decrees which later made possible the Reign of Terror.”¹⁶ In this role, Best would actively pursue the disarming of political opponents and Jews. During World War II, Best would hold police power in occupied France and then Denmark,¹⁷ where it was decreed that any person who failed to surrender all firearms within twenty-four hours would be executed.¹⁸ This was the same twenty-four-hour deadline he had formulated in 1931.

In 1931, some Weimar officials also advocated a ban on firearms, albeit without suggesting that violators should be shot on the spot. Krefeld police president

13. Loiperdinger, “Das Blutnest vom Boxheimer Hof,” 438–65.

14. “Repudiators,” *Time*, Dec. 7, 1931, <http://www.time.com/time/magazine/article/0,9171,930407,00.html?promoid=googlep> (visited April 19, 2013).

15. Loiperdinger, “Das Blutnest vom Boxheimer Hof,” 449; Herbert, *Best*, 129–30, 449.

16. Hans Bernd Gisevius, *To the Bitter End: An Insider's Account of the Plot to Kill Hitler, 1933–1944*, trans. Richard Winston and Clara Winston (New York: Da Capo Press, 1998), 184.

17. Herbert, *Best*, chaps. 4 and 5.

18. Ordonnance concernant la détention d’armes et de radio-émetteurs dans les territoires occupés (Decree Concerning the Possession of Arms and Radio Transmitters in the Occupied Territory), on display at the Musée de l’Ordre de la Libération, Paris; Harold Flender, *Rescue in Denmark* (Princeton, NJ: Princeton University Press, 1963; reprint, Washington, DC: Holocaust Library, n.d.), 40–41; Werner Best, *Dänemark in Hitlers Hand: Der Bericht des Reichsbevollmächtigten Werner Best* (Denmark in Hitler’s Hands: The Report of Plenipotentiary Werner Best), ed. Siegfried Matlok (Husum, Germany: Husum Druck GmbH, 1988), 52–53.

Wilhelm Elfes proposed a prohibition of arms or, as an alternative, registration of all arms. He stated: "Weapons belong fundamentally only in the hands of the organs of the Reich and the states, because they need the weapons in their service."¹⁹

The Nazis would retire Elfes as police president in March 1933. He was associated with the resistance to Hitler in 1944, after which he went into hiding.²⁰ Given the Nazi use of the firearm registration regime that he helped to establish, perhaps he later rued the day that he had advocated such policies.

Reich interior minister Wilhelm Groener thanked Elfes for his timely article, noting his similar views.²¹ Groener also invited the states' interior ministers to a meeting with the following agenda:

1. Should it be recommended to require a compulsory registration for the possession of firearms and ammunition as well as for slashing and thrusting weapons, so as to introduce the possibility of a duty to surrender all of these weapons and corresponding strict criminal penalties?
2. Should it be recommended also to require proof of the need to acquire firearms?²²

The legation from Bremen "desperately sought" the registration–confiscation power and found it "urgently necessary" to require proof of need to acquire a weapon. "These objects, which members of radical associations frequently use, represent a considerable danger."²³ Others objected against denying peaceable

19. Wilhelm Elfes, "Die Waffen heraus!" (Weapons Out!), *Kölnische Volkszeitung*, Dec. 1, 1931.

20. Albert Esser, *Wilhelm Elfes, 1884–1969: Arbeiterführer und Politiker* (Wilhelm Elfes, 1884–1969: Labor Leader and Politician) (Mainz: Matthias-Grunewald, 1990); Ingrid Schupetta, "Die Geheime Staatspolizei in Krefeld—von Polizisten und Schreibtischträgern" (The Gestapo in Krefeld – The Police and Masterminds), *Der vollständige Aufsatz—mit Bildmaterial und Fußnoten—erschien in der Zeitschrift Die Heimat*, Jg. 76/2005, S. 115–27.

21. RMI to Polizeipräs. Elfes, Dec. 3, 1931, BA Lichterfelde, R 1501/125940, Gesetz über Schußwaffen und Munition Bd. 4, 1931–32, S. 286.

22. RMI to Innenminister der Länder, Dec. 1, 1931, BA Lichterfelde, R 1501/125940, Gesetz über Schußwaffen und Munition Bd. 4, 1931–32, S. 280.

23. Bremische Gesandtschaft, Dec. 3, 1931, BA Lichterfelde, R 1501/125940, Gesetz über Schußwaffen und Munition Bd. 4, 1931–32, S. 282.

citizens the right to have weapons in their homes for protection and sporting use.²⁴

The Weimar Constitution allowed the executive to issue “emergency decrees” not approved by the Reichstag. Chancellor Brüning increasingly issued such decrees without legislative approval.²⁵ Yet pending decrees were known to the public, such as the one reported by the *New York Times* datelined from Berlin on December 4, 1931:

A Christmas political truce, to be effected by the general prohibition of all political meetings and demonstrations between Dec. 20 and Jan. 3, will be among the provisions of the government’s forthcoming emergency decree, it was learned today.

Furthermore, the seizure will be authorized of all weapons which are owned without special permission—guns, daggers and such. . . .

The Cabinet was in permanent session today deliberating the provisions of the decree, full publication of which had to be postponed until early next week.²⁶

In part a reaction to Nazi leader Werner Best’s secret documents,²⁷ on December 8 President Hindenburg, together with Chancellor Brüning, Finance Minister H. Dietrich, and Interior Minister Groener, decreed an amendment to the 1928 Firearms Law. It was included in the Fourth Decree of the Reich President on the Protection of the Economy and Finance and on the Defense of Civil Peace, a controversial measure that covered subjects as diverse as lowering wages and banning the wearing of uniforms by paramilitary associations.²⁸ It

24. Vermerk, Dec. 3, 1931, BA Lichterfelde, R 1501/125940, Gesetz über Schußwaffen und Munition Bd. 4, 1931–32, S. 312.

25. Hans Mommsen, *The Rise and Fall of Weimar Democracy* (Chapel Hill: University of North Carolina Press, 1996), 361.

26. “Germany Will Enforce Truce for Christmas by Barring Meetings and Controlling Arms,” *New York Times*, Dec. 5, 1931, 1.

27. Loiperdinger, “Das Blutnest vom Boxheimer Hof,” 443.

28. Vierte Verordnung des Reichspräsidenten zur Sicherung von Wirtschaft und Finanzen und zum Schutze des inneren Friedens vom 8. Dezember 1931, Achter Teil, Kapitel I, *Reichsgesetzblatt* 1931, I, S. 699, 742. See also William L. Patch, *Heinrich Brüning and the Dissolution of the Weimar Republic* (Cambridge: Cambridge University Press, 1998), 172, 210–13, 227–29; Mommsen, *The Rise and Fall of Weimar Democracy*, 378.

authorized the registration of firearms as follows: “The highest State authorities or their delegates may order that in their jurisdiction, the possession of firearms and ammunition regulated by the Law on Firearms and Ammunition, as well as of slashing and thrusting weapons (§1 of the Law Against Unauthorized Use of Weapons), must be registered with the police authorities.”²⁹

The decree further authorized the police to confiscate all weapons, which would have been practical only in regard to those persons who had dutifully registered them: “Weapons and ammunition found in a jurisdiction in which an order under paragraph (1) has been issued may, if the maintenance of public security and order so requires, be taken into police custody during the validity of this chapter. The possessor must deliver them to the police authority on demand. The duty to surrender arms may also be extended to items that by their nature are not weapons, but which in the circumstances may be used as weapons.”³⁰

Any person who failed to register or to surrender arms on demand or who was found in possession thereof was subject to imprisonment for not less than three months, with no upper limit.³¹ In later years, the Nazis made good use of the registration records, and their confiscations of weapons from political opponents and Jews followed the very letter of this law.

The provision further amended the 1928 law to provide that “firearms (ammunition) acquisition permits or permits to carry firearms may be issued only to persons of undoubted reliability, and only upon proof of need.”³² This newly added “need” requirement for acquisition permits, which previously applied only to carry permits, ratcheted up the existing “reliability” requirement to give police unlimited discretion. Who “needed” a firearm for self-defense when the police protected society and sport shooting and hunting were not really a “need”?

The 1928 law was further amended to impose imprisonment for not less than three months on any person who, without the required permit, acquired or transferred or attempted to acquire or transfer a firearm or ammunition for

29. Vierte Verordnung des Reichspräsidenten, at 1(1).

30. *Id.* at § 1(2).

31. *Id.* at § 1.

32. *Id.* at § 2, amending 16(1), first sentence, of the Gesetz über Schusswaffen und Munition (Law on Firearms and Ammunition) of April 12, 1928, *Reichsgesetzblatt* I, S. 143, 144.

profit.³³ Moreover, a permit was required to manufacture and deal in slashing and thrusting weapons.³⁴

This was yet another emergency decree that Brüning announced to the Reichstag with the declaration: “The president and the government are the sole repositories of constitutional authority and we shall, if necessary, declare a state of emergency if this authority should be challenged by outside organizations.”³⁵

Implementing regulations were decreed on December 10, 1931.³⁶ They began with the following policy statement that was intended to take the sting out of the onerous and confiscatory decree, but that had little legal effect: “The measures against the misuse of weapons are intended to keep weapons from persons who would use them to resolve political disputes. The implementation of these measures should not prevent persons of good reputation, who are unlikely to commit violent acts, from using weapons to defend life and possessions within their enclosed property.”³⁷

The regulations stated that slashing and thrusting weapons included any object that could be used as a weapon, including sharpened spades. They excluded keepsakes and antiques.³⁸ Exempted from the decree were the usual suspects—Reich, state, and local authorities; soldiers; and police.³⁹

On December 12, Reich interior minister Groener wrote additional instructions to the state interior ministers. Permits to acquire and possess arms must be denied “to all persons whom the police do not find to be completely irreproachable.” However, persons with impeccable reliability may possess arms if it does not appear to the police that any and all weapons possession would endanger security in a specific district for local reasons. “The surrender of arms would be ordered only if the maintenance of public security and order necessitates it.” Moreover, members of reputable shooting sports clubs, especially those who use small-bore firearms, could in normal circumstances have arms.⁴⁰

33. Vierte Verordnung des Reichspräsidenten at § 3.

34. *Id.* at § 4–6.

35. Quoted in Franz von Papen, *Memoirs* (London: Andre Deutsch, 1952), 145.

36. *Reichsgesetzblatt* 1931, I, 750.

37. *Id.* at § 1.

38. *Id.*

39. *Id.* at § 2.

40. RMI to Landesregierungen, Dec. 12, 1931, Durchführung der Massnahmen geg. Waffenmissbrauch, Teil 8, Kap. I der Vierten VO des RP 8.12.31, RGBL I, p. 699, BA Lichterfelde, R 1501/125940, Gesetz über Schußwaffen und Munition Bd. 4, 1931–32, S. 314–15.

All these internal instructions softened the stringency of the new decree, but they were not part of the decree, and no citizen could claim them as a legal right. The police had virtually unlimited discretion. Legal-minded members of the public could consult the explanation of the new decree by Werner Hoche, assistant to the interior minister and author of a treatise on the firearms laws.⁴¹

On February 8, 1932, Interior Minister Groener supplemented his directions to the states. The police must not to cause irritation to the loyal, peaceable citizens. The decree did not call into question arms that would not be used in violent confrontations, such as arms worn with the dress uniforms of the old and new Wehrmacht, as well as sabers, swords, and daggers of the naval dress uniforms, given to servicemen when they retired from service. He repeated the following admonition: "In this context I would hereby like to draw the attention of the State governments to the secure storage of the lists of persons who have registered their weapons. Precautions must be taken that these lists cannot, in local disturbances, fall into the hands of radical elements. For this purpose, it is recommended that the lists not be stored in single police precincts or at similar local places, but be secured in the custody of the respective central districts."⁴²

Pursuant to the 1931 decree, various jurisdictions required that all firearms, ammunition, and other weapons be registered with the police. In 1938, just before the Night of the Broken Glass, Berlin's records were available to identify Jewish firearm owners. An illustrative arrest report noted that "the Jew Alfred Flatow was found to be in possession of" firearms and hand weapons. "The arms were registered at Police Station 13 on January 26, 1932."⁴³

Debate ensued in the German states as to whether to require registration. Brandenburg, whose capital was Potsdam and which is adjacent to Berlin, rejected registration. Potsdam's police president noted that "the order enacted by the Police President of Berlin on the compulsory registration of the ownership of firearms and ammunition" under the 1931 decree "has led to the false impression that the same compulsory registration exists within the police district of

41. Werner Hoche, "Die neuen waffenrechtlichen Vorschriften" (The New Weapon Law Regulations), *Reichsverwaltungsblatt*, Dec. 26, 1931, S. 1025–27. See also Werner Hoche, *Schusswaffengesetz* (Firearm Law), (Berlin: Vahlen 3rd ed. 1931), 3.

42. RMI to Landesregierungen, Feb. 8, 1932, Massnahmen gegen Waffenmissbrauch, BA Lichterfelde, R 1501/125940, Gesetz über Schusswaffen und Munition Bd. 4, 1931–32, 416–17.

43. Bericht über einen polit. Vorfall, Oct. 4, 1938, Alfred Flatow, A Rep Pr. Br. Rep. 030/21620 Bd. 5, Haussuchungen bei Juden 1938–39 (FB Bd. 5), Landesarchiv Berlin.

Potsdam.” “Thus, because of this numerous inhabitants of this police district have sent me compulsory registrations.” Not unexpectedly, “the predominant registrations by the residents in the greater province here are by retired officers in possession of army pistols, carbines, and unserviceable carbines.” He noted of a 1927 decree: “The confiscation of these single weapons was usually met with considerable resistance by the owners, who protested that they had only kept the arms in their possession as souvenirs.”⁴⁴

On February 20, 1932, the president of the Potsdam government asked each district administrator (Landrat) in Brandenburg to opine on whether arms registration would be necessary and effective.⁴⁵ Rural districts disapproved, whereas urban districts—with the exception of Potsdam—approved. The Landrat of Westhavelland explained his opposition to registration:

[O]nly the orderly and peaceful population would register at a low rate existing weapons for hunting or protection. The unruly part of the population will on no account register arms. We would thus receive only such registrations of little interest. An evil I see in compulsory registration is that absolutely peaceful and harmless people who fail to declare a weapon from ignorance or neglect are then exposed to every hostile denunciation. By the way, I do not believe that any political group has stockpiled any significant arms in the province. Until now all planned searches have yielded nothing but old rusty rifles that are no longer usable for the defense of the inhabitants.⁴⁶

The head of the district police of Brandenburg supported registration, noting that “firearms may be possessed by persons who could be violent but are unknown by the police, and they may conceivably carry and use firearms

44. Der Polizeipräs., Potsdam to Reg. Präs., Feb. 21, 1932, Kriegsgerät, Brandenburgisches Landeshauptarchiv (BrLHA), Pr. Br. Rep. 2A Reg, Potsdam I Pol/3492, Ablieferung von Waffen Bd. 8, 1923–33. The decree he refers to is the War Equipment Law. *Kriegsgerätegesetz, Reichsgesetzblatt* 1927, 239.

45. Reg. Präs. Potsdam to Landräte, Feb. 20, 1932, Massnahmen geg. Waffenmissbrauch, BrLHA, Pr. Br. Rep. 2A, Reg. Potsdam I Pol/3492, Ablieferung von Waffen Bd. 8, 1923–33.

46. Landrat d. Kr. Westhavelland to Reg. Präs., Mar. 1, 1932, Massnahmen geg. Waffenmissbrauch, BrLHA, Pr. Br. Rep. 2A, Reg. Potsdam I Pol/3492, Ablieferung von Waffen Bd. 8, 1923–33.

unlawfully.”⁴⁷ The mayor of Eberswalde similarly noted that “members of radical groups have weapons. Firearms are repeatedly found in searches in unauthorized hands.” “The duty to surrender arms set forth in” the 1928 Firearms Law “has been ignored despite publication in the press.”⁴⁸ He cited the section of the law requiring ineligible persons to surrender firearms immediately.⁴⁹ He did not suggest why such persons would now register them.

The Landrat of Teltow, a suburb of Berlin but in the province of Brandenburg, endorsed registration based on its successful implementation by the Berlin police president. Referring to a report showing that “arms have recently been found during searches of suspicious persons,” he noted that “unauthorized arms still exist in the population” and thus recommended registration. “However in my opinion it will achieve only a limited success, since many weapon owners presumably will not obey the order to register their weapons.”⁵⁰

The appended report to which he referred included seizures of arms from only ten persons over a two-month period in late 1931 and early 1932. Five seizures were from Communists: a Model o8 pistol with two loaded magazines taken from a worker returning from a meeting in Berlin; a pistol found at a parade; and the following weapons seized in searches of three local apartments of workers on the same date: three pistols with thirty-six cartridges, one pistol, and a rubber hose with lead filling.

Three seizures were from Nazis identified as workers: an iron rod seized in a brawl; a pistol seized in a car; and a 7.65-mm pistol with ten cartridges found in an investigation into a shooting. Finally, two persons whose political affiliations were not identified were subjected to the following seizures: a Model o8 Lugar pistol with seven cartridges taken from a worker during a strike as well

47. Polizeiverw. Brandenburg to Reg. Präs., Feb. 3, 1932, Massnahmen geg. Waffenmissbrauch, BrLHA, Pr. Br. Rep. 2A, Reg. Potsdam I Pol/3492, Ablieferung von Waffen Bd. 8, 1923–33.

48. Bürgermeister Eberswalde to Reg. Präs., Feb. 24, 1932, Massnahmen geg. Waffenmissbrauch, BrLHA, Pr. Br. Rep. 2A, Reg. Potsdam I Pol/3492, Ablieferung von Waffen Bd. 8, 1923–33.

49. Section 17(2), Gesetz über Schußwaffen und Munition, *Reichsgesetzblatt* 1928, I, 143, 145.

50. Landrat d. Kr. Teltow to Reg. Präs., Feb. 29, 1932, Massnahmen geg. Waffenmissbrauch, BrLHA, Pr. Br. Rep. 2A, Reg. Potsdam I Pol/3492, Ablieferung von Waffen Bd. 8, 1923–33.

as two Model 98 military rifles, a revolver, a 7.65-mm pistol, and four hundred cartridges possessed for self-protection.

The data of arms seizures from “suspicious persons” given in the report admittedly did not support the efficiency of registration—the only item seized in a brawl was a steel rod, an unlikely subject of registration.

Potsdam’s police president opined that registration was neither necessary nor effective.⁵¹ Given this opposition by the police chief of the state’s largest city, it is not surprising that Brandenburg did not decree the mandatory registration of firearms.

As an example of a registration decree, the interior minister of the Free State Baden ordered the following on January 6, 1932, an order that was still on the books in 1936, three years after the Nazis came to power:

The possession of firearms subject to the regulations implementing the Law on Firearms and Ammunition as well as of striking and thrusting weapons (§ 1 of the Law Against the Misuse of Weapons) is, in the dominion of the Free State Baden, to be declared by the possessor to his local District Office (Police Headquarters). Articles will also be considered weapons if they have been specially modified to give them the character of a weapon, e.g., shoulder straps with metal inserts and spades sharpened for use as weapons.

The declaration for weapons already in possession must be made by February 6, 1932, otherwise within one week after their subsequent acquisition.

The declaration is to be made in writing. It must contain the first and last name, place of birth and birth date, occupation, place of residence and address of the possessor and must list the type and quantity of each individual weapon. Other information may be also be required. As proof of declaration, the District Office (Police Headquarters) will issue a certificate of declaration at no charge.⁵²

51. Pol. Präs. Potsdam to Reg. Präs., Feb. 26, 1932, *Massnahmen geg. Waffenmissbrauch*, BrLHA, Pr. Br. Rep. 2A, Reg. Potsdam I Pol/3492, *Ablieferung von Waffen* Bd. 8, 1923–33.

52. Kurt Bader and Alfred Schühly, eds., *Sammlung badischer Polizeiverordnungen* (Collection of Baden Police Ordinances) (Berlin: Verlag für Recht und Verwaltung, 1936), 4.

Exempt from the registration requirements were government agencies, police, military, and certain private entities, such as transportation companies. Also exempt were persons whose weapons would otherwise be registered with the police by reason of other laws, including persons with permits to acquire or carry firearms and persons with an annual hunting license.⁵³

Regarding the authority to confiscate registered arms from specific individuals or the people at large, the decree provided: "The police agency to whom weapons and ammunition must be surrendered upon their demand is the District Office (Police Headquarters). The surrender can either be by special order for an individual or by general order. In the latter case, the surrender order must be posted as a public notice." The licensed hunter was exempt for hunting arms "as long as there are no reservations regarding his reliability." Having a permit to acquire or carry a firearm "does not rule out the mandatory surrender of weapons and ammunition upon demand."⁵⁴

Commercial records of the manufacture and disposition of thrusting and striking weapons were required. Finally, reprints of the decree, the 1931 laws against misuse of weapons, and the Reich registration decree were required to be conspicuously displayed in the sales rooms of arms businesses.⁵⁵

Similar registration decrees were issued by Oppeln, the seat of Upper Silesia in Prussia,⁵⁶ and by Allenstein in East Prussia.⁵⁷ Nazi courts would later cite both to uphold convictions for unregistered firearms.

Determining which jurisdictions issued decrees requiring registration of weapons would be a major study, but the Reich's 1931 decree in itself suggests that major areas, in particular more populated centers where disorder had occurred, most likely did so. Moreover, some jurisdictions exercised their powers to declare emergencies and to confiscate firearms. Gunsmith Rudolf Reger

53. Bader and Schühly eds., *Sammlung badischer Polizeiverordnungen*, 5.

54. Bader and Schühly eds., *Sammlung badischer Polizeiverordnungen*, 5.

55. Bader and Schühly eds., *Sammlung badischer Polizeiverordnungen*, 5–6.

56. *Anordnung des Regierungspräsidenten in Oppeln v. 19. Febr. 1932—Abl.*, S. 69, cited in "Artikel 48, 102 der Reichsverfassung" (Article 48, 102, of the Reich Constitution), *Deutsche Juristen-Zeitung*, Jan. 15, 1934, 150.

57. Decision of January 21, 1937, Regional Court (Landgericht) Allenstein, *Entscheidungen des Reichsgerichts in Strafsachen* (Decisions of the Reich Court in Criminal Matters) (Berlin: Gruyter, 1938), Band 71, S. 40.

of Königsberg, the capital of East Prussia, wrote to President Hindenburg on March 3, 1932, pleading for compensation because the new arms law caused a depression in the arms trade. He referred to a statement by an official of the East Prussian government: “In a meeting, the local government told me that the tightened emergency decree on arms registration has actually had an effect like hitting water, since only the decent and quiet members of the public have registered arms, while nothing has been registered by the radical elements. However, it has had the effect that no one buys a firearm anymore, due to the fear that arms will be confiscated as has been the pattern in some of the governmental districts in the West.”⁵⁸

The confiscations apparently did not just pinpoint the troublemakers and leave law-abiding citizens alone. In the first quarter of 1932, the SA stepped up attacks on Communists, killing some, and fought with Reichsbanner members in the streets. Police raided the SA headquarters in Berlin. A dispatch by Frederic M. Sackett, the U.S. ambassador in Germany, noted reports of preparations for a Nazi putsch, adding: “To verify these reports the Prussian Government had ordered the police raids. . . . The confiscated documentary material, said Minister Severing, had proved that the Nazis systematically spied on the civil authorities, the police and the Reichswehr in connection with their plans to seize power by force.” Seized documents resembled “similar disclosures in the past of Communist subversive activities. This is not surprising since many former members and leaders of the Red Front are known to have become members of the Nazi storm detachments following the suppression of the Communist organization.” Sackett continued: “The acts of treason attributed to the Nazis, it appears, consisted of a planned attempt to seize the arms of the Reichswehr, particularly in the eastern frontier sections of Germany, for their struggle against the republican section of the population, notably the Iron Front, from which they expected stiff resistance against a Nazi dictatorial regime. It is pointed out that by disarming the Reichswehr the Nazis would have impaired the national defense by exposing sections of the country to a Polish invasion, and severe punishment is demanded for the Nazi instigators of the plot.”⁵⁹

58. Rudolf Reger to Hindenburg, Mar. 3, 1932, BA Lichterfelde, R 1501/125941, Gesetz über Schußwaffen und Munition Bd. 5, 1932–33, S. 4–5.

59. U.S. Department of State, *Foreign Relations of the United States: Diplomatic Papers 1932*, vol. 2: *The British Commonwealth, Europe, Near East, and Africa* (Washington, DC: U.S. Government Printing Office, 1947), 288–89, 289, and 290 for dispatch of April 7, 1932.

On April 14, 1932, President Hindenburg banned the SA, including its Elite Guard (Schutzstaffeln, SS), headed by Heinrich Himmler. Berlin police raided hundreds of SA locations, including dormitories, restaurants, and even the home of Wolf Heinrich Graf von Helldorf, who would become the Berlin police president under the Nazis.⁶⁰

Meanwhile, the prosecution of paperwork violations under the 1928 Firearms Law continued. The Regional Court of Kassel held that the defendants were guilty of obtaining firearms without an acquisition license, even though they had police permits to carry firearms,⁶¹ which were more difficult to obtain.

By contrast, the Reich Court held that a person who carried a pistol unlawfully and fired it at a police officer in Berlin could be convicted of attempted manslaughter with a firearm, but not separately of unlawful carry. The court conceded that the 1928 law “failed to reduce the spread of firearms among persons leaning to violence and to limit the illegal use of those firearms. It was therefore necessary to increase the sanctions imposed for illegal assaults with firearms.”⁶²

The firearm laws had caused an economic crisis in the arms industry, the Prussian minister for trade and industry wrote to the Reich interior minister on February 29, 1932. Urgent matters, he stated, included internal security and the political unrest of unemployed gunsmiths, the value of the arms industry for national defense, and amendments to the law to help the industry. Conditions in Suhl and adjoining Thuringia contributed to a radicalization of the population. Regulations that were not absolutely necessary to the police interest should be moderated to prevent the collapse of the industry. He argued that exceptions should be considered for long arms, which—unlike handguns—did not figure in offenses involving arms misuse. “The misuse of long arms is probably only to be feared in larger organized rebellions.” Even then, hunting rifles, Schuetzen rifles, and high-quality arms would not play an essential role in any such rebellions.⁶³

60. John R. Angola and Hugh Page Taylor, *Uniforms, Organization, & History of the German Police* (San Jose, CA: R. James Bender, 2004), 147.

61. Decision of 5/23/1932, III 235/32, Regional Court (Landgericht) Kassel, *Entscheidungen des Reichsgerichts in Strafsachen*, Band 66, S. 249.

62. Decision of 5/23/1932, II 496/32, Reich Court, *Entscheidungen des Reichsgerichts in Strafsachen*, Band 66, S. 262.

63. Der Pr. Min. für Handel u. Gewerbe to RMI, Feb. 29, 1932, *Schusswaffengesetz*, BA Lichterfelde, R 1501/125941, *Gesetz über Schusswaffen und Munition* Bd. 5, 1932–33, S. 424–29.

The Gun Making Association of Zeller-Mehlis (Verband Zeller-Mehlis Waffenfabriken) in Thuringia wrote to the interior minister of that state to present a proposal to exempt from the law hunting firearms of various types as well as Flobert rifles and pistols, which were low-power, single-shot guns used for sport and plinking.⁶⁴ The minister forwarded the proposal to the Reich interior minister, recommending approval.⁶⁵ Reich interior minister Groener rejected it, however, claiming that decontrol even of Flobert pistols was a threat to internal security.⁶⁶

However, Groener wrote an urgent missive to the state governments supporting a narrow liberalization. He recognized that, from the Versailles Treaty to the 1928 Firearms Law and now the 1931 decree, the noose on the firearms industry was steadily tightening. Moderation of the current rules was in order. That did not mean that it would be made easier for the ordinary citizen to acquire ordinary arms. Instead, expensive hunting arms, such as those with gold engraving, which only the wealthy could afford, would be the subject of a limited deregulation: "The large size of these arms, the unwieldiness of their cartridges, and their slow rate of fire render them unsuitable for use in political riots. Furthermore, their relatively high price makes their acquisition in the present economic situation more and more a luxury item, precluding any tendency that members of radical organizations would be armed with these costly arms."⁶⁷

In June 1932, the regulations were amended to exempt narrowly defined hunting and sporting arms from the requirement of an acquisition permit.⁶⁸ This included certain double- and triple-barreled combination shotguns and rifles selling for at least 135–200 marks, which would have been several weeks

64. Verband Zeller-Mehlis Waffenfabriken e.V. to Thür. Min.d.Inn, Mar. 16, 1932, Aenderung der Ausführungsbestimmungs-VO zum Reichsschusswaffengesetz, BA Lichterfelde, R 1501/125941, Gesetz über Schusswaffen und Munition Bd. 5, 1932–33, S. 461–62.

65. Thür. Min.d.Inn to RMI, Mar. 17, 1932, BA Lichterfelde, R 1501/125941, Gesetz über Schusswaffen und Munition Bd. 5, 1932–33, S. 462 (back side).

66. RMI to Thür. Min.d.Inn, Apr. 4, 1932, Schusswaffengesetz, BA Lichterfelde, R 1501/125941, Gesetz über Schusswaffen und Munition Bd. 5, 1932–33, S. 469.

67. RMI to Landesregierungen, Mar. 29, 1932, Aenderungen der Ausführungsverordnung zum Schusswaffengesetz, BA Lichterfelde, R 1501/125941, Gesetz über Schusswaffen und Munition Bd. 5, 1932–33, S. 453–60.

68. Verordnung zur Änderung der Ausführungsverordnung zu dem Gesetz über Schusswaffen und Munition (Regulations to Amend the Implementing Regulations of the Law on Firearms and Ammunition), *Reichsgesetzblatt* 1932, I, S. 253.

wages for the average worker. It included a narrow class of target rifles, those weighing at least four kilos and using rimmed 8.15-by-46-mm cartridges with lead bullets. Also included were guns of at least one meter overall length and costing at least 200 marks. All these arms were highly specialized and expensive guns that the average person would not have possessed.

The new regulations had a single provision for the common person: a permit for possession of .22-caliber cartridges would no longer be required unless the quantity exceeded 1,000 rounds.⁶⁹

The Reich Association of German Gunsmiths and Firearm and Ammunition Dealers (Reichsverband Deutscher Büchsenmacher, Waffen und Munitionshändler) protested to the Reich interior minister that the new regulations disarmed the law-abiding population while the smugglers and black market traffickers provided radicals with arms. So many restrictions had been imposed that the lawful trade could not survive without relaxation of the rules. "We for our part still think that draconian penalties would be the best solution for any willful offense against the Firearms Law and also for the misuse of arms."⁷⁰

On "Bloody Sunday," July 17, 1932, in Altona, a working-class suburb of Hamburg, Communists shot it out with police at a Nazi demonstration; eighteen people were killed, and many more wounded.⁷¹ Carl Severing, formerly the Reich interior minister but now holding that position in Prussia, sought to curb violence from the left and right by cracking down on illegal possession of weapons and authorizing local officials to prohibit demonstrations.⁷² This tactic may have heralded a new phase in the struggle against political violence, but it was no more successful than the other disarmament measures decreed since 1918.⁷³

As 1932 progressed, one shaky government replaced another as the Weimar Republic went into its death throes. In mid-January 1933, the short-lived Reich chancellor General Kurt von Schleicher made a futile stab at removing the

69. *Id.*

70. Reichsverband Dt. Büchsenmacher, Waffen- u. Munitionshändler eV, to RMI, Aug. 4, 1932, Schusswaffengesetz, BA Lichterfelde, R 1501/125941, Gesetz über Schußwaffen und Munition Bd. 5, 1932–33, S. 374–72.

71. Mommsen, *The Rise and Fall of Weimar Democracy*, 441–42.

72. Mommsen, *The Rise and Fall of Weimar Democracy*, 444–45.

73. Werner Hoche, "Die neue Phase im Kampf gegen politische Ausschreitungen" (The New Phase in the Battle Against Political Riots), *Deutsche Juristen-Zeitung*, Jan. 15, 1933, 138.

Versailles Treaty's strict limits on the German armed forces. That was a primary issue on which the Nazis were winning electoral support. Speaking as defense minister, Schleicher demanded an equality of arms with the Great War's victors, reflecting: "Since time immemorial the right to bear arms has been to a German the sign of a free man. Our opponents know well that they struck at Germany's very marrow when they rendered her defenseless and, thereby, a second-class people. The army, which after all represented the German people under arms, felt nothing to be so unkind, undeserved, disgraceful, and, yes, unchivalrous on the part of her enemies as the prohibition to bear arms."⁷⁴

This concept of a "right to bear arms" was in the Hegelian statist tradition, meaning compulsory military service rather than an individual liberty. German military leaders rejected the Swiss militia system of "a people in arms" in which the citizen soldier kept his arms at home.⁷⁵ In post-World War I Germany, this rejection manifested itself as a standard of police and state protection of individuals.

Schleicher hoped that channeling young men into military service—a million of them younger than twenty-five were unemployed in Germany at the time—would reduce the appeal of National Socialism. He even suggested the combining of the Reichsbanner and the Stahlhelm into a militia to promote national defense and to stabilize the domestic scene.⁷⁶ But it was too late for such illusions.

In the years from 1918 through 1932, Germany had gone from a brutal policy that in times of unrest entailed immediate execution for mere possession of a firearm to a modern, albeit imperfectly executed, gun control law. Passed by a liberal republic, this law initially ensured that the police compile records of all lawful firearms acquisitions (but, of course, not of unlawful ones) and that the lawful keeping and bearing of arms were subject to police approval. In its final period, the Weimar Republic authorized the registration of all firearms and the confiscation of arms at the discretion of the authorities.

Yet the attempts to control violence in the country meant that private and generally harmless citizens were primarily the ones whose names found their way onto firearms lists. This period also established a chaotic legal environment

74. Quoted in "Schleicher Hails Virtues of Army," *New York Times*, Jan. 16, 1933, 4.

75. *New York Times*, Jan. 22, 1933, 3.

76. Mommsen, *The Rise and Fall of Weimar Democracy*, 504.

for gun control laws. Police authorities were given limitless discretion, and the laws themselves would be decreed and redecreed to focus on whatever weapon or activity (such as public demonstrations) needed controlling for the moment. This firearms control regime and generally the power to issue emergency decrees would be quite useful to the coming Nazi regime.

The ad hoc, arbitrary execution of ever more stringent and “progressively modern” gun control restrictions was a constituent part of Germany’s political order and was thus as unstable and uncertain as that deteriorating order. It was a dangerous dance between political parties, police forces, and state controls on the backs of the citizens at large. And firearms prohibitions became a key opening step for the Nazi Party as the spotlight turned to shine on it.

The dance would soon end, for the volcano that roiled beneath Germany erupted.

PART II

1933

Enter the Führer

The Nazi Seizure of Power

ADOLF HITLER WAS named chancellor of Germany on January 30, 1933. Seizing upon the Weimar firearms prohibitions and repressive emergency decrees, the New Order immediately began a campaign to disarm and obliterate all enemies of the state. To justify confiscating the arms of and repressing their enemies, the Nazis invariably designated their opponents “Communists.” Although Hindenburg continued as president until his death the following year, the old general could do little to restrain the former corporal whom he held in contempt.

The Nazis instigated aggressive repression against alleged Communists, including police searches of persons and houses to seize weapons, which led to armed clashes and deaths.¹ For instance, on February 1 in the Charlottenburg area of Berlin a large police detachment arrived to investigate the alleged shooting deaths of two Nazi Party officers by Communists the night before. “The police closed off the street to all traffic while at the same time criminal detectives conducted extensive raids in the houses. Each individual apartment was searched for weapons.”² This use of police force was not a sudden or total break from previous policies enacted by the republic, however.

On February 12, eleven deaths resulted from political clashes in German cities. In Eisleben, a troop of Nazis was allegedly shot at from Communist Party headquarters, and so Nazis stormed the building. In Braunschweig, police fired on two women for failure to leave their windows when a Nazi troop was

1. See, for example, reports in *Völkischer Beobachter*, Jan. 29, 1933, 2; *New York Times*, Feb. 3, 1933, 1; *Der Bund* (Bern), Feb. 11, 1933 (Saturday edition), 1.

2. “Razzia in Charlottenburg” (Police Raid in Charlottenburg), *Der Bund* (Bern), Feb. 2, 1933 (evening edition), 2.

passing. In Düsseldorf, police claimed to have discovered arms and arrested fifty Communists.³

Police were given full reign to shoot enemies of the state. Prussian interior minister Hermann Göring mandated on February 17: "Police officers who make use of firearms in the exercise of their duties will, without regard to the consequences of such firearm use, benefit by my protection; those who out of a misplaced regard for such consequences fail in their duty will be punished in accordance with the regulations."⁴

Because Hitler had attained power legally, without violation of the Constitution, none of the parties on the left, center, or right had any plan or support for any kind of armed resistance. Not just the Communists (KPD) and Social Democrats (SPD), but also the German Center Party (Deutsche Zentrumspartei) and the German State Party (Deutsche Staatspartei) were harassed.⁵ As Leon Dominian, the U.S. consul-general at Stuttgart, described the situation, roving bands of Nazis traveled about, entering homes to enquire whether residents were Nazis or Jews. "As in Italy, these Fascists carry arms openly and it is evident from their manner that their marching about is intended as a deliberate provocation to create disturbances and to intimidate peaceable citizens." Despite resistance from leftist, center, and democratic circles, it was unlikely that "this opposition will assume the concrete form of an armed civil struggle."⁶

Illustrative of violence against centrists, in Stuttgart Nazis shot and wounded several persons in an attack on a parade of the Palatinate Guard, which was affiliated with the Bavarian People's Party (Bayrische Volkspartei). Police "arrested several Nazis for carrying concealed weapons, but there is scant indication that

3. *New York Times*, Feb. 13, 1933, 4.

4. Quoted in Konrad Heiden, *Geburt des Nationalsozialismus* (The Birth of National Socialism) (Zürich, 1934), cited in Gerd H. Padel, *Dämme Gegen die Braune Flut: Die Schweizerpresse und der Aufstieg des Dritten Reiches 1933–1939* (Dam Against the Brown Flood: The Swiss Press and the Ascent of the Third Reich 1933–1939) (Zürich: Thesis, 1998), 16.

5. Hans Mommsen, *The Rise and Fall of Weimar Democracy* (Chapel Hill: University of North Carolina Press, 1996), 535–37, 542.

6. Leon Dominian to Secretary of State, Feb. 21, 1933, in U.S. Department of State, *Foreign Relations of the United States: Diplomatic Papers 1933*, vol. 2: *The British Commonwealth, Europe, Near East, and Africa* (Washington, DC: U.S. Government Printing Office, 1949), 195–96.

the arrests will be followed by the infliction of penalties.” Nazis also attacked Catholic meetings in several other cities.⁷

On February 24, Göring authorized the arming and use of SA, SS, and Stahlhelm members as auxiliary police. He admonished Prussian provincial and district governors for inadequate censorship, finding that “periodicals, leaflets and posters defaming the Chancellor [Hitler] and members of the Cabinet are suffered to appear.”⁸

Federalism was also under attack. Wilhelm Frick, Reich interior minister, attacked “certain state governments that have not yet quite grasped the meaning of this new era and that show resistance to the policy of the government of the Reich.” State councilor Fritz Schaeffer, head of the Bavarian People’s Party, responded: “Let the government of the Reich be assured that if it sends a Federal Commissioner to Bavaria, he will be arrested at the State line. We will have no Brown Party bailiff over us.” He denounced Nazism and posed the right of secession: “[I]f Berlin ceases to respect law and the Constitution that sets Bavaria free and we can choose what form of the State we will.”⁹

On the night of February 27, the Reichstag was set ablaze. A Dutch Communist was caught in the building, but Nazi leaders may have organized the arson as a pretext against a parliament they detested. Working under Göring’s command from already prepared lists, the Gestapo began that same night to arrest every deputy and functionary of the Communist Party.¹⁰

On February 28, Hitler and Göring persuaded President Paul von Hindenburg to issue an emergency decree, based on Article 48 of the Weimar Constitution, suspending constitutional guarantees and authorizing the Reich to seize executive power in any state that failed to restore law and order. It was claimed that plans for Communist terrorism were found in a search of the Karl Liebknecht House, Berlin’s Communist headquarters; that Communists

7. “Hitlerites Wreck Catholic Meetings,” *New York Times*, Feb. 22, 1933, 1.

8. Quoted in Frederick T. Birchall, “Hitler Arms Nazis as Prussian Police,” *New York Times*, Feb. 25, 1933, 1, 5. See also Mommsen, *The Rise and Fall of Weimar Democracy*, 534–35, 542.

9. Quoted in Birchall, “Hitler Arms Nazis as Prussian Police,” *New York Times*, Feb. 25, 1933, 1, 5.

10. Hans Bernd Gisevius, *To the Bitter End: An Insider’s Account of the Plot to Kill Hitler, 1933–1944*, trans. Richard Winston and Clara Winston (New York: Da Capo Press, 1998), 13, 33–36.

were responsible for the Reichstag fire; and that on the coming Sunday election day the Communists would attack Nazis and disarm the police.¹¹ It never occurred to the non-Nazis in the cabinet, recalled Vice Chancellor Franz von Papen, that the documents found were forged, adding: “We were all convinced that the Communists had planned an armed uprising and represented a menace to the security of the State.”¹²

The Decree of the Reich President for the Protection of the People and the State of February 28, 1933, authorized the government to suspend the constitutional guarantees of personal liberty, free expression of opinion, freedom of the press, and the rights to assemble and form associations. Secrecy of postal and telephonic communication was suspended, and the government was authorized to conduct search and seizure operations of homes.¹³ The decree provided that whoever engaged in “severe rioting” or “severe breach of public peace” by “using weapons or in conscious and intentional cooperation with an armed person” were subject to the death penalty or to imprisonment up to life.¹⁴ If the decree were applied to a protest march by political opponents, the mere keeping or bearing of a weapon might have become a capital offense.

The decree essentially became the constitution of the Third Reich, even though the Weimar Constitution formally remained valid during the entire Nazi regime. It created a “prerogative state” (*Massnahmenstaat*) in which the regime ruled not by law, but by arbitrary measures (*Massnahmen*). Protective custody and other repressive measures instituted by the Weimar Republic were found to be highly useful to the new regime.¹⁵ So were the firearm restrictions and registration requirements.

“The task of combating all movements dangerous to the state implies the power of using all necessary means, provided they are not in conflict with

11. “Red Terror Plans Alleged by Reich,” *New York Times*, Mar. 1, 1933, 11. See also William L. Shirer, *The Rise and Fall of the Third Reich* (New York: Simon & Shuster, 1990), 194, citing Nürnberg Document 1390-PS, *Nazi Conspiracy and Aggression* (Washington, DC: U.S. Government Printing Office, 1946), III, 968–70.

12. Franz von Papen, *Memoirs* (London: Andre Deutsch, 1952), 269.

13. Reichsverordnung zum Schutz von Volk und Staat, *Reichsgesetzblatt* 1933, I, 83, § 1.

14. *Id.* § 5.

15. Ernst Fraenkel, *The Dual State: A Contribution to the Theory of Dictatorship* (New York: Oxford University Press, 1941), 3; Mommsen, *The Rise and Fall of Weimar Democracy*, 542–43.

the law,” Werner Best, chief legal adviser for the Gestapo, would later explain. “Such conflicts with the law, however, are no longer possible since all restrictions have been removed following the Decree of February 28, 1933, and the triumph of National Socialist legal and political theory.”¹⁶

In this bizarre New Order, legal formalities remained of great significance to the German people who expected state commands to be based on positive law, to the police who were trained to cite violations properly if “your papers are not in order,” to civil servants who carried out the letter of the law no matter who was in power, and even to judges who resisted the führer’s will as law. This worldview would persist, but Hitler would after all become the führer, even though it would take the next half-decade to consolidate his and the Gestapo’s total power.

At this time, throughout Germany police searched offices and houses for subversive literature and illegal weapons under the guise of suppressing Communists. Meanwhile, in Prussia some 60,000 Nazi and Stahlhelm members had been armed with revolvers and truncheons. The outcome of the coming “election” could not be in doubt.¹⁷

Reich interior minister Frick sent an urgent missive on March 1 to state officials regarding the KPD, the German Communist Party: “The Police Headquarters in Berlin has established that the KPD intends to conduct systematic attacks against members of the national units, especially the SA and the SS, and by doing so to recklessly neutralize any armed members of those units by force of arms. The plan is to conduct the action in such a way that their authors will, if possible, not be recognized as Communists. The plan is also to compel patrolling policemen by force of arms to give up their weapons.”¹⁸ Although Communists may have been capable of such attacks, this language is consistent with Nazi assaults on democrats and other opponents of the Nazis who might “not be recognized as Communists” and whose mere possession of firearms was evidence of the conspiracy.

16. *Deutsche Allgemeine Zeitung*, July 1, 1937, quoted in Fraenkel, *The Dual State*, 25, 216 n. 71.

17. “Red Terror Plans Alleged by Reich,” *New York Times*, Mar. 1, 1933, 11.

18. Der Reichsminister des Innern (RMI) to Landesregierungen, Mar. 1, 1933, I A 2130/1.3, Bayerisches Hauptstaatsarchiv, München (BHStA), (MA) 106312.

House searches were reported to have revealed not only arms and illegal publications, but also catacombs used for hiding alleged Communists and their arms.¹⁹

The *Völkische Beobachter*, the official Nazi newspaper, found much grist for the mill. Several articles in the March 4, 1933, issue alleged that house searches revealed detonators, subversive literature, and a machine gun. One headline sounded the alarm, “Firefight in Hamburg, Communist Snipers Armed with Carbines,” and the article averred that shots were fired at SA men marching in a Nazi torchlight procession and that police searches of houses and restaurants revealed numerous weapons. Scores were being settled for anti-Nazi activity that had taken place before Hitler’s ascension to power—a Berlin prosecutor charged Communists with severe breach of peace, attempted murder, and Firearms Law offenses during a December 1932 assault against Nazis.²⁰

Similar reports appeared in foreign presses. A Swiss newspaper reported searches in Düsseldorf, resulting in discovery of a clandestine publisher, Communist propaganda, and arms.²¹ The Nazis succeeded in creating a “Communist gun owner” bogeyman to justify extensive searches and seizures conducted by the police to confiscate firearms and arrest their owners. To carry out these measures, some 5,000 auxiliary police composed of SA, SS, and Stahlhelm members were enrolled in Berlin alone.²²

Despite the repression, the Nazis won only about 44 percent of the vote in the elections of March 5. But that portion sufficed for the Hitler regime to remain in power in the coalition government and to have executive power in all the German states.²³

19. *Der Bund* (Bern), Mar. 3, 1933, 3.

20. See “2000 Sprengkapseln in der Wohnung eines Kommunisten gefunden” (2000 Detonators Found in a Communist’s Apartment); “Maschinengewehr bei Kommunisten beschlagnahmt” (Machinegun Confiscated from Communists); “Feuergefecht in Hamburg, Kommunistische Dachsützen mit Karabinern bewaffnet” (Shootout in Hamburg, Communist Snipers Armed with Carbines); See also “Anklage gegen 9 Kommunisten” (Charges Against 9 Communists), *Völkischer Beobachter, Tägliches Beiblatt (Supplement)*, Mar. 4, 1933, 2.

21. *Journal de Genève* (Switzerland), Mar. 6, 1933, 6.

22. Hsi-Huey Liang, *The Berlin Police Force in the Weimar Republic* (Berkeley: University of California Press, 1970), 171.

23. Ingo Müller, *Hitler’s Justice: The Courts of the Third Reich*, trans. Deborah Lucas Schneider (Cambridge, MA: Harvard University Press, 1991), 33; Frederick T. Birchall, “Hindenburg Drops Flag of Republic,” *New York Times*, Mar. 13, 1933, 6.

Searches and seizures of firearms continued against persons of all types, not just so-called Communists. Wilhelm Willers of the Bavarian town of Bad Tölz complained to the Bavarian Interior Ministry about a police-SA search of his house under the pretext that his son had Communist affiliations. The police found no weapons hidden in a compost pile that was not even on his property. They returned early the next morning “to conduct a house search for weapons and documents. . . . From the attic to the basement, every corner, every closet, every drawer, even in my daughter’s bedroom and in my own, my records and even my bed were searched.” His son had belonged to socialist student organizations a decade earlier, but not since then. Willers demanded the return of his pistol, which had been seized.²⁴

The monthly cocktail party of Bella Fromm, a high-society Berlin socialite and journalist who was Jewish, was raided by an SA gang. An SA officer alleged that informers saw “that arms and ammunition have been delivered to the house. . . . We know very well that this house belongs to non-Aryans.” Regular police later arrived, to whom she served coffee and cake. After the captain rejected her offer to “search the house for arms and ammunition,” she left in full evening dress to a dinner with Reich vice chancellor Franz von Papen.²⁵

Anti-Semitic actions began to be reported. One account noted, “The Produce Exchange in Breslau was entered today by Nazi storm troops, who searched the place for arms and ousted the occupants. Several Jewish-owned department stores there were forcibly closed, and the storm troopers ejected Jewish judges and lawyers from the courts.”²⁶

Raids against labor union buildings were explained as necessary to crush Communist subversion. A Reich radio broadcast from Munich on March 11 explained that an SA occupation of a union house in Munich was not aimed at the General German Federation of German Trade Unions (*Allgemeiner Deutscher Gewerkschaftsbund*), but at the SPD and the *Reichsbanner*, described as “a center of Marxist terror.” “During the search,” it was claimed, “two

24. To the Bayerische Staatsministerium des Innern., Bad Tölz, den 9.III.1933, BHStA, MA 105475.

25. Bella Fromm, *Blood & Banquets: A Berlin Social Diary* (New York: Carol Publishing Group, 1990), 84, 87.

26. “Nazis Seek Sweep of Local Offices,” *New York Times*, Mar. 12, 1933, 19.

machine guns, hand grenades, pistols, ammunition and numerous cutting and stabbing weapons were found.”²⁷

In Dresden, the State of Saxony’s federal commissioner banned the republican Reichsbanner organization. The following report was typical of the time: “In Koenigsberg, Nazi storm troops occupied trade union headquarters after an exchange of shots during which four Reichsbanner men were wounded. The police reported that a quantity of arms was confiscated.” Socialist newspaper offices were seized, and numerous Communists and Socialists were arrested. “A prominent attorney at Kiel who represented Socialists at a number of political trials was slain when he admitted into his home several men who posed as police.”²⁸

On Sunday, March 12, six Nazi SA raided the apartment of the widow of Friedrich Ebert, the Social Democrat who had served as the first president of the Weimar Republic from 1919 until his death in 1925. They demanded the widow’s “mustard flag,” the republican black, red, and gold emblem, but her son protested that they had no flag. “They decided finally to look for hidden arms, but found only a revolver belonging to Herr Ebert, which he handed to them together with a permit that had expired.” President von Hindenburg ordered a police investigation of this “unchivalrous treatment.”²⁹ However, Weimar-era Firearms Law made this seizure of the revolver lawful merely because the permit had not been renewed.

An arrest record might state simply that the accused possessed a firearm. A sample arrest form later used in a Gestapo training manual identified the accused, a locksmith from Bavaria, and alleged: “Cause of Arrest: Was today at 14.10 [2:10 p.m.] found in House No. 17a with rifle Model 98.”³⁰ The Mauser Model 98 was the military bolt-action service rifle.

Police reported the seizure by German customs officers in Igel of three boxes from Antwerp, Belgium, addressed to an arms dealer in Hesse-Nassau. The

27. Bayhsta Reichsstatt-Halter Epp, Nr. 37, München Abt. II, Der Beauftragte der Reichsregierung, München 11: III.33, BHStA.

28. “Hindenburg Drops Flag of Republic,” *New York Times*, Mar. 13, 1933, 6.

