

Verified copy.

Military Court of the commanding General  
(commanding general of the Luftwaffe)

Court Judgment by KGR  
Ostendorf March 7, 1944  
Signed, Werner, Justice  
inspector for the LW

for Belgium/Northern France  
2 Z. St. L. 3371/43

Military court verdict

In the name of the German Nation

In the criminal case against:

1. Dutch citizen Willem Schmidt,  
Born 2-19-1921 in Apeldoorn  
Residing in Zeist by Utrecht Bd.II  
Since 2-15-1943 in the prison St. Gilles
2. Dutch citizen Johannes Oudemans  
Born 2-8-1921 in Utrecht  
Residing in Esbeek D.118  
Since 2-20-1943 in the prison St. Gilles
3. Dutch citizen Jan de Konink  
Born 10-19-1919 in De Wijk  
Residing in Esbeek D 121  
Since 2-20-1943 in the prison St. Gilles
4. Dutch citizen Theodorus Vogels  
Born 10-13-1919 in Tilburg  
Residing in Hilvarenbeek, Groenendal B 45  
Since 02-20-1943 in the prison St. Gilles
5. Belgian citizen Jeanne Willems  
06-02-1922 in Weelde  
residing in Weelde, Overheide nr.54  
since 02-16-1943 in the prison St. Gilles
6. Dutch citizen Petrus van Geel  
Born 12-05-1913 in Heele by Wouw  
Residing in Hilvarenbeek , Voortsche Pad A.31  
Since 02-16-1943 in the prison St. Gilles
7. Dutch citizen Eduard Coster  
Born 09-12-1920 in Chicago, (USA)  
Residing in Brussels, rue Jules le Jeune 4  
Since 02-15-1943 in the prison St. Gilles

8. Belgian citizen Madelon Frisque, nee Ambach  
 Born 07-04-1922 in Hilversum  
 Residing in Brussels, rue Jules Le Jeune 4  
 Since 02-15-1943 in the Prison St. Gilles

9. Belgian citizen Emile Frisque  
 Born 06-03-1911 in La Horste  
 Residing in Brussels, rue Jules le Jeune 4  
 Since 02-15-1943 in the Prison ST. Gilles

Charge: Collaboration with the enemy

The military court of the commanding General and commandant of the "Feldluftgau" Belgium/Northern France, assembled in Brussels on February 18, 1944.

Attending as judges were:

1. Commanding General of the Luftwaffe Ostendorf, who led the proceedings
2. Major Reichel, Feldluftzeuggruppe B/N, as Associate judge
3. Non-commissioned officer Tacke Flg.H.Kdtr. Brussels-Evere, as Associate judge.

Defense counsel: Commanding General of the Luftwaffe DR. Popp  
 Recording secretary: Sergeant Quitsdorf.

The court found the defendants guilty of the charge.

The following accused are condemned to death:

1. Schmidt, collaboration with the enemy and espionage
2. Oudemans
3. Vogels
4. Coster
5. De Konink, collaboration with the enemy

At the same time they will forfeit all their property.

The accused Jeanne Willems is condemned to 10 years of penitentiary because of collaboration with the enemy

The accused Van Geel is condemned to 5 years penitentiary because of crimes under § 4 KSSVO .

The accused couple Madelon and Emile Frisque are condemned to 3 years imprisonment because of collaboration with the enemy.

Biographies.

1. Willem Schmidt

The defendant is 32 years old and single. He is a citizen of the Netherlands. His father was an inspector for education in the Netherlands-Indian school system. The defendant lived from 1922 till 1938 with his parents in East India. From 1940 till 1944 he studied medicine at the University of Utrecht. Of his five siblings two have studied law in India, one is a businessman, while the others are still living in their parents' household.

While a student, the defendant was member of a student organization that harbored reformative ideas within the framework of Calvinist thinking. During the student uprisings of 1943 the defendant refused to sign a declaration that he would not work against the occupation government. Consequently he was denied permission to continue his studies. The defendant has no previous criminal record.

2. Johannes Oudemans.

The 23-year-old single defendant is a citizen of the Netherlands. Till December 1942 he attended the agricultural University in Wageningen. He worked on his practicum on the farm of the Insurance Company Utrecht in Eesbeck. His father is head of a private Association of forest-property owners and lives off the income from his holdings of forests and farm. The defendant has 4 siblings; one brother is a physician, the other an engineer. Two other siblings are still in school. The defendant is member of a fraternity that is concerned mainly with social activities.

In his 18<sup>th</sup> year Oudemans was fined a sum of F 100.00 and lost his drivers license because of an accident he caused.

3. Jan de Konink.

The 24 year-old single defendant is a citizen of the Netherlands. From 1938 till December 1942 he studied forestry at the Wageningen agricultural University. His goal was to become head forester in the Dutch-Indian government. His mother died in 1938. Since his father, a physician, had died in 1930, the family assets were administered by an uncle. When a student, the defendant had refused to give a declaration of loyalty (to the occupation government) and had gone to the Eesbeck farm to finish his one year practicum there, which was a requirement towards his degree. He has no previous criminal record.