29. “Nazis Raid Home of President Ebert’s Widow: Hindenburg Orders Inquiry of Flag Search,” *New York Times*, Mar. 15, 1933, 11.

30. In German: “Straftat: wurde heute um 14.10 im Hause Nr. 17a mit einem Gewehr 98 (Nr. 250) angetroffen.” *The Gestapo and SS Manual*, trans. Carl Hammer (Boulder, CO: Paladin Press, 1996), 87–88.

boxes contained ninety-nine Model o8 service pistols with Erfurt factory markings. "The public prosecutor of Trier has ordered an investigation to determine whether this arms dealer really exists or whether these weapons were perhaps meant for a Communist organization." He would also investigate how they disappeared from the Erfurt factory and were thereafter sent to Belgium and then back to Germany.³¹ There followed the searches of houses of alleged Communists and the seizure of weapons and subversive materials, together with numerous arrests and the shooting of two Communists who were allegedly fleeing.³²

On March 17, Christian Daniel Nussbaum, a Jewish SPD deputy in the Baden state parliament who had received death threats, fatally shot with a 7.65-mm pistol two intruders who were breaking into his dwelling in Freiburg. He feared that they were there to kill him, although they turned out to be policemen who were allegedly there to search his house. He was indicted for murder.³³

This "Marxist crime" served the Nazis as the occasion for a campaign of terror, including the arrests of SPD elected officials and trade unionists.³⁴ Press accounts made the most of the facts that "the SPD Murderer Nussbaum" was Jewish and "had received a firearm license from the police headquarters."³⁵ "The political consequences of the bloodbath" included the dissolution of the Reichsbanner, various leftist organizations, and the "Marxist shooting clubs" (marxistische Schuetzenvereine), whose property would be confiscated.³⁶

Nussbaum explained to his attorney that he knew about numerous cases "where people sharing my political convictions were murdered." He stated,

31. "Eigentümliche Waffengeschichte" (Unusual Weapon Story), *Der Bund* (Bern), Mar. 15, 1933 (evening edition), 2.

32. *Der Bund* (Bern), Mar. 17, 1933, 2.

33. Christian Daniel Nussbaum, Der Untersuchungsrichter am Landgericht Freiburg, Freiburg i.Br., Mar. 18, 1933, Generallandesarchiv Karlsruhe (GLAK), 463-1983-20-2876.

34. "Stadtrat in der NS-Zeit: Geschichte des Freiburger Gemeinderats unter dem Nationalsozialismus" (City Council in the Nazi Period: History of Freiburg City Council Under National Socialism), <http://www.freiburg.de/pb/Lde/231027.html?QUERYSTRING=%22+Geschichte+des+Freiburger+Gemeinderats+unter+dem+Nationalsozialismus%22> (visited Feb. 9, 2013).

35. "Der SPD.-Mörder Nussbaum" (The SPD Murderer Nussbaum), *Der Allemanne: Kampsblatt der Nationalsozialisten Oberbadens, Extrablatt!* (Freiburg im Breisgau), Mar. 17 [?], 1933, 1, Stadtarchiv Freiburg I. Br., C4-XIII-25-5.

36. "Die Politischen Folgen der Bluttat" (The Political Consequences of the Bloody Deed), *Freiburger Tagespost*, Mar. 18, 1933, copy in Stadtarchiv Freiburg I. Br., C4-XIII-25-5.

“When I consulted with the director of police, where I asked for a weapons permit, I showed him two letters with threats against me, where even the police director alerted me to the suspicious handwriting.” Had he thought that the persons were police, he “would have never made use of the weapon.”³⁷

Perhaps because the Nazis wanted no trial in which such evidence would be presented, Nussbaum was held in the prison’s psychiatric ward, where he died of mysterious causes in 1938. Nussbaum’s fate remained of interest decades later, and in 1978 a hospital official reported that “the psychiatrists only said he was mentally ill so that they could save him.”³⁸

Repression continued unabated. In Saxony, police launched a vast action against alleged Communists, supposedly seizing numerous rifles, a thousand cartridges, and a bomb.³⁹ Throughout Germany, the leftist presses were shut down, and centrist and neutral presses were subject to immediate suppression. Germans were forbidden to reveal information to foreigners; telephones were tapped; informants lingered in cafes; and Jews fled persecution.⁴⁰

“Nazis Hunt Arms in Einstein Home,” ran a March 21 *New York Times* headline, but the subtitle smirked, “Only a Bread Knife Rewards Brown Shirts’ Search for Alleged Huge Cache.” Reporting from Berlin on March 20, the article stated:

Charging that Professor Albert Einstein had a huge quantity of arms and ammunition stored in his secluded home in Caputh, the National Socialists sent Brown Shirt men and policemen to search it today, but the nearest thing to arms they found was a bread knife.

Professor Einstein’s home, which for the present is empty, the professor being on his way back to Europe from the United States, was surrounded on all sides and one of the most perfect raids of recent German history was carried out. The outcome was a disappointment to those

37. Chr. D. Nussbaum, Abschrift, Herrn Rechtsanwalt O. Werle, May 8, 1933, GLAK 463-1983-20-7469.

38. Prof. B. Mueller-Hill—Herrn Dr. Gebhardt, Oct. 29, 1978, GLAK 463-1983-20-2876.

39. *Journal de Genève*, Mar. 20, 1933, 6.

40. “All News Is Censored and Opposition Press Suppressed,” *New York Times*, Mar. 20, 1933, 1.

who have always regarded Professor Einstein's pacifist utterances as a mere pose.⁴¹

A campaign of assaults against Jews under the guise that they might possess firearms was described in Lion Feuchtwanger's *The Oppermanns*, a true-to-life historical novel by a German Jewish emigre published the year the assaults began.⁴² In the novel, which Hitler ordered to be burned, anti-Nazi lawyer Dr. Bilfinger and Jewish author Gustav Oppermann find sanctuary and meet in Switzerland. The novel tells of a fictitiously named but real village in southern Germany:

On March 25, while in Künzingen, Dr. Bilfinger observed the occupation of the city by Nationalist [Nazi] troops. He saw the troops surround a synagogue, which was full as it was a Saturday. The women were locked inside and the men dragged to the town hall where they were searched for weapons. Dr. Bilfinger pointed out the ridiculousness of the weapons search because there was no reason the men would have taken weapons with them to the synagogue. The Jewish men were energetically beaten with steel rods and rubber truncheons before they left the town hall.

The novel describes other places where "a number of the population were searched for weapons" and mistreated. In one incident, an elderly Jewish woman dies in her bed when Nazis "searched the house 'for weapons.'"⁴³

Historian William Allen describes the Nazi disarming campaign as experienced in the town of Northeim in Lower Saxony. The town had several traditional shooting societies that held competitions and festivals. A club member commented: "The 'Gun Club of 1910' was for the broad masses; the 'Hunters' were mostly middle class; the 'Free-hand Shooters' were the upper 10 percent."

41. *New York Times*, Mar. 21, 1933, 10. See also Ronald E. Clark, *Einstein: The Life and Times* (New York: Avon, 1971), 562.

42. Lion Feuchtwanger, *Die Geschwister Oppenheim* (Amsterdam: Querido, 1933); English translations include *The Oppermanns* (London: Secker, 1933) and *The Oppermanns* (New York: Viking Press, 1934). The 1934 translation is used for this discussion.

43. Feuchtwanger, *The Oppermanns*, 282, 283, 285.

The town's Jews, being assimilated, participated in the shooting clubs until the Nazis took power.⁴⁴

No real Communist threat existed in the sleepy village to justify the repression, but "Northeim's Nazis provided this by finding various arms and weapons in and around Northeim and by publishing these findings in the local newspapers." Northeim's citizens found "that it was extremely unhealthy to have any sort of weapon around the house."⁴⁵

To be sure, Reichsbanner members "took the threat of a Nazi *Putsch* seriously enough to gather guns and ammunition for the counterstrike." But no organized resistance would be ordered. Professor Allen opines that the Social Democrats were "the only defenders of democracy in Germany, the men who should have been gathering guns and calling the general strike," but instead their homes were being raided for midnight arms searches, and they were being hauled off to concentration camps.⁴⁶

The Enabling Law—the popular name for the euphemistically-worded Law to Remove the Distress of the People and the State—of March 24, 1933, was the last nail in the Weimar Republic's coffin driven in by the Nazi coup d'état. Passed by the Reichstag, which then dissolved itself, the act provided that the cabinet could decree laws without consulting the Reichstag or the president. The chancellor—Hitler—was empowered to draft the laws, which could deviate from the Constitution.⁴⁷

The confiscation of arms, in particular "military" firearms, was stepped up. The Bavarian interior minister's Decree for the Surrender of Weapons set a deadline of March 31. Although persons with "well-founded requests" could apply to the local police for a permit to possess a handgun, military firearms were confined to Nazi-approved organizations: "The units of the National Revolution, SA, SS, and Stahlhelm, offer every German man with a good reputation the opportunity to join their ranks for the fight. Therefore, whoever does not

44. William Sheridan Allen, *The Nazi Seizure of Power: The Experience of a Single German Town 1922–1945* (New York: Franklin Watts, 1984), 19, 218, 221.

45. Allen, *The Nazi Seizure of Power*, 184, 186.

46. Allen, *The Nazi Seizure of Power*, 184–85, 191–92.

47. Gesetz zur Behebung der Not von Volk und Reich vom 24. März 1933, *Reichsgesetzblatt*, I S.141. See Ernst Fraenkel, *The Dual State: A Contribution to the Theory of Dictatorship* (New York: Oxford University Press, 1941), 3–4; "Hitler Cabinet Gets Power to Rule as a Dictatorship: Reichstag Quits sine Die," *New York Times*, Mar. 24, 1933, 1.

belong to one of these named units and nevertheless keeps his weapon without authorization or even hides it, must be viewed as an enemy of the national government and will be held responsible without hesitation and with the utmost severity.”⁴⁸

Of the three listed organizations, the SS (Schutzstaffeln or Elite Guard) of the National Socialist Party, headed by Heinrich Himmler (who was also Munich police president at this time), emerged as the most powerful Nazi police organization.⁴⁹ The SA (Sturmabteilung or Storm Troopers), headed by Ernst Röhm, carried out many of the excesses of the Nazi revolution until its leadership was eliminated in the 1934 Night of the Long Knives.⁵⁰ Before long, Hitler would abolish the Stahlhelm, or Steel Helmets, the veterans’ organization with its honorary commander, President Hindenburg, because it included too many non-Nazis, even former Reichsbanner members and other leftists.⁵¹

Searches of the houses of alleged “Communists” continued unabated, resulting in the reported seizure of numerous arms and “confessions” by the subjects.⁵²

Reich interior minister Wilhelm Frick would play a decisive role in ordering the disarming of alleged enemies of the state, especially the Jews, over the coming years. Hitler had endorsed Frick, chief of Munich’s political police in the 1920s, in *Mein Kampf*.⁵³ On being appointed Reich interior minister by Hitler in 1933, Frick wrote police stations that Communists dressed like SA members were rioting and smashing Jewish shop windows.⁵⁴

48. Zur Verordnung des kommissarischen bayer. Innenministers vom 24.3.33 über Wehrverbände, BHStA, Landsratsamt (LRA) Bad Tölz 133992, No2501C51. The referenced decree to surrender weapons was the Verordnung gesetzte Frist zur Ablieferung der Waffen.

49. Raphaël Lemkin, *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Redress* (Washington, DC: Carnegie Endowment for International Peace, 1944), 15–16.

50. Gisevius, *To the Bitter End*, 103, 148–49.

51. Gisevius, *To the Bitter End*, 608; William L. Shirer, *The Rise and Fall of the Third Reich* (New York: Simon & Schuster, 1990), 157, 226; James M. Diehl, *Paramilitary Politics in Weimar Germany* (Bloomington: Indiana University Press, 1977), 294.

52. *Völkischer Beobachter*, Mar. 25, 1933, 2; *Journal de Genève*, Mar. 26, 1933, 12.

53. Adolf Hitler, *Mein Kampf* (My Struggle), trans. Ralph Manheim (Boston: Houghton Mifflin, 1971), 367–68.

54. Saul Friedländer, *Nazi Germany and the Jews*, vol. 1: *The Years of Persecution, 1933–1939* (New York: Harper Collins, 1997), 18, 26–27, 119.

On March 28, 1933, Interior Minister Frick wrote to the state governments that firearm manufacturers' records must be strictly inspected by the police:

Among the shady arms deals that were planned last year by Suhler arms companies, it has become known that seven of the arms trade books include columns showing foreign companies that do not exist. It is further known in preparation for a criminal case for high treason . . . that over 400 pistols of an arms dealer have been transferred, without entry into his arms record book, to a number of Communists who had no arms acquisition permits. The responsible Interior Minister for this area therefore recommends that the arms records of firearm and ammunition manufacturers be inspected preferably by officials of the state criminal police departments and simultaneously that all conspicuous transfers, especially larger arms orders through small unknown companies, be inspected by the police in the districts of the recipients for discrepancies from the manufacturer's arms records to verify the deliveries.⁵⁵

In addition to higher sentences, Frick urged the police to enforce controls strictly and to inspect closely the arms orders of small, unknown companies. Prosecutors should seek the highest penalties for arms offenses and should appeal low sentences.

Directives were issued to the government units, police, municipal commissars, and special commissioners of the highest SA leaders regarding the execution of the March 1933 Decree for the Surrender of Military Weapons. It began: "Despite all of the measures taken so far, parts of the population opposed to the national government and the national movement behind it are still in possession of military weapons and military ammunition." It ordered the police "immediately to order the population to surrender any military weapons in a timely manner to the special commissars listed in the official gazettes as well as in the local press." Weapons to be surrendered included not just heavy weapons, but also "military rifles" (which were bolt actions) and "army revolvers." The directive continued:

55. RMI to Landesregierungen, Mar. 28, 1933, Kontrolle der Waffen- u. Waffenhandelsbücher, Bundesarchiv (BA) Lichtenfelde, R 1501/125942, Gesetz über Schußwaffen und Munition Bd. 6, 1932–33, S. 267.

Pursuant to § 4, paragraph 2, of the decree the Special Commissar of the Highest SA Leader may exempt members of the SA, SS, and Stahlhelm units as well as members of veterans' associations by confidential order to the pertinent leaders of those units/associations. Under no circumstances may the public, especially the press, be informed about this exemption, given the fact that the provisions on disarmament of the Versailles Treaty are still in effect. Further, upon request, the Special Commissar may allow reliable persons to keep a rifle together with the necessary ammunition for the protection of house and farm. The same applies to army revolvers that are the personal property of the owner. Only such persons can be considered reliable from whom a loyal attitude toward the national government can be expected. These approved exceptions must also be treated as confidential.⁵⁶

The surrendered arms were to be stored with the SA, SS, and Stahlhelm. These groups in turn would assist the police "to conduct weapons searches in places where military weapons and military ammunition are still suspected."⁵⁷ The net result of this decree was the disarming of all opponents of National Socialism and the general populace, but the arming of the members of the SA, SS, and Stahlhelm.

On March 29, municipal governments such as Bad Tölz were urgently informed about the directive to surrender military weapons. It "assumed that the population is adequately informed through the official proclamations and through the daily press about the duty to surrender military weapons. The surrender deadline is March 31." After defining "military weapons," it concluded: "Whoever does not surrender his weapons on time or does not surrender all weapons may become subject to a weapons search. Severe penalties may be imposed for the concealment of weapons."⁵⁸

A terse newspaper announcement by authorities about the directive began: "We would like to point out one more time that all military weapons and

56. Staatsministerium des Innern an 1. die Regierungen, KdJ. [et al.], Betreff: Vollzug der Verordnung über die Ablieferung der Militärwaffen, Mar. 28, 1933, BHStA, LRA Bad Tölz 133992, No. 250151.

57. *Id.*

58. *Id.*

ammunition in private possession have to be surrendered by March 31, 1933.” It warned that “if we find military weapons or ammunition after” that deadline, “we will be forced to proceed ruthlessly.”⁵⁹

Not encompassed in the order were nonmilitary revolvers such as that possessed by Frau Bella Fromm, the Berlin Jewish socialite mentioned earlier. She was invited to a reception by Vice Chancellor and Frau von Papen on the evening of March 29. None other than Adolf Hitler made his first social appearance there since becoming chancellor. The führer spoke to Bella and kissed her hand, giving her a “slight nausea.” She confided to her diary: “Weird ideas flashed through my mind. Why did I not have my little revolver with me?” After polite conversation about Bella’s Red Cross decorations from the Great War, Hitler kissed her hand again and moved on to other guests. Not having her revolver with her and being a polite lady, she could not shoot Hitler, but she wiped off her hand on a friend’s sleeve, joking, “He’s supposed to be able to smell a Jew ten miles away, isn’t he? Apparently his sense of smell isn’t working tonight.”⁶⁰

Although the Nazi focus continued to be the disarming of political enemies—for instance, a police raid of the local labor union in Hannover, where shots were exchanged and police searched the building for weapons⁶¹—the Jews’ turn soon came. The government announced that an anti-Semitic boycott would not be resumed on the condition that the “atrocious campaign” abroad be ended, referring to the American and Polish consulates’ repetition of accusations by eastern Jews against the Nazis. Apparently hoping to depict Jews as subversive by proving them to be in possession of firearms, search-and-seizure operations were executed on April 4, 1933. The *New York Times* reported: “A large force of police assisted by Nazi auxiliaries raided a Jewish quarter in Eastern Berlin, searching everywhere for weapons and papers. Streets were closed and pedestrians were halted. Worshipers leaving synagogues were searched and those not carrying double identification cards were arrested. Even flower boxes were overturned in the search through houses and some printed matter and a few weapons were seized.”⁶²

59. “Betreff: Ablieferung der Militärwaffen,” *Staatsanzeiger* (Official Gazette), no. 76, Mar. 29, 1933, BHStA, LRA Bad Tölz 133992, No. 572.

60. Fromm, *Blood & Banquets*, 98.

61. *Der Bund* (Bern), Apr. 3, 1933 (morning edition), 1.

62. “Raid on Jewish Quarter,” *New York Times*, Apr. 5, 1933, 10.

The *Völkische Beobachter*, Hitler's newspaper, described the raid under the alarming headline "The Time of the Ghetto Has Come; Massive Raid in the Scheunenviertel; Numerous Discoveries of Weapons—Confiscation of Subversive Material; Numerous Arrests of 'Immigrants' from East Galicia." The article dramatically described how the police, supported by the SS and criminal detectives, approached Berlin's Scheunenviertel (Barn District)⁶³ and searched the houses and basements of the Jewish inhabitants. It reported: "During the very extensive search, the search details found a whole range of weapons. Further, a large amount of subversive printed material was confiscated. Fourteen persons who did not have proper identification were detained. Most of them were Jews from Poland and Galicia who were staying in Berlin without being registered."⁶⁴

The article did not state how many or what types of arms were seized or whether they were even unlicensed—indeed, Weimar-era firearm registration records may have directed the police to exactly which Jews to search for arms. As will be seen, no prohibition on Jewish possession of firearms was decreed until 1938. The article does expand on the "subversive material" discovered. It includes two illustrations: first, the assemblage of SS and police on the street and, second, a pathetic picture of an elderly Jewish man in front of a microphone explaining to Nazi radio broadcasters on the scene that he did not know why he was being searched. *Beobachter* readers were apparently supposed to "get it," but the picture and statement only evoke sympathy for the old man.

On April 12, Reich interior minister Frick promulgated the newly decreed law on racial and political restrictions in the civil service, dismissing from government service non-Aryans (except war veterans) and members of democratic and socialist groups. An Associated Press account under the headline "Seize Literature and Arms" gave the following description:

Systematic search by the police of passengers' baggage deposited at Prussian railway cloakrooms has yielded a rich harvest of treasonable material, it was said in an official report issued tonight.

63. The Scheunenviertel, Berlin's Jewish quarter, would become the site of the 1938 pogrom Reichskristallnacht. Dave Rimmer, *Time Out Berlin* (London: Time Out, 1998), 53–54. This area of Berlin has been renovated, and the Neue Synagogue on Oranienburger Street has been rebuilt since the reunification of Germany in 1989.

64. "Die Zeit des Ghetto hat sich erfüllt; Gross-Razzia im Scheunenviertel; Unzählige Waffenfunde – Beschlagnahme hochverräterischen Zersetzungsmaterials; Zahlreiche Festnahmen ostgalizischer 'Einwanderer,'" *Völkischer Beobachter*, Apr. 5, 1933, 1.

Truckloads of trunks filled with Communist literature, arms and munitions were seized in Berlin and other cities, the report said.⁶⁵

An April 21 report “Permission to Possess Arms Withdrawn from Breslau Jews” described what was happening in Breslau (now Wrocław, Poland), home to 10,000 Jews:

The Police President of the city has decreed that “all persons now or formerly of the Jewish faith who hold permits to carry arms or shooting licenses must surrender them forthwith to the police authorities.”

The order is justified officially on the grounds that Jewish citizens have allegedly used their weapons for unlawful attacks on members of the Nazi organization and the police.

Inasmuch as the Jewish population “cannot be regarded as trustworthy,” it is stated, permits to carry arms will not in the future be issued to any member thereof.⁶⁶

The Breslau police would have known the identities of such persons because they themselves had issued the firearm licenses and registrations that had been required by the 1928 and 1931 Weimar laws. It was those same laws that authorized confiscation of firearms from persons not deemed “trustworthy.”⁶⁷

As the Nazis consolidated power, traditional elements temporarily accorded recognition were then attacked. The Stahlhelm, the “steel helmet” veterans who had fought in World War I and who had been exempted from some of the arms seizures, came under scrutiny. An informer notified Munich’s political police that a suspect “who belongs to the Stahlhelm is currently in the process of hiding weapons. Schnürpel [the suspect] has been said to have repeated several times that the Stahlhelm, fearing its dissolution, was hiding a part of its weapons.”⁶⁸ The Stahlhelm would be subordinated under SA command in July and wholly absorbed by the SA early the next year.⁶⁹

65. *New York Times*, Apr. 13, 1933, 8.

66. *New York Times*, Apr. 23, 1933, 1.

67. *Reichsgesetzblatt* 1928, I, 143, § 23; *Reichsgesetzblatt* 1931, I, 742, § 1(2).

68. *Der Präsident des Landesarbeitsamts Bayern*, München 1, Apr. 12, 1933, BHStA, Reichsstatthalter Epp, Nr. 37, München Abt. II, Reichsstatthalter 37.

69. John R. Angola and Hugh Page Taylor, *Uniforms, Organization, & History of the German Police* (San Jose, CA: R. James Bender, 2004), 520.

A police raid in Frankfurt resulted in the arrest of 200 alleged Communists and the seizure of fifty weapons and a duplicating machine.⁷⁰ A massive raid in Berlin netted “extensive written inflammatory material” along with “hitting and stabbing weapons.”⁷¹ Victor Klemperer, a Jewish war veteran, noted in his diary: “The garden of a Communist in Heidenau is dug up, there is supposed to be a machine-gun in it. He denies it, nothing is found; to squeeze a confession out of him, he is beaten to death. The corpse is brought to the hospital. Boot marks on the stomach, fist-sized holes in the back, cotton wool stuffed into them. Official post mortem result: Cause of death dysentery, which frequently causes premature ‘death spots.’”⁷²

In the month of May, the newspapers, buildings, and other assets of political enemies were forfeited to the state,⁷³ and the infamous book burning consumed in flames “subversive,” Jewish, and “degenerate” works.⁷⁴ The SPD was banned in June, and the so-called bourgeois parties were prohibited by the Law Against the Formation of New Parties of July 14, 1933.⁷⁵

The burgeoning police state needed detailed information on every person. For the previous fifty years, the state registry offices had maintained files on every person’s status and religion, making Jews readily identifiable.⁷⁶ Beginning in June, a new census began that would provide to authorities detailed information on every household. For the census, Deutsche Hollerith Maschinen Gesellschaft (Dehomag), the subsidiary of the U.S. firm International Business Machines (IBM), provided its new punch card and card-sorting system, which allowed an enormous amount of data to be stored in 600 punch hole possibilities per card.

70. “Wieder Mordlisten und Terrorpläne” (Another Murder List and Terror Plan), *Völkischer Beobachter*, April 21, 1933, 3.

71. *Der Bund* (Bern), April 24, 1933 (morning edition), 2.

72. Victor Klemperer, *I Will Bear Witness 1933–1941*, trans. Martin Chalmers (New York: Modern Library, 1999), 17 (entry for May 15, 1933).

73. Richard L. Miller, *Nazi Justiz: Law of the Holocaust* (Westport, CT: Praeger, 1995), 99.

74. “Der Vollzug des Volkswillens” (The Penal System of the People’s Will), *Völkischer Beobachter*, May 12, 1933, <http://www.cyberussr.com/hcunn/volkisch.html> (German and English, visited Feb. 9, 2013).

75. Gesetz gegen die Neubildung von Parteien, *Reichsgesetzblatt* 1933, I, 479; Müller, *Hitler’s Justice*, 53–55.

76. Götz Aly and Karl Heinz Roth, *The Nazi Census: Identification and Control in the Third Reich*, trans. Edwin Black and Assenka Oksiloff (Philadelphia: Temple University Press, 2004), 73.

Besides name, address, sex, birthdate, native language, family, and employment, the cards included at column 22: hole 1 for Protestant, hole 2 for Catholic, and hole 3 for Jew.⁷⁷ It is unclear whether firearm ownership was included, but census records could easily have been correlated with police records to identify Jews, political opponents, and others who had obtained permits to acquire or carry firearms or who had registered firearms pursuant to the 1931 decree.

Indeed, the Gestapo on July 19 directed the Berlin police president and other police agencies in Prussia to keep monthly statistics of confiscated firearms and explosives, noting: “Recently, especially with search and seizure operations of wider scope, arms and explosives in great numbers have been confiscated.” The requirement extended to “military arms and other firearms.”⁷⁸

This information gathering was hardly limited to the census and police firearm records. In an August diary entry, Victor Klemperer denigrated the ostensible support for Hitler with the comment: “But everyone, literally everyone cringes with fear. No letter, no telephone conversation, no word on the street is safe anymore. Everyone fears the next person may be an informer.”⁷⁹

Opponents of the New Order were by now invariably labeled “Communists,” but these enemies of the state were frequently Social Democrats, political moderates of various stripes, and Jews. The Weimar firearms laws and decrees were ready made to justify the escalating police raids for unregistered or otherwise unauthorized firearms. The ostensible diminution of the rule of law was itself paradoxically based on a perverted concept of the rule of law, arising from the legislative branch’s surrender of law-making power to the executive—now embodied in the person of the führer Adolf Hitler. The repression would only become more systematic and pointed as the Nazis consolidated power and flexed their growing police-state muscle and firepower.

77. Edwin Black, *IBM and the Holocaust: The Strategic Alliance Between Nazi Germany and America’s Most Powerful Corporation* (New York: Random House, 2001), 93–100.

78. Gestapo 19.7.33 Einrichtung einer Statistik . . . beschlagnahmten bzw. gefundenen Waffen, Brandenburgisches Landeshauptarchiv (BrLHA), Pr. Br. Rep. 2A Reg., Potsdam I Pol/3477, *Waffenangelegenheiten* Bd. 3, 1928–37.

79. Klemperer, *I Will Bear Witness*, 30–31 (entry for Aug. 19, 1933).

Disarming the Politically Unreliable

The Case of Brandenburg

IN FEBRUARY 1933, Nazi chief Hermann Göring, in his capacity as Prussian minister of the interior, ordered the regional governments of Prussia to submit registration lists of all firearm license holders. The purpose was to revoke licenses held by political enemies and to confiscate their firearms. Though records are not available from all provinces, the responses to this order in parts of the province of Brandenburg are indicative of the actions taken in general.

Throughout the accounts on records kept in Brandenburg, each individual gun owner's political attitude and reliability was evaluated in conjunction with the "need" for a firearm. There was no presumed right to keep, much less to bear, arms and no reservation about the use of political labels in deciding whether to authorize or prohibit individual gun ownership.

Brandenburg, whose capital was Potsdam, surrounds but excludes Berlin. Unlike Berlin, Brandenburg had not required registration of all firearm owners under the decree of December 8, 1931. Thus, the National Socialist government had to rely on lists of persons to whom the police had issued licenses to acquire or to carry firearms. The result would be the revocation of licenses held by and confiscation of firearms in the possession of SPD (the German Socialist Party) members, Jews, and other so-called politically unreliable persons.

Just two weeks after Hitler came to power, on February 15, 1933, Göring ordered that all governmental heads in Prussia and the Berlin police president "immediately register the holders of firearm licenses on special lists and then

send these lists to the municipal government. Rural administrative districts have 3 weeks to submit.” A form was enclosed.¹

On receipt of Göring’s order, Potsdam forwarded copies to the authorities and police in its jurisdiction, requiring compliance by March 2. It directed that “if any doubts exist about the reliability of the holders of firearm licenses, immediately revoke the authorization.”² The enclosed form to register each license holder required the license number, name, occupation, domicile, area where license was valid, expiration date, type of weapon, and the reason given for need.

Göring’s order was also received by Frankfurt an der Oder (“Frankfurt/O,” distinguished from the larger city of Frankfurt am Main), a city in Brandenburg located on the German–Polish border. Frankfurt/O then sent copies to the jurisdictions under its control. Some sample responses from the heads of the administrative districts therein reveal the political purposes of the screening.

Spremberg responded that its sixty-five firearm licensees had previously been carefully screened under the decree of December 8, 1931, which required a thorough investigation of the applicant and the “need” for the weapon.³ However, three persons were politically suspect because they were members of the SPD—the report included details on their political activities—and instructions were sought on whether their firearm licenses should be revoked for that reason.

The head of the administrative district Reppen responded with a letter and two tables listing those who were politically reliable and those suspected of not being politically reliable. It explained:

Table A includes persons who by my own knowledge and by information I personally received from the leaders of the NSDAP [Nazi Party] and the Stahlhelm are to be viewed as nationally–politically reliable. Persons further identified by the rural policemen as absolutely reliable are identified in the table with a red cross. Those in Table A are registered members

1. Der Pr.Min.d.Inn. to Reg. Präs., Feb. 15, 1933, Inhaber von Waffenscheinen listenmäßig zu erfassen, Brandenburgisches Landeshauptarchiv (BrLHA), Pr. Br. Rep. 3B, Reg. Frankfurt/O I Pol/1877, Waffenscheine 1933–42.

2. Reg.Präs. Potsdam, Feb. 17, 1933, BrLHA, Pr. Br. Rep. 2A, Reg. Potsdam I Pol/3477, Waffenangelegenheiten Bd. 3, 1928–37.

3. Der Landrat d.Kr. Spremberg to Reg. Präs Frankfurt/O, Feb. 28, 1933, Verzeichnis der Waffenscheininhaber, BrLHA, Pr. Br. Rep. 3B, Reg. Frankfurt/O I Pol/1877, Waffenscheine 1933–42.

of the parties and associations (N.S.D.A.P., Stahlhelm, and D.N.V.P. [National German People's Party]) standing behind the government. Generally single persons not registered with the national parties are known to the above named leaders as absolutely nationally reliable.

Table B records holders of firearm licenses whose reliability is or may be doubtful. They either belong to the center of the SPD or the official party, or their political affiliation is uncertain or doubtful.⁴

Königsberg responded with a detailed list of suspect firearm license holders, including political opponents and Jews.⁵ This report focused on the town of Küstrin based on police intelligence. Sample findings reveal the emphasis on suspected "politically unreliable" holders of firearm licenses (those whose names are given in added bold type would have their firearm licenses revoked):

"No. 5 **Lemkes**, Manager, is leading member of the SPD. . . . His firearm license will be revoked. . . ."

"No. 6 *Dr. Blankenburg*, district court judge. He probably would not like to belong to the supporters of the National Government. He needs a weapon for official purposes. . . . Politically he has never stepped forward. It is still to be mentioned that he is of the Jewish faith." It was recommended that his license not be revoked.

"No. 10 *Nicolai*, agricultural expert. Unfortunately, it was impossible to learn anything about the political attitude of Mr. Nicolai. It is not excluded however that he is supporter of the National Government. . . . He needs the weapon because he must frequently travel throughout the country." He could keep his license.

"No. 15 **Raabe**, seed grower, belonged to the SPD, whose firearm and firearm license were taken away a long time ago, because Raabe was involved in a shooting."

"No. 22 **Medical Doctor Asch** belonged the leftist parties until now. It is not to be assumed that he is now a supporter of the National Government. He is clearly an emotional man who has also acted politically. His firearm license

4. Der Landrat to Reg. Präs. Frankfurt/O, Feb. 28, 1933, Verzeichnis der Waffenscheininhaber, BrLHA, Pr. Br. Rep. 3B, Reg. Frankfurt/O I Pol/1877, Waffenscheine 1933–42.

5. Der Landrat Königsberg to Reg. Präs. Frankfurt/O, Mar. 10, 1933, Einziehung von Waffenscheinen, BrLHA, Pr. Br. Rep. 3B, Reg. Frankfurt/O I Pol/1877, Waffenscheine 1933–42.

will be revoked. The circumstance that he travels throughout the country, especially at night, in the pursuit of his occupation is not an adequate reason for needing a firearm.”

“No. 35 **Östreich**, Otto, worker, Social Democrat and leading member of the Eiserne Front [Iron Front]. His firearm is to be confiscated.”

“No. 46 **Leschke**, driver. He is not known here, and also nothing about his political attitude can be determined. He is definitely not a member of the N.S.D.A.P. His firearms license will be revoked. The fact that he drives a truck is no reason not to do this.”

“No. 59 **Kühnert**, driver supervisor. This case is exactly like the previously discussed case No. 46, Leschke.”

“No. 60 **Benicke**, fish warden, should be Social Democrat, but he has somehow been seen as apolitical. It cannot be determined if he has altered his political attitude. In his occupation as a fish warden he needs a firearm quite desperately. For this reason and because he has never been political, I believe that he is entitled to a firearm.”

“No. 61 **Müller**, Ernst, merchant, son of the merchant and City Council member J.D. Müller, belongs, one must assume with confidence, like his father, to the Staatspartei [State Party]. He is of the Jewish religion, but has somehow not acted politically, and is certainly far removed from taking part in any political activities. He frequently makes motor vehicle trips throughout the country in his wholesale food business, and the need to have a firearm in this case is thus acknowledged, especially as the merchandise he transports would be particularly tempting to rob. Whether political reasons should be mainly considered is left to local discretion.”

“No. 64 **Rockhoff**, union employee. His firearm and firearm license have recently been confiscated. This has been duly reported.”

“No. 66 **Stollorcz**, auditor, belonged the Staatspartei until now and would also like to retain the same political attitude. He is a quiet and level-headed man who would definitely not take part in political activities. In his status as an auditor, he must not infrequently travel over the country and feels a need to protect himself, and thus values his firearms license. Again, the issue here will be the extent to which political reasons stand to the contrary.”

“No. 67 **Hoffmann**, Ernst, owner of a security business (Wach- und Schliessgesellschaft [Guard and Lock Company]). He is left leaning, emphasizing quite

emphatically that he is a dissident. Whether he belongs to the SPD cannot be accurately determined. He definitely needs a firearm for his security-guard occupation. If it is confiscated from him, he cannot continue his occupation. Politically he has not stepped forward, and is also a quiet and intelligent person. It would perhaps be responsible to allow him to have his firearm.”

The Königsberg memorandum concluded: “I am going to revoke the firearm permits of the above Nos. 5, 6, 15, 22, 35, 61, 64, 66, and 67, if they are not already revoked. I am asking for clarification if Nos. 10, 46, 59, and 60 should also be revoked.” This was not exactly the ultimate result, but most were revoked. At any rate, these samples show how authorities in one locality, only a few weeks after Hitler came to power, decided to revoke firearm licenses and to confiscate firearms based on political sympathies.

Königsberg issued a follow-up memorandum in July reporting the revocation of the firearm licenses of the persons whose names are given in bold type.⁶ The license of every SPD member or sympathizer was revoked. Of the Jews, the judge kept his permit, but the merchant’s permit was revoked.

On February 22, the Reichskommissar of the Prussian minister of the interior wrote to the governmental heads and to the Berlin police president that requisitioned and confiscated firearms, in particular the army pistol Model o8 (also known as the German Luger), should be used for the arming of the local police.⁷ The listings were to specify whether the pistols originated from army equipment, private property, or unknown. Weimar-era decrees were cited to justify this policy.

By cover letter dated March 30, Potsdam transferred the registration lists of firearm license holders to the Prussian minister of the interior.⁸ Unfortunately, the actual lists submitted could not be found in the archives.

On June 8, Interior Minister Göring issued a directive concerning firearm licenses of SPD members to the governmental heads, the Berlin police president,

6. Der Landrat Königsberg to Reg. Präs. Frankfurt/O, July 3, 1933, *Einziehung von Waffenscheinen*, BrLHA, Pr. Br. Rep. 3B, Reg. Frankfurt/O I Pol/1877, *Waffenscheine 1933–42*.

7. Der Pr. Min.d.Inn. to Reg. Präsidenten, Feb. 22, 1933, *Verwertung eingezogener u. beschlagnahmter Waffen*, BrLHA, Pr. Br. Rep. 2A, Reg. Potsdam I Pol/3477, *Waffenangelegenheiten Bd. 3*, 1928–37.

8. Reg. Präs. Potsdam to Pr. Min.d.Inn, Mar. 30, 1933, *Erteilte Waffenscheine*, BrLHA, Pr. Br. Rep. 2A, Reg. Potsdam I Pol/3477, *Waffenangelegenheiten Bd. 3*, 1928–37.

and the Gestapo in Berlin.⁹ Among other authorities, Potsdam forwarded the directive to the appropriate civil and police officials. Applied to “members of the SPD and their auxiliary and fellow-traveler organizations,” it required confirmation of the revocation of every kind of firearm license—acquisition, carrying, possession, and hunting. As to members of Communist organizations and sympathizers, it was “presupposed as obvious” that such disarming had “everywhere and completely” taken place.¹⁰

In response, Wittenberge municipality confirmed the revocation of licenses and confiscation of firearms from three SPD members and a Jewish businessman.¹¹ Jüterbog-Luckenwalde confirmed the revocation of licenses of SPD members, also noting that Rudolf Mosse’s firearms had been confiscated because his Jewish origin made him a suspected subversive.¹² Soldin reported the following about its policies and practices:

In this locality, from February 1933 in the course of the year, only 106 firearm licenses were granted. Here the firearm licenses issued have been limited to high officials, night watchmen, department heads as well as cash register attendants and money transports, but only a few firearm licenses have been issued to private persons. The offices and mayors who issued licenses have revoked them as to persons affiliated with the SPD, so that today SPD members no longer have firearm licenses. An examination of the weapons registration list reveals no members of the KPD in possession of firearms licenses.¹³

9. Der Pr. Min.d.Inn. to Reg. Präsidenten, June 8, 1933, Pr. Br. Rep. 2A, Reg. Potsdam I Pol/3477, *Waffenangelegenheiten* Bd. 3, 1928–37.

10. Reg. Präs. Potsdam to Landraete, June 17, 1933, Pr. Br. Rep. 2A, Reg. Potsdam I Pol/3477, *Waffenangelegenheiten* Bd. 3, 1928–37.

11. Der Erste Bürgermeister Wittenberge to Reg. Präs. Potsdam, July 7, 1933, *Einzziehung von Waffenscheinen*, Pr. Br. Rep. 2A, Reg. Potsdam I Pol/3501, *Ausstellung u. Einziehung von Waffenscheinen 1929–38*.

12. Der Landrat des Kr. Jüterbog-Luckenwalde to Reg. Präs. Potsdam, July 27, 1933, *Waffenschein pp. für SPD-Angehörige*, Pr. Br. Rep. 2A, Reg. Potsdam I Pol/3501, *Ausstellung u. Einziehung von Waffenscheinen 1929–38*.

13. Der Landrat Soldin to Reg. Präs. Frankfurt/O, June 24, 1933, *Einzziehung von Bescheinigungen*, BrLHA, Pr. Br. Rep. 3B, Reg. Frankfurt/O I Pol/1877, *Waffenscheine 1933–42*.

Sorau suggested that its police had been remiss in investigating persons to determine whether they were SPD members or otherwise unreliable. It stated:

A general revocation of firearm licenses etc. from members of the SPD and their auxiliary and fellow-traveler organizations has as not yet taken place. The execution of such measure would be impeded by the fact that the affiliation of many firearm licensees to the SPD is not adequately known.

With the new stringent policy on firearm licenses, particular attention must be paid to the party affiliation of the applicant.

The confiscation of arms from members of Communist organizations has taken place everywhere.¹⁴

The mayor of Frankfurt/O similarly noted the revocation of the firearm licenses of SPD members, supporters, and fellow travelers, “where under the direction of the political police, the affiliation of the individual to the SPD and otherwise could be determined. Measures have not been taken regarding weapons that the owners acquired legally by reason of questionable licenses and have in their possession.”¹⁵

For “security and general national reasons,” Police captain Knippel of Spremberg (Lausitz) revoked all firearm carry licenses and permits to acquire handguns held by SPD members. No licenses issued to Communists were found there.¹⁶

The mayor of Landsberg (Warthe) noted the revocation of firearm licenses and confiscation of firearms of SPD members, promising the return of the firearms “after quieter times are restored.” A further revocation of firearm licenses or confiscation of firearms had not taken place, he continued, because the authorities had not required the registration of firearms, ammunition, and slashing and thrusting weapons pursuant to the decree of December 8, 1931. Despite that, enforcement continued: “The firearm license list is regularly reviewed.

14. Der Landrat Sorau to Reg. Präs. Frankfurt/O, June 28, 1933, Waffenscheine für Angehörige der SPD, BrLHA, Pr. Br. Rep. 3B, Reg. Frankfurt/O I Pol/1877, Waffenscheine 1933–42.

15. Der Oberbürgermeister F/O to Reg. Präs. Frankfurt/O, June 26, 1933, Verfügung June 16, 1933, BrLHA, Pr. Br. Rep. 3B, Reg. Frankfurt/O I Pol/1877, Waffenscheine 1933–42.

16. Der Landrat d.Kr.Spremberg, June 22, 1933, Erteilung von Waffenscheinen an Angehörige der SPD, BrLHA, Pr. Br. Rep. 3B, Reg. Frankfurt/O I Pol/1877, Waffenscheine 1933–42.

Marxist or Communist firearm license holders do not exist. Confiscations of arms, to curb and to stop owners without firearm licenses, took place repeatedly in searches of houses of left-wing circles.”¹⁷

The administrative district of Seelow addressed control over “firearm permits, firearm acquisition permits, firearm arsenal permits, annual hunting permits, etc.,” stating that permits had not for some time been issued to “persons whose Communist attitude was known.” Moreover, the report continued: “After January 30, 1933, firearm permits were no longer issued to SPD members. Generally, when firearms were suspected to be possessed by SPD members and Communists, a search was executed. The firearms found were all confiscated. Generally in these cases when permits were presented, they were revoked.”¹⁸

Rural districts reported details in July. Spremberg wrote: “For security and national political reasons, on March 1 of this year the head of the local police, Police Captain Knipple, confiscated and secured all firearms belonging to all of the persons belonging to the SPD who had firearm licenses.”¹⁹ Guben “revoked 2 firearm carry licenses, 3 hunting licenses and a firearms acquisition license as well as confiscated the arms and ammunition” from “Social Democrat-leaning persons.”²⁰

Rural district Luckau reported about former officials of the town of Finsterwalde who were SPD members. Former mayor Geist destroyed his firearm acquisition permit after it expired, and he had not obtained a firearm. The license issued to the former town manager Starke could not be found, but police had discovered him in possession of a pistol in March, and procedures to confiscate it were under review. Former assistant town manager Pietsch had his license revoked, but “a firearm acquired under this license could not be confiscated yet, since Pietsch spends time at an unknown address in Berlin.”²¹

17. Der Oberbürgermeister Landsberg to Reg. Präs. Frankfurt/O, June 22, 1933, BrLHA, Pr. Br. Rep. 3B, Reg. Frankfurt/O I Pol/1877, Waffenscheine 1933–42.

18. Der Landrat Seelow to Reg. Präs. Frankfurt/O, June 30, 1933, Einziehung von Waffenscheinen, BrLHA, Pr. Br. Rep. 3B, Reg. Frankfurt/O I Pol/1877, Waffenscheine 1933–42.

19. Der Landrat d. Kr. Spremberg to Reg. Präs. Frankfurt/O, July 19, 1933, Erteilung von Waffenscheinen, BrLHA, Pr. Br. Rep. 3B, Reg. Frankfurt/O I Pol/1877, Waffenscheine 1933–42.

20. Der Landrat Guben to Reg. Präs. Frankfurt/O, July 25, 1933, Einziehung von Waffenscheinen, BrLHA, Pr. Br. Rep. 3B, Reg. Frankfurt/O I Pol/1877, Waffenscheine 1933–42.

21. Der Landrat d. Kr. Luckau to Reg. Präs. Frankfurt/O, Aug. 18, 1933, Bescheinigung, BrLHA, Pr. Br. Rep. 3B, Reg. Frankfurt/O I Pol/1877, Waffenscheine 1933–42.

Meanwhile, the firearms being confiscated from opponents of Nazism and from Jews were being sent to concentration camps to guard these very same enemies of the regime. On July 28, Prussian interior minister Göring ordered the governmental heads to inform the Concentration Camp Sonnenburg about available confiscated firearms.²² Model 98 carbines, Model 08 army pistols, 9-mm submachine guns, and ammunition were of particular interest. The weapons were urgently needed for the arming of the concentration camp guards. Carbines for the Concentration Camp Oranienburg were also desired.

The preceding microscopic view illustrates how the National Socialist government used police licensing records generated by the 1928 Firearms Law to identify firearm license holders and to confiscate the firearms of those identified as enemies of the state. It also shows clearly that individuals' political or religious affiliations determined whether they were allowed access to guns. State authorities could find out who had firearms and could keep track of those citizens who did possess arms in case their "reliability" should change. Confiscation would have been all the easier in jurisdictions that authorized complete registration of all firearms under the decree of December 8, 1931.

22. Der Pr. Min.d.Inn. to Reg. Präsidenten, July 28, 1933, Asservatwaffen, BrLHA, Pr. Br. Rep. 2A, Reg. Potsdam I Pol/3477, Waffenangelegenheiten Bd. 3, 1928–37.

Defining Enemies of the State

THE REPRESSION OF gun owners in Brandenburg was by no means unique. On seizing power, the Nazis began the policy of Gleichschaltung, the forcing into line of all institutions in society into a totalitarian system. Every aspect of the state, including industry, labor, education, law, culture, and sports, was to be harnessed to serve the National Socialist state, and every individual was to be subordinated to this goal.¹ Gun owners, gun clubs, gun dealers, gun importers, and gun manufacturers were subjected to Gleichschaltung, if not to outright banning.

This forcing into line included generally all sporting organizations and in particular the shooting associations, a particularly sensitive topic because their members possessed firearms—which potentially could be used against the regime. Many of them had originated in medieval brotherhoods, and they had played a major role in the democratic revolution of 1848, which had failed in part because the standing armies of the forces of reaction were far better armed than the populace.² Although there are no comprehensive works on the Nazi repression of the gun clubs, studies exist on this topic for the regions of the Rhineland and Westphalia.³

1. Hajo Bernett, *Der Weg des Sports in die nationalsozialistische Diktatur* (The Way of Sports in the National Socialist Dictatorship) (Schorndorf, Germany: Hofmann, 1983); Hajo Bernett, *Sportpolitik im Dritten Reich. Aus den Akten der Reichskanzlei* (Sport Policy in the Third Reich: From the Acts of the Reich Chancellery) (Schorndorf, Germany: Hofmann, 1971).

2. See in general Jonathan Sperber, *Rhineland Radicals: The Democratic Movement and the Revolution of 1848–1849* (Princeton, NJ: Princeton University Press, 1991).

3. See Walter M. Plett, *Die Schützenvereine im Rheinland und in Westfalen 1789–1939* (The Shooting Clubs in the Rhineland and in Westphalia, 1789–1939) (Cologne: Rheinischer Verein für Denkmalpflege und Landschaftsschutz, 1995); Michael Schwartz, “Schützenvereine im

Shooting clubs, in particular those in rural areas, often united local populations into societal gathering hubs and political fora. Some were anti-Nazi, and they proliferated during the Weimar period. The process of forcing these clubs into line in 1933–34 illuminates the phases, objectives, and infiltration methods of National Socialism. The Nazis sought to force the shooting clubs into line by formal, institutional, and finally structural processes.⁴

In the Weimar Republic, the German Shooting Association (Deutscher Schützenbund) was a member of the German Reich Committee for Physical Exercise (Deutscher Reichsausschuss für Leibesübungen), the umbrella organization of the German sport associations, which was dissolved on May 10, 1933.⁵ The new umbrella organization, the Reich Leadership of German Sports (Reichsführerring des Deutschen Sports), formed two weeks later, created the German Shooting Sport Association (Deutscher Schießsportverband), which replaced the German Shooting Association.⁶ The Reich sport commissar (Reichssportkommissar, later renamed the Reichssportführer) was Hans von Tschammer und Osten, who would later lead Germany's hosting of the 1936 Olympics.

Under the Führer Principle (Führerprinzip), the Reich sport commissar was the sole decision maker, dictating to region (Gau), district, and local leadership jurisdictions. By order issued on July 12, 1933, all shooting clubs were required to join the German Shooting Sport Association. Those that failed to register by the deadline of August 15 were dissolved.⁷ Clubs that remained in existence would in the future be subjected to tighter institutional forcing into line with the Nazi agenda, and those that resisted would be banned.

'Dritten Reich': Etappen der Gleichschaltung traditioneller Vereinskultur" (Shooting Clubs in the "Third Reich": Stages of the Forcing into Line of Traditional Club Culture), *Archiv für Kulturgeschichte* 79 (1997), 439. See also Hendrik Schulze Ameling, *Schützenvereine im westlichen Münsterland in der NS-Zeit 1933–1939* (Shooting Clubs in Western Münsterland in the National Socialist Period, 1933–1939) (Münster, Germany: Magisterarbeit (Master's Thesis, unpublished), 2004).

4. Schwartz, "Schützenvereine im 'Dritten Reich,'" 441–42.

5. Bernett, *Sportpolitik im Dritten Reich*, 25–32.

6. Staatsarchiv Nürnberg, Vereinsregisterakte DSB 1933, p. 138, cited in Stefan Grus, "Allgemeines Verhältnis des Naziregimes zu den Schützenvereinen" (General Relationship of the Nazi Regime to the Shooting Clubs), unpublished manuscript, Wiesbaden, Oct. 2005, 1.

7. *Deutsche Schützen Zeitung*, 1933, No. 31, S. 2, cited in Grus, "Allgemeines Verhältnis," 1.

The preexisting club leaderships remained in control well into 1933, whereby the mandated Führer Principle was often realized only in form, not in substance. This largely superficial adaptation did not remain concealed from the regime, however, which would thereupon require that more than half of each club's members as well as its president and entire board of directors must be Nazis.⁸

Meanwhile, as the firearm industry had done during the Weimar Republic, it appealed to the head of the government for relief from onerous regulations. The Reich Association of German Gunsmiths and Firearm and Ammunition Dealers wrote to Chancellor Hitler on March 18, 1933, complaining of the arms restrictions that disarmed law-abiding citizens while smugglers and traffickers supplied criminals with arms.⁹ Taking note of a recent automobile exposition in Berlin at which Hitler acknowledged the emergency situation of that industry and facilitated economic relief, the letter sought similar attention to the firearm industry's dire needs, including liberalization of laws and decrees.

An association of arms makers in Thuringia likewise wrote to Hitler pleading for a relaxation of the arms laws.¹⁰ It pointed to the arms industries of Russia, Poland, Finland, Sweden, Czechoslovakia, Denmark, and Switzerland, which supplied military arms and then proceeded to produce hunting, sport, and defensive arms. In the letter, the association noted how it deeply resented smuggled arms from Belgium and Spain, especially pistols and revolvers, which members of the public could obtain without the knowledge of the police. Besides the Weimar firearm laws, the letter complained of monopoly contracts to supply military and police weapons between the government and firms such as Simson & Co. of Suhl, which eliminated competition from other firms.

Hitler did not answer these letters, nor did his new government take any action on their petitions.

8. Schwartz, "Schützenvereine im 'Dritten Reich,'" 444–45.

9. Der Reichsverband Dt. Büchsenmacher, Waffen- u. Munitionshändler eV to Reichskanzler Hitler, Mar. 18, 1933, Bundesarchiv (BA) Lichterfelde, R 1501/125942, Gesetz über Schußwaffen und Munition Bd. 6, 1932–33, S. 284–88.

10. Der Reichswehrminister to Reichsminister des Innern (RMI), Nov. 27, 1933, transfer of letter by Verband Zella-Mehliser Waffenfabrikanten eV, BA Lichterfelde, R 1501/125942, Gesetz über Schußwaffen und Munition Bd. 6, 1932–33, S. 442.

Indeed, on seizing power, the Nazis were well served by the 1928 and 1931 firearm laws. Most obvious were the laws requiring firearm owners to be licensed or registered with the police and empowering the authorities to decree the confiscation of arms. Civilian possession of pistols became increasingly suspect, and the Nazi regime decided to decrease the supply by banning imports. On May 31, deeply concerned about the importation of pistols, Wilhelm Frick, the Reich minister of the interior, wrote to Hermann Göring, interior minister of Prussia and head of that state's police, explaining:

In the past few months the import of pistols from abroad, in particular from Belgium and Spain, has increased considerably. I have been informed that in March of this year, approximately 17,000 pistols were imported from abroad. This amounts to ten times the average import of the preceding three months. It is clear that for reasons of public security we cannot tolerate the unrestrained import of such huge amounts of weapons. Even though the acquisition of firearms in Germany is permitted only if the strict requirements of the Firearms Law are met, we have to take into account the fact that the rules will not be observed by all of the arms dealers, that unauthorized persons will obtain foreign arms flowing into the country and that hidden arms caches will be established. From a security standpoint, I therefore consider it necessary to prohibit the import of small arms from abroad for a certain time.¹¹

Pointing to the 1928 Firearms Law, Frick continued that exceptions in certain cases might be made for an individual under an acquisition, carry, or hunting permit, but that arms dealers would be prohibited from importing pistols even though they were authorized to do so by the Firearms Law. Reflecting the system of legislating by decree, Frick added, "Unless I receive your objection by June 10 of this year, I will assume that you agree with this draft and will put the decree into force."¹² This was yet another instance of the Hitler regime nullifying statutory law by decree.

11. Der Reichsminister des Innern, Betrifft: Einfuhr von Schusswaffen, I A 8310/24.4, May 31, 1933, BA Berlin, R 43 II/399, Fiche 1, Row 1.

12. Der Reichsminister des Innern, Betrifft: Einfuhr von Schusswaffen, I A 8310/24.4, May 31, 1933, citing *Reichsgesetzblatt* 1928, I, 143, § 22.

Göring did not object, and on June 12 Frick decreed the prohibition on the importation of handguns.¹³ The next day he sent a memorandum to the governments of the Länder (states) and to the Ministry of the Interior for Prussia (Göring) explaining that “the import of handguns from abroad has increased dramatically. For reasons of public safety it was no longer possible to tolerate this situation.” It was now “illegal to import handguns until further notice.” Exceptions could be made for individuals, such as hunters returning from trips abroad, but dealers could no longer import handguns.¹⁴

Leisurely discussions on possible amendments to the firearm laws were held over the coming five years. The discussants included Wilhelm Frick, the Reich interior minister; Hermann Göring, who as the Prussian interior minister controlled the police of that state; Heinrich Himmler, the SS *Reichsführer* and chief of the German police; the Head Office of the Security Police (Hauptamt Sicherheitspolizei), which included the criminal police and the Gestapo (Secret State Police);¹⁵ and other members of the Nazi hierarchy.

In July 1933, Frick initiated a reexamination of the Firearms Law, which would be debated in drafts back and forth and would culminate in revisions in 1938. By now, the Nazi government had succeeded in using the registration lists to confiscate firearms from SPD members and other political enemies. On July 7, Frick wrote to the Reich minister of justice, minister of commerce, and secretary of the Reich Chancellory; the Prussian interior minister; and the states: “Following the victory of the National Revolution I consider it necessary to undertake a basic examination of the Firearms Law to decide which provisions should be kept, and in particular, whether the acquisition of firearms should remain in the domain of the police where it generates a lot of administrative work or whether, as before the war, it would be sufficient to prohibit certain categories of persons from carrying weapons, such as in particular enemies of the people and the state.” If that sounded like a liberalization of the Firearms

13. Verordnung über ein vorübergehendes Verbot der Einfuhr von Faustfeuerwaffen (Decree of a Temporary Prohibition on Importation of Handguns), *Reichsgesetzblatt* 1933, I, 367.

14. Des Reichsminister des Innern, Betrifft: Einfuhr von Faustfeuerwaffen, I A 6310/24.5.II, June 13, 1933, BA Berlin, R 43 II/399, Fiche 1, Row 2.

15. Raphaël Lemkin, *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Redress* (Washington, DC: Carnegie Endowment for International Peace, 1944), 15–16.

Law, it wasn't: the "enemies of the people and the state" now included large segments of the population—indeed, everyone who disagreed with the new regime. Citing a need "to improve the situation of the weapons industry," Frick suggested that the 1931 decree requiring "need" to acquire a weapon¹⁶ should be reconsidered to "make it easier for patriotically-minded citizens to acquire a firearm." However, "the requirement that a need has to be proven to obtain a permit for the carrying of firearms outside one's apartment, etc. shall not be changed."¹⁷

Frick also suggested that it may be appropriate to "abolish the mandatory weapons acquisition permit for target pistols, i.e., small firearms with a barrel that is longer than 20 centimeters and a caliber of not more than 6 millimeter. These weapons play no role in internal conflicts because they are unwieldy."¹⁸ Sporting pistols would be exempt, but defensive pistols would not.

The supposed ability to trace crime guns and domestic protectionism were combined in Frick's next proposal. He noted: "To facilitate the investigation of crimes committed by means of firearms, § 9 of the weapons law provides that firearms have to bear a marking. This is meant to make it possible for the police finding a firearm at a crime scene to determine first the manufacturer of the weapon or the dealer who put it into circulation and, second, based on the weapons book or the weapons dealing book, the person who acquired the weapon." Current law required that the firearm be stamped with the dealer's name, but not that of the manufacturer. "This has led to the fact that large numbers of foreign weapons bearing only the name of a German weapons dealer are on the German market and the buyer is unable to determine whether a weapon is a foreign weapon. For national and economic reasons I consider this situation no longer tolerable."¹⁹ Thus, manufacturers—including foreign ones—must stamp their names on the firearms.

Not surprisingly, the interior minister of Thuringia, a center of arms making, had a positive reaction to the liberalization of the Firearms Law, noting that "it will suffice, as before the war, to prohibit only certain groups of people,

16. *Reichsgesetzblatt* 1931, I, 699, 742.

17. Der Reichsminister des Innern, Betrifft: Schußwaffengesetz, I A 6310/19.6, July 7, 1933, BA Berlin, R 43 II/399, Fiche 1, Row 2.

18. Der Reichsminister des Innern, Betrifft: Schußwaffengesetz, I A 6310/19.6, July 7, 1933.

19. Der Reichsminister des Innern, Betrifft: Schußwaffengesetz, I A 6310/19.6, July 7, 1933.

particularly persons who are enemies of the people and the state, from bearing arms." He knew from members of the firearms industry that potential customers were deterred from making purchases by the red tape involved in applying for an acquisition permit, for which the police must determine their reliability. This application process was a burden on both the consumers and the police, and it could be alleviated by requiring an acquisition permit only for revolvers and self-loading pistols and subjecting all other arms acquisitions to record keeping by manufacturers and dealers.²⁰

The Thuringian minister advocated that imported arms should be marked with the country of origin and name of manufacturer, as England and France already required. Further, "poacher guns" (compact rifles) had been a significant export item for Thuringia to the Balkans, Turkey, and South America, but the Firearms Law prohibited trade in these arms, which were now made in Belgium. "It cannot be a matter for German legislation to take care of the hunting laws of foreign countries." Production for export should thus be allowed, he argued.

In response to these points, the state police president of the Hessian State Ministry expressed his opposition to any liberalization of the Firearms Law. "Discontinuing the arms acquisition permit completely in the future would be dubious, since Communist and Marxist elements would then be entitled to uncontrolled acquisition of arms." Any benefit would be negated by "the danger that the arming of enemies of the state entails."²¹

He proposed that members of the "National Associations" (nationalen Verbände)—a euphemism for the SS, the SA, and the Stahlhelm—be able to obtain easier police permission for firearms and ammunition than the Firearms Law currently allowed. To prevent misuse, it could be required that the arms be for service in the organization and that permission would be given only if the applicant had been a member of the organization for at least two years.

Revealingly, the Weimar law disqualified persons from arms both on reliability and need grounds, and the comments from the Hessian police president exemplify how the police could deny a permit on either ground: "Regarding the

20. Thür. Min.d.Inn. to RMI, July 24, 1933, Schusswaffengesetz, BA Lichterfelde, R 1501/125942, Gesetz über Schußwaffen und Munition Bd. 6, 1932–33, S. 500–502.

21. Der Landes-Polizeipräsident u. Leiter der Abt. Ia des Hess Staatsmin. to RMI, Schusswaffengesetz, July 27, 1933. BA Lichterfelde, R 1501/125942, Gesetz über Schußwaffen und Munition Bd. 6, 1932–33, S. 503–504.

proof of a need for the acquisition of arms or ammunition, however, the police power of the Reich should, without exception, be viewed from a consistent National Socialist viewpoint. Accordingly, the Reich legal guidelines broadly negate the reliability of former Marxists of every shade.” Although the condition of the arms industry was a grave concern, its proposals should be rejected. In particular: “Marxism is still not at all sufficiently repressed to prevent the flaring up of Communist resistance. I therefore do not consider it permissible at this time to exclude long arms from the requirement of an acquisition permit.” Further, manufacture for export of poacher guns should remain prohibited, he stated, because gun dealers would always find ways to sell the poacher gun domestically.²²

Herr Fischer from the Prussian Interior Ministry responded in general agreement. The requirement of a police permit was the simplest way to prevent acquisition of firearms by “untrustworthy” persons. As political circumstances continued to develop, establishing the “reliability” of the applicant was imperative. It was doubtful that the time had come for a simplification of the police procedures. Any change in the regulations regarding the arms acquisition permit should be entrusted to “you, Herr Minister [Frick],” based on “the political situation and public security.”²³

The Württemberg Interior Minister opined: “After the victory of the National Revolution and the carrying out of the weapons seizures from the politically unreliable persons, I believe that a careful relaxation of the rules of the Firearms Law would be justifiable.” Although proof of need for an acquisition permit would be dispensed with, it would be dangerous from the viewpoint of the security police to exempt from that permit certain arms that could be used in internal political confrontations. In particular, small-caliber target pistols should not be exempted from the permit requirement, he stated, because they have rifled barrels and accurate sights. “Even if a barrel length over 20 cm and a caliber no larger than 6 mm should be stipulated, target pistols are, even though one only shoots them at short distances, suitable to bring about the immediate

22. Der Landes-Polizeipräsident u. Leiter der Abt. Ia des Hess Staatsmin. to RMI Schusswaffengesetz, July 27, 1933.

23. Der Pr. MindInn, July 28, 1933, BA Lichterfelde, R 1501/125942, Gesetz über Schusswaffen und Munition Bd. 6, 1932–33, S. 470–74.

death of a person.” Nor should long arms be exempted from the requirement of an acquisition permit.²⁴

The Saxon minister of foreign affairs opposed amendments to the weapons law. The availability of more arms possession by the people at large would only benefit the enemies of National Socialism:

As shown in the report of the Police President of Dresden, who has accumulated much experience in the course of the years on the arms question, it is untimely to change the prohibition on the carrying of arms, because of certain groups of people, particularly elements hostile to the people and the state. No urgent or general necessity exists that the great mass of citizens go about with arms, because the police have found, in times of greater unrest, generally accepted ways and means to protect the peaceful citizens. Further, at this time, when besides the SA and SS, the Stahlhelm and the bourgeoisie are ready to help, the possibility of so extensive an arming is superfluous. It could have a damaging effect in the opposite direction, because certain circles, which have not yet been considered as enemies of the people and the state, could feel the need to take revenge on the authorities and individuals, because they in the time of the National Revolution have suffered injury and so endanger the public peace and security. The elements hostile to the people and the state, from whom their well hidden arms have been seized, would however use every opportunity to replenish their supply again, which they could do all the more easily, the more persons who are in possession of arms.

The Saxon minister was particularly opposed to any relaxation of the need for police approval for permits to acquire long arms, explaining: “In the weapons caches seized from Communists and Marxists, long arms did not play an insignificant role. One remembers the street combat and roof shootings, where long arms were extensively used. About a year from now, when all enemy elements understand or are at least convinced by the hopelessness of hostile endeavors,

24. Württ. Innenmin. to RMI, Aug. 3, 1933, *Schusswaffengesetz*, BA Lichterfelde, R 1501/125942, *Gesetz über Schußwaffen und Munition* Bd. 6, 1932–33, S. 492–94.

and if the factions here now are exhausted and are not renewed, then this question may be reconsidered.”²⁵

By contrast, the Bavarian interior minister responded that the arms law could be altered without risk because the internal situation was under control. State security was not inconsistent with the interests of the weapons industry. Revisions to the law could be made because “[t]he authority of the state is consolidated to the extent that countercurrents that could become dangerous are not expected, and nothing serious is to be feared for the security of the state or for the maintenance of quiet and order.”²⁶

The Bavarian minister noted that the requirement of showing a “need” for a weapon acquisition permit could be discontinued because the applicant’s “reliability” would still need to be shown, thereby eliminating “untrustworthy” elements. Small-caliber target pistols with long barrels could be deregulated somewhat because they had played no role in domestic political struggles. But long arms should remain subject to an acquisition permit, for otherwise untrustworthy elements would see the opportunity to arm themselves with long arms, which would be used in street fighting. Decontrol of “poaching rifles” for export was inadvisable because they would invariably appear on the domestic market.

Finally, the Bavarian minister sought clarification of whether members of the SA and SS, who were not necessarily already exempt as police or military, should be required to obtain an arms acquisition permit.

In an August 31 summary of comments from the large states about the reform of the arms law, the Reich Interior Ministry noted that only Thuringia advocated liberalization that would remove the requirement of police permission to acquire firearms generally and would prohibit only certain categories of persons from carrying arms.²⁷ Thuringia, of course, was the center of arms production. Prussia, Saxony, Württemberg, Baden, Hesse, Hamburg, Lippe, and Lübeck demanded

25. Sächs. Min. d. Ausw. Angelegenheiten to RMI, Aug. 23, 1933, BA Lichterfelde, R 1501/125942, Gesetz über Schußwaffen und Munition Bd. 6, 1932–33, S. 489–90.

26. Staatsmin. d. Inn. Munich to RMI, Aug. 26, 1933, Schusswaffengesetz, BA Lichterfelde, R 1501/125942, Gesetz über Schußwaffen und Munition Bd. 6, 1932–33, S. 484–87.

27. Aufzeichnung über die beabsichtigten Änderungen des Schusswaffengesetzes, Aug. 31, 1933, BA Lichterfelde, R 1501/125942, Gesetz über Schußwaffen und Munition Bd. 6, 1932–33, S. 526–29.

retention of the acquisition permit. Bavaria's suggestion that members of the SA should receive special privileges was beyond the scope of the question presented.

The interior minister of Mecklenburg-Strelitzsches sent in a comment cautioning that subversives must be prevented from obtaining arms and that each person's political reliability should be determined: "Even if, after the victory of the National Revolution, a limited revision of the regulations of the Firearms Law can take place, a mass arming must be prevented. The repeated procurement of arms by enemies of the people and the state, as you know, was possible despite the weapons laws, and thus access to the possession of arms must be impeded. The check for the need for the acquisition of a firearm might be handled with less difficulty if more emphasis is placed on the personality of the acquirer and his impeccable National ideology."²⁸

The preceding discussion among state representatives was only theoretical in that the Firearms Law would not be amended for another five years. But it starkly exemplifies how the Weimar regulations were used to deny access to firearms to anyone who was not an adherent of Nazism.

On October 5, 1933, the Reich Interior Ministry wrote in a memorandum that more precise definitions were needed to prohibit possession of firearms by "persons dangerous to security—elements who are enemies of the people and the state and offenders sentenced to the penitentiary." As drafted by an expert at the Reich Ministry of Justice, the memorandum recommended following English law in imposing severe punishment on the perpetrator of a serious crime who is found to be in possession of a firearm. Weimar decrees in 1931–32, which were similar but had less punishment, were not included in the Decree for the Protection of the German People of February 3, 1933, "because the Reich Chancellor [Hitler] then wanted no new criminal rules on weapons law."²⁹

Given that Hitler had just been named chancellor three days earlier, it is no wonder that he wished no revision of the law at that time. His consolidation of power had just begun, and it was unpredictable how long he would last.

28. Mecklenburg-Strelitz. Min.d.Inn. to RMI, Sept. 12, 1933, *Schusswaffengesetz*, BA Lichterfelde, R 1501/125942, *Gesetz über Schußwaffen und Munition* Bd. 6, 1932–33, S. 522–23.

29. RMI Vermerk, Oct. 5, 1933, BA Lichterfelde, R 1501/125942, *Gesetz über Schußwaffen und Munition* Bd. 6, 1932–33, S. 530–34. For the decree, see *Verordnung des Reichspräsidenten zum Schutze des deutschen Volkes*, *Reichsgesetzblatt* 1933, I, 35.

He may have wished to preclude prosecution of Nazi hooligans for carrying firearms in crimes.

The Interior Ministry wrote to the justice minister that the Firearms Law needed a definition of the term subversive. Agreement on the definition would facilitate approval by the Reich cabinet. The first and foremost objective must be that “[p]ersons who endanger the public security as well as persons who are enemies of the people and the state are prohibited from the acquisition, possession, and carrying of firearms.”³⁰ Possession of a firearm after conviction for a felony or willful misdemeanor would be punishable by ten years imprisonment.

Further discussion illustrated the continuity between the new ministries and the Weimar Republic ministries. The views of Reich interior minister Frick were expressed by Assistant Minister Werner Hoche,³¹ who had held the same position when working on the 1928 Firearms Law. Dr. Franz Gürtner, who had been the minister of justice since 1932, found workable a ban on firearm possession by subversives and persons who endanger public security because the government “knows the elements in question thanks to the work of the political and criminal police.”³²

On November 21, Interior Minister Frick transmitted to the state secretary of the Reich Chancellery the draft proposal to amend the Firearms Law, with a cover letter requesting that it be placed on the agenda of the next cabinet meeting and that it be passed under the Enabling Act authorizing the cabinet to decree laws without passage by the legislature.³³ Not surprisingly, the first section of the draft was entitled “Firearms Prohibition to Enemies of the People and the State,” and the amendment included punishing violators with ten years

30. RMI to Reich Minister der Justiz (RMJ), Oct. 12, 1933, *Schusswaffengesetz*, BA Lichterfelde, R 1501/125942, *Gesetz über Schußwaffen und Munition* Bd. 6, 1932–33, S. 535–36.

31. Zu I A 6310/16.10, Oct. 20, 1933; RMI to RMJ, Oct. 24, 1933; Min.Rat. Dr. Hoche to RMJ, Nov. 7, 1933—all in BA Lichterfelde, R 1501/125942, *Gesetz über Schußwaffen und Munition* Bd. 6, 1932–33, S. 538–49.

32. RMJ to RMI, Nov. 4, 1933, *Schusswaffengesetz*, BA Lichterfelde, R 1501/125942, *Gesetz über Schußwaffen und Munition* Bd. 6, 1932–33, S. 543–46.

33. For the draft of the amendment and the letter, see RMI to Staatssekretär in der Reichskanzlei, Nov. 21, 1933, *Entwurf eines Gesetzes zur Änderung des Schusswaffengesetzes*, BA Lichterfelde, R 1501/125942, *Gesetz über Schußwaffen und Munition* Bd. 6, 1932–33, S. 574–78; quotations from both letter and draft come from this source. The draft of the amendment can also be found in BA Berlin, R 43 II/399, Fiche 1, Row 3.

imprisonment. Police could decide who was a subversive or a “danger to public security.”

The draft would have reaffirmed the 1928 law’s limitation of firearm acquisition and carrying permits to “persons whose reliability is unquestioned” but would have eliminated the 1931 amendment requiring proof of the need for an acquisition license. It would have prohibited “firearms that are specially built to be easily disassembled to an extent that exceeds the normal extent for hunting and sports purposes,” firearms with noise mufflers or lights, and .22-caliber hollow-point cartridges. The decree of June 12, 1933, prohibiting importation of handguns was continued indefinitely.

The draft ended with a date to be signed, “November —, 1933.” However, the signature blanks for “Der Reichskanzler” Hitler and Interior Minister Frick would not be filled in. A memorandum in support of the draft focused on the need to stimulate the arms industry, just as efforts were being made to stimulate other industries. No reference was made to the need for reform in the interests of the populace to have arms for defense or sport. Although any revisions in the law would be calculated to increase the market for firearms as a German product, the draft nevertheless indicated that persons who were not National Socialists must be eliminated from this market. The memorandum stated:

The time will come for a revision of the entire Firearms Law when the penetration of the German people with the ideology of National Socialism has progressed so far that armed riots by enemies of the people and the state in a considerable manner are no longer to be expected. However, the pacification of the domestic political situation now permits some relief from the previous legal situation, so that the arms industry would be urgently stimulated.

The prerequisite for any relaxation of the current firearm law, however, is that the sentencing and police authorities proceed with merciless severity against any possession of a weapon by any enemy of the people and the state.

The draft did not just punish carrying a firearm in a crime. “It also aims at enforcing the general principle that enemies of people and state and other elements endangering public security may not possess any firearms. To achieve that goal, the draft grants the police the authority to prohibit such persons

from acquiring, possessing and carrying of firearms and makes violations of this prohibition subject to severe penitentiary terms.”³⁴

In short, the complete Nazification of German society would allow the “reliable” people to have firearms but disarm all “enemies.” Whereas the 1931 emergency decree required a showing of “need” to acquire any firearm, the new proposal would return to the 1928 Firearms Law, under which “the only requirement for the issuing of a weapons or ammunition acquisition permit was that the police did not have any concerns about the requestor.” The police under the new Nazi authorities, of course, had “concerns” about large segments of the population.

Making National Socialism all pervasive would take time—many enemies of the state had to be eliminated, the police state had to be built up, and the totalitarian regime had to threaten and brainwash the populace. Frick would not mention revisions to the firearm laws again until 1935.

Meanwhile, the Nazi courts continued to decide cases under the highly useful Weimar weapon laws. A November decision by the Supreme Court (Kammergericht) in Berlin, considered the 1928 Firearms Law, the decree of December 8, 1931 (authorizing the states to require the registration of firearms), and a weapon registration decree of 1932 by the administrative district of Oppeln, the provincial capital of Upper Silesia in Prussia.³⁵

The defendant had bought a firearm without a license but argued that he could not be required to obtain one because it would be self-incriminating. The court held: “The reorganization of the state subsequent to the events of 1933 has not eliminated the obligation of criminal judges to follow the legal principles of the past (such as the emergency decree of the Reich President), at least insofar as those principles do not contradict the principles of National Socialism.” Referring to Oppen’s 1932 decree requiring registration of firearms, the court averred that “the remote possibility that someone might be charged for the acquisition of weapons does not absolve that person from meeting his obligation

34. For the memorandum in support of the draft, see RMI to Staatssekretär in der Reichskanzlei, Nov. 21, 1933, Entwurf eines Gesetzes zur Änderung des Schusswaffengesetzes, BA Lichterfelde, R 1501/125942, Gesetz über Schußwaffen und Munition Bd. 6, 1932–33, S. 579–85.

35. “Artikel 48, 102 der Reichsverfassung” (Article 48, 102, of the Reich Constitution), *Deutsche Juristen-Zeitung*, Jan. 15, 1934, S. 150.

to register such weapons, which serves the public interest, if the registration does not include a criminal charge against himself.”

One can only wonder at how “remote” was the possibility that a person would be charged with a crime after incriminating himself by registering a firearm.

It was not, however, simply “unreliable” individuals who met with the Nazi state’s discrimination and tightening controls. All elements, from shooting clubs to the gun industry, felt the pressure and were forced into line. Though the discussions on updating the gun laws were lengthy, they were merely an effort to put in writing the practices that were increasingly well established. Of course, the letter of the law on this topic or any other was subject to negation, given that the führer’s will was the ultimate law and that the Gestapo could implement that will without judicial review. Nevertheless, the language of the firearm laws and drafted revisions thereof highlight the fact that discrimination and repression were common practice at every level.

The year 1933 ended with the triumph of Nazism, which from the beginning used the threat of communism to create a dictatorship that was equally, if not more, oppressive. This fact was captured concisely in the December 31 diary entry of German Jewish war veteran Victor Klemperer: “I equate National Socialism and Communism: both are materialistic and tyrannical, both disregard and negate the freedom of the spirit and of the individual.”³⁶

36. Victor Klemperer, *I Will Bear Witness 1933–1941*, trans. Martin Chalmers (New York: Modern Library, 1999), 45.

PART III

Gleichschaltung

Forcing into Line

From the Night of the Long Knives to the Nürnberg Laws

CONCENTRATION CAMPS IN Nazi Germany were basically unknown to the outside world until the 1935 publication in Switzerland of a personal account by Wolfgang Langhoff, who was interned for thirteen months.¹ The English version was entitled *Rubber Truncheon*, referring to the clubs used to beat inmates.² His work revealed the aggressive repression of intellectuals and politically incorrect persons that would increasingly target the German Jews as “unreliable,” particularly regarding gun ownership. Police used force, and the Nazi authorities painted a veneer of legality and normalcy over the increasingly brutal and aggressive practices. Some of this was clear to Langhoff, whose account of his nightmarish incarceration between March 1933 and April 1934 includes numerous references to the Nazi obsession with disarming anyone who might not support their regime.

A producer and actor in Düsseldorf and a moderate leftist intellectual, Langhoff was denounced for political reasons. On February 28, 1933, police burst into his home and ordered him to put his hands up. As his pockets were searched, he said, “I don’t carry weapons about with me!”³ The police ransacked his house and carried him off to prison.

As he learned from his wife, his home was searched again. “For two hours a gang of six to eight S.S.-men turned the flat upside-down. Ostensibly they were searching for weapons. They put revolvers against my father’s and secretary’s

1. Wolfgang Langhoff, *Die Moorsoldaten: 13 Monate Konzentrationslager* (Zürich: Schweizer Spiegel, 1935).

2. Wolfgang Langhoff, *Rubber Truncheon*, trans. Lilo Linke (New York: E. P. Dutton, 1935).

3. Langhoff, *Rubber Truncheon*, 4.

foreheads, to force them to make some kind of statement.” The goons had no sooner left when another squad of SS arrived to smash up the place. They found no arms, but took money, clothing, a typewriter, and a diamond ring.⁴

Incarcerated for more than a year, one day Langhoff was led into a cold, empty cell. The half-dozen SS men who interrogated him beat him mercilessly with rubber truncheons. An SS man waved his revolver in his face, demanding: “Speak out, where did you hide the weapons?” They pummeled and kicked him, finally leaving him for dead. Having beaten several other inmates horribly as well, the SS men departed. News of the maltreatment spread throughout the prison and the town by the auxiliaries who were recruited from the SA and the Stahlhelm, the latter—rivals of the Nazi military organizations—horrified at what had taken place.⁵

Langhoff was next taken to the Prussian State Concentration Camp at Börgermoor. An SS man played a joke by putting revolver cartridges in and then pulling them out of a prisoner’s knapsack, holding them up to the terrified prisoner’s face, who denied any knowledge of them. Langhoff wrote: “The discovery of the ammunition would have the most terrible consequences for all of us.” Several inmates shouted that they saw a ruse. The SS man grinned and left.⁶

Prisoners craved salvation, and a rumor spread: “Hitler is at his last gasp. . . . In the Ruhr the workers are arming themselves.” Further, “You wait, the workers, weapons in hand, will fetch us out of here”—that is, “[i]f the S.S. hasn’t shot us down first.” Langhoff recognized that the longing for freedom was too powerful to defeat these fantasies.⁷

Langhoff was eventually transferred to Lichtenburg Castle, which was being used as a prison. He described an interrogation of an inmate there on Christmas Day 1933:

Somewhere in Central Germany arms had been found. He was suspected of knowing something about it. The Commander conducted the cross-examination himself.

4. Langhoff, *Rubber Truncheon*, 57–58.

5. Langhoff, *Rubber Truncheon*, 63–65, 66, 67–69, 76.

6. Langhoff, *Rubber Truncheon*, 103, 193–94.

7. Langhoff, *Rubber Truncheon*, 210–11.

Two hours later the man was carried to the medical room. The walls in the Commander's room were spattered with his blood. The stains could still be seen long after Christmas.⁸

After thirteen months incarceration, Langhoff was finally released, which would have been in about April 1934. Back in Berlin, he was under "police control," making him subject to police interrogations at his home. He was excluded from the actors' union and thus unemployable. When he received an offer from the Zurich Schauspielhaus (Theater), his application for a passport to Switzerland was refused for political reasons.⁹ Langhoff nonetheless crossed the border secretly and found refuge in Switzerland.

The SS, or Elite Guard, of the National Socialist Party originally protected party speakers at rallies. In 1929, Hitler appointed Heinrich Himmler as Reich leader of the SS. Between March 1933 and April 1934, he was appointed chief of the State Police (Gestapo) in each of the states outside Prussia, giving him the title Reichsführer der SS und Chef der deutschen Polizei. Hermann Göring, the Prussian interior minister, controlled the Prussian police and created the Prussian Gestapo.¹⁰

Police types included the Public Order Police (Ordnungspolizei) and the Security Police (Sicherheitspolizei). The Public Order Police included uniformed regular police (Schutzpolizei), the Gendarmerie, and the administrative police. The Security Police included the criminal police and the Gestapo. There was also the Security Service of the Reich SS Leader (Sicherheitsdienst des Reichsführers SS), which conducted espionage for the state and the party.¹¹

The first anniversary of Hitler's chancellorship was marked by the passing of the Law for the Reconstruction of the Reich of January 30, 1934, which basically finalized the liquidation of the Länder (states) and consolidated power in the Reich.¹² Local police were thereby brought under central control.

8. Langhoff, *Rubber Truncheon*, 268.

9. Langhoff, *Rubber Truncheon*, 276–77.

10. Raphaël Lemkin, *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Redress* (Washington, DC: Carnegie Endowment for International Peace, 1944), 15–16.

11. Lemkin, *Axis Rule in Occupied Europe*, 16.

12. Gesetz über den Neuaufbau des Reichs, *Reichsgesetzblatt* 1934, I, S. 75.

The growing police state induced fear, but incipient opposition pervaded society. Victor Klemperer wrote in a February 7, 1934, diary entry: "It does one good, that these completely 'Aryan' people from quite different circles of society . . . hold on to their vehement hatred of the regime and to their belief that it must fall in the foreseeable future."¹³

Sporadic attacks on Jews during this period, observes historian Michael Wildt, consisted of "attacks against defenseless persons who had been declared a threat, a 'cancer in the body of the German people.' . . . Violence against Jews met unarmed civilian victims, whose possibilities of defending themselves were increasingly limited due to state disenfranchisement."¹⁴

The growing purge of non-Nazi groups by summer of 1934 included the Stahlhelm, the Great War veterans' organization whose members previously had special privileges to possess firearms. Their increasing criticism of the regime was met with attacks. According to Hans Gisevius, an anti-Hitler conspirator, "The Stahlhelmers tried to defend themselves, and bloody battles resulted between SA and Stahlhelm men. The SA always had the advantages because they could call in the police, which were commanded by their own SA leaders, to protect them against these new 'enemies of the state.'"¹⁵

But then came the SA's turn in the Night of the Long Knives (*Nacht der langen Messer*) on June 30, 1934. At Hitler's orders, Ernst Röhm and the other SA leaders were murdered. This action nipped in the bud a "second revolution" and won Hitler the loyalty of the Reichswehr, which ostensibly regained its monopoly of armed force. The ultimate effects were the substitution of the SS for the SA as the ultimate power and the consolidation of the dictatorship.¹⁶

13. Victor Klemperer, *I Will Bear Witness 1933–1941*, trans. Martin Chalmers (New York: Modern Library, 1999), 54.

14. Michael Wildt, "Violence Against Jews in Germany, 1933–1939," in *Probing the Depths of German Antisemitism: German Society and the Persecution of the Jews, 1933–1941*, ed. David Bankier (New York: Berghahn Books, 2000), 187.

15. Hans Bernd Gisevius, *To the Bitter End: An Insider's Account of the Plot to Kill Hitler, 1933–1944*, trans. Richard Winston and Clara Winston (New York: Da Capo Press, 1998), 124–25.

16. James M. Diehl, *Paramilitary Politics in Weimar Germany* (Bloomington: Indiana University Press, 1977), 291. See also Kurt G. W. Ludecke, *I Knew Hitler: The Story of a Nazi Who Escaped the Blood Purge* (New York: Charles Scribner's Sons, 1938). Ludecke found refuge in the United States but was deported after World War II. See *Ludecke v. Watkins*, 335 U.S. 160 (1948).

Hitler thereafter gave speeches to the Reichswehr, U.S. ambassador William Dodd reported, in which he “expressed his confidence in the army which alone bears the arms of the state.”¹⁷ When President Hindenburg died on August 2, Hitler combined the offices of president and chancellor and became both führer and Reich chancellor, allowing him to rule by decree.¹⁸ On that same day, all members of the armed forces swore unconditional obedience to Hitler instead of to Germany. In speeches thereafter to the National Socialists and the German people, Dodd reported, “Hitler also publically thanked the Reichswehr for its oath of allegiance and again upheld its inviolability as the sole bearer of arms in the Nation.”¹⁹

That fall Dodd took note of a speech by Göring to the Academy for German Justice (Akademie für Deutsches Recht) that emphasized “the absolute dependence of every German citizen upon the Fuehrer. There was to be no sort of resistance at any time.” Dodd commented, “At one place the fat general said heads will simply be chopped off if men do not obey the inspired Hitler and submit to his decrees.” Such statements did not appear in the published versions of the speech, but the judges and lawyers present “were instructed emphatically what they must do.”²⁰ Such strict instruction allowed no conflict with enforcement of many laws, including the firearm laws, which delegated to the authorities complete discretion to grant or deny a license to possess a gun. After all, no legal or constitutional right to keep and bear arms existed.

The campaign to disarm all enemies and to supply confiscated arms to police agencies and concentration camp guards to repress further such enemies continued. On July 30, Göring’s Prussian Interior Ministry ordered that confiscated firearms be sent to Gestapo headquarters in Berlin. “I request that confiscated nonmilitary arms, as well as appropriate ammunition and accessories, except hunting arms, even if in need of repair, that are being stored, be sent

17. U.S. ambassador William E. Dodd to the Secretary of State, July 24, 1934, U.S. Department of State, *Foreign Relations of the United States: Diplomatic Papers 1934*, vol. 2: *Europe, Near East, and Africa* (Washington, DC: U.S. Government Printing Office, 1951), 243.

18. Richard L. Miller, *Nazi Justiz: Law of the Holocaust* (Westport, CT: Praeger, 1995), 46.

19. U.S. ambassador William E. Dodd telegram, Aug. 21, 1934, in U.S. Department of State, *Foreign Relations of the United States: Diplomatic Papers 1934*, 2:245.

20. William E. Dodd, *Ambassador Dodd’s Diary: 1933–1938*, ed. William E. Dodd Jr. and Martha Dodd (New York: Harcourt, Brace, 1941), 189–90 (entry for Nov. 13, 1934).

to the Geheime Staatspolizeiamt SW.11 Prince Albrechtstr. 8.”²¹ Arms needed for evidence or involved in cases not adjudicated were to be sent in after the cases were over.

As usual, the targets of firearm confiscations were described as Communists. The Political Police Commander (Politische Polizeikommandeur) of the Bavarian Interior Ministry reported that on August 24 “a large weapons cache of the KPD” consisting of thirty-five infantry rifles in a chest was found buried underground at a place where old railroad tracks were stored in Munich-Obergiesing. Communists had stolen the arms in 1930 and were keeping them for an armed uprising. Two were arrested, another was already in protective custody, and two others were fugitives. Treason charges were being filed.²²

Attached to the report was the “Memorandum on the Subversive Activity of the Communists in the Winter of 1932/1933.” A section entitled “The Arming of the Proletariat” explained the preparation of the armed uprising through “the accumulation of arms of all kinds, of ammunition and of explosives.” It recited the fact of numerous criminal convictions by the Reich Court against KPD functionaries in the period 1923–30 for the procurement of arms for violent revolution. These procurement efforts had allegedly intensified:

The thefts in gun shops, break-ins into ammunition depots, transfers of weapons, requests for handgun ammunition in gun shops, all observed in recent times all over the Reich and attributable to the Communist influence, and the discovery of Communist weapons’ caches make it clear that the KPD is attributing increased importance to the procurement of weapons and is trying systematically to arm its followers so that they will be sufficiently equipped with handguns and explosives when the armed uprising begins.²³

21. Der Pr. Min.d.Inn. to Staatspol. Potsdam, July 30, 1934, Brandenburgisches Landeshauptarchiv (BrLHA), Pr. Br. Rep. 2A, Reg. Potsdam I Pol/3477, Waffenangelegenheiten Bd. 3, 1928–37.

22. Staatsministerium des Innern Der Politische Polizeikommandeur, G6358 IA, München, Aug. 25, 1934, Bayerisches Hauptstaatsarchiv, München (BHStA), (MA) 106312.

23. Denkschrift über die kommunistische Wühlarbeit im Winter 1932/33, RR.ie.r. von Lengriesser, BHStA, MA 106312, IAN.2160/14.3, at 33–35.

Then Hitler came to power and saved Germany, or so went the mythology. But aside from dramatic searches, the Nazis only needed to compare their blacklists with police records on firearm owners to disarm their enemies and to do so legally under the 1928 Firearms Law. The leading legal journal noted in November 1934: "If the police consider a person dangerous and if such person, because of concerns about his reliability under §16(1), should not have received a firearm or ammunition acquisition license or carry license, then the police may prohibit such person from possession of arms and ammunition."²⁴ This section of the Weimar law allowed the police to decide who was "reliable" and who could or could not possess a firearm.

However, the Firearms Law also provided that if a firearm was seized, the owner could designate an eligible person to have the firearm, and otherwise the government must pay market value to the owner if it forfeits the firearm.²⁵ In early 1935, the police commissioner of Stettin sent an inquiry to the Gestapo about whether these provisions were to be followed in light of the 1933 emergency decrees against subversives.²⁶

This query prompted Reinhard Heydrich, second in command to Heinrich Himmler in the Gestapo and a key player in the Night of the Long Knives, to write a broader memorandum asserting Gestapo authority over matters involving the firearms laws. Reciting a maze of Gestapo orders, Heydrich wrote:

Matters regarding the substantive Firearms Law are in accordance with the Secret Police Law of November 30, 1933, Gs.S.413.²⁷ Previously, the Political Group of the Prussian Interior Ministry prepared them according to standing orders. Now these duties are transferred to the Prime Minister in his role as Chief of the Secret State Police [Gestapo] and are in turn delegated to me as the deputy independent command in

24. "Schusswaffengesetz 12.4.28, 16, 17" (Firearms Law, April 12, 1928, §§ 16, 17), *Deutsche Juristen-Zeitung*, Nov. 15, 1934, 1417.

25. *Gesetz über Schußwaffen und Munition*, §§ 17(2), 18(2), *Reichsgesetzblatt* 1928, I, 143, 145.

26. Preußische Geheime Staatspolizei, B.-Nr. 80 249/34—I 1 D, Feb. 6, 1935, Bundesarchiv (BA) Lichterfelde, R 58/2507.

27. The "Secret Police Law" is the *Gesetz über die Geheime Staatspolizei*, Pr. GS., S. 413 (1933), decreed by Göring, which placed the Gestapo under his direct supervision as a branch of the Interior Ministry.

accordance with the order of November 20, 1934, St.M.P.1317. Though this change of jurisdiction occurs at the central level, still lower-level organizations of the General and Interior Administrations' jurisdiction have not changed and, as the Police Commissioner of Stettin has pointed out, no regulations have yet been changed, either. The acquisition of new, unforeseen duties by the State Police (Staatspolizei, or Stapo) authorities is thus out of the question. Furthermore, I refer to the directive of the Prussian Prime Minister, Chief of the Secret State Police, of July 6, 1934, St.M. I 70 22, especially section IV. It goes without saying that State Police authorities will participate in an extensive way when political concerns are touched by the issuance of firearm licences etc.²⁸

In short, whereas firearm license matters would be administered at the state level, apparently by the Public Order Police, the Stapo and Gestapo would make the decisions if a political angle were found in the applicant or application.

No right of judicial review existed from action by the Stapo or the Gestapo, held the Prussian Supreme Administrative Court (Oberverwaltungsgericht) on May 2, 1935.²⁹ That would have included, for instance, decisions denying a firearm permit to a Jew or ordering a person into protective custody even if acquitted of a charge by a court. Only actions by the ordinary police could be appealed to a court. To remove any doubt about the legality of the Gestapo's absolute power, a law was passed in 1936 that explicitly prohibited judicial review.³⁰

Even in the courts, a revision to the Criminal Code in June 1935 authorized judges to declare an act criminal by analogy: "That person will be punished who commits an act which the law declares to be punishable or which deserves punishment according to the fundamental principle of a criminal statute or healthy popular opinion."³¹

28. Preussische Geheime Staatspolizei, Betrifft die Angelegenheiten des materiellen Waffenrechts, Feb. 21, 1935, BA Lichtenfelde, R 58/2507.

29. Ernst Fraenkel, *The Dual State: A Contribution to the Theory of Dictatorship* (New York: Oxford University Press, 1941), 26, 216 n. 74. The court relied on the Secret Police Law (Gesetz über Geheime Staatspolizei), Nov. 30, 1933, *Preussische Gesetzessammlung*, 1933, 41.

30. Gesetz über die Geheime Staatspolizei, February 10, 1936, *Preussische Gesetzessammlung*, 1936, 21, cited in Fraenkel, *The Dual State*, 26, 217 n. 78. See also Edward Crankshaw, *Gestapo: Instrument of Tyranny* (London: Greenhill Books, 1956), 89.

31. *Reichsgesetzblatt* 1935, I, 839; Ingo Müller, *Hitler's Justice: The Courts of the Third Reich*, trans. Deborah Lucas Schneider (Cambridge, MA: Harvard University Press, 1991), 74.

How did all of this translate to actions by the police and the lives of German citizens? One manifestation was an ever-growing number of arrests and searches. In a routine report from April 1935, the Köln Stapo noted two recent arrests. One was a worker who “has offended the Führer in a most offensive way and has scorned the measures of the Reich government.” The other was a sailor who possessed unauthorized weapons. “In the apartment of the sailor, who previously was a leading member of the KPD, was found 1 carbine, 1 hunting rifle, 1 bayonet, and a blackjack made from an altered piece of cable.”³²

In another incident, the report continued, an SA Sturmführer removed his pistol from its holster in an automobile and accidentally shot and killed an SS lance corporal. A rumor spread that the corporal had been shot by a Jew, and for two nights rioters, including SA members, smashed the windows of Jewish homes and businesses.

Daily life under Nazism was further reflected in a July diary entry by Victor Klemperer: “The Jew-baiting and the pogrom atmosphere grow day by day. *Der Stürmer*, Goebbels’ speeches (‘exterminate like fleas and bedbugs!’), acts of violence in Berlin, Breslau, yesterday also here in Prager Strasse. The struggle against Catholics, ‘enemies of the state,’ both reactionary and Communist, is increasing. It is as if the Nazis were being driven toward and prepared to go to any extreme, as if a catastrophe were imminent.”³³

Reflecting the reality of Klemperer’s description, the Berlin police issued an intelligence report on various Jews. “The Jew Bruno Cohn stated in a pub at the Stettin railway station: ‘25 000 RMS were taken from me by the Nazis back in the days of the Revolution, and they would also have taken my horses, if I had not pulled out a revolver.’” Cohn predicted an early collapse of the regime. And an eavesdropper at a meeting of the conservative National Association of German Jews (*Verband nationaldeutscher Juden*) in Schubert-Saal reported on a patriotic speech by Dr. Max Naumann. “The speaker welcomed the new Defense Act and only regretted that Jews are excluded from bearing arms.”³⁴

32. Der Regierungspräsident, Apr. 25, 1935, Tagesbericht der Stapo Köln, BA Lichterfelde, R58/3864.

33. Klemperer, *I Will Bear Witness*, 128 (entry for July 21, 1935).

34. Der stellv. Polizeipräsident, Bericht über die innerpolitische Lage im Landespolizeibezirk Berlin, July 30, 1935, BA Lichterfelde, R 58/3657.

(The act required Aryan descent for military service.³⁵) The meeting ended with the singing of German patriotic songs.

The report concluded with two matters of weighty concern. First, Jews were still flying the national flag, which had become illegal. Second, Aryans, including even Nazi Party comrades, had sought to intervene on behalf of Jews who had been arrested.

On September 15, 1935, the Nazi Party's National Day, the Reichstag unanimously adopted the Nürnberg Laws.³⁶ They included the Reich Citizenship Law, which Hitler and Interior Minister Frick signed and which provided that "[a] citizen of the Reich is only that subject who is of German or kindred blood, and who, through his conduct, shows that he is both desirous and fit to serve faithfully the German people and Reich."³⁷ The English term "citizen" fails to reflect two differing German terms that are both translated as such. While Jews retained German nationality (*Staatsangehörigkeit*), they were no longer citizens with civil rights (*Reichsbürger*), a concept that had no prior legal meaning.

The Nürnberg Laws also included the Law for the Protection of German Blood and Honor, which declared that "the purity of German blood is essential for the further existence of the German people" and forbade "marriages between Jews and nationals of German or kindred blood," punishable with hard labor.³⁸ Hitler, Frick, Führer Deputy Rudolf Hess, and Justice Minister Gürtner signed this law.

Not every "Aryan" was taken in by the anti-Jewish hysteria. Victor Klemperer recorded a Christian landlady saying about Hitler: "And there is nobody who kills this big swine?" But the mood of the Jews in Berlin was dark, Klemperer commented: "We shall not live to see the end of this tyranny, the populace is enthusiastically devoted to Hitler."³⁹

Pursuant to the Nürnberg Laws, on November 14 Frick and Hess issued the First Supplementary Decree, proclaiming: "A Jew cannot be a citizen of the

35. Section 15(1), Wehrgesetz vom 21. Mai 1935, *Reichsgesetzblatt* 1935 I, 609.

36. For a legal treatise complete with the pertinent laws and subsequent regulations, see Bernhard Lösener and Friedrich A. Knost, *Die Nürnberger Gesetze* (Berlin: Franz Vahlen, 1936).

37. Reichsbürgergesetz, *Reichsgesetzblatt*, I, 1935, 1146, § 2.

38. Gesetz zum Schutze des deutschen Blutes und der deutschen Ehre, *Reichsgesetzblatt*, I, 1935, 1146–47, § 1.

39. Klemperer, *I Will Bear Witness*, 138 (entry for October 31, 1935).

Reich. He cannot exercise the right to vote; he cannot occupy public office.”⁴⁰ There followed convoluted formulas for determining whether a person is a Jew based on blood, descent, marriage, and membership in the Jewish religious community.

The Jewish communities were already reporting their members to officials on a quarterly basis.⁴¹ The ability to keep and to access records quickly about Jews was facilitated by the IBM punch card technology utilized by the German IBM subsidiary Dehomag, which kept track of all births and marriages, including religion.⁴²

Two days before the decree defining Jews was issued, on November 12, Frick circulated a new draft of the Weapons Law.⁴³ Purging society of the enemies of Nazism apparently was taking longer than expected, for discussion of reform of the law had been dropped for two years following its proposal in 1933.

The draft’s definition of *firearm* included “weapons designed to propel a solid body through a barrel by means of combustion gases or compressed air.” This inclusion of air guns was a radical innovation, and even more so was the inclusion of all “ammunition,” which would have included air gun ammunition such as BBs. Any manufacture of firearms and ammunition (including the reloading of cartridges) required a license. The draft introduced the following new qualification for issuance of such license: “No license may be issued if the applicant or the person contemplated as technical manager of a facility is Jewish.”⁴⁴ However, Jews were not precluded from being authorized to trade in firearms. Nevertheless, trade in firearms would be prohibited to “wandering persons” such as Gypsies and at fairs, shooting matches, and exhibitions.

As under the 1928 law, a license to carry a gun would be “issued only to persons considered reliable and only if a need has been proven.” Licenses would not be issued to persons suspected of being “enemies of the people or the state.”

40. Erste Verordnung zum Reichsbürgergesetz, *Reichsgesetzblatt* 1935, I, 1333, § 4.

41. Götz Aly and Karl Heinz Roth, *The Nazi Census: Identification and Control in the Third Reich*, trans. Edwin Black and Assenka Oksiloff (Philadelphia: Temple University Press: 2004), 72.

42. Edwin Black, *IBM and the Holocaust: The Strategic Alliance Between Nazi Germany and America’s Most Powerful Corporation* (New York: Random House, 2001), 188, 197–98.

43. Der Reichs- und Preußische Minister des Innern, An die Herren Reichsminister [et al.], I A 13258/6310, Nov. 12, 1935, BA Berlin, R 43 II/399, Fiche 1, Row 6.

44. *Id.* § 3(3).

Besides police and members of the Wehrmacht (the new name for the Reichswehr, the German army), the following would not need a license: “Political leaders of the National Socialist German Workers Party beginning with the rank of local group leader and up, and members of the SA, SS, and the National Socialist Motor Corps beginning with the rank of lieutenant and up, if the deputy of the Führer or an office designated by him have granted them the right to carry firearms.”⁴⁵

Persons not supportive of the Nazi regime would be prohibited from possession of any kind of weapon. As the draft provided: “The competent authority may prohibit a person who acted as an enemy of the people and the state or who is considered a threat to public security from acquiring, possessing and carrying firearms and slashing and thrusting weapons.”⁴⁶

No person could make or even possess “firearms that are specially built to be folded, telescoped, shortened, or easily disassembled to an extent that exceeds the normal extent for hunting and sports purposes,” and even hollow-point .22-caliber rimfire cartridges would be banned.⁴⁷

The general penalty for violation was three years imprisonment, and possession of a weapon by an “enemy of the state” was punishable with ten years imprisonment.

A memorandum with an analysis of the draft law began with a basic premise: “The requirement for any relaxation of the current weapons law must be that the police authorities remain able to proceed with relentless severity against the possession of weapons by enemies of the people and the state.”⁴⁸ It noted that section 20—under which the authorities could prohibit any person from possession of a weapon as a “public enemy”—was “the draft’s key instrument for the police.” Given this absolute police discretion to deny entitlement of firearm possession to enemies of the state, “it will therefore be possible for any national comrade faithful to the state to acquire firearms without a special permit.”⁴⁹ However, allowing everyone to carry a firearm would “create a grave

45. *Id.* § 16.

46. *Id.* § 20.

47. *Id.* § 22.

48. Der Reichs- und Preußische Minister des Innern, An die Herren Reichsminister [et al.], A 13258/6310, 12 November 1935. BA Berlin, R 43 II/399, Fiche 1, Row 7, p. 1.