4. Theodorus Vogels

The 24-year-old single defendant is a citizen of the Netherlands. After attending high school for 8 years he took a job in his father's electric bulb factory. On the side he studied sociology. Since the father, now 71 years old, could not do the work in the factory any longer, the defendant took over the technical branch, his step brother the sales department, and another brother the bookkeeping. Three other siblings are still in the paternal household, and one sister is married to the director of a lamp factory. As a student he also did not sign the declaration of loyalty. According to his testimony the reason was that he, as a good catholic, had followed the advice of his bishop. When he was called in May to join the "Work service" (Arbeitsdienst), which was required of all students who had not signed the loalty declaration, he obliged. However he was released from the German Arbeitsdienst because of an injury to his heart and lungs that stemmed from an accidental shooting when he was a child. Because of this handicap he also was not drafted into the army, according to his testimony. The defendant has no previous criminal record.

5. Jeanne Willems

The 21-year-old single defendant is a Belgian citizen. She attended elementary school till her 14<sup>th</sup> year and then worked on her parents'

farmstead . The farmstead is on 18 Hectares; there are 8 cows, 2 horses, and 7 pigs. Of her 9 living siblings three still live on the farm, including herself. She has no previous criminal record.

6. Petrus van Geel.

The 30-year-old defendant is a citizen of the Netherlands. He is married and has one child. His background is farming. After attending elementary school and a seminar till he was 15, he worked on his parents' farm till the age of 19. He then became a chauffeur, and in 1937 he started his own business as a dealer in straw and feedstuff. Till 1940 he was a member of "Unie", an organization that was anti-Nazi. It was dissolved in 1940. He has no previous criminal record.

7. Eduard Coster

The 23-year-old defendant is a citizen of the Netherlands, but has lived since his 6<sup>th</sup> year with his parents in Belgium. After graduating from the Gymnasium in 1938 he studied at the school of commerce in Mons and then at the school of commerce in Lüttich where he is still enrolled. His father is buyer for a textile firm. He has no previous criminal record.

8. Madelon Frisque, nee Ambach.

The 21-year-old defendant is of German birth and has acquired the Belgian citizenship through her marriage to the merchant Emile Frisque. They have one child. Her father was the director of the Frankfurter Zeitung and divorced his second wife Elise Chabot, Madelon's mother. Madelon attended 2 years of elementary school and 2 years Lyceum in Frankfurt/Main. After moving to Brussels with her mother she attended a private French school there. Between 1936 and 1938 she was in England at a horticultural school. When in Germany the defendant belonged for some time to the BDM. (Bund deutscher Mädels, the German girls' branch of the Hitlerjugend). The defendant has no previous criminal record.

9. Emile Frisque.

The 32-year-old defendant is a Belgian citizen. After graduating from High school he studied two years at an engineering school in Mons and two years at a school of commerce in Brussels. He didn't finish his studies. He was drafted into the military in 1933 and was discharged as non-commissioned officer. In 1937 he became a reserve officer. 1943(?) he joined his father's business, but in 1940 he became independent and is at present representative for a German company in Frankfurt. He has no previous criminal record.

In the main court hearing the following facts have been established as a result of questioning the defendants:

## I. Willem Schmidt

1. When the edict was given by the Military commandant of the Netherlands, that those students who did not sign the loyalty declaration should be obliged to report for the German Arbeitsdienst, the defendant, with the consent of his parents, decided not to sign such a declaration. Since he was concerned that he might be picked up by the police and sent to Germany, he wanted to spend some time outside the Netherlands. Having been supplied with money by his parents, he contacted a former teacher Lingemann, in Zeist who brought him into contact with his friend, the defendant van Geel. This happened end of June or beginning of July 1943. Van Geel led him, together with three other students, to a Dutch policeman with the name of Wismann. Wismann gave Schmidt a Belgian passport made out to the name Hansen, and he had to hand over his old passport. Then the defendant, together with the other three students, was escorted across the Belgian border by a man named Smit or Teddy. He then made his way into France where he claims he was looking for work. At the end of July 1943 he returned to his parents in Holland. He went back to Wismann and obtained his original passport. From then on he lived sometime with his parents, some time with relatives in Amersfoort, also with Wismann and another former teacher, Eugen van der Heide, in Hilvarenbeek.
  