49. *Id.* at 3.

danger to public security and order,” and thus permits to carry would still be required.⁵⁰

The discussion about licenses to be in the firearms business indicated a partial motive to suppress competition. It stated that “the weapons industry has to be subject to strict control by the state” and that it was “the request of the weapons industry itself to keep the industry free of inappropriate elements.” Accordingly, only citizens of the German Reich could obtain permits to engage in the firearms industry, and, further, “there will be no room for Jews in the German weapons industry.” The draft “therefore provides that no permit may be issued if the applicant or the person designated to be the technical head of a facility is Jewish.”⁵¹

At this very moment, the Nazis were in the process of expropriating the arms manufacturer Simson & Co., owned by the Jewish brothers Arthur and Julius Simson. In the period 1925–34, it was the only company authorized by the Inter-Allied Disarmament Commission, under the Treaty of Versailles, to make and repair machine guns and Luger pistols for the Reichswehr. Also making hunting guns and pocket pistols, it became the largest gun manufacturer in Thuringia.⁵²

During the Weimar Republic, Nazi Gauleiter (governor) Fritz Sauckel had accused the “Jewish” company of fraud. When Hitler took power, Sauckel was appointed Reichsstatthalter (Reich governor) of Thuringia. He instigated criminal charges, but after a show trial the court rejected the accusations. Sauckel turned to extortion, imposing “party comrades” as managers in the firm and

50. *Id.* at 4.

51. *Id.* at 4–5.

52. Ulrike Schulz, “Die Enteignung der Firma ‘Simson & Co.’ 1929–1935” (Expropriation of the Firm “Simson & Co.,” 1929–1935), in *Thüringer Blätter zur Landeskunde* (Thuringia Regional Studies), (Erfurt, Germany: Landeszentrale für politische Bildung Thüringen, 2006), http://www.thueringen.de/imperia/md/content/lzt/die_enteignung_der_firma_simson.pdf (visited April 28, 2013). See also Robert Codek, “There is No Way Back,” in *The Simson Company in Suhl: Simson—BSW—WAFFA—Gustloff: The Almanacs of German Hunting Guns and Their Makers*, Nr. 3 (Meriden, NH: German Gun Collectors Association, 2009), 4–5; Edward B. Tinker and Graham K. Johnson, *Simson Lugers: Simson & Co, Suhl, the Weimar Years* (Galesburg, IL: Brad Simpson, 2007), 15–16, 28–29, 81; Ed Buffaloe, “The Simson Model 1922 and 1926 Vest Pocket Pistol,” <http://unblinkingeye.com/Guns/Simson/simson.html> (visited April 28, 2013).

forcing a merger under the name Berlin-Suhle Arms and Vehicle Works (Berlin-Suhler Waffen-und Fahrzeugwerke, or BSW). Anti-Nazi workers had another meaning for BSW: “Bis Simson Wiederkommt” (Until Simson Returns).

On April 14, 1935, Arthur Simson was arrested and thrown into one of the isolation cells of Berlin’s Moabit Prison, joining other political prisoners there. Hitler personally approved Sauckel’s takeover of the arms company, and on November 28 a “contract” was ready to sign. In the cellar of Gestapo Headquarters in Berlin, Julius and Arthur Simson were forced to admit cheating the Reich out of 10 million Reichsmark and to sign the expropriation of their business. They were released and thereafter escaped to Switzerland.

The Nazi expropriation of the Simson company, well known in Europe for its sporting and military arms, reverberated throughout the Continent as an attack on private enterprise and the first major “Aryanization” of a Jewish business. Sauckel would rename the company Gustloff Werke (Gustloff Works), after a Nazi “martyr” shot by a Jewish student in Switzerland. The firm was described as “the first National Socialist industrial foundation and its most modern model factory.”⁵³ Sauckel would be hanged after the war for his role in the slave-labor program.

As the Simson episode illustrates, it did not matter that the draft law prohibiting Jews from the firearms industry had not been adopted. That adoption was not needed because the firm was expropriated under the guise of the company owners’ fraud against the state. Of course, the Nazis could make such allegations and seize such businesses as they wished.

Although the draft revision of the Firearms Law did not propose that Jews be denied firearm ownership, the Gestapo would see to that. This blend of de facto policy execution and legal rhetoric facilitated a program of serious disarming of the populace. The Nazis were interested in taking away arms from any individual or party who might oppose their rule or whim—and the German Jews were a particular target even before the infamous Nürnberg Laws took effect.

53. *Zeitschrift des Vierjahresplan* 3 (1939), 225, and *Das Schwarze Korps* (May 4, 1939), cited in Michael Thad Allen, *The Business of Genocide: The SS, Slave Labor, and the Concentration Camps* (Chapel Hill: University of North Carolina Press, 2002), 190–91.

The Gestapo

TO DEVISE AND enforce its policies to repress private gun ownership, the Nazi leadership needed a strong arm it could trust. Dr. Werner Best, chief legal adviser and head of Department 1 of the Gestapo, issued a directive on December 16, 1935, “Issuance of Weapons Permits to Jews,” to all Gestapo, State Police, and Political Police authorities in Prussia and the states. The text stated:

With regard to the issuing of firearms permits to Jews, the regular police authorities must always obtain the opinion of the Geheimen Staatspolizei [Gestapo] authorities on the political reliability of the individual applicant. I direct that the following be heeded:

In principle, there will be very few occasions where concerns will not be raised regarding the issuance of firearms permits to Jews. As a rule, we have to assume that firearms in the hands of the Jews represent a considerable danger for the German people. Therefore, in the future, an extreme measure of scrutiny will have to be applied to the question of political reliability of the applicant in all cases where an opinion needs to be given about the issuance of firearms permits to Jews. Only in this way will we be able to prevent numerous Jews from obtaining firearms and causing danger to the German population.¹

The directive noted that it was answering an inquiry made by the Stettin State Police (Stapo) on September 30. Given the month and a half lag time it took to respond, the alleged grave danger of Jews with firearms must not

1. Betr.: Erteilung von Waffenscheinen an Juden, Preußische Geheime Staatspolizei, B.Nr. I G—352/35, Dec. 16, 1935, DCP 0072, Bundesarchiv (BA) Lichterfelde, R 58/276.

have been so urgent. Moreover, uncertainty existed on the issue. The Stapo in Magdeburg, in the Prussian province of Saxony, decided in January 1935 to continue to allow licenses to Jews to possess firearms. To preempt danger to the population, the police would reconsider the policy should too many Jews apply.² Werner Best's directive now resolved the issue.

Illustrating how such policies filtered down, this directive was distributed in an order dated February 5, 1936, from the Bavarian Political Police to all subordinate police units. Noting that the police authorities must obtain the Gestapo's opinion of "the political reliability of the individual applicant before any firearms permits are issued to any Jews," the order added: "Requests by Jews for the issuance of firearms permits therefore have to be sent to the Bavarian Political Police, II/1, for special disposition, so that it can state its opinion about the political reliability of the applicant." Repeating the language of the directive verbatim, the order concluded: "Most likely, the forwarding of applications will come into consideration only in special cases."³

The Weimar law allowed police to deny firearm ownership to any "unreliable" person. At this time, the Gestapo were keenly concerned with firearms confiscations. Dr. Best had recently written on November 27, 1935, to the Berlin police president and to government and police officials concerning the utilization of confiscated weapons in police custody: self-loading pistols (but not revolvers) must be sent to the Gestapo headquarters in Berlin. Governmental units and police could requisition other confiscated arms, and those not needed must be destroyed.⁴

This clarification came from the same Werner Best who, as described in chapter 3, had authored the Boxheimer documents in 1931 advocating a Nazi seizure of power that would declare that all firearms must be surrendered within twenty-four hours under penalty of death. Now a top Gestapo official under Heydrich and Himmler, he would head Gestapo repression in France and then

2. Betrifft: Erteilung von Waffenscheinen an Juden, Jan. 7, 1936, Collection JM, File 10624, Yad Vashem Archives, Jerusalem, 111, cited in Michael E. Abrahams-Sprod, "Life under Siege: The Jews of Magdeburg under Nazi Rule," PhD diss., University of Sydney, 2006, 133.

3. Bayerische Politische Polizei, Waffenscheine an Juden, Feb. 5, 1936, Bayerisches Hauptstaatsarchiv, München (BHStA), B.Nr.51722.

4. Pr. Geh. Stapo to Reg. Präsidenten, Nov. 27, 1935, Verwertung eingezogener od. durch sonst. Massnahmen in poliz. Gewahrsam gelangter Waffen, BrLHA, Pr. Br. Rep. 2A, Reg. Potsdam I Pol/3477, Waffenangelegenheiten Bd. 3, 1928–37.



Heinrich Brüning, Reich Chancellor in 1930–32, near the end of the Weimar Republic. (Photo courtesy of Bundesarchiv BArch, Bild 119-2600/CC-BY-SA 3.0)

Brüning relied on the Enabling Act to issue “emergency decrees,” like the 1931 “Measures Against Weapon Misuse” (below). The decree began: “The highest State authorities . . . may order that in their jurisdiction, the possession of firearms and ammunition . . . must be registered with the police authorities.” § 1(1). It then said that firearms may, “if the maintenance of public security and order so requires, be taken into police custody. . . .” § 1(2). (Source: *Reichsgesetzblatt*, I, S. 699, 742.)



Reich Interior Minister Wilhelm Groener issued directives to the States to implement the registration decree. On February 8, 1932, he warned them to provide for “the secure storage of the lists of persons who have registered their weapons. Precautions must be taken that these lists cannot, in local disturbances, fall into the hands of radical elements.” He did not anticipate that the lists would fall into the hands of radical elements—the Nazis—when they seized power just a year later. (Photo courtesy of Bundesarchiv. BArch, Bild 102-01049/CC-BY-SA 3.0)

742
Reichsgesetzblatt, Jahrgang 1931, Teil I

Achter Teil

Schutz des inneren Friedens

Kapitel I

Maßnahmen gegen Waffenmißbrauch

Waffenbesitz

§ 1

(1) Die obersten Landesbehörden oder die von ihnen beauftragten Stellen können für ihren Amtsbezirk oder Teile davon anordnen, daß der Besitz von Schusswaffen und Munition, die den Vorschriften des Gesetzes über Schusswaffen und Munition unterliegen, sowie von Stieb- oder Stofswaffen (§ 1 des Gesetzes gegen Waffenmißbrauch) bei der Polizeibehörde angemeldet ist.

(2) Waffen und Munition, die sich in einem Besitz befinden, für den eine Anordnung nach Abs. 1 erlassen ist, können, wenn die Aufrechterhaltung der öffentlichen Sicherheit und Ordnung es erfordert, für die Geltungsdauer dieses Kapitels in polizeiliche Verwahrung genommen werden. Der Besitzer hat für die Erfordernisse an die Polizeibehörde abzuliefern. Die Ablieferungspflicht kann auch auf Gegenstände erstreckt werden, die ihrer Natur nach keine Waffen sind, aber von denen nach den Umständen anzunehmen ist, daß sie als Waffen dienen sollen. Inhabern von Jagdwaffen können eine deutsche Bundesbehörde die zur Ausübung der Jagd gebrauchten Jagdwaffen nur abgefordert werden, wenn gegen die Quersicherheitsvorschriften des Bundes bestehen. Die auf Grund dieser Vorschriften getroffenen Maßnahmen unterliegen der Anfechtung nach den Bestimmungen des Bundesrechts.

(3) Wer eine angeordnete Anmelde- oder Ablieferungspflicht unterläßt oder wer im Besitze von Gegenständen betroffen wird, von denen er weiß oder den Umständen nach annehmen muß, daß sie der Anmelde- oder Ablieferung entzogen sind, wird mit Gefängnis nicht unter drei Monaten bestraft. Wer die Tat fahrlässig begeht, wird mit Geldstrafe bestraft. Neben der Strafe können die Gegenstände eingezogen werden, auch wenn sie nicht dem Täter gehören.

Gefängnis

§ 2

§ 10 Abs. 1 Satz 1 des Gesetzes über Schusswaffen und Munition vom 12. April 1928 (Reichsgesetzbl. I S. 149) ist in folgender Fassung anzuwenden:

„Waffen- (Munition-) Erwerbschein oder Erlaubnis dürfen nur an Personen, gegen deren Quersicherheits keine Bedenken bestehen, und nur bei Anwesenheit eines Bediensteten ausgestellt werden.“

§ 3

Wer vorläufig oder fahrlässig ohne die nach § 5 des Gesetzes über Schusswaffen und Munition erforderliche Genehmigung gewerbmäßig Schusswaffen oder Munition erweist, feilhält oder anderen überläßt oder wer gewerbmäßig den Erwerb oder das Überlassen solcher Waren vermittelt oder sich gewerbmäßig zum Erwerb oder Überlassen solcher Waren erweist, wird mit Gefängnis nicht unter drei Monaten bestraft.

Stieb- und Stofswaffen

§ 4

(1) Wer gewerbmäßig Stieb- oder Stofswaffen (§ 1 des Gesetzes gegen Waffenmißbrauch) herstellen, erwerben, feilhalten oder anderen überlassen will oder wer gewerbmäßig den Erwerb oder das Überlassen solcher Waffen vermitteln will, bedarf der Genehmigung der von der obersten Landesbehörde bestimmten Behörde. Die Genehmigung kann unter Auflagen erteilt werden.

(2) Die obersten Landesbehörden sind ermächtigt, Vorschriften über den Geschäftsbetrieb, einschließlich der Buchführung, des im Abs. 1 bezeichneten Gewerbetreibenden zu erlassen.

§ 5

Die Verfügung, durch die die Genehmigung zum Gewerbebetriebe bedingt oder zurückgenommen wird, kann nach den für das Rechtsmittelverfahren gegen polizeiliche Verfügungen geltenden Vorschriften der Landesgesetze angefochten werden. Wo nach diesen ein vermittelungsgerichtliches Verfahren nicht bedingt oder für Fälle dieser Art nicht zulässig ist, finden die Vorschriften der §§ 30 und 31 der Gewerbeordnung Anwendung.

§ 6

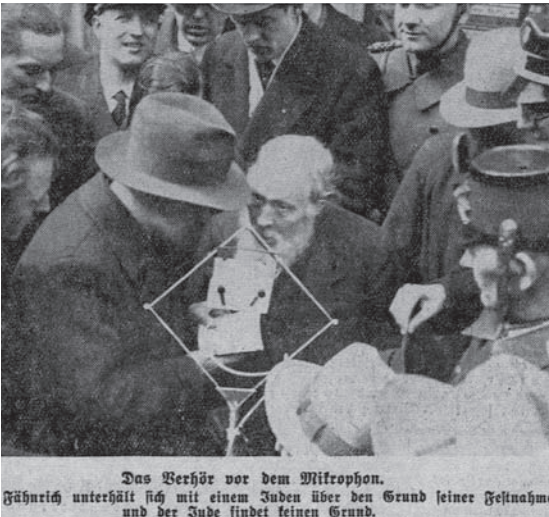
(1) Wer vorläufig oder fahrlässig ohne die nach § 4 erforderliche Genehmigung Stieb- oder Stofswaffen gewerbmäßig herstellt, erweist, feilhält oder anderen überläßt, oder wer mit Gefängnis nicht unter drei Monaten bestraft. Neben der Strafe können die Waffen eingezogen werden, auch wenn sie nicht dem Täter gehören.

(2) Wer die von einer obersten Landesbehörde gemäß § 4 Abs. 3 erlassenen Vorschriften vorläufig oder fahrlässig übertreißt, wird mit Geldstrafe oder mit Haft bestraft.



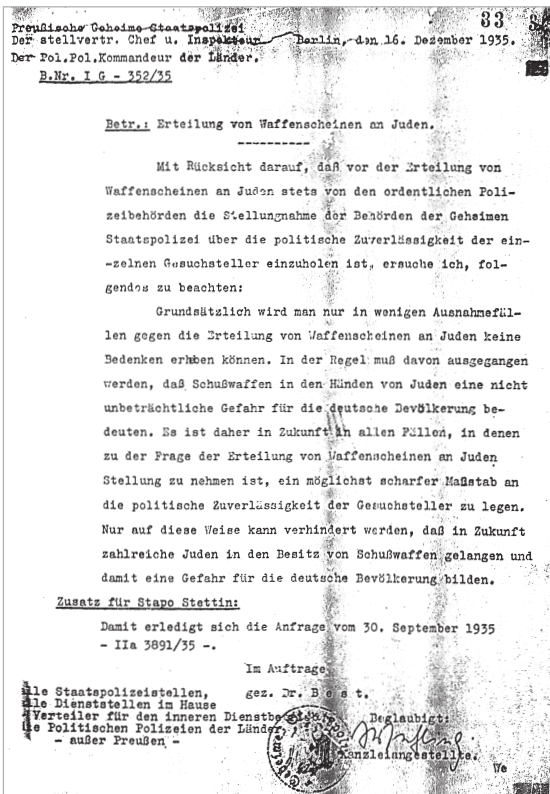
Nazis im Scheunenviertel.
Die Dragoner- und Grenadierstraße — seit der Revolution eine Niststätte galizisch-polnischer Hebräer — wurden von der Polizei abgeperrt und durchsucht.

SS and criminal detectives search for firearms and subversive publications in Berlin's Jewish Quarter, April 4, 1933. The caption states: "Raid in the Scheunenviertel [Barn District]. The police blocked and searched Dragoon and Grenadier Streets, which since the Revolution had been a breeding ground for Hebrews of Galician and Polish descent." (*Völkische Beobachter*, April 5, 1933. This was the primary official newspaper of the Nazi party. The "Revolution" referred to the Nazi seizure of power.)



Das Verhör vor dem Mikrophon.
Fährnich unterhält sich mit einem Juden über den Grund seiner Festnahme und der Jude findet keinen Grund.

Elderly Jewish man arrested at the raid being interrogated by Berlin Political Police Commissioner Kurt Fährnich. The interview is being broadcast on the radio for propaganda purposes. The caption states: "Interrogation in front of a microphone: Kommissar Fährnich is talking to a Jew about his arrest—and the Jew is unable to find any reason for it." (Source: *Völkische Beobachter*, April 5, 1933.)



Werner Best, who proposed in 1931 that, in event of a Nazi takeover, anyone not surrendering firearms in 24 hours would be executed. After the Nazis came to power, he became chief legal advisor to the Gestapo. During World War II, he headed implementation of the policy of the death penalty for firearm possession in occupied France and Denmark. (Photo courtesy of Bundesarchiv. BAArch, Bild 183-B22627/CC-BY-SA 3.0)

Werner Best's directive of December 16, 1935, entitled "Issuance of Weapons Permits to Jews" to all Gestapo, State Police, and Political Police authorities in Prussia and the German States. (Document courtesy of Bundesarchiv. Erteilung von Waffenscheinen an Juden, R 58/276.)

Translation:

With regard to the issuing of firearms permits to Jews, the regular police authorities must always obtain the opinion of the Gestapo authorities on the political reliability of the individual applicant. I direct that the following be heeded:

In principle, there will be very few occasions where concerns will not be raised regarding the issuance of firearms permits to Jews. As a rule, we have to assume that firearms in the hands of the Jews represent a considerable danger for the German people. Therefore, in the future, an extreme measure of scrutiny will have to be applied to the question of political reliability of the applicant in all cases where an opinion needs to be given about the issuance of firearms permits to Jews. Only in this way will we be able to prevent numerous Jews from obtaining firearms and causing danger to the German population.



German gold medal winners in gymnastics at the 1896 Olympics: (left to right) Herman Weingärtner, Alfred Flatow, and Karl Schumann. In 1942, Flatow, then 73 years old, was ordered to be deported because he was Jewish. Schumann pleaded with the Reich Sport Leader to intervene, but was rejected. Flatow was sent to the Theresienstadt concentration camp where he quickly died of starvation. (Original photo by Albert Meyer in public domain.)

Pursuant to the 1931 Weimar decree, Flatow registered several weapons. In October 1938, several weeks before the Night of the Broken Glass, he surrendered his registered arms pursuant to the Nazi action to disarm the Jews. The police verified that the weapons were registered but handed him over to the Gestapo anyway. His arrest report is reproduced below. (Document courtesy of Landesarchiv Berlin. Bericht über einen polit. Vorfall, 4.10.38, Alfred Flatow. A Rep PrBrRep. 030/21620 Bd. 5 Haussuchungen bei Juden 1938-39.)

Translation:

Police Station 106

Berlin, SW 68, on October 4, 1938

Report Concerning Political Incident.

1. Perpetrator

- a) Person: Alfred Flatow
Born: October 3, 1869, Danzig
- b) Address: Berlin SW 19, Alexandrinenstraße 50.
- c) Political affiliation: Jew

3. Crime scene and time: Berlin SW 68, Curtdamm 16, at 1:50 p.m. [Note: this was the address of the police station, not a crime scene. Flatow was surrendering his arms there.]

6. Weapons Found: Surrendered

- a) Slashing and thrusting weapons: 1 dagger, 31 knuckledusters.
- b) Firearms: 1 revolver, 2 pocket pistols, 22 rounds of ammunition

7. Type of police intervention

- b) Use of special police forces? Special operation

Polizeirevier Berlin, SW 68, am 4.10.1938

Bericht
über einen politischen Vorfall

1. Des Täters *)
a) Personalia: Alfred Flatow
geboren: 3.10.69 Danzig
b) Wohnung: Berlin SW 19, Alexandrinenstr. 50
c) politische Zugehörigkeit (freiwillig, — eigene Angaben —, — mutmaßlich —): Jude

2. Zahl der Mitarbeiter (Befehlsführer und Befehlsbevollmächtigter):

3. Tatort und -zeit: Berlin SW 68, Curtdamm 16
gegen 13.50 Uhr.

4. Politische Einwirkung
a) der Angreifer: /
b) der Angegriffenen: /

5. Note und Merkmale:

	Zahl der		Namen nach Vollzugsbrauch der Polizei	
	Arten	Befragten	getötet	verletzt
Angegriffene				
Angreifer				
Unbeteiligte				
Polizeibeamte				

6. Gefundene Waffen Waffen 1. und 2. Klasse, 31 Knuckelkugeln
a) Hand- und Stangenwaffen: 1 Revolver, 2 Pistolen, 22 Patrone
b) Schusswaffen: /

7. Ist politischer Einwirkung erfolgt
a) im gewöhnlichen Streifen- und Postenbereich? /
b) durch Einsatz besonderer politischer Kräfte? Inspektion

*) Einige Mitarbeiter sind auf befohlenen Einsatz Nr. 977 b auszubilden.

Hans Reichmann, a lawyer and syndic for the Jüdischer Central Verein (C.V., or Jewish Central Association), Germany's mainstream Jewish organization. In October 1938, Munich officials told a C.V. representative that "weapons in the hand of Jews were deemed extremely dangerous." Reichmann himself had to surrender his new Brown-ing firearm. When Kristallnacht descended, Reichmann would be imprisoned in the Sachsenhausen concentration camp. He would later escape with his wife Eva Gabriele to England. (Herbert Sonnenfeld, Porträt Hans Reichmann, Berlin Oktober 1936. © Jüdisches Museum Berlin, Ankauf aus Mitteln der Stiftung Deutsche Klassenlotterie Berlin.)



8. Strafbare Handlung (gesetzliche Bestimmungen, §§)	Lefitz von Waffen.
9. Tatbestand*) (Tatbestandsmerkmale):	Der Jude Alfred Flatow hatte 1 Revolver mit 22 Kaliber Munition, 2 Pistolen, 1 Pistol. 31 Knüttelg. sowie ein Leitzig. Die Waffen sind in den Händen des Juden eines Offiziers für die öffentliche Sicherheit. (Weiser, P. 1. St. 1.) Ein Waffenfund von dem Fl. am 26. 1. 1932 von 13. R. gemeldet wurde. Waffen in grüner Leitzig.

*) Bei Verbrechen gegen die Menschlichkeit ist der Tatbestand anzugeben.

Page 2 of Flatow's arrest report

Translation:

8. Criminal act (include pertinent statutory sections) Possession of weapons.

9. Statement of facts:

The Jew Alfred Flatow was found to be in possession of 1 revolver with 22 rounds of ammunition, 2 pocket pistols, 1 dagger, and 31 knuckledusters. Arms in the hands of Jews are a danger to public safety.

Police First Sergeant Weiser

The arms were registered at Police Station 13 on January 26, 1932. Written confirmation is there.

Page 4 of the report (not shown) concluded: "The perpetrator listed under item 1 of this report has been turned over to the Gestapo." In 1942, he died of starvation at the Theresienstadt concentration camp.



(Left to right) SS Reichsführer Heinrich Himmler, an Italian police official, Berlin Police President Wolf Heinrich Graf von Helldorf, and Kurt Daluge, head of the uniformed Order Police. As Police President, Helldorf disarmed the Berlin Jews in the weeks before the pogrom known as the Night of the Broken Glass. (Photo courtesy of Bundesarchiv. BArch, Bild 121-0174/CC-BY-SA 3.0)

That the Jews were being disarmed well before the pogrom is strong evidence that the attack was carefully planned well in advance. (Source: *Völkische Beobachter*, Nov. 9, 1938.)

Translation:

Disarming the Berlin Jews

Provisional Results:
2,569 Stabbing and Cutting Weapons, 1,702 Firearms, and About 20,000 Rounds of Ammunition

In view of the Jewish assassination attempt in the German Embassy in Paris, Berlin's Police President made known publicly the provisional results so far achieved, of a general disarming of Berlin's Jews by the police, which has been carried out in recent weeks.

The Police President, in order to maintain public security and order in the national capital, and prompted by a few individual incidents, felt compelled to disarm Berlin's Jewish population. This measure was recently made known to Jews by police stations, whereupon—apart from a few exceptions, in which the explicit nature of the ban on possession of weapons had to be articulated—weapons until now found by the police to be in the possession of Jews who have no weapons permit were voluntarily surrendered.

The provisional results clearly show what a large amount of weapons have been found with Berlin's Jews and are still to be found with them. To date, the campaign led to the taking into custody of 2,569 stabbing and cutting weapons, 1,702 firearms, and about 20,000 rounds of ammunition.

Upon completion of the weapons campaign, if a Jew in Berlin is found still to possess a weapon without having a valid weapons permit, the Police President will, in every single case, proceed with the greatest severity.

Entwaffnung der Berliner Juden

Vorläufiges Ergebnis: 2569 Stich- und Hieb- und 1702 Schusswaffen und rund 20 000 Schuss Munition

Angesichts des am Montag erfolgten jüdischen Mordanschlags in der Deutschen Botschaft in Paris gibt der Berliner Polizeipräsident hiermit der Öffentlichkeit das vorläufige Ergebnis bekannt, das eine allgemeine polizeiliche Entwaffnung der Juden Berlins, die in den letzten Wochen in Angriff genommen wurde, bisher gehabt hat.

Der Polizeipräsident hat sich, um die öffentliche Sicherheit und Ordnung in der Reichshauptstadt aufrechtzuerhalten, auf Grund einiger Einzelfälle veranlaßt gesehen, die Entwaffnung der jüdischen Bevölkerung der Reichshauptstadt durchzuführen. Diese Entwaffnung wurde den Juden durch die Polizeireviere kürzlich bereits zur Kenntnis gebracht, worauf — abgesehen von einigen Ausnahmen, bei denen ein ausdrückliches Verbot des Waffenbesitzes ausgesprochen werden mußte — die in jüdischem Besitz bisher befindlichen Waffen bei der Polizei von den Juden, die keinen Waffenchein haben, freiwillig abgegeben wurden.

Das vorläufige Ergebnis der Entwaffnung der jüdischen Bevölkerung zeigt deutlich, daß eine Menge von Waffen sich noch bisher im Besitz der Juden in Berlin befand und zweifellos noch befindet. Die Aktion ergab bis zum gestrigen Tag die Sicherstellung von 2569 Stich- und Hieb- und 1702 Schusswaffen und rund 20 000 Schuss Munition.

Sofern nach Abschluß der Waffenaktion noch ein Jude in Berlin ohne einen gültigen Waffenchein im Besitz einer Waffe angetroffen wird, wird der Polizeipräsident in jedem einzelnen Fall mit größter Strenge vorgehen.



Heinrich Himmler, the SS Reichsführer and German Police Chief, with Adolf Hitler on Reich Party Day, September 1938. (Photo #05459 courtesy of U.S. Holocaust Memorial Museum.)

Himmler's order that Jews possessing any weapon may be imprisoned in a concentration camp for twenty years, published the day after the Night of the Broken Glass. (Source: *Völkische Beobachter*, Nov. 10, 1938.)

Translation:

Jews Forbidden to Possess Weapons By Order of SS Reichsführer Himmler

Munich, November 10.

The SS Reichsführer and German Police Chief has issued the following Order:

Persons who, according to the Nürnberg law, are regarded as Jews, are forbidden to possess any weapon. Violators will be condemned to a concentration camp and imprisoned for a period of up to 20 years.

Waffenbesitz für Juden verboten
Anordnung des Reichsführers H Himmler
München, 10. November.

Der Reichsführer H und Chef der deutschen Polizei hat folgende Anordnung erlassen:

Personen, die nach den Nürnberger Gesetzen als Juden gelten, ist jeglicher Waffenbesitz verboten. Zuwiderhandelnde werden in Konzentrationslager übergeführt und auf die Dauer von 20 Jahren in Schutzhaft genommen.



The contents of a cabinet lie strewn around a dining room in a Jewish home vandalized during Kristallnacht. Nazis claimed to be searching for weapons when they went on a rampage against Jewish homes, businesses, and synagogues. (Photo #81485 courtesy of U.S. Holocaust Memorial Museum.)

On November 10, 1938, persons walk by a Jewish-owned business that was destroyed during Kristallnacht. Nazi propaganda claimed that the pogrom was a “spontaneous” manifestation of Germans, but in reality it was a carefully orchestrated attack by the SA approved by Hitler, who ordered that the police not intervene. (Photo #86838 courtesy of U.S. Holocaust Memorial Museum.)



Buchenwald concentration camp, November 10, 1938, showing some of the ten thousand Jewish men, heads shaved, who would be incarcerated there during and following Kristallnacht. One pretext for arrest was possession of a firearm by a Jew. (Photo #79914 courtesy of U.S. Holocaust Memorial Museum.)

Denmark during the war, where failure to surrender firearms was cause for execution.

The Gestapo concerned itself with affairs of the “political police,” and its orders for detention in protective custody could not be challenged in the administrative courts, as clarified in the Gestapo Law of February 10, 1936. If the charge was “political,” a person could be acquitted of a charge by a normal court and then taken into protective custody by the Gestapo indefinitely.⁵

Under this bizarre regime, laws continued to be important for a segment of the government, but the Gestapo needed no law to do as it wished—which itself was proclaimed as law. So the Gestapo could proclaim Jews to be “unreliable” under the Weimar Weapons Law and no court could hear an appeal. At the same time, the Hitler cabinet could continue to debate whether to revise the Firearms Law. In a note to the other ministers, Interior Minister Frick decided in early 1936 to take that issue off the table: “Authoritative sources have expressed their concerns to me that this might not be the appropriate time to replace the acquisition permit requirement for firearms and ammunition with a police weapons prohibition. I have therefore decided to postpone for the time being the issue of amending the weapons law.”⁶

Arms searches continued as an everyday occurrence. For instance, on December 15, 1935, the Halle Stapo reported to the Gestapo in Berlin that information from an informant had led to a search for arms in a house garden. Digging a meter and a half deep, police discovered a wooden box with a Model o8 army pistol, 120 cartridges, and a bayonet. The interrogation revealed that worker Otto Max Haller had obtained the items in the Great War and had kept them in his house until April 1932, when he hid them in a garden shed. “After the radical change [to Nazism], he has not dared to surrender the arms from fear of getting in trouble with the authorities.” Not wanting trouble, he gave them to his brother-in-law, worker Werner Rolle. Despite knowing of the duty to surrender the arms, Rolle buried them in his parents’ garden. He, too, was afraid

5. Michael Stolleis, *The Law under the Swastika* (Chicago: University of Chicago Press, 1998), 134; Edward Crankshaw, *Gestapo: Instrument of Tyranny* (London: Greenhill Books, 1956), 89. For the Gestapo Law, see Gesetz über die Geheime Staatspolizei, *Preussische Gesetz-sammlung* 1936, S. 21.

6. Der Reichs- und Preußische Minister des Innern, Betrifft: Entwurf des Waffengesetzes, Jan. 7, 1936, BA Berlin, R 43 II/399, Fiche 2, Row 3.

to turn in the arms. “Both of the accused admit they knowingly committed criminal acts.”⁷

At the same time, persons armed under government sanction could run amok committing crimes against Jews and others, who could only use improvised blunt objects to resist. An incident on February 10, 1936, reported by the Düsseldorf Gestapo, described how a Jewish family tried to defend themselves against a vandalizing watchman armed with a revolver and club but were overpowered:

On February 10, 1936, at 2:40 a.m., the watchman Wilhelm Schmitz from Hammerden in the district of Grevenbroich-Neuß smashed two high windows with a fence post at the house of the Jewish businessman Jakob Daniel from Bedburdyck. The son of the victim pursued on a bicycle and caught up with the perpetrator, who was still in company of another person, and who would have beat him up with a rubber truncheon, so that he had to escape leaving behind the bicycle and a steel rod he carried. Schmitz shot a revolver behind the fleeing man. Daniel returned after a short time with his father and retrieved his bicycle. On the way home both were pursued by Schmitz and were again attacked at the Bodburdyok school. On this occasion he hit the victim, Daniel senior, over the head with a blow of the rubber truncheon. The attacked defended themselves with a fence post and as a result were threatened by Schmitz with the words: “Three steps back or I shoot.” The Daniels, father and son, then fled to their dwelling. Charges were brought against Schmitz. The police interrogations are continuing.⁸

In a different society, such incidents could have been used for propaganda that firearms in the hands of “Aryans” were a danger to the German Jews. As noted earlier, Werner Best’s Gestapo directive alleged that “firearms in the hands of the Jews”—meaning the German Jews, who would thus be denied firearms permits—“represent a considerable danger for the German people.”

7. Stapo Halle, Waffenfund in einem Hausgarten, Dec. 15, 1935, BA Lichterfelde, R 58/2025.

8. Preuß, Geheime Staatspolizei Düsseldorf, Gesamtübersicht über die politische Lage im Monat Februar 1936, Mar. 12, 1936, BA Lichterfelde, R 58/3044a.

Shortly after Best issued his directive, the Nazis would manipulate an incident abroad to prove his premise—except that it did not involve a German Jew.

On February 4, 1936, in Davos, Switzerland, David Frankfurter, a young Jewish medical student from Yugoslavia, shot and killed Wilhelm Gustloff, the leader of the NSDAP-Landesgruppe.⁹ Each foreign country had a local Nazi Party for Germans abroad, and Gustloff headed the German Nazis residing in Switzerland. The incident highlighted not only the supposed dangers of Jews with firearms, but also Switzerland's liberal laws that allowed ready availability of firearms and a free press that allowed criticism of the Nazi regime.

Frankfurter, who himself had severe medical problems affecting his nervous system, had witnessed the persecution of Jews while studying in Germany and now was studying in Bern. He bought a 6.35-mm Browning automatic pistol for 10 francs at a gun shop in Bern in December 1935. "For me and any Nazi," he later told authorities. He learned how to use it at a shooting range near Bern.

Frankfurter traveled to Davos and went to Gustloff's apartment. He rang the doorbell, was admitted by Frau Gustloff, and waited in the study. He heard Gustloff railing on the telephone against "pig Jews and Communists," and when the Nazi leader entered the study, Frankfurter fired three or four fatal shots. He could not shoot himself as he had planned, however, and surrendered to Swiss police.

Gustloff was a minor figure, but his stature was elevated as grist for the Nazi propaganda mill and as pretext for further anti-Jewish measures. Flags throughout Germany were flown at half mast, noted U.S. ambassador William Dodd in his diary, adding, "Hitler made an amazingly aggressive attack on

9. On this episode, see Stephen P. Halbrook, *The Swiss and the Nazis: How the Alpine Republic Survived in the Shadow of the Third Reich* (Havertown, PA: Casemate, 2006), 263–70; Peter Bollier, "4. Februar 1936: Das Attentat auf Wilhelm Gustloff" (The Assassination of Wilhelm Gustloff, February 4, 1936), in *Politische Attentate des 20. Jahrhunderts* (Political Assassinations of the 20th Century), ed. Roland Aegerter (Zürich: Neue Zürcher Zeitung, 1999), 42; Andreas Saurer, "Der Mord von Davos: David Frankfurter erschiesst Nazi-Gauleiter Gustloff" (The Murder in Davos: David Frankfurter Kills Nazi Gauleiter Gustloff), *Bündner Zeitung*, Feb. 3, 1996, 2; Martin Bundi, *Bedrohung, Anpassung und Widerstand: Die Grenzregion Graubünden 1933–1946* (Threat, Adaptation and Resistance: The Grisons Border Region, 1933–1946), (Chur, Switzerland: Bündner Monatsblatt/Desertina AG, 1996), 32–33. An account in novel form can be found in Günter Grass, *Crabwalk*, trans. Krishna Winston (Orlando, FL: Harcourt, 2002).

all Jews. Other addresses were made in Hamburg and in other cities, tens of thousands of people listening, compelled to be present. . . . Today's papers are full of attacks upon the Swiss."¹⁰

A Gestapo report asserted: "The deepest revulsion against this cowardly crime of a Jew has been evoked in all circles of the population since the opinion broadly predominates that World Jewry, in its abysmal hate against the New Germany, wished to hit the whole German people with its shots at the NSDAP *Landesleiter* [Gustloff]."¹¹ It described an enormous funeral in Erfurt, which turned into political rallies to praise Gustloff as a Nazi martyr and to denounce the murder and the foreign Jewish–Marxist press that excused it.

A few days after the funeral, the report continued, an ongoing defamation trial was taking place in Bern, in which a German "expert" appeared to testify on the genuineness of the *Protocols of the Elders of Zion*, an alleged Jewish plan for global domination. He had received in the mail a 7.65-mm cartridge and a piece of paper on which was written "Hitler–Fleischhauer–Gustloff," with the name "Gustloff" crossed out and a red cross marked beside it. Although not reflected in the report, the Swiss court in Bern would declare the *Protocols* to be a fraud.

The final insult to injury detailed by the Gestapo report was that Switzerland banned the NSDAP. The report depicted the Nazis as persecuted victims—a Jew with a firearm killed a Nazi leader, Jews worldwide applauded the murder, other Nazis received threats of gun violence, and the Swiss banned the Nazi Party.

At his trial, Frankfurter testified that Gustloff as a person was not the target, but he was a Nazi agent, and Hitler could not be reached. The act was committed not only to act against persecution of Jews, but also to defend Switzerland, which was constantly attacked by the Nazis. Although this particular defense was not an accepted one to be found in the criminal law books, it and political homicide had special relevance in Switzerland. The precedent of William Tell, who had shot not only an apple off his son's head, but also the tyrant Gessler through the heart, reverberated during the trial.

10. William E. Dodd, *Ambassador Dodd's Diary: 1933–1938*, ed. William E. Dodd Jr. and Martha Dodd (New York: Harcourt, Brace, 1941), 311 (entry for Feb. 19, 1936).

11. Preuss. Gestapo, Lagebericht Febr. 1936, Feb. 2, 1936, BA Lictelfelde, R 58/3044b.

The court admitted into evidence documents submitted to demonstrate the Nazi persecution of Jews. Frankfurter's deed and the trial further sensitized the Swiss public to the idea of armed resistance against National Socialism. The court found Frankfurter guilty of unlawful homicide but with diminished responsibility. He was sentenced to imprisonment but was released at the end of World War II and immigrated to Israel.

In 1936, exiled German author Emil Ludwig published *The Davos Murder*, which depicted Frankfurter's killing of Gustloff as an understandable act of defiance. He noted the parallel with William Tell and discussed the classical doctrine of tyrannicide, asking whether the law would recognize "the notion of a right to self-defense which will entitle the individual to take the law into his own hands and forcibly react against such collective misdeeds as the murder of political opponents, or the murder, desecration, and plunder of a whole section of the population?" Stating that such idealists generally have been "unaccustomed to the use of arms," Ludwig commented, "[H]ow strong must be the stimulus that incites a man of Platonic temperament to use a pistol." "Above all," he stated, "his deed comes within the limits of permissible self-defense," which includes defense of others, and he quoted Frankfurter as noting that "Gustloff wanted to make a vassal State out of Switzerland."¹²

The Nazis exploited the incident to depict the armed Jew as a worldwide menace. For instance, Wolfgang Diewerge wrote two books on the Gustloff incident. His first tome repeated Propaganda Minister Joseph Goebbels's threat that any further attacks on German officials would lead to revenge against German Jews.¹³ The title of the second book, which reported on Frankfurter's murder trial, aptly expressed this sentiment: *Ein Jude hat geschossen* (A Jew Has Shot).¹⁴

Frankfurter's act exacerbated Nazi Germany's anti-Semitic policies. Victor Klemperer noted in his diary: "In Davos a Jewish student has shot the German Party agent of the NSDAP. For the moment, as the Olympic Games are taking place here, everything is being hushed up. They will turn on the hostages,

12. Emil Ludwig, *Der Mord in Davos* (Amsterdam: Querido, 1936), translated as *The Davos Murder* (London: Methuen, 1937), 115, 118, 120, 126–27.

13. Wolfgang Diewerge, *Der Fall Gustloff. Vorgeschichte und Hintergründe der Bluttat von Davos* (München: Franz Eher Nachf., 1936), 108–14.

14. Wolfgang Diewerge, *Ein Jude hat geschossen . . . Augenzeugenbericht vom Mordprozess David Frankfurter* (München: Franz Eher Nachf., 1937).

on the German Jews later.”¹⁵ When the Polish Jew Herschel Grynszpan shot an official in the German embassy in Paris in 1938, he was dubbed “a second Frankfurter” and his act was the excuse to instigate the Night of the Broken Glass (Reichskristallnacht).

Der Strümer, the newspaper of Joseph Goebbels’s Propaganda Ministry, published a supposed letter from the boys and girls of the National Socialist Youth Hostel at Grossmoellen reflecting how the incident was exploited to picture all Jews as dangerous, armed enemies of Germany:

Today we saw a play on how the devil persuades the Jew to shoot a conscientious National Socialist. In the course of the play the Jew did it too. We all heard the shot. We all would have liked to jump up and arrest the Jew. But then the policeman came and after a short struggle took the Jew along. You can imagine, dear “Stuermer,” that we heartily cheered the policeman. In the whole play not one name was mentioned. But we all knew that this play represented the murder by the Jew Frankfurter. We were very sick when we went to bed that night. None felt like talking to the others. This play made it clear to us how the Jew sets to work.¹⁶

Although such propaganda undoubtedly influenced many, others only feigned assent under the duress of the police state. Klemperer quoted a youngster in the Hitler Youth (Hitler-Jugend): “We are all in the HJ; most of us would dearly like not to be in it. . . . They are 60, 80, 100 percent against the Nazis, only the three stupidest boys, whom no one respects, are entirely for it.”¹⁷

Working alongside the propaganda to legitimize anti-Jewish policies was the continuing consolidation of Nazi authority over the private ownership and use of firearms throughout the country. Ordinary German citizens were not demonized, but clubs involved in the shooting sports were thoroughly controlled and by the same mechanism—the Gestapo—as “the armed Jew” was controlled.

15. Victor Klemperer, *I Will Bear Witness 1933–1941*, trans. Martin Chalmers (New York: Modern Library, 1999), 153 (entry for Feb. 11, 1936). See also Arnd Krüger, “‘Once the Olympics Are Through, We’ll Beat Up the Jew’: German Jewish Sport 1898–1938 and the Anti-Semitic Discourse,” *Journal of Sport History* 26, no. 2 (1999), 353.

16. “Letter from ‘Der Stuermer,’ no. 16, 4/1936,” in *Nazi Conspiracy and Aggression* (Washington, DC: U.S. Government Printing Office, 1947), 8:14.

17. Klemperer, *I Will Bear Witness*, 169 (entry for June 10, 1936).

Nazism entailed the Gleichschaltung (forcing into line) of all societal institutions, including sports in general and shooting sports in particular. As noted in the previous chapter, the shooting clubs adapted to the Führer Principle only in a formal sense during 1933–34. This adaptation, however, became institutional during 1934–38, leading to the total breakup of the old regional, religious, and sport discipline-oriented associations and to the formation of a uniform Reich National Socialist umbrella organization for all shooting clubs.¹⁸ This shift undercut the democratic club traditions. The club head was still chosen by the regular general membership¹⁹ but now had to report to the Reich sport führer and could be recalled anytime.²⁰

Walter Plett summarizes the repression of the shooting clubs in this period of institutional forcing into line:

The National Socialist decision makers instituted another series of measures with which they could harass the clubs: the prohibition of wearing the old shooting uniforms and decorations, the forced installing of swastikas on shooting banners, flying swastika flags at houses, and flying these flags with church and club flags; the requirement that the Hitler Youth may attend events of the clubs only in their uniform, first a prohibition of the participation of Jews at shooting matches and then their exclusion from the club entirely, a prohibition of parades, the holding of Party functions at shooting matches in order to disrupt or prohibit them entirely, etc.²¹

On January 23, 1934, the Reich sports führer (Reichssportführer) proclaimed the German Reich Association for Physical Exercise (Deutschen Reichsbund für Leibesübungen), which absorbed the gymnast, soccer, and other sport

18. Michael Schwartz, "Schützenvereine im 'Dritten Reich': Etappen der Gleichschaltung traditioneller Vereinskultur" (Shooting Clubs in the "Third Reich": Stages of the Forcing into Line of Traditional Club Culture), *Archiv für Kulturgeschichte* 79 (1997), 439, 442–50.

19. Vereinsrecht §§ 21–79 Bürgerliches Gesetzbuch, cited in Stefan Grus, "Allgemeines Verhältnis des Naziregimes zu den Schützenvereinen" (General Relationship of the Nazi Regime to the Shooting Clubs), unpublished manuscript, Wiesbaden, Oct. 2005, 2.

20. Einheitssatzung in *Deutsche Schützen Zeitung*, no. 4 (1935), S. 41–43, cited in Grus, "Allgemeines Verhältnis," 2.

21. Walter M. Plett, *Die Schützenvereine im Rheinland und in Westfalen, 1789–1939* (The Shooting Clubs in the Rhineland and in Westphalia, 1789–1939) (Cologne: RVDL, 1995), 466.

associations. It was then announced that all of the shooting clubs in a region must be consolidated into a single club.²²

The Gestapo used a standard form to notify shooting associations that they were banned based on the 1933 Decree for the Protection of the People and State and on Weimar or National Socialist police decrees. It forbade all activities involving the shooting sports, including matches, wearing the traditional shooting uniforms, flying the shooting club banner, and using the club name.²³

Non-Nazi club officials were purged. In Grevenbroich, the Nazi Party pressured the “King of the Citizen Shooting Association” (König des Bürgerschützenvereins) for the year 1935—the club’s best shooter—to step down because of his political attitude. He was replaced with a party member.²⁴

In April 1936, the Reich sports führer announced a decree, effective in 1937, for the strict regulation of the newly founded German Shooting League (Deutscher Schützenverband, or DSV). Because the Great War had demonstrated that half the conscripts could not shoot, the formation of this league sought to harness the shooting clubs to serve the Third Reich’s future war goals by training marksmen.²⁵

Gestapo repression of the traditional shooting sport culture was exemplified in regard to such rural Catholic associations as the centuries-old Brotherhood of St. Sebastian (Erzbruderschaft vom hl. Sebastianus, or EB).²⁶ Sebastian was a Roman archer who became the patron saint of shooters. Before the Nazi seizure of power in 1933, the EB had warned against Hitler. It continued on a confrontation course with the regime until dissolved by the Prussian Gestapo on March 6, 1936.²⁷ The Gestapo prohibited the EB and all of its member clubs, confiscating their property “on the basis of their confrontational behavior and in the interest of the standardization of German sports institutions.” Reaching further than

22. Schwartz, “Schützenvereine im ‘Dritten Reich,’” 251 n. 190, 447, 629.

23. Plett, *Die Schützenvereine im Rheinland und in Westfalen*, 482–83. The Gestapo cited section 1 of the Decree for the Protection of the People and State (Verordnung zum Schutz von Volk und Staat) of February 28, 1933. It also cited either section 14 of the Police Administration Law (Polizeiverwaltungsgesetzes) of June 1, 1931, or the Prussian Decree (Preuß. Verordnung) of August 2, 1933.

24. Plett, *Die Schützenvereine im Rheinland und in Westfalen*, 452.

25. Schwartz, “Schützenvereine im ‘Dritten Reich,’” 461.

26. Schwartz, “Schützenvereine im ‘Dritten Reich,’” 462.

27. Plett, *Die Schützenvereine im Rheinland und in Westfalen*, 441–42, 443–44.

the liquidation of the EB, the Gestapo used the occasion to threaten with swift prohibition all shooting clubs that had not yet joined the DSV.²⁸

Gestapo Headquarters in Berlin issued a new mandate on July 2, 1936, declaring that, by agreement with the Reich sport führer, clubs that had been banned since March for not joining the DSV could now be reinstated if they joined. Clubs not registered thereafter were prohibited. The requirement to be merged into the DSV extended to clubs, guilds, and associations of all kinds that shot with firearms, air rifles, indoor rifles, crossbows, bows, and anything similar. It included clubs that convened only once a year for a traditional *Schützenfest*.²⁹ The Gestapo decree greatly supported expansion of the DSV, and some clubs chose dissolution rather than affiliation to such an organization.

In somewhat of a regional minirevolt, the Westphalian Stapo authority protested against the Gestapo mandate. After consultation with the Reich Sport Office (Reichsbund für Leibesübungen), a new Gestapo mandate from Reinhard Heydrich, chief of the Security Police, was published on July 12, 1937. Clubs that had joined the Westphalian Homeland Association (Westfaelischer Heimatbund) by February 25, 1937, would not yet have to join the DSV. However, DSV affiliation was intended to be universal by 1938, and authorization for holding any *Schützenfest* by a local club would end.³⁰

In the structural conversion of the shooting clubs to the Nazi agenda, the main focus was on the realization of a common mentality among the people (Volksgemeinschaftsgedanken). This mentality was to be coerced through the systematic organization and unification of the clubs, anti-Catholic secularization, and "social equality." These goals were promoted by an alliance of SA-dominated shooting officials and an ever-increasing number of the SS-backed Gestapo. Through consistent paramilitarization, the shooting clubs ultimately came to have much in common with the SA and the Hitler Youth.³¹

Only after 1936, with the cooperation between sport associations and the Gestapo, were important organizational successes by the DSV achieved. Recalcitrant regional associations such as the Shooting Association for Free Cologne

28. Schwartz, "Schützenvereine im 'Dritten Reich,'" 461–62.

29. Schwartz, "Schützenvereine im 'Dritten Reich,'" 467.

30. Schwartz, "Schützenvereine im 'Dritten Reich,'" 470–72.

31. Schwartz, "Schützenvereine im 'Dritten Reich,'" 482–83.

Sauerland (Schützenbund für das kurkölnische Sauerland) and the Westphalian Homeland Association were ultimately forced to capitulate. Considerable progress was achieved through 1939 in the institutional forcing of the shooting clubs into line.³²

Some clubs that were forced into line early on and had integrated the liturgy of National Socialism into their meetings—the Hitler salute, “Sieg-Heil” and the Horst Wessel song—nonetheless dissolved after 1936 by decision of the clubs themselves in order to avoid a compulsory dissolution.³³ Clubs that had resisted the Nazi mandates were banned from activities or dissolved. The St. Lambertus-Schützen Kalterherberg was prohibited from participating in the May festival processions in 1936 and 1937 because its chairman was not in the party and refused, despite repeated admonitions, to begin the meetings with the Hitler greeting. He was forced to resign in mid-1938.³⁴

The liquidation of the pre-Nazi German Shooting Association took place throughout March 1938 and was accomplished with the help of the Gestapo and the temporary imprisonment of some association leaders. The association register reflects the final closing of the clubs in April.³⁵

In sum, the Hitler dictatorship viewed private gun owners and gun clubs with suspicion, and the Gestapo used different tactics to bring them under total control or to disarm them altogether. Armed Jews were demonized in propaganda campaigns as dangerous to the state, and shooting clubs were essentially seized by central Nazi authorities. Protest was not an option, and no recourse existed. By the time the National Socialist police state had been in power for half a decade, it was approaching near-complete control of firearms possession and use by the populace. But on this and every other aspect of life, the worst was yet to come.

32. Schwartz, “Schützenvereine im ‘Dritten Reich,’” 483.

33. Plett, *Die Schützenvereine im Rheinland und in Westfalen*, 447.

34. Plett, *Die Schützenvereine im Rheinland und in Westfalen*, 452.

35. StA Nürnberg, Vereinsregisterakte DSB 1938, p. 156/26, cited in Grus, “Allgemeines Verhältnis,” 2.

Hitler's Gun Control Act

WHAT MIGHT BE called the incredibly shrinking rule of law in Nazi Germany was characterized by ever-increasing Gestapo action outside any law. With the Reichstag no longer bothering to legislate, the Hitler cabinet continued to decree formal laws, including—after five years of leisurely consideration—the Weapons Law of 1938, a revision of the 1928 Weimar Firearms Law, under which the courts continued to adjudicate cases.

National Socialism embodied a schizophrenic perversion of law as a set of predictable rules that could be overridden by the führer, acting through institutions such as the Gestapo. But formal laws remained significant because in the usual course of events they were enforced by ordinary police and adjudicated by the courts. They could be ignored in extraordinary cases only if the Gestapo so decided.

Illustrative of the continued usefulness of the Weimar law to the Nazi regime was a case decided by Reich Regional Court (Landgericht) in Allenstein, East Prussia, in January 1937.¹ Rejecting the argument that the defendant who possessed an unregistered double-barrel gun was unaware of the legal requirements, the court held that he “acted with intent when he purchased and carried the firearm as well as when he failed to register it.” Allenstein decreed the registration of firearms in 1932, and despite the decree’s being annulled in 1936, the defendant could still be convicted.

1. Decision of January 21, 1937, 5 D 763/36, Regional Court (Landgericht) Allenstein, *Entscheidungen des Reichsgerichts in Strafsachen* (Decisions of the Reich Court in Criminal Matters) (Berlin: Gruyter, 1938), Band 71, S. 40.

The Reich Court reversed the lower court's decision that all of the offenses—including acquisition of, failure to register, and poaching with the gun—constituted but one criminal offense. “But the failure to register the gun is not part of the other offenses because those offenses were not committed through failure to register.” In short, the lower court sought to ameliorate the piling up of charges for the same act, but the appeals court demanded multiple convictions.

In response to continued discussion about a revised Firearms Law, Wilhelm Frick's Interior Ministry invited Reichsführer SS and Chief of the German Police Heinrich Himmler and officials of the High Office of Security Police (Hauptamt Sicherheitspolizei) to a meeting on February 2, 1937, to resolve differences.² On May 5, Frick circulated a new draft,³ explaining its most important element as follows: “The self-understood principle that *enemies of the people and the state and other elements that pose a danger to public security may not possess any weapons* shall be enforced by giving the police the authority to prohibit such persons from acquiring, possessing and carrying weapons and ammunition and to confiscate without compensation weapons and ammunition found in the possession of such persons.”⁴

The draft rejected the suggestion that the acquisition of firearms should not require a permit, “given public security concerns.” “Rather, the police must be able to maintain control so that firearms that are easy to handle or can be carried concealed get into the hands of reliable persons only who proved a need.” Although “expensive long rifles, in particular hunting rifles,” did not require a permit under the 1932 regulations, “a special permit must be necessary for those long rifles that fall under the definition of war materials”—that is, military rifles. Further, “*small firearms* (pistols and revolvers)” must also require an acquisition permit.⁵

The explanation of the new draft provided a little more detail on the prohibition of Jews' playing any role in the firearms industry: “There will be no room

2. Abschrift, Der Reichs- und Preußische Minister des Innern, Betrifft: Waffengesetz, Nr. I A 13480/6310, Jan. 16, 1937, Bundesarchiv (BA) Berlin, Aktenbandes 0056, S. 145.

3. Der Reichs- und Preußische Minister des Innern, Mit Beziehung auf mein Schreiben vom 7. Januar 1936, May 5, 1936, BA Berlin, R 43 II/399, Fiche 2, Row 3.

4. Begründung, No. I A 13258/6310 [May 5, 1937], BA Berlin, R 43 II/399, Fiche 1, Row 7–R 43 II/399, Fiche 2, Row 1, emphasis in original.

5. Begründung, No. I A 13258/6310 [May 5, 1937].

for Jews in the German weapons industry and trade. § 3, paragraph 5, therefore provides that no permit may be issued if the requestor or the person designated to be the technical head of a facility is Jewish. This provision is not limited to the technical head of the business, but also applies to the commercial manager. It applies to both manufacturing and trade (§ 7, paragraph 2)."

Whereas enemies of the state would be totally disarmed, and ordinary persons would be required to prove "need" to obtain a permit to carry a firearm, members of the Nazi elite would need no permits of any kind: "The position of the NSDAP in the German state is taken into account in that those political leaders and leaders of the SA, SS, NSKK [National Socialist Motor Corps (Nationalsozialistisches Kraftfahrkorps)] and Hitler Youth with a certain rank who have been granted the right to carry firearms by the competent party office do not in addition need a police permit to carry firearms or acquire small firearms."

The German states could not impose other restrictions, the explanation continued, "because pursuant to the First Decree on the New Order of the Reich of February 2, 1934, laws of the *Länder* [states] in general require the consent of the competent Reich minister." (Following the virtual abolition of the states, that decree required all state laws to be approved by the Reich.⁶) However, state laws might continue to "be useful to prohibit Gypsies or persons wandering like Gypsies from owning weapons, until this matter has been settled for the Reich with a Reich law." For uniformity, state laws regulating slashing or thrusting weapons would be inoperative, except with respect to Gypsies.

It is noteworthy that Frick's 1937 draft would have barred Jews from high-level positions within the firearms industry but would not have officially prohibited Jews from firearm possession. Gypsies were the only ethnic group prohibited from firearm ownership, but all "enemies of the state" were as well, a category into which the Gestapo placed Jews, not to mention political dissidents.

Although Jews were still formally not yet prohibited from firearms possession, in March 1937 the Gestapo proscribed issuance of hunting licenses to Jews because they were considered enemies of the state.⁷ All hunting permits held by

6. Erste Verordnung über den Neuaufbau des Reichs, *Reichsgesetzblatt* 1934, I, 81.

7. Betrifft: Ausstellung von Jagdscheinen an Juden, 21. Mar. 1937, Bestand Rep. C 20 I. I b, Signatur Nr. 1831, Band IV, Landesarchiv Magdeburg–Landeshauptarchiv Sachsen-Anhalt, Magdeburg, 6, cited in Michael E. Abrahams-Sprod, "Life under Siege: The Jews of Magdeburg under Nazi Rule," PhD diss., University of Sydney, 2006, 149–50.

Jews were revoked.⁸ Jews neither could be trusted with arms nor should share in the Reich's natural resources.

Frick's draft was sent only to the Reich ministries—the legislature (Reichstag) no longer functioned—which included mostly political, police, and military agencies. The Reich forest supervisor and Prussian land forest supervisor opposed the proposed ban on hollow-point .22-caliber rimfire ammunition, noting: “Hollow-point, grooved or similarly made small-caliber cartridges are extremely useful for hunters to shoot rabbits and to keep the hunting grounds free of small predators.” They continued: “During the quiet hunting season, many hunters carry the small-caliber [.22 rimfire] in their three-barrel gun and under the proposed amendment of the law would no longer be able to use the hollow-point bullets that are much more efficient for hunting purposes. They would be forced to use the normal small-caliber bullets which are entirely insufficient and must be regarded as inappropriate for a hunter.”⁹

The public had no idea what decrees Nazi officials were discussing behind closed doors, but the forest supervisors' opposition was the only objection made to the proposed new Firearms Law by a ministerial agency with a view of a segment of the public. Perhaps the regime feared use of this ammunition by “enemies of the state.”

Registration of supposed enemies of the state continued apace. A June 1937 directive assigned an SS division known as “Referat II, 112, Judaism” to focus on the complete registration of Jews in the Jewish Registry. The design and implementation of the registry was entrusted to Adolf Eichmann, who would later coordinate the extermination of Jews in the Holocaust.¹⁰

Specific supposed enemies of the state continued to be rounded up. On July 1, 1937, Lutheran pastor Martin Niemöller, a founder of the Confessing Church and opponent of the Nazification of the Protestant churches, was ar-

8. Verordnung zur Änderung der Verordnung zur Ausführung des Reichsjadgesetzes, *Reichsgesetzblatt* 1937, I, 179; Richard Lawrence Miller, *Nazi Justiz: Law of the Holocaust* (Westport, CT: Praeger, 1995), 69 n. 262.

9. Der Reichsforstmeister und Preußische Landesforstmeister Schreiben, May 5, 1937, I A 1285/6310, BA Berlin, R 43 II/399, Fiche 2, Row 7.

10. Götz Aly and Karl Heinz Roth, *The Nazi Census: Identification and Control in the Third Reich*, trans. Edwin Black and Assenka Oksiloff (Philadelphia: Temple University Press: 2004), 75–76.

rested and would be incarcerated in prison and concentration camps until 1945. Bella Fromm, the Berlin Jewish socialite whose meeting with Hitler at a reception mentioned in a previous chapter made her wish she had her revolver, wrote in her diary: "They've arrested Pastor Niemoeller, charging him with subversive activity! They dare anything, knowing there is no armed minority strong enough to oppose their most outrageous acts. It is true that Niemoeller was of the opposition, but it was not a political opposition. Merely an opposition to the encroachment of the state on the Christian faith."¹¹

This statement exemplifies the ongoing purge from society of all enemies of National Socialism, as Frick repeatedly stated in his explanations of proposed revisions to the firearms laws. Had a large number of Germans been like Bella Fromm—armed and willing to transcend any Jewish–Christian dichotomies—perhaps there might have been an “armed minority” or, more than that, a minority strong enough to oppose the regime. Niemöller would capture this disunity among groups oppressed by Nazism in the poem he composed at the end of the war:

First they came for the Communists, and I didn't speak up, because
I wasn't a Communist.

Then they came for the Jews, and I didn't speak up, because I wasn't
a Jew.

Then they came for the Catholics, and I didn't speak up, because I
was a Protestant.

Then they came for me, and by that time there was no one left to
speak up for me.¹²

The poem presents a partial explanation of how the Nazi regime was able to achieve total power by exploiting divisions in society. Anti-Hitler conspirator Hans Bernd Gisevius would later write:

11. Bella Fromm, *Blood & Banquets: A Berlin Social Diary* (New York: Carol Publishing Group, 1990), 246 (entry for July 2, 1937), 98 for her meeting with Hitler.

12. On the origins and variations of the poem, see Harold Marcuse, "Martin Niemöller's Famous Quotation," <http://www.history.ucsb.edu/faculty/marcuse/niem.htm> (visited Feb. 9, 2013).

Niemoeller's incarceration removed the last personality around whom any sort of civilian revolt movement might have gathered.

From the day the dictatorship began, the practicality of individual actions had seemed highly dubious, but a popular movement from below had seemed quite possible. For a time a general strike or other action by the disbanded labor unions appeared quite likely, but this likelihood turned out to be wrong. Thereupon, the resisters all turned their eyes to the Church.¹³

According to Gisevius, the chance for a popular opposition movement thus ended, and thereafter only a revolt from above could succeed. However, "[t]he 'sole bearers of arms in the nation' looked on idly as this enslavement of the nation took place. They 'kept out' of the struggle." He was referring to the military, adding: "From 1934 on, these 'sole bearers of arms in the nation' had by their passivity abetted the growth of Nazi totalitarianism."¹⁴ With the capitulation of the Wehrmacht to Hitler's will, the last potential force to resist evaporated.

This capitulation was complete by early 1938, when scandals weakened the German High Command, and Hitler both appointed his own selections and assumed the office of the War Ministry. In January, when Field Marshal Werner von Blomberg sought Hitler's blessings to remarry, the führer consented and even attended the ceremony. Berlin police president Helldorf, however, had information that Blomberg's wife had been convicted as a prostitute and had posed for pornographic photos that had been widely sold in Berlin. A Czech Jew had supposedly been her partner. Helldorf then took his evidence to Hermann Göring, who coveted Blomberg's power and so informed Hitler.¹⁵ An enraged Hitler was able to use the scandal to depose Blomberg and assert total power over the Wehrmacht.

By December 18, 1937, Interior Minister Frick had feedback "from the Reich agencies and the deputy of the führer" and enclosed a semifinal draft of the proposed revisions to the Firearms Law. Unless objections were received within

13. Hans Bernd Gisevius, *To the Bitter End: An Insider's Account of the Plot to Kill Hitler, 1933–1944*, trans. Richard Winston and Clara Winston (New York: Da Capo Press, 1998), 216.

14. Gisevius, *To the Bitter End*, 216, 241, 266–67, 277.

15. Blaine Taylor, "A Sex Scandal Ended the Career of High-Ranking Nazi Official Werner von Blomberg," <http://www.historynet.com/the-blomberg-sex-scandal-march-99-world-war-ii-feature.htm> (visited Feb. 9, 2013).

three weeks, noted Frick, "I will assume that all pertinent agencies agree with this draft to the Weapons Law and will submit it to the Reich cabinet for adoption by circulation because I do not consider it necessary for the cabinet to debate this draft."¹⁶

Wilhelm Keitel—just appointed by Hitler as Reich minister of war and commander in chief of the Wehrmacht in the wake of the Blomberg scandal—requested that the draft state that "[w]ar materials may be acquired only with approval of the Reich Minister of War or an agency designated by him."¹⁷ This would ensure that citizens could not obtain permits to acquire military firearms, such as ordinary Mauser bolt-action rifles.

Meanwhile, a less orderly form of firearms prohibition and anti-Semitism was taking place outside of Germany. In Rumania, Jewish lawyers were beaten by non-Jewish lawyers, and "in one district authorities were ordered to issue no more firearms permits to Jews, who were ordered to surrender arms already in their possession."¹⁸ A newly installed military dictatorship declared its power to conduct house searches and censor the press, and "a proclamation further order[ed] the surrender of all arms and ammunition in private possession."¹⁹

In Germany, however, legal forms remained important. Final changes to the draft law were made, and at last, on February 9, 1938, Frick submitted it for final approval by the Reich cabinet by way of circulation and without debate. Not only had the legislature and legislative debate ceased to function, the cabinet apparently engaged in little debate—especially when, as here, "all of the Reich ministries and the Deputy of the Führer have given their approval to the draft."²⁰ "The specialist for the Weapons Law at the Reich Ministry of the Interior, senior official Dr. Hoche," urged that the circulation process be speeded up and kept to a minimum.²¹

16. Der Reichs und Preußische Minister des Innern, An a) die Herren Reichsminister [et al.], Dec. 18, 1937, BA Berlin, R 43 II/399, Fiche 2, Row 7.

17. Der Reichskriegsminister und Oberbefehlshaber der Wehrmacht, Betrifft: Entwurf des Waffengesetzes, Jan. 15, 1938, BA Berlin, R 43 II/399, Fiche 3, Row 3.

18. "Changes in Ballot Arouse Rumanians," *New York Times*, Jan. 20, 1938, 10.

19. "Carol Gives Army Control in Nation," *New York Times*, Feb. 12, 1938, 2.

20. Der Reichs und Preußische Minister des Innern, Betrifft: Entwurf des Waffengesetzes, Feb. 9, 1938, BA Berlin, R 43 II/399, Fiche 3, Row 3.

21. Betrifft: Entwurf eines Waffengesetzes, Feb. 9, 1938, BA Berlin, R 43 II/399, Fiche 3, Row 6.

A minor scrambling for an interpretation by Nazi bureaucrats took place at the last minute. A memorandum was inserted into the record that “officials and employees of the security service of the Reich Chancery do not need a firearm license. It is sufficient if they carry a certificate of their agency. . . . The specialist at the Reich Ministry of the Interior, Dr. Hoche, senior official, agreed with this interpretation.”²²

The Nazi Party itself wanted more than just a file memorandum when it came to an ambiguity regarding who must be “personally reliable” in the firearms industry—a code word for political reliability. A party official noted that “both the commercial and the technical manager of the operation need to be personally reliable,” that the Interior Ministry “specialist” (Dr. Hoche) “agreed to change the statement of reasons to read that all persons concerned need to be reliable,” and that the revision must “be made before the draft is submitted to the Führer and Reich Chancellor.”²³

Dr. Hoche immediately changed the explanation of the draft to reflect this adjustment. “He said that the intention was not to issue a permit to manufacture firearms and ammunition if either the requestor or the person contemplated as commercial or technical manager of the operation was reliable, but that of course all three would have to be reliable.”²⁴

The draft was now final, and Frick announced: “None of the Reich Ministers has filed an objection against the proposal submitted to the members of the Reich Government . . . by way of circulation. The Führer and the Reich Chancellor has approved it and the following is herewith adopted.”²⁵ It was decreed and signed by Hitler and Frick pursuant to the Enabling Act passed in 1933, which stemmed from the provision of the Weimar Constitution allowing rule by decree. Indeed, the Reichstag, the legislative body, passed only seven

22. Betrifft: Waffengesetz, Feb. 23, 1938, BA Berlin, R 43 II/399, Fiche 3, Row 6.

23. Nationalsozialistische Deutsche Arbeiterpartei, Betrifft: Entwurf des Waffengesetzes, Mar. 2, 1938, BA Berlin, R 43 II/399, Fiche 3, Row 6.

24. Vermerk, Mar. 4, 1938, BA Berlin, R 43 II/399, Fiche 3, Row 6. See also Der Reichs- und Preussische Minister des Innern, Betrifft: Entwurf des Waffengesetzes, Mar. 5, 1938, BA Berlin, R 43 II/399, Fiche 3, Row 6.

25. Der Reichsminister und Chef der Reichskanzlei, An den Herrn Reichs- und Preussische Minister des Innern, Mar. 4, 1938, BA Berlin, R 43 II/399, Fiche 3, Row 6.

laws during the entire Third Reich (1933–45).²⁶ The official publication date of the Weapons Law was March 13, 1938.²⁷

The new Weapons Law was enacted only four days after the Anschluss of Austria, in which a triumphant Hitler returned to his homeland to occupy it. The repression was immediate. Victor Klemperer wrote in his diary: “Some time before the occupation of Austria there were careful investigations (books and periodicals) on behalf of the Gestapo as to who among the Austrian professors and writers had published anti-Fascist work. These people were immediately arrested.”²⁸ Austrian police records on firearm owners would have been another obvious source for Gestapo investigation.

As adopted, the Hitler–Frick Weapons Law combined many elements of the 1928 law with National Socialist innovations. A license was required to manufacture, assemble, or repair firearms and ammunition and even to reload cartridges. “A license shall not be granted if the applicant, or the persons intended to become the commercial or technical managers of the operation of the trade, or any one of them, is a Jew.”²⁹ Firms with licenses under the 1928 law had to comply with this provision within a year, or the license would be revoked.³⁰

A license was also required to sell firearms as a trade. Again, Jews were excluded.³¹ Trade in firearms was prohibited at annual fairs, shooting competitions, and other events.³² This would have included traditionally popular events such as shooting festivals and gun shows.

26. Anton Gill, *An Honourable Defeat: A History of German Resistance to Hitler, 1933–1945* (New York: Henry Holt, 1994), 19–20.

27. Waffengesetz, *Reichsgesetzblatt* 1938, I, 265.

28. Victor Klemperer, *I Will Bear Witness 1933–1941*, trans. Martin Chalmers (New York: Modern Library, 1999), 255 (April 18, 1938).

29. *Reichsgesetzblatt* 1938, I, 265, § 3. English translations of the law are published in *Federal Firearms Legislation: Hearings before the Subcommittee to Investigate Juvenile Delinquency*, U.S. Senate Judiciary Committee, 90th Cong., 2d Sess., 489 (1968). See also Jay Simkin and Aaron Zelman, “Gun Control”: *Gateway to Tyranny* (Milwaukee, WI: Jews for the Preservation of Firearms Ownership, 1993), 53.

30. *Reichsgesetzblatt* 1938, I, 265, § 29(1).

31. *Id.* § 7.

32. *Id.* § 9.

Acquisition of a handgun required a Waffenerwerbschein (license to obtain a weapon).³³ That stipulation did not apply to transfer of a handgun to a shooting range licensed by the police for sole use at the range. Exempt from the law's provisions were "authorities of the Reich," various government entities, and "departments and their subdivisions of the National Socialist German Workers' Party designated by the deputy of the Führer."³⁴

Carrying a firearm required a Waffenschein (license to carry a weapon). The issuing authority had complete discretion to limit the validity of the license to a specific occasion or locality.³⁵ The decree further provided:

1. Licenses to obtain or to carry firearms shall only be issued to persons whose reliability is not in doubt, and only after proving a need for them.
2. Issuance shall especially be denied to: . . .
3. Gypsies, and to persons wandering around like gypsies;
4. Persons for whom police surveillance has been declared admissible, or upon whom the loss of civil rights has been imposed, for the duration of the police surveillance or the loss of civil rights;
5. Persons who have been convicted of treason or high treason, or against whom facts are under consideration that justify the assumption that they are acting in a manner inimical to the state. . . .
6. Persons who have received final sentence to a punishment of deprivation of liberty for more than two weeks . . . for resistance to the authorities of the state.³⁶

It is noteworthy that, on the face of the law, Jews were not named as automatically disqualified. Gypsies were the only ethnic group that did not qualify. It might be that the Nazi leadership did not feel confident of the support of enough Germans to disarm Jews at this time. Many Jewish men had fought in

33. *Id.* § 11.

34. *Id.* § 12.

35. *Id.* § 14.

36. *Id.* § 15.

the Great War and had retained their sidearms.³⁷ This reluctance would change later that year.

For officially supplied firearms, a license to acquire or carry firearms was not required of members of the armed forces, the police, “members of the SS reserve groups, and the SS Totenkopfverbände [Skull and Crossbones units],”³⁸ as well as the following: “lower echelon leaders of the National Socialist German Workers’ Party, from local group leaders upwards; of the SA, the SS, and the National Socialist Motor Corps from Sturmführer upwards as well as the Hitlerjugend from Bannführer upwards, to whom the Deputy of the Führer or an office designated by him, granted the right to carry firearms.”³⁹

Possession of any kind of weapon could be prohibited where “in individual cases a person who has acted in an inimical manner toward the state, or it is to be feared that he will endanger the public security.”⁴⁰ Such cases could include any opponent of Nazism or simply any disfavored person. No compensation would be paid for the confiscation.

It was forbidden to manufacture or possess “firearms that are adapted for folding or telescoping, shortening, or rapid disassembly beyond the generally usual extent for hunting and sporting purposes.” Firearms with silencers or spotlights were prohibited. Also, .22-caliber rimfire cartridges with hollow-point bullets were outlawed.⁴¹

The penalty for willfully or negligently violating the provisions of the law related to the carrying of a firearm was up to three years imprisonment and a

37. See, for example, Klemperer, *I Will Bear Witness*, xi, xiv, 275 (entry for Nov. 27, 1938). In 1933, the head of the Reich Association of Jewish War Veterans (Reichsverband jüdischer Frontsoldaten) actually sent a copy of a memorial book with the names of 12,000 Jewish German soldiers killed in World War I to Hitler, who acknowledged receipt with “sincerest feelings.” Saul Friedländer, *Nazi Germany and the Jews*, vol. 1: *The Years of Persecution, 1933–1939* (New York: Harper Collins, 1997), 15. Jewish participation was in proportion to the rest of the German population. See Friedländer, *Nazi Germany and the Jews*, 1:75. Jewish service in the armed forces was not banned until 1935. Friedländer, *Nazi Germany and the Jews*, 1:117.

38. *Reichsgesetzblatt* 1938, I, 265, § 18.

39. *Id.* § 19.

40. *Id.* § 23.

41. *Id.* § 25.

fine.⁴² A fine and indeterminate imprisonment was imposed on anyone who violated other provisions of the law or implementing regulations.⁴³

The primary Hitler–Frick innovations to the 1928 Weimar law were the exclusion of Jews from firearms businesses and the extension of the exceptions to the requirements for licenses to obtain and to carry firearms to include various National Socialist entities, including party members and members of military and police organizations. Although the 1938 law no longer required an acquisition license for rifles and shotguns, but only for handguns, any person could be prohibited from possession of any firearm based on the broad discretion of authorities to determine that a person was “acting in a manner inimical to the state” or had been sentenced “for resistance to the authorities of the state,”⁴⁴ or “it is to be feared that he will endanger the public security.”⁴⁵ The Weimar law had provided for compensation for a confiscated firearm, whereas the Nazi law prohibited compensation. An innovation of the 1938 law was to ban .22-caliber rimfire cartridges with hollow-point bullets, which were used mostly for small-game hunting but could be lethal to humans.

The major features of the Weimar law were retained as particularly suitable for Nazism’s goals: the requirement of licenses to make and sell firearms, including record keeping on transferees and police powers to inspect such records; the requirements of licenses to obtain and to carry weapons and of the retention by police of the identities of and information on such licensees; the provision that “licenses to obtain or to carry firearms shall be issued only to persons whose reliability is not in doubt, and only after proving a need for them”; the denial of licenses to “persons for whom police surveillance has been declared admissible” or who presumably “are acting in a manner inimical to the state”; the prohibition on possession of any weapon by a person “who has acted in an inimical manner toward the state, or it is to be feared that he will endanger the public security”; and the prohibition on firearms with certain features not generally used “for hunting and sporting purposes.”

42. *Id.* § 26.

43. *Id.* § 27.

44. *Id.* § 15.

45. *Id.* § 23.

Again following the Weimar law, the Hitler–Frick law directed the Reich minister of the interior to issue implementing regulations.⁴⁶ Pursuant to that power, on March 19, 1938, Frick promulgated extensive regulations governing the manufacture, sale, acquisition, and carrying of firearms.⁴⁷ The regulations began by entrusting the higher administrative authority in the hands of the presidents of the governments or highest officials in the various states, except that in Berlin the power was in the hands of the police chief.⁴⁸

Extensive record keeping was required. A manufacturer—the definition of which included not only the original producer, but also a person who assembled firearms in his shop from parts made by others—was required to keep a book with each firearm identified and its disposition. A handgun seller was obliged to keep books on the acquisition and disposition of each handgun. Once a year, the book for the previous year was submitted to the police authorities for certification. All records were subject to police inspection on demand. The records were to be kept for ten years and on discontinuance of business were required to be turned over to the police.⁴⁹

Licenses to obtain or carry firearms, the form of which was prescribed, were issued by the district police authority where the applicant lived. A firearm acquisition permit was valid for one year, and a license to carry a specific firearm was valid for three years.⁵⁰ When a person obtained the handgun authorized by an acquisition permit, the transferor, whether a dealer or a private person, submitted to the police the permit showing the acquisition.⁵¹ Muzzle-loading pistols and revolvers as well as blank and gas firearms were exempt.⁵² “Individual exceptions” were continued to be permitted to the 1933 ban on importation of handguns.⁵³ Apparently because the law itself covered the subject in detail, the

46. *Id.* § 31.

47. Verordnung zur Durchführung des Waffengesetzes (Ordinance for the Implementation of the Weapons Law) , *Reichsgesetzblatt* 1938, I, 270.

48. *Id.* § 1. English translations are in *Federal Firearms Legislation*, 496, and Simkin and Zelman, “*Gun Control*,” 64.

49. Verordnung zur Durchführung des Waffengesetzes, §§ 15–19.

50. *Id.* at Anlage (appendix) I and II.

51. *Id.* § 25.

52. *Id.* § 20.

53. *Id.* § 36.

regulations did not mention the prohibition on Jews being licensed as manufacturers or sellers or the numerous exceptions for government and National Socialist party members.

The *Völkische Beobachter*, Hitler's newspaper, had this to say about the revised Weapons Law the same month it was decreed:

The new law is the result of a review of the weapons laws under the aspect of easing the previous legal situation in the interest of the German weapons industry without creating a danger for the maintenance of public security.

In the future, the acquisition of weapons will in principle require a police permit only when the weapons are pistols or revolvers. No permit will be required for the acquisition of ammunition.

The restrictions on the use of stabbing and hitting weapons, restrictions that originated at the time of emergency decrees, have basically been revoked. Compared to the previous law, the statute also contains a series of other alleviations. From the remaining numerous new provisions, the basic prohibition to sell weapons and ammunition to adolescents below the age of 18 should be emphasized. Further, the issuing of permits for the production or commerce with weapons is linked to the possession of German citizenship and to the personal reliability and technical fitness. No permits may be issued to Jews.⁵⁴

Although this description makes the new law sound as if it were deregulatory, the Nazis were masters of propaganda. The *Berliner Börsenzeitung* produced identical commentary but added the following rather ominous language that had been a premise of the discussion since 1933:

The prerequisite for any easing of the applicable weapons law had to be that the police authorities would remain able ruthlessly to prevent any unreliable persons from acquiring or possessing any weapons. The new law is meant to enforce the obvious principle that enemies of the people and the state and other elements endangering public security may not possess any weapons. It does so by authorizing the police to prohibit such persons from acquiring, possessing or carrying weapons of any

54. "Ein neues Waffengesetz," *Völkischer Beobachter*, Mar. 22, 1938, 11.

kind. Because it is possible in this way to prevent any weapons possession that the police considers undesirable, the authorities were justified to ease the previous restrictions.⁵⁵

In short, the police determined who could and who could not possess firearms. Aryans who were good Nazis could acquire some firearms with relative ease. Any possession of firearms by a person considered “undesirable” by the police was prohibited. The Nazis thereby imposed on the German people a firearms “law”—a law in name only—based on totalitarianism and police-state principles.

The 1938 Weapons Law was the subject of two legal commentaries, one by Fritz Kunze and the other by Werner Hoche, both of whom had published commentaries on the 1928 Firearms Law.⁵⁶ The top legal experts who explained the intricacies of the Weimar Republic’s firearm prohibitionist laws continued to fulfill the same service to the Nazi dictatorship, with complete details on the amendments banning Jews from the firearms industry and the special exceptions for Nazi Party members.

Hoche was a legal technician whose expertise extended far beyond advising whoever was in power on how to limit firearms possession to the populace and then rendering detailed commentaries on the meaning of the resultant laws. He was a leading legal expert in the Interior Ministry of both the Weimar Republic and the Hitler regime. He edited a quarterly series on the Hitler regime’s decrees, including the various anti-Semitic measures.⁵⁷

While the Weapons Law was being developed, Frick was also circulating a draft law for testing firearms.⁵⁸ Firearms were required to be tested and proofed by Reich authorities. Such a law was not a Nazi innovation in that in previous

55. *Berliner Börsenzeitung*, Mar. 22, 1938, II.

56. Fritz Kunze, *Das Waffenrecht im Deutschen Reich* (Weapons Law in the German Reich) (Berlin: Paul Parey, 1928–1938 [at least 5 editions]); Werner Hoche, *Schußwaffengesetz* (Firearms Law) (Berlin: Franz Vahlen, 1928, 1931; Werner Hoche, *Waffengesetz* (Weapons Law) (Berlin: Franz Vahlen, 1938).

57. See, for example, Werner Hoche, ed., *Die Gesetzgebung Adolf Hitlers für Reich, Preußen und Österreich* (Adolf Hitler’s Legislation for the Reich, Prussia, and Austria), vol. 27, Apr. 16–July 15, 1938 (Berlin: Franz Vahlen, 1938).

58. Entwurf einer Verordnung zur Durchführung des Gesetzes über die Prüfung von Handfeuerwaffen und Munition (Beschußgesetz), 1938, BA Berlin, R 43 II/399, Fiche 4, Row 1.

decades in Germany minimum standards for firearms quality had been imposed by law rather than by the market economy. Indeed, the draft's explanation stated: "The law is intended to replace the previous law on the inspection of barrels and locks of small firearms of May 19, 1891."⁵⁹ The Reich minister of justice recommended that any persons involved in the manufacture or delivery for inspection of improperly marked firearms, even without their knowledge of noncompliance, should be punished.⁶⁰

Meanwhile, the regime enhanced laws requiring all Germans to report personal information to the authorities. The Reich Registration Order of January 6, 1938, established a registration card for each person with information on residence, convictions, motor vehicles, and emigration.⁶¹ A further decree on April 27 provided that Jews must register their assets if they exceeded 5,000 marks,⁶² which was yet another job for the punch card machines run by the IBM subsidiary Dehomag.⁶³ About the required filling out of the "Inventory of Assets of Jews," Victor Klemperer reflected in his diary: "We are so accustomed to living without rights and to waiting apathetically for further disgraceful acts, that it hardly upsets us anymore."⁶⁴

"Assassination Plans in Jewish Circles," a document by the Reich Main Security Office (Reichssicherheitshauptamt) dated June 27, 1938, asserted that Jewish groups in Berlin had reacted strongly to the latest boycott measures. "Since the beginning of the action Jewish circles have discussed the carrying out and advisability of assassinations of leading political leaders." Dr. Bruno Glaserfeld, chairman of the National Association of German Jews, had spoken with associates about bomb assassinations. Günther Salter "likewise spoke of

59. Der Reichsminister des Innern, Betrifft: Gesetz über die Prüfung von Handfeuerwaffen und Munition (Beschußgesetz), Aug. 25, 1938, BA Berlin, R 43 II/399, Fiche 3, Row 7.

60. Der Reichsminister der Justiz, Betrifft: Gesetz über die Prüfung von Handfeuerwaffen und Munition (Beschußgesetz), Sept. 16, 1938, BA Berlin, R 43 II/399, Fiche 4, Row 3.

61. Verordnung über das Meldewesen, Reichsgesetzblatt 1938, I, 13. See Aly and Roth, *The Nazi Census*, 38–40.

62. "Goering Starts Final Liquidation of Jewish Property in Germany," *New York Times*, Apr. 28, 1938, 1.

63. Edwin Black, *IBM and the Holocaust: The Strategic Alliance Between Nazi Germany and America's Most Powerful Corporation* (New York: Random House, 2001), 248.

64. Victor Klemperer, *I Will Bear Witness 1933–1941*, trans. Martin Chalmers (New York: Modern Library, 1999), 260 (entry for June 29, 1938), 11.

assassinations as political combat methods against the Third Reich as alone effective.” He advocated surveillance of Hitler’s movements on frequently used streets, such as to the airport or on his birthday, and the renting of a room from which an attack would be launched. “Both Glaserfeld and Salter clarified that they were not spinning tales, but that these plans must be carried out because of the desperate situation of the European Jews. They think that the declining power of European Jewry can be stopped only in this way.”⁶⁵

A follow-up report advised that Glaserfeld had been arrested at a summer home in the vicinity of Potsdam.⁶⁶ No report could be found on Salter’s fate.

In this period, anti-Nazi elements in both the military and the police were plotting against Hitler. Some advocated a coup d’état and then the trial of the top Nazis as criminals. Others held that tyrannicide was moral and that Hitler must be assassinated to preclude his escape and reassertion of power.⁶⁷ It would take these conspirators six more years before they could set off a bomb, but this attempt on July 20, 1944, failed to kill the führer.

On July 23, Frick decreed that all Jews must identify themselves and register at the local police stations, resulting in the issuance of identification cards. The August 17 Second Decree Implementing the Law Concerning the Change in Family Names required a change in Jews’ names: “For males, that name shall be Israel, for females Sara.”⁶⁸

In this period, Count Wolf Heinrich Graf von Helldorf—the Berlin police president—was leading an increasingly stringent anti-Semitic campaign. After serving in the Great War, he had joined the Freikorps. Bella Fromm described Helldorf as “the Berlin Storm Troop leader . . . [who] was the instigator of the Jew-baiting on Kurfuerstendamm in celebration of the Jewish New Year’s Day” in 1931.⁶⁹ Helldorf became SA führer for Berlin-Brandenburg that same year. He was appointed police president of Potsdam in 1933, when the news media hailed him as “our savior from Jewish crime,”⁷⁰ and then of Berlin in 1935.

65. Attentatpläne in jüdischen Kreisen, June 27, 1938, BA Lichterfelde, R 58/2246.

66. Judenbewegung in Berlin, July 12, 1938, BA Lichterfelde, R 58/2246.

67. Gisevius, *To the Bitter End*, 311.

68. Zweite Verordnung zur Durchführung des Gesetzes über die Aenderung von Familiennamen und Vornmen, *Reichsgesetzblatt* 1938, I, 1044.

69. Fromm, *Blood & Banquets*, 57.

70. Quoted in Richard L. Miller, *Nazi Justiz: Law of the Holocaust* (Westport, CT: Praeger, 1995), 24.

Now, in the summer of 1938, Jews throughout Germany were identified to the police, and their homes and businesses were registered. Helldorf's Berlin police issued an internal memorandum with a seventy-six-point list of ways to harass Jews legally.⁷¹ Jews who were registered and licensed firearm owners would have drawn special attention at this time. Helldorf's fortunes were rising in more ways than one, as Bella Fromm's diary entry for September 1 reflects:

The president of police, Count Helldorf, has an enormously profitable racket. He seizes the passports of such emigrants as are still well off and sells the passports back to them for whatever sum he can get. In some instances as much as two hundred and fifty thousand marks.

They pay it. No price is too much if it's liberty one is buying.⁷²

Just days later, Fromm herself would escape Germany and find refuge in New York.⁷³

As Goebbels wrote in his own diary on August 30, 1938: "Helldorf gives a report on his continuing Jewish operations. . . . Many Jews have already emigrated from Berlin." Given that many wealthy Jews remained, "We will therefore continue the campaign."⁷⁴

Beginning with his diary entry of October 1 for the next month, Goebbels recorded numerous lengthy meetings with Helldorf. A midmonth entry read: "Helldorf gives me a report on the status of the Jewish operation in Berlin. It continues as scheduled. And the Jews now gradually withdraw."⁷⁵

71. Richard J. Evans, *The Third Reich in Power, 1933–1939* (New York: Penguin Press, 2005), 577–78.

72. Fromm, *Blood & Banquets*, 280.

73. Fromm, *Blood & Banquets*, 281–83.

74. *Die Tagebücher von Joseph Goebbels* (The Diary of Joseph Goebbels), Teil I, Aufzeichnungen 1923–41, Band 6, Aug. 1938–June 1939, ed. Elke Fröhlich (Munich: K. G. Saur, 1998), 65. Among many other misspellings, Goebbels consistently misspelled the name "Helldorf" as "Helldorff."

75. *Die Tagebücher von Joseph Goebbels*, Teil I, 142 (entry for Oct. 12, 1938). In this period, Goebbels began to have intimate discussions with Helldorf "about my personal situation"—a veiled reference to the scandal brewing about his affair with a Czech actress—leading also to meetings with Göring and Hitler. *Die Tagebücher von Joseph Goebbels*, Teil I, 152–59, 170 (diary entries for Oct. 20–Nov. 3, 1938). Hitler was displeased with Goebbels's disloyalty to his wife, Magda, a firm National Socialist. Goebbels would soon find a way to regain the führer's approval by helping to instigate an unprecedented anti-Jewish pogrom.

Among all the other incentives for Jews to flee, Helldorf had by now put in motion a campaign to disarm all Jews. It did not matter that the new National Socialist Weapons Law included no prohibition on possession of a firearm by a Jew. As Hitler proclaimed on October 22, “[E]very means adopted for carrying out the will of the Leader is considered legal, even though it may conflict with existing statutes and precedents.”⁷⁶

76. Quoted in Edward Crankshaw, *Gestapo: Instrument of Tyranny* (London: Greenhill Books, 1956), 89.

PART IV

Reichskristallnacht

Night of the Broken Glass

October Prelude

Arresting Jewish Firearm Owners

ON OCTOBER 4, 1938, just weeks before the Night of the Broken Glass (Reichskristallnacht), Berlin police arrested Alfred Flatow. His crime: being a Jew in *lawful* possession of firearms.¹ The police knew he possessed firearms because he dutifully registered them in 1932 under the Weimar decree. In anticipation of the coming pogrom, the Nazi leadership launched a campaign to disarm Jews. Flatow was one of many who were arrested and turned over to the Gestapo. He would eventually be deported and die in a concentration camp.

The police may not have realized that they had arrested a world-class gymnast who had won the gold for Germany at the 1896 Olympics: first place in the parallel bars events (individual and team) and second place in the horizontal bar event.²

Flatow's arrest record is in the Landesarchiv Berlin in a file labeled "House Searches of Jews 1938–39."³ It is on a standard four-page police form entitled "Report Concerning Political Incident." Two similar arrest reports were found in the same file. As will become evident, these arrests were part of an orchestrated police campaign to disarm all Berlin Jews, including those who possessed their firearms lawfully. Further evidence establishes that the disarming of Jews

1. Bericht über einen polit. Vorfall, Oct. 4, 1938, Alfred Flatow, A Rep Pr. Br. Rep. 030/21620 Bd. 5, Haussuchungen bei Juden 1938–39 (FB Bd. 5), Landesarchiv Berlin.

2. Hajo Bernett, "Alfred Flatow—vom Olympiasieger zum Reichsfeind" (Alfred Flatow—from Olympic Victory to Reich Enemy), *Sozial- und Zeitgeschichte des Sports*, 1st ed. (1987), 2:94. See also Arnd Krüger, "'Once the Olympics Are Through, We'll Beat Up the Jew': German Jewish Sport 1898–1938 and the Anti-Semitic Discourse," *Journal of Sport History* 26, no. 2 (Summer 1999), 353, 367; Joseph Siegan, *Jewish Sports Legends: The International Jewish Sports Hall of Fame* (Washington, DC: Brassey's, 1997), 92.

3. Bericht über einen polit. Vorfall, Oct. 4, 1938, Alfred Flatow.

took place all over Germany. Having rendered Jews defenseless, the regime set the stage for a major pogrom, requiring only the right incident to be launched.

The arrest report specifying Alfred Flatow as the perpetrator was filed at Police Station 106 Berlin, SW 68, on October 4, 1938.⁴ Flatow was born on October 3, 1869, in Danzig. His address was Berlin SW 19, Alexandrinenstraße 50. That street intersects with the well-known Oranienstraße in the Kreuzberg District of Berlin, where Police Station 106 was located.⁵

The name, birth date, and birthplace correspond to one and the same Alfred Flatow who competed in the 1896 Olympics. Before that, he had served in the Sixty-sixth Prussian Infantry Regiment during 1893–94. Flatow would be an active gymnast in the Berlin Turnerschaft, Germany's largest gymnastics society, for forty-six years. He had a small bicycle shop, officiated at sporting events, and wrote widely on the theory of gymnastics.⁶

Having come to power in early 1933, the Nazis had by October that year forced Jews out of the Berlin Turnerschaft. Club chairman Rupert Naumann supported the Jewish athletes, but Flatow only wished to avoid confrontation and resigned.

All German Olympic champions were invited as honorary guests to the 1936 Olympic Games in Berlin. Alfred Flatow's name, together with that of his cousin, Gustav Felix Flatow, another champion of the 1896 Games, were printed in the program. However, their names and photographs did not appear in news accounts of the event because they apparently refused to attend due to the Nazi regime's anti-Semitic policies.⁷

For more than three decades, Alfred Flatow lived in the Kreuzberg area of Berlin in an old house on Alexandrinenstraße, the address shown on his 1938 arrest report. However, the 1939 census indicated that he then lived at 33 Landshuter Straße in Schöneberg, where he shared an apartment with Else

4. Unless otherwise indicated, all facts in reference to the Flatow arrest are from Bericht über einen polit. Vorfall, Oct. 4, 1938, Alfred Flatow.

5. See the map of police precincts in the central districts of Berlin for 1930 in Hsi-Huey Liang, *The Berlin Police Force in the Weimar Republic* (Berkeley: University of California Press, 1970), 12–13.

6. Unless otherwise indicated, all facts about Flatow's life other than the arrest report are from Bernett, "Alfred Flatow."

7. Gerd Steins, "Gustav Felix Flatow: Ein vergessener Olympiasieger" (Gustav Felix Flatow: Forgotten Olympic Champion), in *Sozial- und Zeitgeschichte des Sports*, 2:103, 109.

and Margarete Flatow.⁸ Perhaps he moved in with these relatives after being released from Gestapo custody. The census listed his descent as “JJJJ”—that is, all four grandparents were Jewish.

As noted, Flatow’s 1938 arrest was reported on the police form entitled “Report Concerning Political Incident.” Characterization of the matter as “political” brought it within the jurisdiction of the Gestapo, which could hold a detainee in “protective custody” indefinitely, and that person had no right to judicial review.⁹

Flatow’s arrest report states: “Political affiliation: Jew.” If “Jew” sounds odd as the designation for a “political affiliation,” perhaps the form was originally drafted for arrests of political opponents, such as leftists and various democrats, against whom the Nazi regime had focused its repression since 1933.

The “crime scene” (Tatort) was listed as Berlin SW 68, Curtdamm 16, and the time was 1:50 p.m. Yet Curtdamm 16 was the address for Police Station 106.¹⁰ This was no crime scene—Flatow appears to have been standing in line with other Jews to surrender his legally registered arms because they were ordered to do so by Berlin police president Helldorf.

Under “Weapons Found,” the form specified: “Surrendered a) Slashing and thrusting weapons: 1 dagger, 31 knuckledusters. b) Firearms: 1 revolver, 2 pocket pistols, 22 rounds of ammunition.” Under the type of police intervention, the form indicated “special operation [Sonderaktion]” instead of routine patrol.

Flatow’s “[c]riminal act (include pertinent statutory sections)” was described simply as “possession of weapons,” but the blank for the statutory section called for by the form was not completed because there was no statute to cite. The law

8. Ergänzungskarten der Volkszählung von 17.05.1939, Bundesarchiv R2/GB. This source also shows: RAD: J. Datum: 22091941 [Sept. 22, 1941].

9. Michael Stolleis, *The Law under the Swastika* (Chicago: University of Chicago Press, 1998), 134; Edward Crankshaw, *Gestapo: Instrument of Tyranny* (London: Greenhill Books, 1956), 89.

10. Police Station 106 was located in Luisenstrasse 37 Kreuzberg, as indicated in *Berlin Adressbuch 1938*. In 1938, the street was renamed “Curthdamm,” and the station’s new address was Curthdamm 16, as indicated in *Berlin Adressbuch 1939*. More precisely, Luisenstrasse became Curthdamm on May 20, 1937, and was renamed “Segitzdamm” on July 31, 1947. Hans-Jürgen Mende, *Lexikon. Alle Berliner Strassen u. Plätze. Von der Gründung bis zur Gegenwart Bd. 1 A-Fre* (Berlin’s Streets and Squares – from Foundation to Present) (Berlin: Luisenstadt, 1998). Curthdamm was named for Udo Curth, an SA man who was killed in street riots in 1932.

had not yet been revised to prohibit Jews from possessing a weapon, although Werner Best's 1935 secret Gestapo directive against issuing firearm licenses to Jews dictated as much: "As a rule, we have to assume that firearms in the hands of the Jews represent a considerable danger for the German people."¹¹ The written law was irrelevant anyway in a state in which every means for carrying out the führer's will was considered legal.¹² The arrest report continued:

The Jew Alfred Flatow was found to be in possession of 1 revolver with 22 rounds of ammunition, 2 pocket pistols, 1 dagger, and 31 knuckledusters. Arms in the hands of Jews are a danger to public safety.

[signed] Police First Sergeant Colisle

The arms were registered at Police Station 13 on January 26, 1932. Written confirmation is there.

As stated, First Sergeant Colisle was mentioned as the source of the information that Flatow's 1932 weapons registration remained at Police Station 13. Station 13 was a kilometer north of Station 106.¹³ The officer filling out the report, who listed himself as a "witness to the crime," was Police First Sergeant Edmund Weiser of Police Station 106. Perhaps a list of all firearms registered to Jews was circulated to all of the police stations. Officers in charge of the registrations could confer with arresting officers in writing or by telephone to verify that the Jewish gun owner in question possessed a registered firearm. Some Jews surrendering their weapons may have produced their registration forms.

The arrest form required a listing of objects confiscated from the arrested person, including items he supposedly could use to hurt himself or someone else. The policeman here listed a briefcase with journals and various documents, perhaps Flatow's copy of his weapon registration papers from 1932 because he was apparently there to surrender his weapons voluntarily and to show his compliance with the law. Also among the items confiscated were a wallet, a tiepin, a penknife, a cigarette case with six cigarettes, glasses, keys, and pencils.

11. Betr.: Erteilung von Waffenscheinen an Juden, Preußische Geheime Staatspolizei, B.Nr. I G-352/35, Dec. 16, 1935, DCP 0072, BA R 58/276.

12. Crankshaw, *Gestapo*, 89.

13. See map in Liang, *The Berlin Police Force in the Weimar Republic*, 12-13.

Personal belongings seized but not confiscated included about 118 Reichsmark and a gold watch. Flatow signed to acknowledge the accuracy of the inventory of property.

Then came the ominous words, signed by the police seargeant and precinct head (Poliezi Obermeister und Revierführer): “The perpetrator . . . has been turned over to the Gestapo.” “Put into cell from 1:25 p.m. to _____.” The blank for the time the Gestapo picked up Flatow was not filled out, perhaps suggesting that he had an extended stay or the officer was not on duty when he was picked up. The report includes nothing about what occurred after Flatow was taken into Gestapo custody. Unlike an “arrest” that would lead to a trial, Gestapo “protective custody” entailed indefinite incarceration until the suspect was no longer considered a threat to the state.¹⁴ Werner Best was architect of this procedure, also known as “preventive detention,” which wholly abrogated any judicial review.¹⁵

Following Flatow’s 1938 arrest, knowledge of his fate is sketchy. Hitler instigated World War II the following year. In early 1942, the Nazi leadership adopted the Wannsee Protocol, which outlined the “final solution of the Jewish question.”¹⁶ Later that year, Flatow, then seventy-three years old, was ordered to be deported. His friend Karl Schumann, another Olympic champion in Athens, alerted the Olympic chief of staff Christian Busch, asking the Reich sport leader for intervention. Schumann’s objection was abruptly rejected. Flatow was transported as prisoner number 8230 with 1,021 other deportees on Transport I/71-8230 from Berlin to Terezin in October 1942. Placed in the Theresienstadt Concentration Camp, he died of starvation in December 1942.¹⁷

14. Richard L. Miller, *Nazi Justiz: Law of the Holocaust* (Westport, CT: Praeger, 1995), 52.

15. Ingo Müller, *Hitler’s Justice: The Courts of the Third Reich*, trans. Deborah Lucas Schneider (Cambridge, MA: Harvard University Press, 1991), 175.

16. Wannsee Protocol, Jan. 20, 1942, <http://avalon.law.yale.edu/imt/wannsee.asp> (visited Feb. 9, 2013).

17. Bennett, “Alfred Flatow,” 2:94, 99. See also Siggie Emmerich, “Olympische Geschichte(n): Alfred Flatow,” *Unsere Zeit—Zeitung der DKP*, Aug. 13, 2004, <http://www.dkp-online.de/uz/3633/so302.htm> (visited Feb. 9, 2013); “Flatow Alfred,” in the Central Database of Shoah Victims’ Names, Yad Vashem, <http://db.yadvashem.org/names/search.html?language=en> (visited Feb. 9, 2013).

To commemorate his memory and that of his cousin Gustav Flatow, who also starved to death in Theresienstadt in 1945, Berlin renamed the Reichssportfeldstraße (Reich Sport Field Street) as Flatowallee (Flatow Boulevard) in 1997. The location is in Charlottenburg-Wilmersdorf, Ortsteil Charlottenburg.¹⁸

Flatow was not alone when arrested for weapons. A second police report also dated October 4, 1938, prepared at the same Police Station 106, and forwarded to the Gestapo, concerned Julius Ignatz Gold. Gold was born on May 4, 1893, in Polock, Poland, and resided at Berlin SW 19, Kommandantenstraße 49.¹⁹ That street intersects with Alexandrinenstraße, where Flatow resided, in the Kreuzberg District of Berlin.²⁰

As before, the “political affiliation” marked down was “Jew.” The address of the “crime scene” was identical with that indicated for Flatow—Curtdamm 16, the address for Police Station 106—and the time was ten minutes later, 2:00 p.m. “Weapons Found” indicated “Firearms: 1 Walther pistol with 6 rounds.”

Once again, this was the same “[s]pecial operation,” the crime was “possession of weapons,” and the statement of facts—again filled out by the same Police First Sergeant Weiser, whose source for the pistol’s registration was the same Police First Sergeant Colisle—read:

The Jew Julius Ignatz Gold was in possession of one Walther pistol with 6 rounds. In the hands of Jews, this weapon is a danger for public security. Gold had registered this weapon on February 13, 1932, at Police Station 105 (now Police Station 112).

Police First Sergeant Colisle

18. Karin Schmidl and Jens Weinreich, “Auch zum 80. Geburtstag Stefan Flatows ist die Umbenennung der Reichssportfeldstraße noch nicht vollzogen Die unendliche Geschichte der Flatowallee,” *Berliner Zeitung*, Oct. 4, 1996, <http://www.berliner-zeitung.de/newsticker/auch-zum-80--geburtstag-stefan-flatows-ist-die-umbenennung-der-reichssportfeldstrasse-noch-nicht-vollzogen-die-unendliche-geschichte-der-flatowallee,10917074,9186642.html> (visited May 15, 2013).

19. Bericht über einen polit. Vorfall, Oct. 4, 1938, Julius Ignatz Gold, A Rep Pr. Br. Rep. 030/21620, Bd. 5, Haussuchungen bei Juden 1938–39 (FB Bd. 5), Landesarchiv Berlin. Unless otherwise indicated, all references to the Gold arrest are from this document.

20. Berlin streets may be located at <http://www.berlin.de/stadtplan/> (visited Feb. 9, 2013).

Other than this arrest report, no information on the identity of Julius Ignatz Gold could be found. His name does not appear in the Holocaust victim's central database maintained by Yad Vashem, the World Center for Holocaust Research, Documentation, Education, and Commemoration.²¹ All that can be surmised is that he was most likely standing in line behind Flatow at the police station to surrender his registered firearm. One can only wonder who were the other Jewish gun owners standing in the same line that day and in the days before and after.

The arrests of Flatow and Gold were not isolated incidents. An orchestrated campaign against Jewish firearm owners was afoot. Another arrest report and referral to the Gestapo like those for Flatow and Gold were issued from Police Station 113 in Berlin, SW 68, on October 3, 1938.²² Station 113 was a kilometer west of Station 106, where the arrests of Flatow and Gold were made, and was also in the Kreuzberg District.²³

Alois Adler was born in Vienna, Austria, in 1884, and lived at SW 11, Saarlandstraße 52, in Berlin's Kreuzberg District. Although his "[p]olitical affiliation" is listed as "[a]llegedly none," this form is stamped at the top with an oversized "J"—meaning "Jew."²⁴ The "crime scene" was at his home address, and "[w]eapons found" included only a "double-barreled hunting shotgun."

Under "Criminal act (include pertinent statutory sections)," the arresting police officer wrote only, "Subversive attitude of a Jew," without citing any statute. The statement of facts reads:

Adler, a former Austrian Jew, always was obstreperous. His behavior showed that he has the attitude of a public enemy. At the slightest provocation, he immediately turned to the Consulate. In order to avoid being found in possession of weapons during a house search, he left his hunting

21. See Yad Vashem, Central Database of Shoah Victims' Names, <http://db.yadvashem.org/names/search.html?language=en> (visited Feb. 9, 2013).

22. Bericht über einen polit. Vorfall, Sept. 4, 1938, Alois Adler, A Rep Pr. Br. Rep. 030/21620 Bd. 5, Haussuchungen bei Juden 1938–39 (FB Bd. 5), Landesarchiv Berlin. Unless otherwise indicated, all references to the Adler arrest are from this report.

23. See map in Liang, *The Berlin Police Force in the Weimar Republic*, 12–13.

24. Arnold Paucker and Konrad Kwiet, "Jewish Leadership and Jewish Resistance," in *Probing the Depths of German Antisemitism: German Society and the Persecution of the Jews, 1933–1941*, ed. David Bankier (New York: Berghahn Books, 2000), 390.

rifle with an agent, Albrecht Kriener, at the address of Blücher Street 1 in Berlin SW 61. When Adler was taken to the police station and asked about weapons, he confessed to this. The rifle, including an extra barrel, has been secured at the police station for the time being.

Adler has been arrested because of his attitude as a public enemy.

The police already were familiar with Adler, as noted, because of his repeated complaints to the Austrian consulate. Perhaps he was an Austrian businessman who objected to Nazi harassment. The police may have known that he possessed a firearm by consulting the registration records, by conducting a house search, or perhaps by getting this information from an informer. Alerted that the police knew he was a Jew with a firearm, he refused to comply with the Nazi confiscation order. He secreted his hunting gun with a friend so that it would not be found in an anticipated house search.

Police may have been searching the houses of Jews who had registered firearms or were for other reasons suspected of possessing firearms, but who had not surrendered them at a police station. The report also makes clear that Jewish gun owners had friends—"Aryans," possibly gun owners themselves—who were not Nazis and were willing to risk hiding firearms for their Jewish friends. Such Aryans doubtlessly received unwelcome visits from the Gestapo.

The arresting officer who filled out this report called the firearm both a shotgun and a rifle, although the double-barreled gun may have included a shotgun barrel and a rifle barrel. Unlike in the Flatow and Gold arrest reports, in this report the officer did not explicitly allege that a weapon in the hands of a Jew is a danger for public security. Adler had only 5 Reichsmark on his person.

The arrest form was signed by Deputy Police Chief Biense, who noted that Adler was jailed from 12:15 p.m. to 13:20 p.m. By order of Police Chief Gaster, the case was referred to the Gestapo. It is not known how long the Gestapo detained this Jew whose "crime" was possession of a hunting gun.

Other than this arrest report, no information could be found on Adler's identity or fate other than that he still resided at the same address in the 1939 census, which listed his descent as "JJJJ"—all four grandparents were Jewish.²⁵

25. Ergänzungskarten der Volkszählung von 17.05.1939, Bundesarchiv R2/GB. This source also shows: RAD: J. Datum: 25101941.

His name does not appear in the Holocaust victim's central database maintained by Yad Vashem.²⁶

Not every arrest was referred to the Gestapo. A summary of a prosecution initiated on December 8, 1938, reveals that at least some would be subjected to judicial proceedings. These prosecutions may have been pursuant to the 1931 Weimar decree that not only required registration of firearms but also made it a crime not to surrender firearms when the police so declared. In a memorandum entitled "Maximum Sentence for Punishment of Jews," chief judge Dr. Block of the Berlin District Court reported to the chief of the Supreme Court in Berlin about the prosecution of a Dr. Sohn. He explained: "The district court has not decided this case. It involves a proceeding arising out of forbidden weapons possession. In October 1938, the accused had surrendered an army revolver to the police, and in particular explained that he had no recollection of the existence of this firearm, which came from the time of his war service. He was surprised that the revolver was found in a search of the attic."²⁷

The 1931 law authorized jurisdictions to require registration not only of firearms, but also of various hand weapons.²⁸ Flatow's arrest report records the confiscation of hand weapons that had apparently also been registered in 1932, including a "dagger [*Dolch*]" and "31 knuckledusters [*Schlagringe*]," also known as brass knuckles. Thirty-one of these devices would have been rather heavy to carry, especially by the sixty-nine-year old Flatow, and why he possessed them is mysterious. Perhaps they were leftover inventory of items for sale at his bicycle shop. Back in the last days of the Weimar Republic, one never knew when street fighting between extremists would break out, and a simple hand weapon could come in handy to defend oneself. Indeed, knuckledusters were issued to some Weimar police agencies, including to women police.²⁹ It may have been

26. See Yad Vashem, Central Database of Shoah Victims' Names, <http://db.yadvashem.org/names/search.html?language=en> (visited Feb. 9, 2013).

27. Der Amtsgerichtspräsident, Strafmaß bei Bestrafung von Juden Auftrag vom 16 Dezember 1938, Jan. 13, 1939, Bundesarchiv (BA) Lichterfelde, R 3001/alt R22/1129.

28. Vierte Verordnung des Reichspräsidenten zur Sicherung von Wirtschaft und Finanzen und zum Schutze des inneren Friedens vom 8. Dezember 1931, Achter Teil, Kapitel I, *Reichsgesetzblatt* 1931, I, S. 699, 742.

29. John R. Angolia and Hugh Page Taylor, *Uniforms, Organization, & History of the German Police* (San Jose, CA: R. James Bender, 2004), 129.

imprudent for an unpopular person to walk in public without a weapon for defense against Nazi thugs.

It seems implausible that the elderly Flatow possessed the registered weapons because he was the head of some anti-Nazi group planning to engage in a street brawl with Nazis or police armed with firearms. Perhaps the brass knuckles were used innocuously as hand weights for exercise by student gymnasts, similar to today's "heavy hands," or as martial arts weapons for exercise.

One can imagine Berlin Jews standing in line to surrender weapons to the police. Perhaps it took ten minutes for Sergeant Weiser to process Flatow, collect his weapons, write the arrest report, then pass immediately on to Gold. The fact that the police arrested both men and turned them over to the Gestapo might mean that they had been discovered through the registration records or through house searches and had not obeyed an announcement that Jews must surrender arms. Or it may reflect the official attitude that any Jew with a weapon—even if both the weapon and the Jew were lawfully registered—was dangerous to the state and that the Jewish gun owner needed to be arrested and interrogated by the Gestapo.

As noted, Gold turned in only a Walther pistol with six rounds of ammunition, suggesting that it was his personal weapon that he perhaps discreetly kept or carried loaded with these six cartridges for self-defense. The police report did not state the model of the pistol. In World War I, German servicemen acquired numerous civilian pistols, and large numbers of Walthers were sold, in particular the 7.65-mm Model 4.³⁰ Many German officers had carried the Model 1 pocket pistol. Gold, who was twenty-five years old when the war ended in 1918, could have acquired the pistol in service. In 1929, Walther introduced the Model PP pistol and shortly thereafter the more compact Model PPK.³¹ Maybe Gold turned in one of these popular Walther pistols.

Finally, Adler possessed only a "double-barreled hunting shotgun," also described as a "rifle" with "an extra barrel." Adler was Austrian, and Austrian gunmakers crafted very fine and expensive double guns of this type. German

30. Wolfgang Finze and Philip Pai, "Mangel-Erscheinungen" (Symptoms of Deficiency), *Visier: Das Internationale Waffen-Magazin*, July 7, 2006, 136, 142.

31. For more on these models, see the Walther website at <http://www.waltheramerica.com/webapp/wcs/stores/servlet/CustomContentDisplay?langId=-1&storeId=10002&catalogId=13102&content=10002> (visited Feb. 9, 2013).

gunmakers produced similar fine hunting guns. The Nazis obviously felt that any firearm, including hunting shotguns and rifles, was a danger to the state when possessed by a Jew.

Dr. Sohn had an army revolver left over from his service in the Great War and had forgotten about it in an attic.

Under the type of police intervention, the arrest forms for the three men indicated “special operation” (Sonderaktion) instead of “routine patrol.” Do the arrests indicate an orchestrated police campaign to disarm all Jews in Berlin? October 1938 was a time of great crisis in which the Nazi regime was attempting to confiscate Jewish assets and to expel Jews from Germany. Disarming all Jews would prevent any armed resistance, whether by groups or by individuals.

The literature on Reichskristallnacht suggests that the Nazis were making ready for a major new action against the Jews, evidenced by the vast expansion of concentration camps in the previous months and their ability to absorb some 20,000 Jews during that pogrom.³² Equally significant evidence of an invigorated anti-Jewish campaign was the special operation that sought to confiscate firearms from Jews in order to render them defenseless from attack.³³

The Nazis found just the incident and excuse they needed to unleash an unprecedented pogrom against the German Jews when, on November 7, 1938, Herschel Grynszpan, a seventeen-year old Polish Jew, shot and mortally wounded Ernst vom Rath, the third secretary in the German embassy in Paris. Grynszpan was despondent because his parents were among thousands of Polish Jews deported from Germany who became stranded at the border with Poland, which refused to accept them because they were no longer regarded as Polish citizens.³⁴

32. See Gerald Schwab, *The Day the Holocaust Began: The Odyssey of Herschel Grynszpan* (New York: Praeger, 1990), 24–25; Anthony Read and David Fisher, *Kristallnacht: The Unleashing of the Holocaust* (New York: Peter Bedrick Books, 1989), 68.

33. A comprehensive search of the literature in English and German on Reichskristallnacht did not reveal any source that mentions the disarming of Jews in October, before the pogrom. One source misreads the date the disarming began, but otherwise correctly observes: “The police had, in fact, already taken precautions to ensure that the Jews could not fight back effectively. On November 8, they had begun disarming Jews, removing anything that could be used for protection from every Jewish household.” Read and Fisher, *Kristallnacht*, 64, 260, citing the *Völkische Beobachter*, Nov. 9, 1938 (noting statistics of weapons seized).

34. See Schwab, *The Day the Holocaust Began*, 1–6, 59–76.

The “special operation” involving Flatow and other Berlin Jews was not initially reported in the highly censored German press. But with the shooting at the embassy in Paris, German newspaper headlines on the morning of November 9 reported variously “Police Raid on Jewish Weapons,” “Armed Jews,” “Berlin’s Jews Were Disarmed,” “Disarming the Berlin Jews,” and “Surrender of Weapons by Jews in Berlin, a Measure by the Police President.”³⁵ All these articles contained substantially the same text:

In view of the Jewish assassination attempt in the German Embassy in Paris, Berlin’s Police President made known publicly the provisional results so far achieved, of a general disarming of Berlin’s Jews by the police, which has been carried out in recent weeks.

The Police President, in order to maintain public security and order in the national capital, and prompted by a few individual incidents, felt compelled to disarm Berlin’s Jewish population. This measure was recently made known to Jews by police stations, whereupon—apart from a few exceptions, in which the explicit nature of the ban on possession of weapons had to be articulated—weapons until now found by the police to be in the possession of Jews who have no weapons permit were voluntarily surrendered.

The provisional results clearly show what a large amount of weapons have been found with Berlin’s Jews and are still to be found with them. To date, the campaign led to the taking into custody of 2,569 stabbing and cutting weapons, 1,702 firearms, and about 20,000 rounds of ammunition.

Upon completion of the weapons campaign, if a Jew in Berlin is found still to possess a weapon without having a valid weapons permit, the Police President will, in every single case, proceed with the greatest severity.³⁶

35. “Razzia auf Judenwaffen,” *Der Angriff*, Nov. 9, 1938, 14; “Bewaffnete Juden,” *Fränkische Tageszeitung*, Nov. 9, 1938, 2; “Berlins Juden wurden entwaffnet,” *Berliner Morgenpost*, Nov. 9, 1938, 2; “Entwaffnung der Berliner Juden,” *Der Völkische Beobachter*, Nov. 9, 1938, 11; “Waffenabgabe der Juden in Berlin,” *Berliner Börsen Zeitung*, Nov. 9, 1938, 1.

36. “Waffenabgabe der Juden in Berlin.” As on other topics preceding the pogrom, documents concerning the pre-Reichskristallnacht action to disarm Berlin’s Jews have been difficult to locate, and most may have been destroyed. Landesarchiv Berlin includes extensive

The Berlin police president, Count Wolf Heinrich von Helldorf, had apparently announced the results of the sweep the day before the newspaper reports. As noted, the “general disarming of Berlin’s Jews by the police” carried out in the previous weeks—the net in which Flatow and other Jewish firearm owners had been caught—was now made public because of the wholly unrelated shooting of a German diplomat by a Polish Jewish teenager at the Paris embassy. The implication was that because of the act of a single foreign Jew in a foreign country, no German Jew could be trusted with a firearm.

Although none of the “few individual incidents” were specified, disarming the entire Jewish population was necessary to maintain “public security and order” (“öffentliche Sicherheit und Ordnung”). Helldorf was thus invoking the very power granted by the 1931 Weimar firearm registration decree, which authorized confiscation of registered weapons and ammunition “if the maintenance of public security and order so requires.”³⁷ The police knew that Jews such as Flatow and Gold possessed firearms because of the Weimar registration requirement, and the Weimar confiscation power made the seizures legal, even if the arms were registered. Police president Helldorf had merely to find that the seizures were necessary for “public security and order.” In short, the Nazi government relied precisely on the legal authorizations decreed by the Weimar Republic.

The order to surrender weapons was “made known to Jews by police stations,” and the process of identifying whom to arrest could have been carried out in a variety of ways. As the Flatow and Gold arrest records suggest, the police located and notified some Jewish weapon owners based on the firearm registration records, which may have identified such persons as Jewish or which could have been compared with other records that identified Jews. As the Adler arrest record exemplifies, police discovered other Jewish firearm owners through interrogations and house searches, which could well have been assisted by informants.

police president records dating to the 1920s, many relatively insignificant, but no records on this subject could be found under that category in initial searches. Eventually, the documents related to Flatow, Gold, and Adler were discovered there. These may be the tip of the iceberg—no pretense is made that all potentially-relevant record groups and archives have been examined.

37. Vierte Verordnung des Reichspräsidenten zur Sicherung von Wirtschaft und Finanzen und zum Schutze des inneren Friedens, Achter Teil, Kapitel I, *Reichsgesetzblatt* 1931, I, S. 699, 742, § 1(2).

Police may have posted notices in locations such as the Jewish Quarter, the Scheunenviertel (Barn District) in the east of the Spandauer Vorstadt.³⁸

The result of the sweep was that, as the November 9 editions of the newspapers quoted above pointed out, “weapons until now found by the police to be in the possession of Jews who have no weapons permit were voluntarily surrendered.” This seems to be belied by the broad statement in the previous sentence that the police president “felt compelled to disarm Berlin’s Jewish population,” not just Jews with no weapons permit. Flatow and Gold, for instance, had duly registered their weapons. Of course, additional or renewal permits may have been required to continue possession of registered weapons. After all, Werner Best’s 1935 Gestapo directive declared that “there will be very few occasions where concerns will not be raised regarding the issuance of weapons permits to Jews.”³⁹

Notably, the articles indicated, there were “a few exceptions, in which the explicit nature of the ban on possession of weapons had to be articulated”—perhaps a euphemism for police brutality against Jews who were reluctant to surrender their property and means of protection. The police may have revoked Flatow’s and Gold’s registrations, causing them no longer to have valid permits, thus in Kafkaesque fashion justifying their arrest. The weapon ban definitely “had to be articulated” to Jews such as Adler, who sought to secret his weapon with an apparent “Aryan” friend.

The November 9 press announcement declared “that a large amount of weapons have been found with Berlin’s Jews,” noting the confiscation of “2,569 stabbing and cutting weapons, 1,702 firearms, and about 20,000 rounds of ammunition.” The edged weapons could have been anything from kitchen knives to bayonets left over from the Great War. Assuming that the statistics are reliable, the number of weapons do not indicate the number of weapon owners. Gold had a pistol, and Adler had a long gun, but Flatow had a pistol and two revolvers, not to mention a dagger and thirty-one knuckledusters (which were blunt weapons, not cutting and stabbing weapons).

38. Arnt Cobbers, *Architecture in Berlin: The Most Important Buildings and Urban Settings* (Berlin: Jaron, 2002), <http://www.berlin.de/international/attractions/index.en.php> (visited Feb. 9, 2013).

39. Betr.: Erteilung von Waffenscheinen an Juden, Preußische Geheime Staatspolizei, B.Nr. I G–352/35, Dec. 16, 1935, DCP 0072, BA R 58/276.

As to the “20,000 rounds of ammunition,” one can imagine petty Nazi functionaries counting each cartridge. That amounts to approximately ten rounds per firearm—a low number suggesting that many firearms may have been inherited or war souvenirs not kept functional with many cartridges for ready use. Firearms possessed for hunting or sporting use would have needed far more cartridges for practice and use.

To illustrate, Flatow had “1 revolver with 22 rounds of ammunition, [and] 2 pocket pistols” with no ammunition mentioned. “Gold was in possession of one Walther pistol with 6 rounds.” No ammunition was recorded in relation to Adler, who to be sure had sought to secret his weapon and could have been more successful in secreting his ammunition.

The announcement concluded that “if a Jew in Berlin is found still to possess a weapon without having a valid weapons permit, the Police President will, in every single case, proceed with the greatest severity.” Because Flatow, Gold, and Adler had been arrested and turned over to the Gestapo, they presumably had been treated with such severity. And the entire Jewish community of Germany would be attacked the day following the publication of the November 9 articles on Helldorf’s disarming of the Berlin Jews—on Reichskristallnacht, the Night of the Broken Glass.

Orders to disarm the Jews were not limited to Berlin but included all of Germany, as confirmed in a memoir by Hans Reichmann, a lawyer who worked during 1924–39 for the Central Association of German Citizens of Jewish Faith (Centralverein deutscher Staatsbürger jüdischen Glaubens, or CV), one of the most important organizations defending Jewish interests. It was renamed the Jewish Central Association (Jüdischer Central Verein) in 1936, the year Reichmann was named its new syndic.⁴⁰ In spite of Nazi policy, the CV sought to protect Jews’ legal rights, at times actually finding officials who were responsive.⁴¹ Reichmann has been called “the leading Centralverein functionary for Jewish self-defence.”⁴²

40. Daniel Fraenkel, “Jewish Self-Defense under the Constraints of National Socialism: The Final Years of the *Centralverein*,” in Bankier, ed., *Probing the Depths of German Antisemitism*, 344.

41. Fraenkel, “Jewish Self-Defense,” 348.

42. Arnold Paucker, *German Jews in the Resistance 1933–1945: The Facts and the Problems*, 3rd ed. (Berlin: Gedenkstätte Deutscher Widerstand, 2003), II n. 16.

During September, anti-Semitic actions combined with the official economic policies to seize Jewish assets caused the Nazi hierarchy to perceive the need to nip in the bud any resistance from Jews by disarming them. Reichmann wrote about related events and talks in Bavaria:

As I had feared, during and after the September crisis, pogromlike riots had taken place in the villages of Franconia. My colleague, Dr. Otto Weiler, went and talked to the State Secretary of the Bavarian Ministry of the Interior and to Freiherr von Eberstein, police president of Munich, who was also Bavaria's highest-ranking SS leader. Both were polite and disapproved of the riots, but approved of the economic takings. Although so far no victim had been able to defend him- or herself, weapons in the hand of Jews were deemed extremely dangerous. Therefore, the Nazis ordered [the Jews] in the entire Reich to turn in their weapons.⁴³

The "September crisis" he refers to concerned the aftermath of the negotiations cumulating in the Munich accord in which England and France agreed to Germany's taking of the Sudeten German territory from Czechoslovakia. Hitler used international tension to stir up the German people. There were disturbances in the Bavarian region of Franconia, including the smashing of windows of Jewish houses and shops and the burning of synagogues.⁴⁴

Dr. Otto Weiler seems likely to have represented the CV in the meeting described by Reichmann. Like his counterpart Helldorf in Berlin, Munich police president Eberstein would have been the official to administer the weapon confiscations. The mantra about arms in the hands of Jews being dangerous was Gestapo policy that had been in existence since Werner Best's 1935 directive. The time had now come to confiscate all arms from all Jews.

Reichmann proceeded to explain how the confiscated arms included anything that might be used as a weapon, including his own recently-acquired Browning firearm: "Old sergeants at police stations grudgingly accepted Chi-

43. Hans Reichmann, *Deutscher Bürger und verfolgter Jude: Novemberpogrom und KZ Sachsenhausen 1937 bis 1939* (German Citizen and Persecuted Jew: November Pogrom and Concentration Camp Sachsenhausen, 1937 to 1939), ed. Michael Wildt (Munich: R. Oldenbourg, 1998), 105.

44. Michael Wildt, "Violence Against Jews in Germany, 1933–1939," in Bankier, ed., *Probing the Depths of German Antisemitism*, 195–97.

nese daggers so far used to peacefully open letters, admired colorful student sabers and regretted that they had to take my new Browning without paying me for it. The Reich Association of Jewish War Veterans (Reichsbund jüdischer Frontsoldaten) requested that the War Ministry let Jewish reserve officers keep their officers' swords. We did not know why the Nazis were so eager in their collection of letter openers and blunt officers' swords."⁴⁵ The Association's petition to the War Ministry is another example of a Jewish organization attempting to communicate rationally with a Nazi government agency, but usually without success. Although the response, if there was any, is unknown, Jewish officers' swords would be confiscated in the coming November pogrom. Along with other Jewish organizations, the Association would be banned shortly after Reichskristallnacht.⁴⁶

Although a shooting by a foreign Jew in a foreign country could not have been anticipated, the Nazis were ready for any reaction to their own aggressive policies. Writing about the happenings of mid-October, Reichmann commented: "We did not suspect that three weeks later one Jew by the name of Grynszpan would deliver a shot and that the German people would take spontaneous revenge for that assassination. The SS, however, clearly had a presentiment that this would happen and therefore preventively disarmed the dangerous future victims of the spontaneous action."⁴⁷

As events would have it, the coming pogrom was anything but a spontaneous reaction by the populace. It was carefully ordered and orchestrated by Hitler and Goebbels and was executed by the SA and other Nazi thugs. Having in Reichmann's words "preventively disarmed" the Jews, the Nazis rendered them defenseless.

When Reichskristallnacht finally descended, Reichmann would be imprisoned in the Sachsenhausen Concentration Camp. As it was for thousands of others, his arrest was a pretext because he had surrendered his Browning

45. Reichmann, *Deutscher Bürger und verfolgter Jude*, 105.

46. Ulrich Dunker, *Der Reichsbund jüdischer Frontsoldaten 1919–1938* (The Reich Association of Jewish War Veterans 1919–1938) (Düsseldorf: Droste, 1977), 177.

47. Reichmann, *Deutscher Bürger und verfolgter Jude*, 105. The editor of this volume suggests that Reichmann was mistaken on the time period because the Reich Ministry of the Interior decreed a prohibition on possession of weapons by Jews on November 11, 1938. However, this decree was preceded by other actions and decrees to deprive Jews of arms, so Reichmann was not mistaken.

firearm in October and thus was not in violation of November decrees banning possession of firearms by Jews. Shortly after the pogrom, the CV was banned. Reichmann and his wife, Eva Gabriele, a prominent historian and sociologist, were able to immigrate to England.

It was only when the November pogrom erupted that the events of the previous weeks and months could be put in perspective. Newspapers in Paris and Geneva carried an article under the headline “The Anti-Semitic Measures of the Reich”: “To illuminate the recent events, one now better understands the special liabilities imposed on the Jews in recent times. Events since last June make clear the obvious methods of their measures. They have simplified the destruction. One method was to confiscate their arms from them, rendering the operation without danger. The other demanded from them a formal declaration of assets (currency, jewelry, pieces of furniture, carpets), which facilitated the confiscation thereof. All was ready.”⁴⁸

48. “Un destruction préméditée,” *Journal de Genève*, Nov. 16, 1938, 8, quoting from the *Jour-Echo de Paris*.

Goebbels Orchestrates a Pogrom

ON NOVEMBER 7, 1938, Herschel Grynszpan, a seventeen-year-old Polish Jew living in Paris, went to the German embassy there intending to shoot the ambassador. Instead he shot and mortally wounded Ernst vom Rath, the third secretary. Grynszpan's family was included with a number of Polish Jews living in Germany who had been deported to Poland, but Poland had refused to accept those without proper Polish passports. Thousands were left stranded at the border in wretched conditions.¹

An alternative view suggests that the murder was staged by the Nazis to justify the planned pogrom. Nazi agents in Paris may have instigated Grynszpan to shoot Rath. There is evidence that the cartridges in Grynszpan's revolver were unfired, suggesting that someone else shot vom Rath. During the war, German authorities took custody of Grynszpan, but a planned show trial was cancelled. State Secretary Leopold Gutterer of the Ministry of Propaganda stated: "We would disgrace ourselves terribly in a trial if the truth emerged from it."²

Whether the opening move was thoroughly planned or not, this shooting gave the Nazis the pretext for a clearly well-planned pogrom, known as Reichskristallnacht (Night of the Broken Glass), on November 8–10. Jews were attacked, their homes and businesses ransacked, synagogues were burned, and 20,000 to 30,000 Jews were detained. A central focus of this onslaught was that

1. See Gerald Schwab, *The Day the Holocaust Began: The Odyssey of Herschel Grynszpan* (New York: Praeger, 1990).

2. Quoted in Friedrich Karl Kaul, *Der Fall des Herschel Grynszpan* (The Case of Herschel Grynszpan) (Berlin: Akademie, 1965), 8–9. See Vincent C. Frank, "Neuer Blick auf die Reichskristallnacht," *Neue Zürcher Zeitung*, Nov. 4, 1998, <http://www.hagalil.com/archiv/98/11/pogrom.htm/> (visited May 7, 2013).

Jews were dangerous; their premises must be searched for weapons, and any caught with arms must be thrown into concentration camps.

On November 8, Berlin police president Helldorf drove to Munich with Goebbels, who was elated that Helldorf had been appointed SA senior group leader (Obergruppenführer). Goebbels noted in his diary about the overriding event: “In Paris, the Polish Jew Grynspan [*sic*] has shot the German diplomat vom Rath in the embassy and wounded him severely. As revenge for the Jews. Now however the German press cries out. . . . In Hesse big anti-Semitic rallies. The synagogues are burned down. If one could now for once release the popular fury!”³

On the morning of November 9, German newspaper headlines reported Helldorf’s disarming of Berlin’s Jews in the previous weeks, as described in the previous chapter. The Nazi hierarchy recognized the shooting in Paris as creating a favorable opportunity to consummate the disarming of Germany’s entire Jewish population in one fell swoop.

November 9 was the “Tag der Bewegung” (Day of the Movement), the anniversary of Hitler’s failed 1923 Beer Hall Putsch in Munich. Hitler gave his annual speech in the Bürgerbräukeller to commemorate and remember the “fallen heroes” who had died in the shootout with the police.⁴ Goebbels noted in his diary that vom Rath’s condition had worsened, adding: “Helldorf has completely disarmed the Jews in Berlin. They will have to get prepared for a lot more.”⁵ Although Helldorf’s disarming of the Berlin Jews had only that morning been made public in the newspapers, it had likely long been a point of discussion and planning between Hitler, Goebbels, and other Nazi leaders. Now that the Jews were defenseless, as Goebbels stated, they would have to endure escalating hardship. And it would begin that very night.

The explosive turn of events was reported by the foreign media. A *New York Times* headline reported from Berlin: “Nazis Ask Reprisal in Attack on Envoy”

3. *Die Tagebücher von Joseph Goebbels* (The Diary of Joseph Goebbels), Teil I, Aufzeichnungen 1923–41, Band 6, Aug. 1938–June 1939, ed. Elke Fröhlich (Munich: K. G. Saur, 1998), 176–77 (entry for Nov. 8, 1938), 178 (entry for Nov. 9, 1938).

4. Anthony Read and David Fisher, *Kristallnacht: The Unleashing of the Holocaust* (New York: Peter Bedrick Books, 1989), 64.

5. In German: “Helldorff läßt in Berlin die Juden gänzlich entwaffnen. Die werden sich ja auch noch auf einiges anderes gefaßt machen können.” *Die Tagebücher von Joseph Goebbels*, Teil I, 179 (entry for Nov. 10, 1938).

and “Berlin Police Head Announces ‘Disarming’ of Jews.” Its account repeated the statistics from Helldorf of weapons seized and the announcement that “any Jews still found in possession of weapons without valid licenses are threatened with the severest punishment.” The attempted assassination was called “a new plot of the Jewish world conspiracy against National Socialist Germany,” and the German press called for retaliation.⁶

Recalling David Frankfurter’s shooting in 1936 of German Nazi leader Wilhelm Gustloff in Switzerland, the *Börsen Zeitung* declared: “International Jewry and foreign Jews living in Germany as well will soon feel the consequences that the Reich will draw from the fact that for the second time in three years ‘a Jew has shot.’” The *Angriff* asked for “the sharpest measures against Jews.”⁷ The Swiss press did not lose sight of the parallel with the Gustloff incident, which the Nazis used to condemn all Jews.⁸

Goebbels noted the dramatic turn in events: “In Kassel and Dessau big demonstrations against the Jews, synagogues set on fire and businesses demolished. In the afternoon the death of the German diplomat vom Rath is reported.”⁹

Hitler was notified of Rath’s death early that evening while dining at Munich’s town hall chamber. He turned and spoke quietly to Goebbels. Mentioning localized anti-Jewish riots the previous night, the führer stated that the Nazi Party was not to initiate such demonstrations but would not intervene to halt “spontaneous” pogroms. Hitler was overheard to say that “the SA should be allowed to have a fling.” Goebbels then gave a speech calling for revenge with such vehemence that the party and police leaders would discern that they should take an active role.¹⁰ Goebbels recorded the events in his diary:

I go to the Party reception in the old Rathaus. Enormous business. I describe the issue to the Führer. He decides: demonstrations should be allowed to continue. The police should withdraw. The Jews should for once get to perceive the popular fury. That is right. I forthwith give the requisite instructions to the police and the Party. Then I briefly speak

6. “Nazis Ask Reprisal in Attack on Envoy,” *New York Times*, Nov. 9, 1938, 24.

7. Both quoted in “Nazis Ask Reprisal in Attack on Envoy.”

8. *Neue Zürcher Zeitung*, Nov. 8, 1938, 2.

9. *Die Tagebücher von Joseph Goebbels*, Teil I, 180 (entry for Nov. 10, 1938).

10. Read and Fisher, *Kristallnacht*, 64–66; Schwab, *The Day the Holocaust Began*, 20.

accordingly to the Party leadership. Blustery applause. Everyone immediately rush to the telephones. Now the people will act.

Some lukewarm men act timidly. But I push repeatedly always higher. We may not leave this cowardly murder unanswered. . . . The Hitler shock troop [Stoßtrupp Hitler] is likewise unleashed in order to clean up Munich. . . . A synagogue is hit in Klump. I try to save it from the fire. But that fails.¹¹

Goebbels traveled about Munich, refining his orders and noting the ambivalence of his companion and long-time Nazi politician Adolf Wagner, then Bavarian minister of education and culture: “With Wagner to the district. I issue another precise decree that formulates what may be done and what may not be done. Wagner gets cold feet and trembles for his Jewish businesses. But I am not myself disconcerted. The shock troop meanwhile performs its work. In fact it does great work. I give orders in Berlin to ensure that the synagogue in Fasanenstraße is destroyed.”¹²

The orders issued by Goebbels were typified by the orders given to chief of staff of the SA North Sea Group (SA-Gruppe Nordsee), Roempagel, by his superior, which were included in a secret SS report prepared the following year. Among the instructions Roempagel received were: “All Jewish stores are to be destroyed immediately by SA men in uniform”; “Jewish synagogues are to be set on fire immediately, Jewish symbols are to be safeguarded”; “the police must not intervene. The Führer wishes that the police does not intervene.” The following instruction would ensure the success of the attacks as well as achieve an ultimate goal: “All Jews are to be disarmed. In the event of resistance they are to be shot immediately.”¹³

The order from SA commander Böhmcker of the North Sea Group in Hanover included the following statement: “Mayors shall be consulted to determine

11. *Die Tagebücher von Joseph Goebbels*, Teil I, 180 (entry for Nov. 10, 1938).

12. *Die Tagebücher von Joseph Goebbels*, Teil I, 180 (entry for Nov. 10, 1938).

13. Schwab, *The Day the Holocaust Began*, 22; Lionel Kochan, *Pogrom: 10 November 1938* (London: Andre Deutsch, 1957), 63–64 (citing Urteil des obersten Parteigerichts in dem Verfahren gegen Frühling u.a.); Rita Thalmann and Emmanuel Feinermann, *Crystal Night: 9–10 November 1938*, trans. Gilles Cremonesi (New York: Holocaust Library, 1974), 59 (citing Orders of the SA Commander of the “Baltic Group”).

which businesses, warehouses and traveling salesmen are Jewish. All Jews shall be disarmed immediately. If they offer resistance, shoot them on the spot.”¹⁴

After 11:55 p.m. on November 9, Standartenführer (Colonel) Heinrich Müller of the SS sent an urgent teleprinter message from Gestapo Headquarters in Berlin to every state police bureau in the Reich, alerting them that “demonstrations against the Jews, and particularly their synagogues, will take place very shortly.” The Gestapo was not to interfere but was to cooperate with the regular police to prevent looting and other excesses. Some 20,000 to 30,000 Jews, in particular wealthy ones, were to be arrested. Müller concluded: “If, during the actions about to take place, Jews are found in possession of *weapons* the most severe measures are to be applied. The special task units of the SS as well as the general SS may be employed for all phases of the operation. Suitable measures are to be taken to ensure that *the Gestapo remains in control of the actions* under all circumstances.”¹⁵

As an example of such communiqués, the mayor of Nauen, which is near Berlin, reported that at 6:00 a.m. on November 10, the Gestapo telephoned the following directives:

Secret: in consequence of the assassination in the German Embassy in Paris, actions against Jews are shortly expected to take place throughout Germany. These actions are not to be interfered with. However, looting and theft are not to take place. If Jews are found to be in possession of weapons during these actions, these Jews should be arrested. I request that the chief administrative officers of the States and the majors contact the district committees in order to agree on the implementation of the demonstrations. Only such measures as will not endanger German lives or property are permissible. Arson is not permitted on any account. Jewish businesses and apartments may be destroyed but not looted. The police should be instructed to monitor the implementation of

14. Quoted in Heinz Lauber, *Judenpogrom: “Reichskristallnacht” November 1938 in Grossdeutschland* (Pogrom Against the Jews: Reichskristallnacht, November 1938, in Greater Germany) (Gerlingen, Germany: Bleicher, 1981), 86–87.

15. An alle Stapo Stellen und Stapoleitstellen, Berlin Nr. 234 404 9.11.2355, Bundesarchiv (BA) Lichterfelde, R 58/3512 (emphasis in original). See also *Trial of the Major War Criminals before the International Military Tribunal: Nuremberg, November, 14, 1945–October 1, 1946* (Buffalo, NY: William S. Hein, 1995), 25:377.

this disorder and to arrest any looters. Jews of foreign nationality should not be affected by the actions. All existing archive material should be confiscated from synagogues and business premises belonging to the Jewish religious community. Male Jews who are of a fairly young age in possession of assets should be arrested. Arrested persons should not be mistreated. The actions are to begin immediately. I expect an immediate report by telephone.¹⁶

Baron Friedrich Karl Freiherr von Eberstein, the chief of police and security in Munich, phoned Security Chief Reinhard Heydrich at 11:30 p.m. on November 9. Von Everstein reported that after he accompanied Hitler to his Munich apartment at 10:00, he had gone to a ceremony of SS recruits and there learned that a synagogue and castle had been set on fire and that the firemen were stopped from putting out the flames. Von Everstein sent the SS to put out the fire, restore order, and arrest the arsonists. Then he called Heydrich and asked for instructions.¹⁷

Heydrich quickly called Himmler, who first had to talk to Hitler. It was 1:20 a.m. by the time Heydrich replied with official instructions, which combined Müller's plan and the SA orders. Heydrich instructed that "[o]nly healthy men who were not too old were to be arrested. They were not to be treated roughly but transported to concentration camps as quickly as possible."¹⁸

Goebbels recorded in his diary the evolving pogrom, further clarifying Hitler's orders and the escalating attacks on Jews:

S.S. Swearing-in at the Feldherrnhalle. About midnight. Very solemn and tremendous. The Führer speaks to the men. It goes to the heart.

I want to return to the hotel, there I see the sky blood-red. The synagogue burns. . . . We put out [fires] only as is necessary for the surrounding buildings. Otherwise left to burn down. . . . The shock troops

16. Der Bürgermeister Nauen bei Berlin, Ulten betreffend Aktion gegen Juden, Nov. 10, 1938. Brandenburgisches Landeshauptarchiv, Potsdam, Rep. 8 Nauen, Nr. 101.

17. Thalmann and Feinermann, *Crystal Night*, 60. See Eberstein's testimony in *The Trial of German Major War Criminals Sitting at Nuremberg, Germany*, Aug. 3, 1946, 252, <http://www.nizkor.org/hweb/imt/tgmwc/tgmwc-20/tgmwc-20-194-03.shtml> (visited Feb. 9, 2013).

18. Thalmann and Feinermann, *Crystal Night*, 60–61.

perform terrifying work. From all over the Reich information is now flowing in: 50, then 75 synagogues are burning. The Führer has ordered that 25–30,000 Jews are immediately to be arrested.¹⁹

Goebbels heard windowpanes shatter and saw synagogues burning, leaving him with only two hours of blissful sleep. When he awoke, “In the morning early come the first reports. It has gone awfully wild. That was to be expected. The whole people are in disorder. Jewry will pay dearly for this death. The dear Jews will in the future think twice about shooting German diplomats so cowardly.”²⁰

The press instantly fell into action. On the morning of November 10, the following decree appeared in newspapers throughout Germany:

Jews Forbidden to Possess Weapons
By Order of SS Reichsführer Himmler
Munich, November 10

The SS Reichsführer and German Police Chief
has issued the following Order:

Persons who, according to the Nürnberg Law, are regarded as Jews, are forbidden to possess any weapon. Violators will be condemned to a concentration camp and imprisoned for a period of up to 20 years.²¹

The number of Jews who were thrown into concentration camps beginning that day for possession of weapons and for any other reason—including just for being Jewish—will never be known. Something far worse was in store for the German Jews, but the “final solution” was still four years into the future. At this point, it is difficult to contemplate a sentence of twenty years for possession of a weapon that on the previous day had been lawful for a Jew to possess. Had the war and the Holocaust never occurred, a Jew sentenced to the maximum would not have been released until 1958.

19. *Die Tagebücher von Joseph Goebbels*, Teil I, 180–81 (entry for Nov. 10, 1938).

20. *Die Tagebücher von Joseph Goebbels*, Teil I, 181 (entry for Nov. 9, 1938).

21. “Waffenbesitz für Juden verboten,” *Völkischer Beobachter*, Nov. 10, 1938, 1; *Berliner Börsen Zeitung*, Nov. 10, 1938, 1; *Der Angriff*, Nov. 10, 1938, 7. See also Joseph Walk, *Das Sonderrecht für die Juden im NS-Staat* (Special Law for Jews in the National Socialist State) (Heidelberg: Muller Juristischer, 1981).

Reichsführer Himmler's decrees were binding as ministerial decisions.²² Whether by coincidence or not, on November 10 the Prussian Administrative High Court confirmed its lack of authority to review any decision by the Gestapo.²³ This meant that no judicial review could exist for Jews thrown into concentration camps for alleged possession of firearms or any other reason.

Noting the morning's disorders, Goebbels wrote in his diary: "I consider with the Führer what should now be done. Continue the attacks or stop them?"²⁴ Still in Munich, he was informed by Standartenführer Heinrich Müller, who had issued directives the night before from Gestapo Headquarters in Berlin, of the following:

Müller reports the actions in Berlin. It has proceeded there quite fantastically. Fire after fire. But that is so good.

I prepare a decree to conclude the actions. . . . If it continues, then the danger exists that a mob appears on the scene. In the whole country, the synagogues are burned down. Jewry must pay dearly for this death.

I report to the Führer at the [Restaurant] Osteria. He agrees with everything. His views are totally radical and aggressive. The action itself proceeded perfectly. 17 dead. But no German property damaged.

With minor alterations, Hitler agrees to my decree ending the actions. I immediately publish it in the press and by radio. The Führer wants to take very sharp measures against the Jews. They must themselves put their businesses in order again. The insurance companies will pay them nothing. Then the Führer wants gradually to expropriate Jewish businesses and to give the owners papers for them that we can debase at any time. I give appropriate secret orders. We now await foreign reactions. For the time being, they are silent. But the uproar will come.²⁵

22. Edward Crankshaw, *Gestapo: Instrument of Tyranny* (London: Greenhill Books, 1956), 90.

23. *Entscheidungen des Preußischen Oberverwaltungsgerichts*, Nov. 10, 1938, in *Juristische Wochenschrift* (1939), 382. See also Ernst Fraenkel, *The Dual State: A Contribution to the Theory of Dictatorship* (New York: Octagon Books, 1941), 28.

24. *Die Tagebücher von Joseph Goebbels*, Teil I, 181 (entry for Nov. 10, 1938).

25. *Die Tagebücher von Joseph Goebbels*, Teil I, 182 (entry for Nov. 10, 1938).

Indeed, it did. The Swiss newspaper *Neue Zürcher Zeitung* reported from Berlin the following under the headline “Numerous Arrests?”:

Last night the Gestapo started to arrest Jews in Berlin and in other German cities. Most of those arrested were respected Jewish personalities. At a reception for the press, the Reich Minister for Propaganda [Goebbels] denied that there had been any arrests; when asked again later, however, [his office] said that the arrests had been made in connection with Himmler’s decree prohibiting Jews from owning arms. The explanation given was that the Jews had retained weapons even though the Chief of the German police in his latest decree had threatened to punish them with protective detention of 20 years.²⁶

In further foreign reaction, U.S. ambassador Hugh Wilson telegraphed Secretary of State Cordell Hull from Berlin at 2:00 p.m. on November 10: “In the early hours of this morning systematic breaking of Jewish owned shop windows throughout the Reich and the burning of the principal synagogues in Berlin was carried out. Observers noted no uniforms of Nazi organizations among the perpetrators of this action. Nevertheless, it is not conceivable that this admirable body of police would have tolerated such infraction of order unless general instructions to that effect had been issued.” Ambassador Wilson quoted an item from the semiofficial German press: “When news of the death of the German diplomat and party member Von Rath [*sic*] at the hands of a Jewish murderer became known spontaneous anti-Jew demonstrations in the whole Reich developed.” He continued: “Editorial comment continues along the same lines described in my telegrams under reference which seems to imply a continuation of anti-Jewish measures. Moreover, an order by Himmler is published forbidding Jews to possess arms. This has given rise to considerable apprehension in connection with the return of Von Rath’s body to Germany.”²⁷

President Roosevelt would recall Ambassador Wilson from Germany a few days later in protest against the pogrom.

26. *Neue Zürcher Zeitung*, Nov. 13, 1938, 2.

27. Hugh Wilson, “Pogrom in Berlin and Reich,” Nov. 10, 1938, U.S. National Archives, Microfilm Series LM 193, No. 23, 862.4016, pp. 140–41.

German newspapers were relatively silent on what occurred, although some sought to justify the weapons searches. The *Hamburger Tagblatt* noted: "Because there had been reports that the Jews owned large amounts of weapons, and because the rumor had circulated that weapons were hidden in the synagogues, some of the demonstrators searched synagogues."²⁸

But the international press reported the frightful details. The headline in the *New York Times* said it all: "Nazis Smash, Loot, and Burn Jewish Shops and Temples until Goebbels Calls Halt."²⁹ In Berlin and throughout Germany, thousands of Jewish men, in particular prominent leaders, were taken from their homes and arrested. The *Times* reported the arms prohibition under the heading "Possession of Weapons Barred": "One of the first legal measures issued was an order by Heinrich Himmler, commander of all German police, forbidding Jews to possess any weapons whatever and imposing a penalty of twenty years confinement in a concentration camp upon every Jew found in possession of a weapon hereafter."³⁰

The destruction was carried out by Rollkommandos (wrecking crews) under the protection of uniformed Nazis or police. However, the people at large generally did not participate, and most appeared to be gravely disturbed by the attacks. Some members of the public helped Jews leave their stores unmolested, but citizens who protested against the attacks on Jews were threatened and silenced by the Rollkommandos.³¹

Observing that the people at large took no part in and were repulsed by the pogrom, anti-Hitler plotter Hans Gisevius later reflected that they could also see what might happen to themselves if they spoke out or resisted. In addition

28. "Ueberall spontane Kundgebungen: Demonstration gegen das Weltjudentum auch in Hamburg" (Spontaneous Rallies Everywhere: Demonstration against World Jewry in Hamburg), *Hamburger Tagblatt*, Nov. 10, 1938, cited in Peter Freimark and Wolfgang Kopitzsch, *Der 9./10. November 1938 in Deutschland: Dokumentation zur "Kristallnacht"* (November 9–10, 1938, in Germany: Kristallnacht Documentation) (Hamburg: Ludwig Appel & Sohn, 1978), 22.

29. *New York Times*, Nov. 11, 1938, 1.

30. "Nazis Smash, Loot, and Burn," 4. A London newspaper similarly reported Himmler's decree: "Any Jew found with arms will be imprisoned for twenty years." Quoted in "Anti-Jew Riots Raging," *Evening News*, Nov. 10, 1938.

31. "Nazis Smash, Loot, and Burn," 4.

to the mortal blow to the German Jews, “the cowed middle class stared at the Nazi monster like a rabbit at a snake. A general psychosis had been created, under which the populace was reduced to absolute submission; and this effect was valuable to the Nazis. The class was doomed, but for the present it had its uses and would be made to serve.”³²

The anti-Jewish pogrom extended into Austria, which Germany had annexed earlier that year. Arson was committed against Vienna’s temples, and Nazis attacked Jewish businesses. The *New York Times* reported: “Thousands of Jews had their dwellings searched for concealed arms, documents and money. The police claim to have found quantities of them.”³³

Some 20,000 Jews were arrested in Germany and Austria on November 9–10. Two Jews were shot to death in the riots, one in Polzin, Pomerania in Bonndorf, where Nazis clashed with members of a Jewish training camp. The semiofficial periodical *Neuigkeitsweltblatt*, organ of Austrian Nazi commissioner Joseph Buerckel, claimed that in raids on many Jewish homes “arms, Communist agitation pamphlets, and illegally possessed foreign currencies were found.” Heinrich Himmler issued a decree “forbidding the Jews to own any weapons.”³⁴

On November 11, Interior Minister Frick promulgated the Regulation Against Jews’ Possession of Weapons.³⁵ Its preamble recites that it was issued pursuant to section 31 of the 1938 Weapons Law, which in turn empowered the interior minister to issue “the necessary legal and administrative regulations for the implementation and fulfillment of this law.” The new regulation provided: “Jews (§ 5 of the First Regulations of the German Citizenship Law of November 14, 1935 . . .) are prohibited from acquiring, possession, and carrying firearms and ammunition, as well as cutting or stabbing weapons. Those now having in their possession weapons and ammunition must at once surrender them to

32. Hans Bernd Gisevius, *To the Bitter End: An Insider’s Account of the Plot to Kill Hitler, 1933–1944*, trans. Richard Winston and Clara Winston (New York: Da Capo Press, 1998), 333–34.

33. “Vienna’s Temples Fired and Bombed,” *New York Times*, Nov. 11, 1938, 2.

34. Quoted in Sigrid Schultz, “Homes Burned; Stores Looted; Terror Reigns,” *Chicago Daily Tribune*, Nov. 11, 1938, 1, 2B.

35. Verordnung gegen den Waffenbesitz der Juden, *Reichsgesetzblatt* 1938, I, 1571.

the local police authority.”³⁶ Foreign Jews could be exempted by the interior minister or delegate.³⁷

As to the property confiscated, it stated: “Weapons and ammunition found in a Jew’s possession will be forfeited to the Reich without compensation.”³⁸ Penalties were as follows: “Whoever willfully or negligently violates the provisions of § 1 shall be punished with imprisonment and a fine. In especially severe cases of deliberate violations, the punishment is imprisonment in a penitentiary for up to five years.”³⁹ The regulation was applicable in Germany, Austria, and the Sudetenland.⁴⁰

Approximately 550,000 Jews lived in those jurisdictions. And approximately 30,000 males ages sixteen to eighty were arrested during the rampage.⁴¹ So many arrests were made that by November 12, Buchenwald was full and a message had to be sent to all Gestapo offices that no more transports of prisoners should be sent other than the ones that were already on their way.⁴²

Why would Frick decree a prohibition on possession of firearms by Jews punishable by five years in prison when the previous day Himmler had decreed the same offense punishable by twenty years in a concentration camp? Frick and Himmler had a long history of intrigue and struggle for power against each other, and Himmler had made Gestapo and SS authority inviolable.⁴³ A Jew arrested under Frick’s decree would be entitled to a trial, albeit in a Nazi court, but a Jew in Gestapo custody had no right to judicial review.

“Possession of Weapons by Jews Now Forbidden by Reich Law” declared the lead headline of the *Völkische Beobachter* on November 12. It had three subtitles: “Prison and Penitentiary besides Protective Custody,” “The First Response to the Provocation by World Jewry,” and “Further Measures as a Precaution.”

36. *Id.* § 1.

37. *Id.* § 3.

38. *Id.* § 2.

39. *Id.* § 4.

40. The regulation was widely noticed in the English-speaking press. See, for example, “Jews Pay for Nazi Damage,” *London Times*, Nov. 14, 1938, 12A; “Ban on Firearms for Jews,” *Boston Globe*, Nov. 12, 1938, 2.

41. Schwab, *The Day the Holocaust Began*, 25.

42. Peter Padfield, *Himmler* (New York: MJF Books, 1990), 242.

43. Michael Stolleis, *The Law under the Swastika* (Chicago: University of Chicago Press, 1998), 143.

Referring to Himmler's earlier decree and to Frick's new regulation, it stated: "According to the SS Reichsführer and Chief of the German Police in the Reich Ministry of the Interior, Jewish possession of arms, already ended abruptly by police regulations, is now immediately followed by a legal ban. The Reich Minister of the Interior yesterday issued the following regulations against weapons possession by the Jews." Following the text of the regulations, the article noted: "Reich Minister Dr. Goebbels has made known, as we already reported, that the final response to the Jewish assassination attempt in Paris would be given to Jewry in the form of legislation or in the form of regulations. For the first of these responses it has not been necessary to wait long!"⁴⁴

Beside this article in the *Völkische Beobachter* appeared the article "The Grünspan Case, by Reich Minister Dr. Goebbels." He asked: "Where was Grünspan [*sic*] in the past three months? . . . Who gave him instruction in pistol shooting?" He must have been helped by some "Jewish organization" in his murderous plot. The "parallel with the Gustloff case" was unmistakable, and there, too, the assailant, Frankfurter, had not acted alone but was part of a plot against National Socialist Germany sanctioned by the "world Jewish press." Both assassinations were inspired by persons behind the scenes, such as the Jews Georg Bernhard and Emil Ludwig Cohn.⁴⁵ The latter were German exiles critical of Nazism. Emil Ludwig—Goebbels insisted on adding "Cohn" to his name—was author of the 1936 book *The Davos Murder*, which had depicted David Frankfurter's killing of Wilhelm Gustloff in Switzerland as an understandable act of defiance.⁴⁶

The murders of Gustloff and Rath, Goebbels continued, were part of the war of world Jewry against Germany, which would now strike back—as the people spontaneously demonstrated on the night of November 9–10. The world press, in particular the "Jewish press in North America," slandered the people's action as that of a "Nazi mob." Goebbels concluded: "The Jew Grünspan was a

44. "Waffenbesitz für Juden jetzt durch Reichsgesetz verboten," *Völkischer Beobachter*, Nov. 12, 1938, 1; the subtitles in German are: "Gefängnis und Zuchthaus neben Schutzhaft," "Die erste Antwort auf die Herausforderung durch das Weltjudentum," and "Weitere Maßnahmen hervorsichernd" As was typical, identical or similar text appeared throughout Germany. See, for example, "Das Waffenverbot für die Juden" (Weapons Prohibition for Jews), *Berliner Börsen Zeitung*, Nov. 12, 1938, 12.

45. "Der Fall Grünspan," *Völkischer Beobachter*, Nov. 12, 1938, 1.

46. Emil Ludwig, *Der Mord in Davos* (Amsterdam: Querido, 1936), translated as *The Davos Murder* (London: Methuen, 1937).

representative of Judaism. The German vom Rath was a representative of the German people. Thus, in Paris Judaism fired on the German people. To that, the German government will respond legally but harshly.”

Wolfgang Diewerge quotes these words in his 1939 book *Attack on Peace: A Source Book on Grynszpan and His Accomplices*. Diewerge had previously written two books on Frankfurter's shooting of Gustloff in Switzerland. After quoting Goebbels, he explains: “The new laws and decrees announced by minister Dr. Goebbels in the article were the result of the assassination. On November 10, 1938, through an order by the SS Reichsführer and German Police Chief in the Reich Minister of the Interior, persons defined as Jews in the Nuremberg Laws were prohibited possession of any type of weapon.”⁴⁷ A list of other measures followed.

The *Völkische Beobachter* on November 13 published a lengthy official commentary, “Explanation of the Decree Against the Possession of Weapons,” on the new prohibition against firearm possession by Jews and its basis in the 1938 Weapons Law. Its author was a Dr. Ehaus, a senior executive officer (Regierungsrat). The full text states:

The preliminary police decree issued by the Reichsführer SS and the Chief of the German Police in the Reich Ministry of the Interior, which immediately after the assassination in Paris had prohibited persons considered Jews under the Nürnberg laws to possess any weapons, has been followed within a very short period of time by a decree that settles the prohibition of weapons for Jews for good. In order to make those concerned understand the extent of this law, it is necessary to explain the few paragraphs of the decree of November 11, 1938, in more detail.

To begin with, we need to note that the preventive activity of the Security Police will not be limited by the rules prohibiting Jews from possessing weapons. The security measures ordered by the Reichsführer SS and the Chief of the German Police in the Reich Ministry for the Interior will remain in force. § 1 prohibits any and all Jews from acquiring, possessing, or carrying firearms or ammunition, as well as weapons for hitting or stabbing. § 5 of the First Supplementary Decree of November

47. Wolfgang Diewerge, *Anschlag gegen den Frieden: Ein Gelbbuch über Grünspan und seine Helfershelfer* (München: Zentralverlag der NSDAP, 1939), 99–100.

14, 1935, to the Reich Citizenship Law is mentioned in parentheses. That is only meant to point out that the issue of who is Jewish should be settled by using the standard of the Nürnberg Law. Of course, not only German Jews of the Reich, but also all foreign Jews (Jews with foreign citizenship and Jews without citizenship) are subject to the decree.

The new decree makes reference to § 31 of the Weapons Law of March 18, 1938. From that it can be concluded that the definitions for firearms, ammunition, and weapons for stabbing or hitting of § 1 of the Weapons Law apply. According to that, firearms are weapons that allow a projectile to travel through a barrel propelled by gas or air pressure; weapons for hitting or stabbing are weapons that by their nature are meant to inflict injuries by hitting or stabbing.

It is remarkable that muzzle loaders, rifle models of antique design, blank cartridge firearms, gas, stun and dummy weapons [*Scheintodwaffen*], gallery rifles, parlor rifles, small-caliber rifles, small-caliber sports rifles, and spring guns fall under the term “firearm.” Ammunition means not only finished ammunition for firearms, but also gunpowder of any kind. In order to prevent any circumvention of the Weapons Law, finished or prefabricated essential parts of firearms or ammunition are given the same status as finished firearms or finished ammunition (§ 1, paragraph 3 of the Weapons Law).

We have already mentioned what the term “weapons for hitting or stabbing” means. Even though the legal provisions are clear enough, we shall list such individual weapons one more time: daggers and stilettoes; swords, sabers, bayonets, fencing foils and students’ rapiers; sword canes and defense canes (canes with metal spirals, wire cable or truncheon); clubs, steel rods, and horsewhips; brass knuckles, iron rods, and fighting rings; weapon rings, deer knives, and hunting knives. It will depend on each individual case whether lockable folding knives or fixed knives that cannot be folded have to be considered weapons. Knives with a handle will then have the nature of a weapon when their size and design show that they were meant to serve the purpose of a dagger.

The Jews must be warned that they should interpret the new ordinance and the already existing Weapons Law strictly. Otherwise they will have to expect severe penalties pursuant to § 4 and, if applicable,

protective custody. When following the order spelled out in § 1 of the new decree immediately to surrender all of the weapons and ammunition to the local police authority, the Jews must make sure that no weapons whatsoever are left behind with them.

One thing in particular should be pointed out: Any Jew who, after this decree forbidding the possession of weapons by Jews has become effective, destroys, gives away, or otherwise disposes of a weapon, that action violates § 1, sentence 2, and § 4 of the ordinance. He should have turned in the weapon immediately. As for the rest, he did not have the right to dispose of the weapon anymore because pursuant to § 2 weapons and ammunition in the possession of a Jew become the property of the Reich, without compensation. That means that with the entering into force of this decree all of the weapons in the possession of Jews have become the property of the German Reich.

§ 3 of the aforesaid decree provides exceptions for Jews with foreign citizenship. Of course, those Jews too must immediately fulfill their duty to turn in their weapons. Their weapons too have become the property of the Reich. Should their request to be exempt from the prohibition be granted, the property they lost will be returned to them.

The punishment provided by the decree against weapons possession by the Jews goes beyond that provided by the Weapons Law. As the assassination in Paris shows, the German ethnic community has a strong interest in disarming all Jews living within the boundaries of the Reich. By providing for severe prison and penitentiary terms, the State will discourage all Jews from violating its laws enacted to protect the German people. Where even such punishment has no effect, the authorities of the Security Police will ensure full compliance with the authority of the Reich.

It is particularly encouraging that today, when we are reaching the end of the year 1938, we were able to extend the prohibition of weapons possession by the Jews to Austria and the Sudetenland. The protection that we are able to offer to our German brothers in the regained regions becomes particularly clear in § 6 of the decree of November 11, 1938.⁴⁸

48. "Erläuterungen zu der Verordnung gegen den Waffenbesitz," *Völkischer Beobachter*, Nov. 13, 1938, 2.

Rendering Jews defenseless facilitated the further expropriation of their assets. Having instigated and controlled the pogrom, the Nazi leadership next carried out Hitler's decision that the Jews would pay for the destruction. Goebbels noted in his diary on November 12:

The Jews have volunteered to pay for the damages of the tumults. That makes 5 millions Marks in Berlin alone. . . .

The situation in the Reich has calmed down broadly. . . . My decree has done miracles. The Jews can still be grateful to me on top of everything.⁴⁹

That same day, key players reported at a ministerial meeting. "The death [Rath's] costs the Jews a very high price," commented Goebbels, noting hot arguments about the solution.⁵⁰ Chief of the Security Police Heydrich summarized the reports received from the State Police offices as follows:

The extent of the destruction of Jewish shops and houses cannot yet be verified by figures. The figures given in the reports: 815 shops destroyed, 171 dwelling houses set on fire or destroyed, only indicate a fraction of the actual damage caused, as far as arson is concerned. Due to the urgency of the reporting, the reports received to date are entirely limited to general statements such as "numerous" or "most shops destroyed." Therefore the figures given must have been exceeded considerably. 191 Synagogues were set on fire, and another 76 completely destroyed. . . . 20,000 Jews were arrested. . . . 36 deaths were reported, and those seriously injured are Jews.⁵¹

The Decree on an Atonement Fine for Jews with German Citizenship levied Jews with one billion Reichsmarks as payment to the German Reich for the destruction caused by the Nazis.⁵² Ordered by Field Marshal Göring in his capacity as commissioner for the Four Year Plan, this payment was enforceable because a

49. *Die Tagebücher von Joseph Goebbels*, Teil I, 183–84.

50. *Die Tagebücher von Joseph Goebbels*, Teil I, 185–86.

51. Bericht des Polizeichefs Heydrich an Göring, betr. Aktion gegen die Juden, translated in *Nazi Conspiracy and Aggression* (Washington, DC: U.S. Government Printing Office, 1946), 5:854.

52. Verordnung über eine Sühneleistung der Juden deutscher Staatsangehörigkeit, *Reichsgesetzblatt* 1938, I, 1579.

registry of all Jewish property had been compiled six months earlier. Jews were ordered to repair all damage that had been done to businesses and homes, and the Reich confiscated Jewish insurance claims.⁵³

On top of all other burdens, and consistent with the ban on possession of any kind of weapon by a Jew, it was again made illegal in what was now hunting season for a Jew to shoot a bird or a deer: "All hunting licenses held by Jews were ordered cancelled by Field Marshal Hermann Goering acting as National Master of the Hunt."⁵⁴ Hunting licenses for Jews had already been recalled in 1937—the new measure was for propaganda purposes.⁵⁵

Although "order" was restored in Germany, the Swiss newspaper *Neue Zürcher Zeitung* reported that "the wave of persecution of Jews has spread to Gdansk [Danzig]. There were attacks on shops and raids for weapons." The Gauleiter (Nazi Party provincial chief) declared the intention to expel all Jews.⁵⁶

"We plan another variety of new measures against the Jews," Goebbels wrote in his diary on November 22, adding that, "in Berlin, we do more than in the remaining Reich. That is also necessary, because so many Jews live here."⁵⁷ Enforcement of the ban on possession of firearms by Jews would be continued, to preclude the need to carry out the threat by the SS newspaper *Schwarze Korps* (The Black Guards): "On the day that a Jewish weapon or a weapon purchased with Jewish money is raised against any of the German leaders, on that day there will be no more Jews left alive in Germany."⁵⁸

53. "More Arrests, Jews to Pay for Nazi Damage," *London Times*, Nov. 14, 1938, 12A; Jonny Moser, "Depriving Jews of Their Legal Rights," *November 1938: From "Reichskristallnacht" to Genocide*, ed. Walter H. Pehle, trans. William Templer (New York: St. Martin's Press, 1991), 127.

54. "German to Keep Dieckhoff at Home," *New York Times*, Nov. 27, 1938, 46. See also "German Jews Approach a Deadline," *New York Times*, Dec. 11, 1938, 89 (among other prohibitions, the article stated, "[t]hey are barred from hunting").

55. Richard L. Miller, *Nazi Justiz: Law of the Holocaust* (Westport, CT: Praeger, 1995), 194 n. 372.

56. "Der Vernichtungsfeldzug gegen die deutschen Juden" (The Campaign of Annihilation against the German Jews), *Neue Zürcher Zeitung*, Nov. 15, 1938, 1.

57. *Die Tagebücher von Joseph Goebbels*, Teil I, 195.

58. "Germany 'Will Wipe out Jews If . . .'" *Daily Herald* (Chicago), Nov. 30, 1938, quoted in Martin Gilbert, *Kristallnacht: Prelude to Destruction* (New York: Harper Perennial, 2006), 179.

Spreading the propaganda that every Jew with a firearm is a danger to the state, *Der Strümer*, the fanatical anti-Semitic periodical, featured a caricature of a menacing-looking Jew waving a handgun after having shot a good German, presumably Rath.⁵⁹ It had the caption “Mordjude” (Murdering Jew), and the word *Talmud* and a Star of David appeared in its background. Unlike the teenager with the youthful, scared look who actually committed the deed, the caricature depicted a hardened assassin with stereotypical Jewish features waving an incorrectly drawn revolver.

Police reports listing weapons seized from Jews have been difficult to locate. Many such records may have been destroyed during the war, either by the Nazis themselves or due to Allied bombings. Routine police reports mention arms seizures along with other incidents. For example, a report to the commander of the municipal police in Leipzig dated November 29, 1938, noted: “Based on the decree regarding the surrender of weapons in possession of Jews, three Jews surrendered their slashing and thrusting weapons and one Jew surrendered his hunting rifles. Two bayonets and a 85 mm grenade were reported found and surrendered.”⁶⁰

Pursuant to the weapons ban for Jews, police in Baden-Baden confiscated the following from attorney Paul Kahn: an officer’s bayonet, a police pistol (Luger), a revolver, and two daggers, all valued at 200 Reichsmark. Residing in Dallas, Texas, in 1958, he submitted this information with a claim under the Federal Restitution Act for several thousand Reichsmark for various items of property confiscated.⁶¹ The Regional Court ruled that Kahn did not prove that he surrendered his arms.

Police were required to list all weapons taken from Jews and to send the weapons seized and listings to the Gestapo. On December 19, the head office of the Gestapo in Munich issued a memorandum to the police, commissars,

59. “Ist die Judenfrage gelöst?” *Der Strümer*, no. 48 (Dec. 1938), 1.

60. Abschnitt Nord, Besondere Vorkommnisse im Monat November 1938, Nov. 29, 1938, RG-14.006*04, copy from Leipzig city archives in United States Holocaust Memorial Museum, Washington, DC.

61. Klage des früheren Rechtsanwalt Dr. Paul Kahn, Dec. 22, 1958, Landesarchiv Baden-Wuerttemberg, Staatsarchiv Freiburg, Bestand: P 303/4 Nr. 444.

and mayors concerning the regulation requiring Jews to surrender all weapons. It also explained how the regulation was to be implemented:

All weapons of all kinds in the possession of Jews are forfeited to the Reich without payment of compensation and must be surrendered.

This includes all firearms including alarm (starter) pistols and all cutting and stabbing weapons including the fixed blade if like a dagger.

Requests by emigrating Jews to have their weapons returned to them shall not be granted.

A list shall be made of all weapons that belonged to Jews and the list shall be sent to this office by January 5, 1939. The weapons shall be well packaged and, if in small numbers, sent as parcel, and if in larger numbers, by freight.

Because this will have to be reported to the Gestapo office in Berlin, this deadline will absolutely have to be observed.⁶²

Meanwhile, legal proceedings in the courts continued against Jews who had possessed firearms. Legal forms continued under Nazism unless a person was seized by the Gestapo, which did not submit to the courts. Thus, Jews from whom firearms had been seized could be kept in a concentration camp without judicial review under Himmler's decree, but prosecution under Frick's supplemental decree to the Firearms Law would proceed in the courts.

But what of the firearm seizures from Jews in October under the 1931 Weimar decree, which made it a crime not to surrender firearms if the police so demanded? The Berlin police president had ordered Jews to turn in all firearms before the Himmler and Frick decrees went into effect in mid-November, which thus did not apply to previous seizures (unless these decrees were applied *ex post facto*).

In a memorandum titled "Maximum Sentence for Punishment of Jews," chief judge Dr. Block of the Berlin District Court reported on December 16 to the chief of the Supreme Court in Berlin about the prosecution of a Dr. Sohn. It explained: "The district court has not decided this case. It involves a proceeding

62. Geheime Staatspolizei Staatspolizeileitstelle München, B.Nr. 39859/38 II G Ma., den 19. Dezember 38, An Polizeipräsidium München et al., Betreff: Waffenablieferung durch Juden, Bayerisches Hauptstaatsarchiv, München (BHStA).

arising out of forbidden weapons possession. In October 1938, the accused had surrendered an army revolver to the police, and in particular explained that he had no recollection of the existence of this firearm, which came from the time of his war service. He was surprised that the revolver was found in a search of the attic. The prosecutor had initiated the proceedings on December 8, 1938. The Police President has objected.”⁶³

Although no more on this case could be located, this memorandum indicates that Jews were being prosecuted in the courts for the firearms seized in October. These Jewish firearm owners were fortunate compared to those who had been thrown into the concentration camps and denied any judicial involvement. Nazi policy for the latter was to force those with any wealth to buy their way out and to emigrate out of Germany.

On December 15, Himmler issued orders to the German police regarding Gypsies, who under the Nürnberg Laws were, along with the Jews, the only race inhabiting Europe whose blood was not “naturally related” to German blood. Himmler ordered that Gypsies must submit to racial and biological examinations and “are in no circumstances to receive firearms licences.”⁶⁴

Reichskristallnacht was instigated above all by Hitler and Goebbels and was exploited by Nazi leaders such as Göring and Himmler, but other officials found the pogrom reprehensible. As the events of October 1938 demonstrate, Berlin police president Helldorf was comfortable using legal means to disarm the Jews, but he could not countenance such a rampage out of police control. According to the anti-Nazi conspirator Hans Gisevius, Helldorf reacted with anger when he returned from Munich to Berlin: “Immediately after his return he called a conference of all police officers and berated them for their passivity—even though under orders. To the dismay of all the Nazis he announced that if he had been present he would have ordered his police to shoot the rioters and looters. It was a remarkably courageous statement for a chief of police and high officer of the SA to make. Precisely because of Helldorf’s position it was particularly dangerous for him to condemn the official Party line.”⁶⁵

63. Der Amtsgerichtspräsident, Strafmaß bei Bestrafung von Juden Auftrag vom 16. Dezember 1938, Jan. 13, 1939, BA Lichterfelde, R 3001/alt R22/1129.

64. Quoted in “A Gypsy Census,” *London Times*, Dec. 15, 1938, 15C.

65. Gisevius, *To the Bitter End*, 335.

Six years later Helldorf would participate in the conspiracy to kill Hitler that was consummated in the unsuccessful bomb attack on July 20, 1944. Arrested by the Gestapo and tortured, he was tried with other conspirators by Nazi People's Court (Volksgerichtshof) judge Roland Freisler and was hanged in Plotzensee Prison.⁶⁶ One can only wonder what thoughts flashed through his mind during that time and whether he had regrets for his actions against the Jews.

Another negative reaction, albeit limited, came from the head of the armed forces, Wehrmacht Oberkommando Chief Wilhelm Keitel, and related to the confiscation of edged weapons from Jewish veterans who served in the Great War and later. An urgent telex to all police departments noted that the Reich law prohibiting possession of arms by Jews included side arms (*Seitenwaffen*, bayonets and swords). However, former Jewish soldiers left the army under permission to wear the uniform and side arms. This was a prerogative of the Wehrmacht Oberkommando, who would make the necessary arrangements. "The police have therefore been instructed that they not act against the affected persons."⁶⁷

In sum, over a period primarily of several weeks in October and November 1938, the Nazi government disarmed the German Jewish population. The process was carried out both by following a combination of legal forms enacted by the Weimar Republic and by sheer lawless violence. The existence of fire-arm licensing and registration records together with the unrestricted ability to conduct searches and seizures were the key elements. The Nazi hierarchy could now more comfortably deal with the "Jewish question" without fear of armed resistance by the victims.

It is tempting to surmise that the anonymous possession of firearms by the German Jews would have made no difference either in the 1938 pogrom or later in the Holocaust when the majority of remaining Jews were deported and killed

66. Gisevius, *To the Bitter End*, 582. Footage of Freisler's interrogation of Helldorf can be viewed in the DVD *Geheime Reichssache: Die Angeklagten des 20. Juli vor dem Volksgerichtshof* (Secret Reich Case: The Defendants of July 20 before the People's Court) (Potsdam Babelsberg: Chronos, n.d.).

67. Abschrift Chef OKW 6840/38 Fernschreiben, copy by Wehrkreiskdo XIII Nr. 2936/38, Nov. 17, 1938, sent to subdivisions of WK XIII, Bundesarchiv-Militärarchiv Freiburg, RH 53-13/446 Wehrkreis XIII.

with bullets and gas. Yet how many individual stories might have been written differently had the October disarming and then the November Reichskristallnacht not been so devastatingly thorough? A fatalistic view ignores that the Nazis themselves perceived armed Jews as sufficiently dangerous to their policies to place great emphasis on the need to disarm all Jews. Indeed, as accounts in the next chapter suggest, some who defended their homes, families, temples, friends, and selves with firearms were occasionally, albeit rarely, successful in driving off their Nazi attackers.

Until now, it was by no means certain that Jewish armed resistance movements could not develop and even less certain that individual Jews would not use arms to resist arrest, deportation, and attacks by the Nazis. It was only after Reichskristallnacht, when the Jewish population was largely and systematically disarmed, that the Nazis' iron grip on the country was evident for everyone to see.

Jewish Victims Speak

IN A PERVERSE WAY, all members of the German Jewish community were victims of the Nazi ideological pretext that every Jew was dangerous and must be disarmed. Given the premise that any Jew with a weapon threatened the Reich, the universally cited excuse to ransack Jewish houses, businesses, and synagogues during Reichskristallnacht was to search for and seize weapons of any kind. Those who actually possessed weapons had them seized and were subject to twenty years in a concentration camp. Some personal reminiscences and other accounts relate these victims' experiences, and some, though few, of the stories here show what kinds of self-defense were possible for Jews under threat of arrest and attack.

"This is a police raid! We are looking for arms in all Jewish homes and apartments and so we shall search the orphanage too!" To these words in the early morning, Yitzhak Herz, caretaker of the children at the orphanage in Dinslaken, opened the door to two Gestapo officers and a policeman. They also searched for money but found nothing and departed with the order: "Nobody is to leave the house before 10 a.m.! All the blinds of the building which face the street must be drawn! Shortly after 10 a.m. everything will be over."¹

If orphanages and synagogues were not likely places to find arms, neither were businesses, but all Jewish premises were to be searched. In Hanover, the Schutzpolizei reported: "3d district: Specialty store for jackets at Sedanstrasse

1. *Night of Pogroms: "Kristallnacht" November 9–10, 1938* (Washington, DC: U.S. Holocaust Memorial Council, 1988), 39–40.

35 has been searched for weapons. No other special events.”² Obviously no arms cache was discovered at this clothing shop.

Although arms were more likely to be found in private homes, many contained none. Frau Dzialowski of Mannheim recounted how three Nazis appeared at her apartment door with axes: “When I opened the door, they immediately started to provoke me, but I responded very calmly. ‘Where do you keep your weapons?’ ‘I don’t need any weapons because I am not planning to kill anybody.’ ‘Where is your money?’ To that I answered, ‘You have taken my husband away from his family; what else could you possibly want?’ All of a sudden the three of them were deeply ashamed and left like common thieves. But my calm was gone. I sank to the floor in exhaustion and cried my heart out.”³

An anonymous “Frau R.” lodged at the house of her Hamburg employer, Herr Heimann, after work on the night of November 9. “At 6 a.m. the following morning the front door bell rang. On opening the door a Gestapo officer placed his foot in it preventing it from being closed. He entered and immediately went to the bedroom where Mr. and Mrs. Heimann were sleeping. He switched on the light and ordered Mr. Heimann to go with him. He also searched the closets for weapons and gold.”⁴

In Aachen, Germany’s most westerly city bordering Belgium and the Netherlands, the Gestapo searched the houses of numerous Jewish families for weapons. Five Gestapo agents executed a late-night search of the Voss family home, not being deterred by the denial that no weapons were present.⁵

2. Lagebericht der Schutzpolizei am 10. November 1938, in Heinz Lauber, *Judenpogrom: “Reichskristallnacht” November 1938 in Grossdeutschland* (Pogrom against the Jews: “Night of the Broken Glass” November 1938 in Greater Germany) (Gerlingen, Germany: Bleicher, 1981), 104–5.

3. Stadtarchiv Mannheim, ed, *Die Judenverfolgung in Mannheim 1933–1945: Dokumente* (Persecution of the Jews in Mannheim 1933–1945: Documentary Evidence) (Stuttgart: H. J. Fliedner, 1971), 13.

4. “The ‘Reichskristallnacht’ Pogrom of the 9th/10th November 1938,” <http://www1.uni-hamburg.de/rz3a035//pogrom.html> (visited Feb. 9, 2013).

5. *Fragen—Erinnern—Spuren sichern: Zum Novemberpogrom 1938* (Asking Questions, Remembering, Securing Evidence: The November 1938 Pogrom) (Aachen, Germany: Annemarie Haase, 1992), 75, citing *Grenzecho*, Nov. 12, 1938, an anti-Nazi newspaper published in Eupen, eastern Belgium.

Armin Keru, reminisced that on November 10, a mob approached his house in Landau when he was a boy:

The door bell rang, and they came in demanding, "We are looking for weapons." My father answered that we didn't have any weapons. They shouted back, "Get out." "Oh my god," said my father, and one of them answered, "God is with us now, no longer with you." We went outside in the yard—other Gentiles stood around just looked at us never saying a word. . . . The mob finally left and we went inside. . . .

They had wrecked the furniture. Dishes, glass, and ornaments were broken. Cognac was splashed against the walls,—I remembered the smell for years.⁶

Alice Oppenheimer recalled: "At our house [in Frankfurt am Main], the men searched my dad for weapons or something and then took him away. We learned later that all Jewish men between 18 and 60 had been arrested."⁷

Martha Hirsch, who had a sick father at the time, remembered the following details of the house search by Nazis at Frankfurt am Main:

The day that the assassination took place in Paris, my father came home and cried. He said, "This is it, now terrible things will happen to us." Of course, we hardly expected the Nazis to burn down the synagogues and take the [Jewish] men to concentration camps, all in one night. But that was what we experienced. I saw furniture fly through windows and men arrested. My father was not sent to a concentration camp. He had a severe case of the flu and was lying in bed. He had not shaved and looked like he was close to death. The Nazis looked at him and said, "Let's leave this one behind." I still remember the image of SS men standing in my bedroom. I was in bed when all of a sudden these brutes were standing in my room, ripping through my closet and searching for weapons.

6. Armin Keru, "I Remember Germany," p. 35, in RG-02.812 Survivor Testimonies, United States Holocaust Memorial Museum, Washington, DC.

7. Alice Oppenheimer, "Wenige Tage aus meinem Leben" (A Few Days of My Life), in *Dass wir nicht erwünscht waren: Novemberpogrom 1938 in Frankfurt am Main* (We Were not Welcome: The November 1938 Pogrom in Frankfurt, Germany), ed. Gottfried Kössler (Frankfurt am Main: dipa-Verlag, 1993), 60.

Then they staggered out of our apartment and on to the next one. It was Thursday night, the night that the synagogues burned in Frankfurt.⁸

Professor Arthur Freud (no relation to Sigmund Freud, much to some Nazis' disappointment) related what happened to him in the evening in Vienna, Austria: "[T]wo functionaries came to search my flat very rudely, pretending they were searching for arms." When they found back issues of an anti-Nazi magazine, *Fackel*, Freud was ordered to burn them or be arrested.⁹

In yet another unsuccessful search for firearms, a report from Vienna included the following:

Towards 1:00 a.m. they got to the apartment of Ms. Schwagen, a Jewish woman. They requested access to the apartment under the pretext that they needed to search for weapons. Schremmer [one of the Nazis] confronted the Jew, Dr. Rabl, ordered him to exercise in the room, and hit him in the face. Then they searched the apartment extensively. . . .

After the search Ms. Unger was asked whether she kept any weapons in her apartment. Unger said that she would hold her apartment at the men's disposition anytime, but that she preferred the search to take place at 8:00 in the morning instead of during the night. Schmidinger and Hintersteiner did not agree with that and ordered Ms. Unger to get dressed and take them to her apartment so that they could search it. At the house entrance, Hintersteiner and Schmidinger let the other SA members go and followed Ms. Unger to her apartment which they searched for weapons.

The search did not yield any weapons.¹⁰

A man named "Louis K" from Dortmund reported extortion under the guise of a search for arms. "During the pogrom night in November 1938 about 10 SS and SA men showed up at my door around 2:00 a.m., allegedly to search

8. Martha Hirsch, "Daß wir nicht erwünscht waren" (We Were not Welcome), in *Dass wir nicht erwünscht waren*, 126.

9. Quoted in Martin Gilbert, *Kristallnacht: Prelude to Destruction* (New York: Harper Perennial, 2006), 55.

10. Wein, am 2dk.XI.1938, An den Chef des Sicherheitshauptes, Abteilung No. 112, Berlin, in "*Die Kristall-Nacht*" 9. November 1938, ed. T. Friedmann (Haifa: Direktor der Dokumentation, 1993), 6.

for weapons. They told me that they would not leave without receiving at least 1,000 marks.”¹¹ The victim negotiated the extortion to 500 marks and signed a promissory note to his bank, but at the time of writing his account of these events he did not know yet whether the note had been presented to his bank. His wife’s pearls were stolen from the nightstand. Later, an official of the People’s Welfare Office (Volkswohlfahrt) forced him to sign a new promissory note to protect him from being placed in a camp. The bank had not notified him, despite his demand, whether the amount had been withdrawn from his account.

In a collection of eyewitnesses of Reichskristallnacht in the District of Borken, Franz Josef Hesse recalled the following snapshot: “Erich Gottschalk reported that on November 9 around 11:00 p.m. several SS men, most of them from Gronau, came to his apartment at Bahnhofstrasse under the pretense that they were looking for weapons. They had forced barber Hilgemann to show them the Jewish apartments at Bahnhofstrasse, although one of the men was from Ahaus. Hilgemann had told them that they would not find any weapons in the apartments of Gottschalk, Katz, and Winkler. The search of Gottschalk’s apartment went without a hitch.”¹²

Mechthild Oenning remembered gangs of young men in Borken attacking Jews, but also defiant women who rebuffed home searches for weapons: “Jewish apartments were attacked at Bocholter Strasse where a Jewish teacher was arrested. Neighbors watched several adolescents from out of town and two or three 15- or 16-year-olds beating a man in the street with sticks. Under the pretense of looking for weapons, apartments were searched and ransacked. In two places this was prevented by female home owners who steadfastly refused to let the Nazis enter.”¹³

11. Uwe Bitzel, *Damit kein Gras darüber wächst; Ereignisse um die Pogromnacht 1938 in Dortmund* (So that It Will not Be Forgotten: Events During Pogrom Night 1938 in Dortmund) (Dortmund, Germany: Gesellschaft für christlich-jüdische Zusammenarbeit e.V. Dortmund und dem Stadtarchiv Dortmund, 1988), 135.

12. Franz Josef Hesse, “Ahaus: ‘Es ist nicht leicht, darüber zu sprechen’” in *“Es ist nicht leicht, darüber zu sprechen”: Der Novemberprogrom 1938 im Kreis Borken* (*Difficult to Discuss: November Pogrom 1938 in the Borken District*), ed. August Bierhaus (Borken: Kreis Borken, 1988), 53.

13. Mechthild Oenning, “‘Es geht jetzt los . . .’: Ereignisse in der Pogromnacht in Borken, Gemen und Weseke” (*Things Start Happening . . . Events of the Pogrom Night in Borken, Gemen, and Weseke*), in *“Es ist nicht leicht, darüber zu sprechen,”* 68.

Adalbert Friedrich recalled how Nazis, while taking Jewish men into “protective custody,” searched for weapons and used their own weapons to kill a family’s dog: “As the highest party leaders had ordered, Jewish men were taken into ‘protective custody.’ At the Elkan house the Nazis took old Mr. Herz and his son Saly and locked them up in the cells of the firehouse together with Emanuel and Nathan Elkan. The houses of the Jews were searched for ‘suspicious documents’ and ‘weapons.’ When a German shepherd dog put up resistance at the house of Emanuel Rosenbaum, the Nazis killed him with a shot from a pistol.”¹⁴

Vandalism and plundering characterized the pogrom. In an analysis of the looting and theft, historian Dieter Obst has explained:

Munich had given orders to destroy, but had forbidden looting by private citizens. Many of the local pogrom initiators had told their people accordingly before the ransacking began. However, the initiators themselves extensively and systematically “secured” objects during and after the riots. Each National Socialist organization “secured” Jewish property that had not been destroyed or damaged.

In many towns things were “secured” during the search of Jewish apartments for weapons, money, illegal publications, foreign correspondence, or precious metal. The focus of the search varied from town to town. Sometimes its emphasis was on weapons, sometimes on money and sometimes on illegal publications. These searches left the affected apartments in great disarray, but things were not destroyed for the sake of destruction. They should therefore not be confused with the ransacking actions. At the same time, the searchers looted objects without any connection to weapons, money or publications.¹⁵

Some Jews who still possessed firearms sought to comply with the confiscation orders. The Sinzheimers, a Jewish family with two children, lived in a large apartment on Uhlandstrasse in Berlin. Mr. Sinzheimer was in Paris on business on the evening of November 10, when Mrs. Sinzheimer heard shouting, glass

14. Adalbert Friedrich, “Raesfeld: ‘Feuerwehr kontrollierte den Brand’” (Raesfeld: Firefighters Had Fire under Control), in *“Es ist nicht leicht, darüber zu sprechen,”* 91.

15. Dieter Obst, *“Reichskristallnacht”: Ursachen und Verlauf des antisemitischen Pogroms vom November 1938* (“Reichskristallnacht”: Causes and Course of the Anti-Semitic Pogrom in November 1938) (Frankfurt am Main: Lang, 1991), 270.

being smashed, and shooting. Family friend Herr Müller showed up at the door with a large revolver, informing the family of his intention to defend them and to shoot any of “those bastards” who would lay a hand on members of the family. At around 6:00 a.m., she heard over the radio an announcement that any Jew found in possession of a firearm would be shot at once. Mrs. Sinzheimer knew that the fact that her husband had a license for his handgun would mean nothing to the SA if they found it. She called a friendly repairman to break open the secret drawer where the firearm and license were hidden. She then placed the handgun and license in a box of cigars and carried it to the local police station on the Kurfürstendamm. She asked to see a sergeant whom she knew well and presented him with the box of cigars. When he discovered the gun license and handgun, he threw the gun in the garbage when no one was looking and exclaimed: “Hurry home, Frau Sinzheimer, before you give me a heart attack!”¹⁶

Major Friedrich Solmitz of Hamburg was a highly patriotic, decorated World War I veteran. Although a Protestant convert, he remained Jewish according to the Nürnberg Laws. His wife, Luise, a non-Jewish conservative schoolteacher, kept a copious diary.¹⁷ She described a fearful atmosphere on November 11, when she and her friend “Gi.” went to town and observed destruction and boarded up windows. No Jews were seen among the silently moving crowd. “In the evening I went to the block warden to discuss the surrender of weapons. Gi. and I had read on the street that Jews had to surrender all firearms as well as stabbing and cutting weapons to the police within four days.” Frau Solmitz continued (referring to Friedrich as “Fr.”): “Fr.’s beautiful hunting rifle, the weapons he used in the war. Everywhere there was bitterness, nowhere a glimmer of empathy, hope, not even a little breather. . . . After I had read about the weapons’ surrender, I rushed home. I was concerned about Fr., relieved when we found him.”¹⁸

16. Anthony Read and David Fisher, *Kristallnacht: The Unleashing of the Holocaust* (New York: Peter Bedrick Books, 1989), 75–76.

17. Richard J. Evans, *The Third Reich in Power, 1933–1939* (New York: Penguin Press, 2005), 38–39, 569–70, 602.

18. Peter Freimark and Wolfgang Kopitzsch eds., *Der 9./10. November 1938 in Deutschland: Dokumentation zur “Kristallnacht”* (November 9–10, 1938 in Germany: Documentary Records of “Kristallnacht”), (Hamburg: Ludwig Appel & Sohn, 1978), 44, with the full account given here on 44–45. The referenced diary selections are also at <http://www.uni-hamburg.de/rz3a035//pogrom.html> (visited Feb. 9, 2013).

Reflecting her outlook as a schoolteacher, she quoted from Theodor Fontane's classic nineteenth-century novel *Effi Briest*: "Is it that hard to leave the table of life a bit earlier?" In her own literary fashion, Luise continued: "Yes, it was hard for those with ties of love, those who knew the value of life, its beauty, and little daily things that are sacred. It was hard for those who had never violated their duty to the state and had never been unfaithful to the mother country. Himmler's decree threatens concentration camp and protective custody of 20 years (!) for those who fail to surrender their weapons."

Frau Solnitz wrote again on November 12, describing what happened when she and Friedrich went to the Gestapo office at the city hall at Stadthausbrücke: "Fr. had not yet read the weapons ordinance, otherwise he would not have submitted a request to keep his sword and pistol from the war. The two SS men who were dealing with us in the entrance hall were a bit astonished. 'Retired major?' said one of them. The official on the floor above said dryly: 'That is over now.' He added: 'If I may give you some advice, surrender all your weapons.'" Fr. responded that as a former officer he would of course do that."

Herr and Frau Solnitz returned home and were about to leave when two plainclothesmen from the Gestapo rang the doorbell. They wished to speak with Friedrich alone, but Luise overheard the conversation. They asked about his medals, he responded that he had "all kinds of medals from the war," and they then wanted to see the documents. Asked whether he was a pilot, he responded that he was one of the first German air force officers and was 50 percent disabled in service. "Keep it short," implored one of the officials—either they were in a hurry or Friedrich was being long-winded about his service. The interrogation then proceeded: "Fr. said that we had just returned from the Gestapo where we discussed the surrender of weapons. To the official's question whether he had any weapons, he said, 'Of course, I am an old officer.' The official responded, 'Make sure you surrender them all.' Fr. repeated that of course he would do so and asked for the reason of this visit. The officials responded that the fact that they were leaving now was proof that everything was in good order." Solnitz may have been given some deference because of his war record. He was not arrested on the spot, and his house was not ransacked. He exemplified patriotic German Jews who owned firearms and who had no subversive thoughts whatever, but who were disarmed because they were Jews.

Victor Klemperer, too, had served honorably in Germany's armed forces during World War I, had retired as a university professor in 1935, and was a resident of Dresden. His acclaimed diary includes the following entry:

On the morning of the eleventh two policemen accompanied by a "resident of Dölzschen." Did I have any weapons?—Certainly my saber, perhaps even my bayonet as a war memento, but I wouldn't know where.—We have to help you find it.—The house was searched for hours. . . . They rummaged through everything, chests and wooden constructions Eva had made were broken open with an ax. The saber was found in a suitcase in the attic, the bayonet was not found. Among the books they found a copy of the *Sozialistische Monatshefte* (Socialist Monthly Magazine—an SPD theoretical journal) [. . .] this was also confiscated.

A courteous young policeman took Klemperer's statement and stated that they would have to go to the court building at Münchner Platz, adding: "There's nothing to fear, you will probably (!) be back by evening." Klemperer asked if he was under arrest. "His reply was good-natured and noncommittal, it was only a war memento after all, I would probably be released right away." At the court building, a policeman copied Klemperer's statement. After some waiting, a magistrate with a party badge made out a certificate of discharge, without which Klemperer would be arrested again. "At four o'clock I was on the street again with the curious feeling, free—but for how long?"¹⁹

Numerous other Jewish veterans of World War I possessed firearms or edged weapons. More than 100,000 of the 550,000 Jews in Germany had served in the German army in the Great War, 12,000 had been killed in action, and more than 30,000 had won decorations. In the Austrian-Hungarian Empire, 300,000 Jews had served, 24 of them ranking as generals.²⁰

19. Victor Klemperer, *I Will Bear Witness 1933–1941*, trans. Martin Chalmers (New York: Modern Library, 1999), xiv (for biographical details), 275–76 (entry for Nov. 27, 1938); second ellipses in block quote are given in the original.

20. Bryan Mark Rigg, *Hitler's Jewish Soldiers: The Untold Story of Nazi Racial Laws and Men of Jewish Descent in the German Military* (Lawrence: University Press of Kansas, 2000), 72–73.

Banning firearm possession by Jews conflicted with a law requiring a firearm for humane putting down of cattle for kosher slaughter. Seventeen-year-old Therese Gertrude Isenberg from Ober-Ramstadt, Hesse, recalled the sudden paradox: “My uncle had a butcher shop. In those days there was an ordinance that before you killed kosher, you had to have a gun to hit the animal and get the cow unconscious before you could slaughter it. So my cousin Manfred started hollering, ‘We have a gun in the house. If they find the gun, they’re going to come and kill us.’ [It was illegal for Jews to possess weapons.] My mother was lying there half paralyzed. It was a night you never forget.”²¹

Dorothy Baer, who was fifteen at the time, recalled how the Nazis did not find her father’s revolver at their residence in Frankfurt am Main because her mother had hidden it on her person and later managed to throw it away:

That day the terror started towards the evening. I remember four or five terrifying men crashing through our front door and starting to systematically destroy the apartment. My dad had a heart ailment and was lying in bed that day. My mother was taking care of him while I accompanied these terrible men from one room to the next. . . . I kept telling them that my father was on his death bed. We were lucky, they did not enter the bedroom. The apartment was destroyed, but my dad was still with us.

I have often been asked why we did not fight back. I believe that individuals were not able to fight back at all. Maybe only groups of people could have offered resistance.

I remember that my dad had a small revolver, which he kept in his nightstand, probably illegally. I am convinced that he did not have any bullets for it and doubt that he knew how to shoot. That evening, after the Germans had ransacked our apartment, mother said to me: “Put on your coat, we are going for a walk.” This was odd, but I went along. Mother had the small revolver with her and “lost” it as we entered a park. She wanted to avoid being caught with a weapon.—The next morning we learned that many [Jewish] men had been arrested and sent to concentration camps.²²

21. Mitchell G. Bard, *48 Hours of Kristallnacht: Night of Destruction / Dawn of the Holocaust: An Oral History* (Guilford, CT: Lyons Press, 2008), 33. Bracketed matter in the original.

22. Dorothy Baer, “Meine Eltern haben mir den Abschied sehr leicht gemacht” (My Parents Made it Easy for Me to Say Good-bye), in *Dass wir nicht erwünscht waren*, 117–18.

In another instance in which a firearm was thrown away at Frankfurt am Main, Peter Bloch recalled that he, his mother, and Frau Fölsche, their “Aryan” tenant, were eating veal chops and peas when three members of the Staatspolizei rang the doorbell. Peter feared the worst but was politely defiant:

Now it was my turn. “Get your coat and come with us,” ordered one of the men with a dog face. Without showing my fear, I said, “I am under 18 and a student.” . . . I just reminded the Gestapo of what seemed to be their order, although I knew that in some places in Hesse 14-year-olds had been arrested.

The three men apparently had not yet met anybody who resisted arrest. . . . Then the man with the dog face ordered me to continue my meal. . . .

Then the Gestapo searched the apartment for weapons and failed to find any. Our former driver had thrown my father’s revolver into the Main River. It had never been used. When the man with the dog face saw my mother’s fur coats in a closet, he said sarcastically, “these poor Jews!” But then the men left. I took one of Schiller’s books and read the monologue of William Tell.²³

William Tell, of course, after being forced to shoot the apple off his son’s head, would later use his crossbow to shoot the tyrant Gessler through the heart, leading to a successful armed revolt. It is obvious why Hitler forbade Schiller’s play from being performed or read in the schools.²⁴

Although the Nazi tyrants would be met with no such armed resistance, incidents occurred in which brave individuals used firearms to impede the pogrom. Wichard von Bredow, Landrat (chief executive) administrator for the town of Schirwindt in East Prussia, was ordered by the Gauleiter (the Nazi provincial governor) to burn down the local synagogue. He decided instead to risk his life to protect it. When the Nazis arrived with incendiary materials, he loaded his revolver in front of them, making clear that they could proceed only

23. Peter Bloch, “Wie ich das Pogrom erlebte” (How I Experienced the Pogrom), in *Dass wir nicht erwünscht waren*, 142.

24. Jürg Fink, *Die Schweiz aus der Sicht des Dritten Reiches, 1933–1945* (Switzerland in the Eyes of the Third Reich, 1933–1945) (Zürich: Schulthess Polygraphischer, 1985), 22–23.

over his dead body. They fled, leaving it the only synagogue in the district not destroyed. Bredow would suffer no punishment for his defiance.²⁵

Similarly, a coal merchant who was Christian pulled a firearm on Nazi arsonists to save a synagogue in Sontheim. He accompanied Jews away from the town to prevent their arrest.²⁶

Historian Mitchell Bard has noted that “Jews rarely offered resistance to their attackers since they were unarmed and typically faced groups of men who had sticks, knives, iron bars, guns, and other weapons.” A Jewish family in Heilbronn pushed an SA man out of the window, and in Hilden a mother and son who resisted were murdered with an axe, and another person was stabbed to death.²⁷

Some of the Jews whose homes were searched and ransacked were foreign nationals, leading to diplomatic protests. The following Gestapo report concerning the complaint of Mrs. Gertrude Dawson, a British citizen residing in Döbling, did not deny the systematic vandalism: “Given the sometimes high degree of agitation of the national comrades during the action against the Jews it is no longer possible to determine which persons participated in the riots. That also explains why there was little success in the clarification of the facts, even though the investigations were conducted with vigor. Several persons who were in Mrs. Dawson’s apartment explained that they had orders to search for weapons. But it is impossible to determine the details about the damage to the furniture, etc.”²⁸

An incident in Vienna became the subject of a report by none other than Dr. Werner Best, the Gestapo chief legal advisor. The report alleged the following about Henry Coren, a British citizen:

During the action of November 10, 1938, against Jews, the apartment of stateless retiree Hermann . . . was searched, and a loaded revolver belonging to his son-in-law Henry Coren, who was living with him, was found. The weapon was hidden in a suitcase belonging to Coren. Based

25. Gilbert, *Kristallnacht*, 94–95.

26. Bard, *48 Hours of Kristallnacht*, 154.

27. Bard, *48 Hours of Kristallnacht*, 171.

28. Geheime Staatspolizei, Betr.: Beschwerde der britischen Staatsangehörigen Mrs. Gertrude Dawson, Copy, 84–60–Sdh. 7/2, Feb. 7, 1939, Bundesarchiv (BA) Berlin, R 43 II/599, Fiche 3, Row 5.

on these facts, three SA men belonging to the local group Fuchsröhren of the NSDAP took Mr. and Mrs. Coren, as well as Hermann, to a collection point at Rinnböckstrasse. There, their personal information, etc. was written down. When it was determined that Mr. and Mrs. Coren had British citizenship, they were released immediately. . . .

After the SA men had taken Mr. and Mrs. Coren and Hermann to the collection point, the local group asked them to also fetch Mrs. Hermann, who had stayed back in the apartment. The men therefore returned to the Coren apartment and asked Mrs. Hermann to get dressed to go out and be interrogated. Mrs. Hermann then went to a room on the side for about 2 minutes and changed.²⁹

Coren claimed that SA men stole 3,400 Reichsmark from the apartment, and the British consul-general filed a protest. The Gestapo found the suspicion of theft unfounded because the SA men “adamantly deny the allegation” and because “it was not possible to interrogate Coren about the matter because he fled the Reich on November 30, 1938. This fact also is an indication that Coren was not telling the truth.”³⁰ For Coren, however, discretion must have been the better part of valor. Any Jew—especially any Jewish gun owner—who did not flee Nazi persecution well knew the possible consequences.

International media coverage was sympathetic although not necessarily well informed. The *Chicago Tribune* reported only eight arrests of Jews for possession of arms in violation of Himmler’s decree threatening twenty years in a concentration camp.³¹ However, the newspaper also reported personal stories. A Berlin Jewish scientist told its reporter how at 6:00 a.m. on November 12, a Nazi official in a brown uniform and four assistants in mufti took him from his home, only to order him to go back there. Many of his friends who were arrested were not so lucky. A friend’s home was searched for weapons by six men, who broke the china and smashed furniture. The scientist related: “Only one thing they had missed—an old army revolver which was lying in a drawer of

29. Geheime Staatspolizei, Betrifft: Den britischen Staatsangehörigen Henry Coren, Copy 84-50 Sdh. 28/12, Dec. 28, 1938, BA Berlin, R 43 II/599, Fiche 3, Row 5.

30. *Id.*

31. Sigrid Schultz, “Germany Puts Hundreds of Jews in Camps,” *Chicago Daily Tribune*, Nov. 12, 1938, 5A.

a table in my friend's bedroom. That rusted weapon, probably fired for the last time in 1918, might have gotten him twenty years in a concentration camp."³²

These tragedies were also reflected in diplomatic reports. British acting counsel general A. E. Dowden reported from Frankfurt that Jews were arrested in that city in the period November 10–14. Thirty-six hours later the arrests began again. SS troopers and Gestapo agents prowled the streets looking for Jews. They entered houses with the excuse that they must search them for any Jewish males who were hiding. "Once inside, they made a thorough search for weapons of any kind, or money, and if either was found, the occupants of the house were arrested on the grounds that weapons were forbidden and that any large sum of money was being hoarded to enable the family to escape from Germany."³³

The American consulate in Stuttgart, headed by Samuel W. Honaker, reported to U.S. ambassador Hugh R. Wilson in Berlin on November 12 that "the Jews of Southwest Germany have suffered vicissitudes during the last three days which would seem unreal to one living in an enlightened country during the twentieth century." He described the horrors of November 10, from torching of synagogues before daylight to the midnight arrests. He continued:

So great had become the panic of the Jewish people in the meantime that, when the Consulate opened after Armistice Day, Jews from all sections of Germany thronged into the office until it was overflowing with humanity, begging for an immediate visa or some kind of letter in regard to immigration which might influence the police not to arrest or molest them. Women over sixty years of age pleaded on behalf of husbands imprisoned in some unknown place. . . . Men in whose homes old, rusty revolvers had been found during the last few days cried aloud that they did not dare ever again to return to their places of residence or business. In fact, it was a mess of seething, panic-stricken humanity.

Honaker learned that "practically the entire male Jewish population of the City of Stuttgart, ranging from the age of eighteen to sixty-five years, has been arrested by authorities representing the police." On November 11, some of the

32. See "Jew Charges Nazi Wrecked Home of Friend," *Chicago Tribune*, Nov. 13, 1938, 2B, and "Revenge Laws Drive Semites Out of Business," *Chicago Tribune*, Nov. 13, 1938, 1G.

33. Read and Fisher, *Kristallnacht*, 95, citing British acting counsel General A. E. Dowden's reports from Frankfurt-am-Main, F0371/21638.

prisoners were taken to Welzheim, a concentration camp in Württemberg. Many people believed that the action was planned and not spontaneous. “The vast majority of the non-Jewish German population, perhaps as much as 80 per cent, has given evidence of complete disagreement with these violent demonstrations against the Jews.”³⁴

Reichskristallnacht ended, but not before countless other incidents like these had unfolded in the dark hours. At the end of that pogrom, Germany’s Jews were largely disarmed. The Nazis saw that an apparent majority of the “Aryan” population was too cowed and intimidated by the dictatorship to protest. With what would become the largest, most persecuted group of victims now virtually weaponless, Hitler’s plans could move forward. No foundation would exist for any effective resistance movement or individual acts of resistance. The way was paved for total repression.

34. Samuel W. Honaker, “Anti-Semitic Persecution in the Stuttgart Consular District,” Nov. 12, 1938, U.S. National Archives, Microfilm Series LM 193, No. 23, 862.4016, pp. 408–15, reprinted in John Mendelsohn, ed., *The Holocaust*, vol. 3, *The Crystal Night Pogrom* (New York: Garland, 1982), 183–84. See also Christoph Strupp, “Observing a Dictatorship: American Consular Reporting on Germany, 1933–1941,” *Bulletin of the German Historical Institute*, no. 39 (Fall 2006), 79.

CONCLUSION

Whither the German Resistance?

THE NAZI DICTATORSHIP conjured up imaginary enemies—for instance, by demonizing the Jews—to justify the need for their repressive measures.¹ A politically unreliable firearm owner—above all, a Jewish firearm owner—was the ultimate threat. What occurred during the second half of the Third Reich, during World War II, may be understood in part by the previous disarming of political opponents, Jews, and other purported enemies of the state. In particular, firearm prohibitions nipped in the bud the possibility of a popular armed resistance movement and ensured in particular that no armed Jewish resistance to the Holocaust could arise. Armed opposition was limited to isolated instances of individuals resisting deportation, together with loners and Wehrmacht officers unsuccessfully trying to kill Hitler.

On November 10, 1938, as thousands of Jews were being taken into Gestapo custody during the pogrom, a judicial ruling was issued clarifying that no judicial review of Gestapo action was allowed. The Prussian Supreme Administrative Court held that none of the following could be appealed to a court: direct Gestapo action, ordinary police acts under special or general Gestapo orders, and ordinary police acts within Gestapo jurisdiction. A court could intervene only if the ordinary police went beyond Gestapo orders.²

Although this decision reinforced that no Jew thrown into a concentration camp for allegedly possessing a firearm or for any other reason could appeal to a court, it ironically had been rendered to prohibit a shooting competition. The

1. Ernst Fraenkel, *The Dual State: A Contribution to the Theory of Dictatorship* (New York: Oxford University Press, 1941), 199–200.

2. Preussisches Oberverwaltungsgericht, Nov. 10, 1938, *Juristische Wochenschrift* 1939, 382, cited in Fraenkel, *The Dual State*, 27–28, 217 n. 83.

Gestapo dictated that target matches were in the exclusive domain of the officially approved German Defense Association. Thus, a shooting gallery owner whose rifle match was prohibited had no right to judicial review even though the association banned the match out of personal antagonism.

Shooting clubs, like all other institutions in Germany, were subjected to Gleichschaltung (forcing into line) with the Nazi state agenda. As described previously, this subjection took place in the phases of formal, institutional, and finally structural forcing into line. The final phase of structural forcing into line was dictated by Hitler's mandate of December 21, 1938, under which all Reich sport associations were subsumed by the Nazi Party under the National Socialist Reich Association for Physical Exercise (Nationalsozialistischer Reichsbund für Leibesübungen, or NSRL). "German communities" (deutschen Gemeinschaften) replaced the traditional concept of the club, the leaders of which were required to be approved by the responsible Nazi Party district leader. The NSRL was officially part of the party, and sports organizations in general, including the remaining shooting clubs, were absorbed into the party.³

Thus, from the beginning of 1939, the shooting clubs were subject to the dual control of the Reich and the Nazi Party. Hitler's launching of World War II on September 1, 1939, further accomplished this forcing into line. It was fully accomplished by a February 1940 directive providing that the members' meeting was optional and that the club leader was nominated by the NSRL district leader and approved by the responsible Nazi Party district leader.⁴ The result was the total deprivation of the clubs' and their members' rights.⁵

Hitler thought hunting to be "a dreary sport" and said that "shooting is not a popular sport." "Personally, I cannot see what possible pleasure can be derived from shooting." A vegetarian, the führer was sensitive to the feelings

3. Hajo Bernett, *Der Weg des Sports in die nationalsozialistische Diktatur* (The Way of Sports in the National Socialist Dictatorship) (Schorndorf, Germany: Hofmann, 1983), 30, 45–46; *Der Deutsche Schütze* 1939, Nr. 2, S.18, cited in Stefan Grus, "Allgemeines Verhältnis des Nazi-regimes zu den Schützenvereinen" (General Relationship of the Nazi Regime to the Shooting Clubs), unpublished manuscript, Wiesbaden, Oct. 2005, 2.

4. Bernett, *Der Weg des Sports*, 46; Anordnung des stellv. Verbandsführers, Amtschef in der Obersten SA-Führung Schmiere (Order of the Deputy Association Führer, Amtschef, in SA-Command Colonel Schmiere), in *Der Deutsche Schütze* 1940, Nr. 11, S.92, cited in Grus, "Allgemeines Verhältnis," 2.

5. Grus, "Allgemeines Verhältnis."

of animals and remarked: "The Society for Prevention of Cruelty to Animals would do well to turn its attention to the sportsmen themselves."⁶ As the war and the Holocaust would prove, he had no such sensitivity to humans.

In freer societies, independent shooting clubs or some of their members might help dissuade or resist a dictatorship. However, as a result of the successful Nazi forcing of the shooting clubs into line, little or no hope of any kind of resistance movement or activities could be expected from that quarter.

German resisters were different than their European counterparts in that there was no partisan force. The German resistance to Hitler was not characterized by any armed popular movements or uprisings against the Nazi regime, although small groups and individuals armed themselves for protection. Lone individuals or military cliques with firearms or bombs sought to kill Hitler himself.⁷

Hitler could have been assassinated in 1939. Wehrmacht general Franz Halder repeatedly visited Hitler with a pistol in his pocket intending to shoot the dictator but could not bring himself to do it.⁸ Georg Elser, a private citizen, set off a bomb at the Bürgerbräukeller in Munich, but Hitler finished his speech and left before the explosion, and Elser was apprehended while attempting to escape over the Swiss border.⁹ Victor Klemperer wrote: "In the night after news of the attempt (We know the culprits: England and behind it Jewry) I was reckoning with arrest, concentration camp, perhaps also the bullet."¹⁰ Swiss

6. *Hitler's Secret Conversations: 1941–1944*, trans. Norman Cameron and R. H. Stevens (New York: Signet Books, 1961), 114, 633.

7. Anton Gill, *An Honourable Defeat: A History of German Resistance to Hitler, 1933–1945* (New York: Henry Holt, 1994); Claudia Koonz, "Choice and Courage," in *Contending with Hitler: Varieties of German Resistance in the Third Reich*, ed. David Clay Large (Washington, DC: German Historical Institute, 1991), 60; Hans Bernd Gisevius, *To the Bitter End: An Insider's Account of the Plot to Kill Hitler, 1933–1944*, trans. Richard Winston and Clara Winston (New York: Da Capo Press, 1998), 417–18.

8. Gill, *An Honourable Defeat*, 122.

9. Gill, *An Honourable Defeat*, 129–30. See also Peter Steinbach and Johannes Tuchel, "Ich habe den Krieg verhindern wollen": *Georg Elser und das Attentat vom 8. November 1939* ("I Wanted to Prevent the War": Georg Elser and the November 8, 1939 Assassination Attempt) (Berlin: Gedenkstätte Deutscher Widerstand, 1997).

10. Victor Klemperer, *I Will Bear Witness 1933–1941*, trans. Martin Chalmers (New York: Modern Library, 1999), 318.

theology student Maurice Bavaud got almost close enough to shoot Hitler with a handgun but was caught and executed.¹¹

Hitler later recalled about this last attempt that “my life was saved because the would-be killer, a Swiss, who stalked me for three months in the neighbourhood of the Berghof, regularly missed me when I went out, and when he tried to continue his stalking in Munich, he was discovered by a railway official. . . . The confessions of this Swiss interested me in so far as they confirmed my conviction that not a soul could cope with an assassin who, for idealistic reasons, was prepared quite ruthlessly to hazard his own life in the execution of his subject.”¹²

The coming of World War II brought increasingly severe control over all segments of German society. Although Poland fell quickly, many Germans blamed Hitler for his failure to spare the country a new war. When the blitzkrieg succeeded, the Nazi occupation authorities predictably decreed the most severe penalties if the Polish population failed to surrender any weapons.¹³

There was only a phony war in the West, as Britain and France declared war on Germany but did not lift a finger to help the Poles. Evidence of anti-Nazi sentiment in Germany could be found. Opined the *London Times*: “All this does not imply that Germany is ready for a revolution. Civilians are disarmed, and so powerless.”¹⁴ Germans generally longed for, it was asserted, the return of legality, freedom, and human dignity.

Entries in Victor Klemperer’s diary for May 1940 bore out those observations. He referred to a protest group’s “harmless” bombing at the Technical University in Dresden and a group with the motto “Everything for Germany, nothing for Hitler.” Reflective of the continued clampdown on civilians with anything that might be used as a weapon, he described “the Jews’ House” where he now resided after being evicted from his own house because he was Jewish: “Her husband owned a large sporting goods shop, which their son (thirty-five years of age) then managed. Competitive fencer with prizes for foil. Was in a concentration camp for three weeks, his mother in custody for a week. Foils

11. Gill, *An Honourable Defeat*, 149; Klaus Urner, *Der Schweizer Hitler-Attentäter* (The Swiss Would-Be Assassin of Hitler) (Frauenfeld, Switzerland: Huber, 1980).

12. *Hitler’s Secret Conversations*, 426–27.

13. *Der Bund* (Bern), Sept. 29, 1939, 3.

14. “Liberation from Nazism,” *London Times*, Feb. 10, 1940, 5E.

with the points missing were found behind her stove. Public prosecutor decided: sports gear, not weapon.”¹⁵

Firearms would be another matter. When the Wehrmacht conquered France, it proclaimed (as it did in other countries) that civilians’ failure to surrender all firearms within twenty-four hours would be punishable with the death penalty, and in the coming occupation it executed those who failed to comply.¹⁶ The *New York Times* observed:

The best way to sum up the disciplinary laws imposed upon France by the German conqueror is to say that the Nazi decrees reduce the French people to as low a condition as that occupied by the German people. Military orders now forbid the French to do things which the German people have not been allowed to do since Hitler came to power. To own radio senders or to listen to foreign broadcasts, to organize public meetings and distribute pamphlets, to disseminate anti-German news in any form, to retain possession of firearms—all these things are prohibited for the subjugated people of France, as they have been verboten these half dozen years to the people of Germany.¹⁷

Even with the glorious victory over France, were the German people fully behind the führer? If so, the article asked, “will Hitler now abolish the Gestapo and set up a free press?” The negative answer was clear.

Indeed, a 1941 order from Gestapo Headquarters in Berlin required a registration of all persons obtaining firearms. Regional Gestapo offices were put “in charge of the supervision and control of the sale of firearms and ammunition,” and local governments were directed to record monthly “all persons who have acquired firearms from arms dealers requiring a permit or who have submitted a request for a permit to acquire firearms if the request was granted by the

15. Klemperer, *I Will Bear Witness*, 335, 342.

16. See, for example, *Le Matin* (Paris), June 27, 1940, 1 (proclamation); *Le Matin*, Sept. 22, 1941, 1 (execution of persons for “illegal possession of arms”). See also Stephen P. Halbrook, *Why Can't We Be Like France? How the Right to Bear Arms Got Left Out of the Declaration of Rights and How Gun Registration Was Decried Just in Time for the Nazi Occupation*, 39 *FORDHAM URBAN LAW JOURNAL*, 101 (2013).

17. “Topics of the Times: Their Common Fate,” *New York Times*, July 2, 1940, 4.

responsible authority. This also applies to cases where the firearm was not acquired from an arms dealer.” Also to be recorded were persons who purchased ammunition from dealers requiring a permit. Identifying information included name, occupation, date and place of birth, street address, the type and serial number of the firearm, and the ammunition type.¹⁸

Exempt from the compulsory registration were military officers, leaders of SS Special Assignment Troops, police officers, and higher political leaders. Hunting weapons and ammunition were excluded. Firearms dealers were to be “monitored and inspected” by the police.

The local police could deny a firearm license, and the Gestapo could quash any appeal. For instance, an official in Brandenburg denied a firearm license to Dr. Ing. J. Henke, a mine manager.¹⁹ Although no evidence existed that he was an “enemy of the state,” and he had been issued a license before the war, he was a foreigner, and sufficient “need” had not been established. The Gestapo in Frankfurt/O refused his appeal, noting that “his wife is of Jewish descent on her father’s side.”²⁰

In a 1942 harangue, Hitler explained that opponents of any kind must be ruthlessly suppressed: “If the slightest attempt at a riot were to break out at this moment anywhere in the whole Reich, I’d take immediate measures against it. Here’s what I’d do: (a) on the same day, all the leaders of the opposition, including the leaders of the Catholic party, would be arrested and executed; (b) all the occupants of the concentration camps would be shot within three days; (c) all the criminals on our lists—and it would make little difference whether they were in prison or at liberty—would be shot within the same period.”²¹

The White Rose (die Weiße Rose), a student group, sought to resist with thousands of leaflets, mailings, and “Down with Hitler” signs, even painting those words on the revered Feldherrnhalle, where Hitler had sought to seize

18. Geheime Staatspolizei, Staatspolizeileitstelle München, An die Landräte in Oberbayern et al., Betreff: Überwachung und Kontrolle der Waffen- und Munitionsverkäufe, Jan. 21, 1941, BHStA, B.Nr. 28115/41, II Schd./Roh.

19. Der Landrat d.Kr. Calau to Reg. Präs. Frankfurt/O, Aug. 26, 1942, Beschwerde wegen Versagung eines Waffenscheines, Brandenburgisches Landeshauptarchiv (BrLHA), Pr. Br. Rep. 3B, Reg. Frankfurt/O I Pol/1877, Waffenscheine 1933–42.

20. Gestapo Frankfurt/O to Reg. Präs. Frankfurt/O, Sept. 15, 1942, BrLHA, Pr. Br. Rep. 3B, Reg. Frankfurt/O I Pol/1877, Waffenscheine 1933–42.

21. *Hitler’s Secret Conversations*, 388.

power in 1923.²² They were emboldened by carrying firearms for protection when out painting graffiti, and they otherwise sought to obtain weapons, which must have been difficult because they had to smuggle some from the Russian front.²³ Ringleader Sophie Scholl told a schoolmate: “If Hitler came walking by right now and I had a pistol, I would shoot. If the men don’t do it, then a woman will have to. You have to do something to avoid being guilty yourself.”²⁴

Although passive resistance was the only realistic method for the group to use, one of its leaders insisted: “People who had loathed each other in the Weimar days had to forget the past and work together for one goal: kill Hitler, overthrow the government, and negotiate peace with the Allies.”²⁵

In 1943, after being caught spreading leaflets at the University of Munich, Sophie, her brother Hans, and Christl Probst were quickly tried by Judge Roland Freisler of the People’s Court and guillotined. A moving depiction of their last days was rendered in the 2005 film *Sophie Scholl*. More executions followed, but not before the White Rose’s strong moral message reached many Germans and was leaked to the outside world.

Although the German population had long been cowed, there nevertheless remained resistance of the mind. Victor Klemperer’s diary entries are filled with expressions of silent protest. A traveler at their table in an eatery “told awful anti-Nazi jokes, one after the other. ‘People have to tell jokes, as long as it stays within limits.’” He noticed an increase in the number of people in shops who would say “good afternoon” rather than “Heil Hitler.” A story circulated about a couple who learned that their four sons were all killed in Russia: “The father hangs himself, the mother hurls the picture of Hitler out of the window into the courtyard. Half an hour later she is arrested (‘taken away’).”²⁶

In 1941, Jews were required to wear the yellow Star of David with the word *Jude* written on it. Klemperer perceptively explained how this directive was

22. Annette E. Dumbach and Jud Newborn, *Shattering the German Night: The Story of the White Rose* (Boston: Little, Brown, 1986), 184.

23. Dumbach and Newborn, *Shattering the German Night*, 11, 146; Inge Scholl, *The White Rose: Munich 1942–1943*, trans. Arthur R. Schultz (Hanover, NH: Wesleyan University Press, 1983), 66, 94–95.

24. Dumbach and Newborn, *Shattering the German Night*, 170.

25. Quoted in Dumbach and Newborn, *Shattering the German Night*, 8.

26. Klemperer, *I Will Bear Witness*, 391 (entry for June 22, 1941), 428 (entry for Sept. 2, 1941 entry), 429 (entry for Sept. 8, 1941).

intended to induce fear among the “Aryans” and thus the perception of dire need for the protection of the Nazi state: “The newspaper justification: After the army had got to know, through Bolshevism, the cruelty, etc. of *the Jew*, all possibility of camouflage must be removed from the Jews here, to spare the comrades of the people all contact with them.—The true reason: fear of Jewish criticism because things look bad in the East or at least are at a standstill. And: rule of the terror people, of Himmler, because things look bad in the East.”²⁷

But Klemperer had favorable experiences wearing the star, noting: “There is no doubt that the people feel the persecution of the Jews to be a sin.” A friend was greeted by a stranger at a shop, who stated, “We are a group ‘who greet the Jew’s star.’” This was despite “an explicit warning on the radio, supported by a Goebbels article, against any association whatsoever with Jews.”²⁸

The deportation of the Jews from the Greater German Reich that began in October 1941 involved the ever-present searches for weapons. A Gestapo directive to the police president in Rostock concerning the deportation of Jews to the East ordered: “Before the Jews leave, their apartments must be searched for weapons, ammunition, explosives, poison, money, jewelry, etc.”²⁹ But that was not enough. As Alfred Hartmann recalled, Jews were sent to the Milbertshofen barracks camp near Munich, a staging area for deportation to more deadly camps: “After their arrival at the camp and assignment to individual barracks, Gestapo members collected the luggage of the Jews and searched it for weapons, jewelry, etc.”³⁰

This was the final stage in the disarming of any Jews who may still have possessed firearms, making individual or collective resistance impossible. After Reichskristallnacht, the historical record does not reflect that German Jews unlawfully obtained or used arms as tools of resistance, at least not on a wide basis. In fact, the National Representative Organization of Jews in Germany (Reichsvertretung der Juden in Deutschland), the German Jewish leadership,

27. Klemperer, *I Will Bear Witness*, 429 (entry for Sept. 15, 1941).

28. Klemperer, *I Will Bear Witness*, 438 (entry for Oct. 4, 1938), 445 (entry for Nov. 18, 1941).

29. Geheime Staatspolizei, Evakuierung von Juden nach dem Osten, July 6, 1942, RG-14.006*01, B.Nr. II B 2-326/42 g, copy from Rostock city archives in United States Holocaust Memorial Museum, Washington, DC.

30. Quoted in Andreas Heusler and Tobias Wenger, “*Kristallnacht*”: *Gewalt gegen die Münchner Juden im November 1938* (Crystal Night: Violence Against Munich Jews in November 1938) (Munich: Buchendorfer, 1998), 184.

insisted that Jewish activities be legal. Militant resistance was rejected as futile and provocative of reprisals.³¹ This organization helped to register Jews selected for deportation and to ensure transportation arrangements for deportees.³²

Firearms did play a role in resistance to deportations from Germany, although not on a wide scale as in the occupied countries. Anecdotal evidence exists of Jews with firearms who hid in Berlin. Fritz Corner fed his family on the black market by trading jewels but was identified by a “catcher”—a Jew working for the Gestapo who turned in other Jews to save himself. Corner refused the Gestapo’s offer to betray ten Jews in exchange for not being sent to Auschwitz and escaped before being deported. He vowed that he would not be arrested again and walked the streets with his eyes on everyone coming his way and his right hand in his coat pocket holding a small pistol.³³

Countess Maria von Maltzan (called “Marushka”) hid Jews in her Berlin apartment and helped many to safety. She befriended a major in the Wehrmacht, persuading him to give her a Mauser pistol because she felt unsafe living by herself. She worked with Erik Wesslen of the Swedish Church in smuggling Jews and political refugees out of Germany. He bought their release by bribing SS officers with coffee and cigarettes. On one occasion, when leading six elderly Jews released from Gestapo custody, she was followed and shot the pursuer in the leg. They escaped, but Wesslen scolded her for not having killed the pursuer because the same escape route could not be used again.³⁴

Due to years of repression, armed resistance was not widespread. But as Holocaust survivor Arnold Paucker noted, “Was there an armed resistance of German Jews? There most certainly was!” However, one cannot “blame the Jews in Nazi Germany in hindsight for not having thrown themselves into any military adventures, on top of all the other threats they faced. It was only beyond Germany’s borders that Jews could take up arms in the fight against their oppressors.” Although Paucker does not discuss armed self-defense and

31. Konrad Kwiet, “Resistance and Opposition: The Example of the German Jews,” in *Contending with Hitler: Varieties of German Resistance in the Third Reich*, ed. David Clay Large (Washington, DC: German Historical Institute, 1991), 65–66.

32. Kwiet, “Resistance and Opposition,” 72–73.

33. Leonard Gross, *The Last Jews in Berlin* (New York: Simon and Schuster, 1982), 171–77, 188–94, 210.

34. Gross, *The Last Jews in Berlin*, 128–29, 154–56.

survival by individuals within Germany, he criticizes the disparagement of the partisan struggle as inconsequential: “For us Jews who were so strongly committed to it, such denigration of the European partisan struggle is particularly painful. We were long accused of not having defended ourselves, and when we demonstrated the contrary, smart or supercilious military historians inform us that this self-defence was pointless and useless anyway.”³⁵

Nazi policy in the occupied countries sought to preclude partisan resistance by decreeing that failure to surrender firearms was punishable by the death penalty. For example, an early 1941 Warsaw newspaper report noted the execution of three Poles—one for failure to surrender a pistol “despite the universally known order about surrendering arms,” another for buying it, and a third who never possessed it but “failed to fulfill his duty to report it to the proper authorities.”³⁶ A formal Reich decree in late 1941 imposed the death penalty on any Pole or Jew “[i]f he is in unlawful possession of a firearm, hand-grenade, any weapon for stabbing or hitting, of explosives, ammunition or other implements of war, or if he has credible information that a Pole or a Jew is in unlawful possession of such objects, and fails to notify the authorities forthwith.”³⁷

This decree reflected fundamental Nazi policy. As Hitler stated in a rant in April 1942: “The most foolish mistake we could possibly make would be to allow the subject races to possess arms. History shows that all conquerors who have allowed their subject races to carry arms have prepared their own downfall by so doing.”³⁸

The role of the Special Deployment Forces (Einsatzgruppen), Nazi killing squads that exterminated two million Jews and others in the East, makes clear the significance of being or not being armed. Raul Hilberg is clear: “The killers were well armed. . . . The victims were unarmed.”³⁹ Six Einsatzgruppen of a few

35. Arnold Paucker, *German Jews in the Resistance 1933–1945: The Facts and the Problems* (Berlin: Gedenkstätte Deutscher Widerstand, 2003), 53.

36. “Trzy wyroki śmierci za niedozwolone posiadanie broni,” *Nowy Kurjer Warszawski*, Jan. 22, 1941, 1.

37. *Reichsgesetzblatt* 1941, I, 759.

38. *Hitler's Secret Conversations*, 403. See also *Hitlers Tischgespräche im Führerhauptquartier 1941–1942* (Hitler's Table Conversations at the Führer Headquarters 1941–1942) (Stuttgart: Seewald, 1963), 272.

39. Raul Hilberg, *The Destruction of the European Jews* (New York: Holmes and Meir, 1985), 341, 318, 297.

hundred members each operated in Poland and Russia. Their tasks included arrest of the politically unreliable, confiscation of weapons, and extermination. For instance, Einsatzgruppe C reported in September 1941 that its operations included, “above all, the fight against all partisan activities, beginning with the well-organized bands and the individual snipers down to the systematic rumor mongers.” Typical executions were that of a Jewish woman “for being found without a Jewish badge and for refusing to move into the ghetto” and another woman “for sniping.” Extensive partisan activity by armed Jews was reported.⁴⁰

The heroic Warsaw ghetto uprising of 1943 demonstrated that even a few Jews with arms in their hands could effectively resist. Simha Rotem, a member of the Jewish Fighting Organization (*Zydowska Organizacja Bojowa*, or ZOB), described the situation: “I and my comrades in the ZOB were determined to fight, but we had almost no weapons, except for a few scattered pistols. . . . In other places, where there were weapons, there was shooting, which amazed the Germans. A few of them were killed and their weapons were taken as loot, which apparently was decisive in the struggle. Three days later, the *aktsia* [deportations] ceased. The sudden change in their plans resulted from our unforeseen resistance.” ZOB members obtained more pistols and some grenades by the time of the April 19 *aktsia*. Rotem recalled that, despite the Germans’ heavy arms, after an SS unit was ambushed, “I saw and I didn’t believe: German soldiers screaming in panicky flight, leaving their wounded behind. . . . My comrades were also shooting and firing at them. We weren’t marksmen but we did hit some.”⁴¹

Dozens of Germans were killed, but partisan losses were few. In the first three days of the resistance, not a single Jew was taken out of the buildings. Finally, the Germans resorted to cannon and aerial bombings to reduce the ghetto to rubble. On the tenth day, the ghetto was burned down. Many escaped through the sewers and into the forests. There they continued the struggle in cooperation with non-Jewish partisans. Joseph Goebbels’s May 1 diary entry reflects that “[t]he only noteworthy item is the exceedingly serious fights in Warsaw between the police and even a part of our Wehrmacht on the one hand and the rebellious Jews on the other. The Jews have actually succeeded

40. Yitzhak Arad, Shmuel Krakowski, and Shmuel Spector, eds., *The Einsatzgruppen Reports* (New York: Holocaust Library, 1989), ii, 117, 128, 233, 306, 257–58, 352–53, 368.

41. Simha Rotem (Kazik), *Memoirs of a Warsaw Ghetto Fighter and the Past within Me* (New Haven, CT: Yale University Press, 1994), 118–19, 25, 32–34.

in making a defensive position of the Ghetto. Heavy engagements are being fought there. . . . It shows what is to be expected of the Jews when they are in possession of arms.”⁴²

Although most are probably unknown, Germans who were aware of and opposed the Holocaust recognized that Jews must possess arms to defend themselves. Oskar Schindler, renowned for his list of Jews whom he protected in his factories in Poland and Czechoslovakia, provided for training in and issuance of firearms to his Jewish workers to resist the Nazis.⁴³

Countless acts of resistance, armed and unarmed, large and small, helped to defeat the Nazi dictatorship, more so in the occupied countries, but even in Germany itself. In the words of Jacques Semelin, “Most of those who resorted to unarmed resistance did so for lack of better options, that is, because they had no weapons which remained the principal and ultimate means of those who were trying to oppose the German order.”⁴⁴

No armed civilian resistance movement existed in Germany in part because Germans were unarmed, disorganized, and forced into line by years of dictatorship. Despite the growing threat of an Allied invasion, Nazi authorities did not trust the German people enough to distribute arms to civilians to act as a home guard. By contrast, beginning in 1940 Britain had organized a Home Guard force consisting of civilian volunteers bringing their own sporting arms or armed by the government with military weapons, which they kept at home.⁴⁵ In May 1944, Nazi radio broadcast that 1,400,000 German civilians had been trained in the use of rifles and revolvers to defend the Reich. The *New York Times* quipped:

Thus almost exactly four years after the formation of the British Home Guard in the face of the threat of a German invasion the enemy is belatedly instructing civilians to meet a similar onslaught from the base of Britain.

42. *The Goebbels Diaries: 1942–1943*, ed. and trans. Louis P. Lochner (Garden City, NY: Doubleday, 1948), 350–51.

43. Thomas Keneally, *Schindler's List* (New York: Scribner, 1982), 346–47.

44. Jacques Semelin, *Unarmed Against Hitler: Civilian Resistance in Europe, 1939–1943*, trans. Suzan Husserl-Kapit (Westport, CT: Praeger, 1993), 2.

45. S. P. MacKenzie, *The Home Guard* (New York: Oxford University Press, 1995).

It is significant that the guarded statement by the German radio does not admit that civilians have been armed, but merely that they have been instructed in marksmanship and the handling of small arms.⁴⁶

It remained for a conspiracy of Wehrmacht officers and police officials to attempt to kill Hitler and seize the government by force. Ironically, Berlin police president Helldorf—who orchestrated the disarming of the German Jews just before Reichskristallnacht in 1938—had already joined the anti-Hitler conspiracy at that time, when General Franz Halder headed a military group intent on seizing power to oppose Hitler’s war policy.⁴⁷ Franz von Papen, German ambassador to Turkey, met with Helldorf and Count Gottfried Bismarck, government head of Potsdam, in Berlin in 1943. The latter two believed that “the Bolshevik methods introduced by Hitler” would destroy Germany, wrote Papen, adding: “Helldorf described the unbelievable conditions in the prisons, in which hundreds of people were being held under sentence of death for minor offences.” They discussed plans of a group led by the former chief of staff General Ludwig Beck to seize, imprison, and subject Hitler and other leading Nazis to trial. Papen’s role was to return to Turkey and use his diplomatic contacts to make contact with Franklin Roosevelt to discuss a peace without unconditional surrender. The Americans were not interested.⁴⁸

The conspiracy reached its zenith with the almost successful attack on Hitler’s life on July 20, 1944, when Colonel Claus von Stauffenberg planted the bomb under a table right by the führer at Wolf’s Lair. The plan was to mobilize the Reserve Army and stage a coup in Berlin against the Nazi regime.⁴⁹ After planting the bomb and hearing it explode, Stauffenberg escaped by airplane to Berlin and announced Hitler’s death. He did not know, however, that the briefcase with the bomb had by chance been moved to the other side of an obstruction away from Hitler. Helldorf was ready to call out the Berlin police in support of the coup when news arrived that Hitler might not be dead after all.⁵⁰

46. “2,000 Planes in West Rip Railways and Airfields,” *New York Times*, May 11, 1944, 1.

47. Peter Hoffmann, *The History of the German Resistance, 1933–1945*, 3rd ed. (Montreal: McGill-Queen’s University Press, 1996), 90.

48. Franz von Papen, *Memoirs* (London: Andre Deutsch, 1952), 498.

49. The most thorough account of this assassination attempt is given in Hoffmann, *The History of the German Resistance*, 315–503.

50. Hoffmann, *The History of the German Resistance*, 424.

By nightfall, with confirmation that Hitler had survived the blast, Stauffenberg and other top conspirators at the military headquarters were captured and shot.

Before all the conspirators were known, Missie Vassiltchikov noted in her diary that Helldorf was in danger of arrest: "His role in the attempted coup had been too conspicuous and he would be unable to produce an alibi." He was quickly arrested, and as Gottfried Bismarck told Missie, Helldorf "is doomed. Hitler is particularly incensed at him as he was an old party veteran and a top leader of the S.A." In the trial before People's Court judge Roland Freisler, all the accused admitted they wanted to kill Hitler. "Helldorf was hanged last, so that he might watch the others die. It appears that they are not simply hanged, but are slowly strangled with piano wire on butchers' hooks and, to prolong their agony, are given heart booster injections. It is rumoured that the killings are being filmed and that Hitler regularly gloats over these films at his Headquarters."⁵¹

Helldorf "had turned from an early Nazi into an anti-Nazi" who would use the police to fight against Hitler, according to Fabian von Schlabrendorff, who earlier had planted a bomb on Hitler's airplane that failed to explode and later plotted with officers to shoot Hitler with their pistols.⁵² He was one of the conspirators and would have been executed except that an Allied bomb landed right on the People's Court and killed Judge Freisler.

Tony Saurma, a wounded officer, was among those arrested but not tried. Missie wrote in her diary: "The charge: shooting at a picture of the Führer some time ago and announcing after Stauffenberg's attempt: 'Well, never mind, better luck next time!'"⁵³ Many were not so lucky.

Three million Germans were imprisoned for political reasons in the years 1933 to 1945, and tens of thousands were executed. Clearly there was strong opposition to the Nazi regime, and just as clearly that opposition was smashed,⁵⁴ although every act of resistance helped to end the regime. Six million largely

51. Marie "Missie" Vassiltchikov, *The Berlin Diaries, 1940–1945* (London: Pimlico, 1999), 202, 208, 222–23.

52. Fabian von Schlabrendorff, *The Secret War Against Hitler* (New York: Pitman, 1965), 251, 237–38, 271.

53. Vassiltchikov, *The Berlin Diaries*, 234.

54. Peter Hoffman, "The Second World War, German Society, and Internal Resistance to Hitler," in Large, ed., *Contending with Hitler*, 122.

unarmed Jews died in the Holocaust, and countless millions more unarmed people died in the countries occupied by the Nazis.

Among other variables, a strong tradition of civilian firearm ownership with less government regulation as well as an ideological tradition of resistance to tyranny might have engendered different historical results. As has been rhetorically stated, the letter “W” might “stand for We, Awake, Weapons, Wolves, *Widerstand* [Resistance].”⁵⁵ The Grundgesetz (Basic Law or federal Constitution) adopted by West Germany in 1968 provided that “[w]hen other avenues are not open, all Germans have the right to resist attempts to impose unconstitutional authority.”⁵⁶ However, it failed to declare that the people have a right to keep and bear arms to enable them to do so.

As the Weimar–Nazi experience demonstrated, a well-meaning liberal republic enacted repressive firearm prohibitions that would be highly useful to a dictatorship. That dictatorship could consolidate its power by massive search-and-seizure operations against political opponents under the hysterical ruse that such persons were “Communist” firearm owners. It could enact its own new Firearms Law, disarming anyone the police deemed “dangerous” and exempting members of the party that controlled the state. It could exploit the tragic shooting of a minor foreign diplomat to launch a pogrom under the guise that Jewish firearm owners were dangerous and must be disarmed. This dictatorship could disarm the people of the nation it governed and then disarm those of every nation it conquered, thereby facilitating genocide.

If the Nazi experience teaches anything, it teaches that totalitarian governments will attempt to disarm their subjects so as to extinguish any ability to resist crimes against humanity. It might be asked whether the course of history could have been altered had German opponents of Nazism, including both Jews and non-Jews, been less obedient to arms confiscations, more unified, and ideologically more inclined to resistance.

55. Ernst Jünger, *Der Waldgang* (A Walk in the Woods), cited in Klemens von Klemperer, “The Solitary Witness: No Mere Footnote to Resistance Studies,” in Large, ed., *Contending with Hitler*, 130.

56. Basic Law, Art. 20, § 4, quoted in David Clay Large, “Uses of the Past: The Anti-Nazi Resistance Legacy in the Federal Republic of Germany,” in Large, ed., *Contending with Hitler*, 180. Large cites Christoph Böckenförde, “Die Kodifizierung des Widerstandsrechts im Grundgesetz” (Codification of the Right to Resistance in the German Constitution), *Juristenzeitung* 25, nos. 5–6 (1970): 168–72.

Is there a larger lesson to learn from the experiences of the liberal Weimar Republic's decreeing firearms registration and the Nazi regime's using the records to disarm "enemies of the state" and the Jews? Although such actions do not foretell what *will* happen, they demonstrate what *can* happen. Contrary to the exceptionalist assumption that genocide can occur in some countries but can never occur in others, which is belied by the experience of highly cultured Germany, recognition and exercise of specific rights promote the objective of "Never Again!" How might the course of history been different had Germany (not to mention the countries Germany would occupy) been a country where large numbers of citizens owned firearms without intrusive legal restrictions and where the right to keep and bear arms was a constitutional guarantee?⁵⁷

Dictators certainly do not respect constitutions any more than they respect civil or human rights. But an armed populace with a political culture of hallowed constitutional and natural rights that they are motivated to fight for is less likely to fall under the sway of a tyranny, and if they do, they are more likely to offer armed resistance. A disarmed populace that is taught that it has no rights other than what the government decrees as positive law is obviously more susceptible to totalitarian rule and is less able to resist oppression.

In the failed 1848 Revolution, the German republicans sought but were unable to achieve what the Americans of the previous century had won in this regard—a bill of rights and an armed populace ready to enforce it. The German people inherited no conception of a right to have arms at the founding of the Weimar Republic, which in the chaos following the Great War was only too ready to rule by emergency decrees, including the suspension of rights such as a free press and assembly (bearing arms was not even recognized). To be sure, the positive law, including legal decrees with the possibility of judicial review, continued to play a significant role in governing, even in the first stages of National Socialism. But the events of 1938 finalized the substitution of the Führer Principle for what remained of the rule of law.

That brings us back to Alfred Flatow, the gymnast who won the gold for Germany in the 1896 Olympics.⁵⁸ What if he—and an unknown number of other

57. See David I. Caplan, "Weapons Control Laws: Gateways to Victim Oppression and Genocide," in *To Be a Victim: Encounters with Crime and Injustice*, ed. Diane Sank and David I. Caplan (New York: Plenum Press, 1991), 308–11.

58. On Flatow, see chapter 10 of this book.

Germans, Jews and non-Jews alike—had not registered his firearms in 1932? Or if the Weimar Republic had not decreed firearm registration at all? What if when the Nazis took power in 1933 and disarmed Social Democrats and other political enemies, or when they decided to repress the entire Jewish population in 1938, they did not have well-kept police records of registered firearm owners? Can it be said with certainty that no one, either as individuals or in groups small or large, would not have resisted Nazi depredations or that doing so would have made no difference?

One wonders what thoughts may have occurred to Alfred Flatow in 1942 when he was dying of starvation at the Theresienstadt Concentration Camp. Perhaps memories of the Olympics and of a better Germany flashed before his eyes. Did he have second thoughts, maybe repeated many times before, on whether he should have registered his revolver and two pocket pistols in 1932? Or whether he should have obediently surrendered his firearms at a Berlin police station in 1938 as ordered by Nazi decree, which only led to his being taken into Gestapo custody? We will never know, but it is difficult to imagine that he had no regrets.

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“*Gun Control in the Third Reich*, Stephen Halbrook’s excellent history of gun control in Germany, shows that, motives notwithstanding, removing weapons from the general population always disarms society vis-à-vis its worst elements. In Germany the authorities tried to deal with the Nazi and Communist mobs that were shaking society’s foundations indirectly, by disarming ordinary people. But their cowardice ended up delivering a helpless population to the Nazis’ tender mercies. Halbrook’s richly documented history leads Americans to ask why those among us who decry violence in our society choose to try tightening the vise on ordinary citizens’ capacity to defend themselves rather than to constrain the sectors of society most responsible for the violence.”

—**Angelo M. Codevilla**, Professor Emeritus of International Relations, Boston University; author, *Informing Statecraft, War: Ends and Means* (with Paul Seabury), *The Character of Nations*, and *Between the Alps and a Hard Place: Switzerland in World War II and the Rewriting of History*

“What good would private arms do against a totalitarian state? That won’t remain an unanswerable rhetorical challenge for readers of Stephen Halbrook’s calm, detailed scholarly book, *Gun Control in the Third Reich*. As Halbrook shows, Nazi leaders went to great lengths to extend the gun control laws they inherited from the Weimar Republic. They were obsessed with disarming Jews and other designated public enemies. Potential resistance was not only physically disabled. It was morally and psychologically disarmed. Evil then became irresistible in Germany, not because it was fueled by fanaticism but because it was shielded by fatalism.”

—**Jeremy A. Rabkin**, Professor of Law, George Mason University School of Law

“‘The devil is in the details’ as the British note. Stephen Halbrook’s excellent and deeply researched book, *Gun Control in the Third Reich*, has revealed the anticipation of Nazi gun control techniques in Weimar attempts to control incipient civil war between Nazis and Communists. In a conservative country replete with WWI veterans, racked with unemployment and wrecked with ideological struggles among the extreme Left, the list of potential victims proliferated among whom unarmed Jews had top priority. They had been quickly disarmed by the Nazis using Weimar laws. Only armed peasants and urban refugees in the mountains and forests in the perimeters of the Reich could resist the Nazi juggernaut until saved by Allied armies. History does indeed provide important lessons for contemporary debates, and Halbrook’s important research should inform our contemporary debate on gun control.”

—**Steven B. Bowman**, Professor of Judaic Studies, University of Cincinnati; Miles Lerner Fellow, U.S. Holocaust Memorial Museum; whose books include *Jewish Resistance in Wartime Greece*, *The Holocaust in Salonika*, *The Agony of Greek Jews 1940–1945*, and *The Straits of Hell: The Chronicle of a Salonikan Jew in the Nazi Extermination Camps Auschwitz, Mauthausen, Melk, Ebensee*

“*Gun Control in the Third Reich*, Stephen Halbrook’s extensively documented account of gun control under Nazi Germany, shows how gun control was used to keep guns out of the ‘wrong’ hands, mainly Jews. Much of the discussion these days regarding registration focuses on the claimed ability to trace crime guns. There might be no evidence of registration’s success in doing that, but Halbrook slams home the success that registration had in tracing the guns of law-abiding politically undesirable citizens, so-called ‘enemies of the people.’ Americans in even modern cities such as New York can see how discretionary licensing on who can own guns keeps blacks from owning guns, but Germany paints a picture of how discretion was used to disarm Jews and others considered undesirable. Among the many chilling discussions is how German Jews were systematically disarmed just weeks before the Night of the Broken Glass (*Reichskristallnacht*). Ultimately, however, just as Americans have recently learned about their IRS tax records, Halbrook shows that no one can really guarantee promises that information on gun registration will never be abused.”

—**John R. Lott, Jr.**, author, *More Guns, Less Crime*; President, Crime Prevention Research Center

“In *Gun Control in the Third Reich*, Stephen P. Halbrook gives a decisive historical answer to a question which has generally been discussed without much evidence in the political discourse of recent years. Now there is no doubt: Halbrook shows that the Nazis relied on gun control to carry out its totalitarian program. Indeed, by means of painstaking historical research, he shows that the weapon confiscations and punishments of the Third Reich relied very much on the earlier registration measures of the democratic Weimar Republic. This pioneering book tells an essential story that is central to the history of the modern Leviathan state. Highly recommended!”

—**T. Hunt Tooley**, Professor of History, Austin College; whose books include *Ethnic Cleansing in Twentieth-Century Europe*, *The Western Front: Battle-ground and Home Front in the First World War*, and *National Identity and Weimar Germany*

“For Jews left trembling in their homes, powerless to defend against Nazi Stormtroopers, the right to possess a gun took on special meaning in the 1940s. In Stephen Halbrook’s extraordinary book, *Gun Control in the Third Reich*, the consequence of disarming a population, making them vulnerable to imprisonment and annihilation, is told with frightening detail. It is a history with poignancy. With gun controllers in our midst today, who either do not understand the Second Amendment or choose to redefine it for their own ends, it would serve them well to read and digest the powerful arguments in this pathbreaking book.”

—**Herbert I. London**, President, London Center for Policy Research;
former President, Hudson Institute

“In *Gun Control in the Third Reich*, Stephen Halbrook has uncovered and thoroughly documented a long-overlooked aspect of Hitler’s rise to Power and ultimate genocide of German Jews—the disarming of the citizenry made possible by gun registration and confiscation laws adopted during the Weimar Republic. The parallels to today’s gun control debates in the United States are bone-chilling, and ought to raise a red flag call to action for all freedom-loving Americans.”

—**John C. Eastman**, Henry Salvatori Professor of Law and Community Service, Chapman University; Founding Director, Center for Constitutional Jurisprudence

“Stephen Halbrook’s *Gun Control in the Third Reich* provides a stark example of why defenders of liberty must oppose *any* attempts to limit our ability to defend ourselves from private and public criminals. Halbrook’s work is especially timely since so many in Washington are once again trying to convince the people they have nothing to fear from gun registration and other infringements on our Second Amendment rights.”

—**Ron Paul**, former U.S. Congressman and candidate for President of the United States

“The fascinating book *Gun Control in the Third Reich* deals with firearms regulation in Germany from the beginning of the Weimar Republic in the early 1920s, when guns began to be heavily regulated, through the early days of World War II when gun ownership was punishable by death, through the Third Reich in 1945 when the government began to allow Germans access to weapons to fend off the Russian invaders. . . . Professor Halbrook does not claim that Hitler and the Holocaust would not have occurred had the population of Germany been armed. Nonetheless, firearms in the possession of individuals, especially Jews after they were ghettoized, might have raised the costs to the Nazis and slowed them down.”

—**William A. Schroeder**, Professor of Law, Southern Illinois University

“Even a defense with small arms against a tyrannical regime, if known, can galvanize public opinion, which is the ultimate source of all political authority. That is why, as Halbrook authoritatively shows in *Gun Control in the Third Reich*, the Nazis—despite their massive military force—went out of their way to confiscate even small caliber weapons in Germany.”

—**Donald W. Livingston**, Professor of Philosophy Emeritus, Emory University

“Stephen Halbrook’s meticulous research in *Gun Control in the Third Reich* sheds new and revealing light on the consolidation of Nazi power and the prosecution of the Holocaust. Everyone, including advocates of gun controls, should find this pioneering and thought-provoking book essential reading.”

—**James B. Jacobs**, Warren E. Burger Professor of Law, New York University; author, *Can Gun Control Work?*

“*Gun Control in the Third Reich* is Stephen Halbrook’s best book. He shows how the destruction of gun ownership, gun clubs, and self-defense was part of the National Socialists’ extermination of civil society, individualism, and the Rule of Law.”

— **David B. Kopel**, Adjunct Professor of Advanced Constitutional Law, Denver University Sturm College of Law; author, *Guns: Who Should Have Them?*; Research Director, Independence Institute

“In *Gun Control in the Third Reich*, Halbrook is particularly effective in showing how the path for Nazi totalitarianism was cleared, though inadvertently, by firearms laws of Weimar Germany. The political objective of those laws was to enhance the public welfare by diminishing the ability of the population to inflict violence on each other. What followed instead was something not foreseen by the principled, well-intending Weimar democrats who carried that policy into execution. Those laws—heavily laden with official discretion—left disfavored minorities perfectly helpless when Hitler and the Nazi government came to power. Halbrook’s book is the most complete depiction of a story that is interesting in itself, and which has lessons for our own place and time.”

—**Daniel D. Polsby**, Dean and Professor of Law, George Mason University School of Law

“Stephen Halbrook, a renowned expert on the subject, systematically and brilliantly examines Nazi gun-control policy in *Gun Control in the Third Reich*. American advocates of banning guns have tried to downplay the Nazi example because stringent control preceded the Nazis. But the fact remains that the Nazis capitalized on the fact that neither the Jews nor other victims nor the Germans in general, as well as those people in the occupied countries, could resist the Holocaust because the Nazi government had all the guns.”

—**Don B. Kates, Jr.**, co-author (with Gary Kleck), of *Armed: New Perspectives on Gun Control* and *The Great American Gun Debate* (with Gary Kleck)

“*Gun Control in the Third Reich* is a provocative book on what is surely the ‘worst case scenario’ in the history of gun control and an illuminating meditation on the role that the disarming of the Jews played in the Holocaust.”

—**Jonathan Kirsch**, author, *The Short, Strange Life of Herschel Grynszpan: A Boy Avenger, a Nazi Diplomat, and a Murder in Paris*

“Steeped in rich detail, exactingly researched, and supported by newly discovered documents, *Gun Control in the Third Reich* is a compelling work that no one who is serious about the gun control debate in America can ignore. Stephen P. Halbrook has produced a seminal piece of scholarship that describes how the gun control policies of the liberal Weimar Republic were molded into Hitler’s strategy to disarm both the Jews and his political opponents.”

—**Abraham H. Miller**, Professor Emeritus of Political Science,
University of Cincinnati

“Discussions of Nazi gun control efforts are a staple of American debate, but until now there was little authoritative in-depth research to draw on. Stephen Halbrook’s extensive research and clear explication in his book *Gun Control in the Third Reich* ensures that future discussion will be much better informed. A must-read for anyone interested in this subject.”

—**Glenn H. Reynolds**, Beauchamp Brogan Distinguished Professor of Law,
University of Tennessee

“One need not agree with Stephen Halbrook’s opposition to almost all forms of firearms control in order to find *Gun Control in the Third Reich*, his book on regulation of firearms in post-World War I and Nazi Germany, both illuminating and challenging. The most truly serious arguments against significant regulation of firearms have always involved critiquing the proposition that a potentially oppressive state should have a monopoly over the means of violence, and Halbrook’s book very much contributes to that debate. Many no doubt would like to believe that Nazi Germany is *sui generis*, which, paradoxically, implies that there is not much to be learned from its specific history or policies with regard to our own dilemmas today. Others are less optimistic, and for them Halbrook’s well-told narrative has implications for our contemporary debates.”

—**Sanford V. Levinson**, W. St. John Garwood and W. St. John Garwood, Jr.
Centennial Chair, University of Texas School of Law; author, *Framed:
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A year before Adolf Hitler took power in 1933, the German Interior Minister directed that gun registration records be made secure to keep them from falling "into the hands of radical elements." His efforts proved futile: the records fell into the hands of the Nazi government, which used them to disarm its political enemies and the Jews. By 1938, the Nazis had deprived Jews of the rights of citizenship and were ratcheting up measures to strip them of their assets—including the means to defend themselves. The horrific consequences have names etched in our consciousness: the Night of Broken Glass and the Holocaust.

In Praise of Gun Control in the Third Reich

"Halbrook has written an important and disturbing book. It provides a timely reminder that self-defense and the right to bear arms are fundamental human rights."

— **Robert J. Cottrol**, Professor of Law, History, and Sociology and Harold Paul Green Research Professor of Law, George Washington University; author, *The Long, Lingering Shadow*

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