2. In September 1943 Wismann came to Schmidt and suggested to him that he should help to smuggle English pilots over the border. He told him that he had already helped one pilot and that the other policeman, Teddy, also was involved in this activity. The defendant, who speaks fluent English, agreed and beginning of October 1943 he was given a pilot by way of Wismann and Eugen van der Heide, whom he brought over a route well known to him over the border and to Brussels. In Brussels he telephoned, according to instructions given him, a number at Jules Le Jeune #4. A woman with the name of Lotti Ambach answered the phone. He told her that she was talking to a friend of Smit's, and that he was at the North Station. After a short while a man arrived who later became known to Schmidt as the Belgian Police commissioner Ernest van Moorleghem. He conducted him and the pilot to rue Jules Le Jeune #4. From the conversation with the pilot Schmidt learned that he was a member of the Canadian Air Force who had taken part in bombing missions over German towns and been forced to bail out of his damaged machine over Holland. The defendant spent the night with an acquaintance of his father's, a businessman with the name Zwaan in Anderlecht, Hyvaerstr. 26.
  
3. During the time after that the defendant escorted 19 more Pilots over the border and brought them to Brussels to the Ambach apartment. In the course of these activities he got in contact with a whole network of other helpers. He himself calls this network "the Organization". The members of this organization address each other merely with the first name. The defendant said that the aforementioned Eugen van der Heide and the police officer Smit were the only ones within the "Organization" who knew the place in Brussels where the pilots were dropped off. Schmidt himself was given a false identification paper with the name Visser.  
 The defendant crossed the border always at Baerle-Nassau between Esbeek and Woelde. Here he had helpers, the defendants Oudemans and de Koning, who gave him and the pilots shelter in their own house and also helped them to cross the border. The shelter consisted of a chicken coop on the farm of De Bruin in the village of Esbeck. This chicken coop was the hiding place of de Koning and two other students who also had not signed the declaration of Loyalty. From here there was an

easy route of 4km to the Belgian border close to Weelde. In particular, the defendant has conducted the following transports of pilots:

4. Together with a medical student with the name of Arie the defendant had arranged for a transport at the house of a baker, Morsing. Arie spent the nights at Morsing's house and could be reached there usually on Tuesdays and Thursdays. The days where they could meet were announced to the defendant by another helper, Walter. The defendant was then escorted by Arie to Hogeveen in order to receive two Pilots at the house of a man named Van Alderen. With these two pilots Schmidt traveled back to Bergentheim where he was given two other pilots. With all four of them he took the train to Tilburg and then went by bus to Esbeek. In Esbeek the pilots were hidden in the aforementioned chicken coop. In the evening Wismann told them that a car would be available. The next day Oudemans got a car from Van Geel. He then drove the fliers, together with Wismann, De Koning and Schmidt, close to the border. On the other side of the border Smit, the police officer, received the fliers and brought them, together with the defendant Schmidt, to Rue Jules Le Jeune 4 in Brussels.

5. Guided by Arie the defendant was sent to Amersfoort, where he had to ask for a Mrs. Drukker, Utrechtsche Weg 44. He asked her in the arranged code language whether she had any chickens for sale. She sent him to Ohm Ob who then sent him to the train station in Ermelo where he found two fliers and took them by train to Tilburg and then by bus to Esbeek to the chicken coop. The next morning he and the two fliers crossed the border. On the way to the border Oudemans and de Koning accompanied them for safety reasons.

6. Through Arie the defendant was finally brought in contact with a Mr. Kord in Limburg-Haarle who worked there in a mine. The defendant spent the night at his house and then traveled with another flier again to Esbeek and to the chicken coop. The next morning he took the flier, escorted again by De Koning and Oudemans, over the border and then to Brussels.

7. Through the teacher Eugen van der Heide the defendant was referred to the following fliers, aside from the one mentioned in 1.): The defendant had once heard Eugen say that in case he ever needed a vehicle, Eugen knew someone who would drive him wherever he needed to go. So when the defendant once had four fliers to transport from Tilburg to Esbeek where the chicken coop was, he called Eugen from the hotel near the train station and asked for the vehicle. After a short while the defendant Vogel showed up with a 7-seater automobile and took Schmidt and the fliers to Esbeek. The next morning they were brought to the border in the same manner as the others before them, and then from the border to Brussels.

8. Eugen had already delivered six fliers to the chicken coop, where they were waiting for Schmidt to be transported further. The defendant again brought them, together with Oudemans and De Koning, over the border where they were received by Smit and taken to Brussels to Ambach's apartment.

9. The defendant Jeanne Willems brought another flier to Schmidt in November. He transported him, together with a contingent of fliers, to Brussels and to Ambach's apartment.

10. November 15, 1943 the defendant had another flier ready to be transported, together with one who was brought by Eugen on November 14<sup>th</sup>. The defendant Schmidt was bringing the fliers close to Tourcoing over the border when he was arrested.
11. The defendant also received a map of the auxiliary airport at Havelte and its surroundings from Eugen. This map showed the boundaries of the airport as well as the hangars and especially the gasoline storage tanks. The defendant handed this map at the Ambach's house to commissioner Ernest van Moorleghem.

## II. Oudemans and De Koning :

In addition to their collaboration described in I. The following has been found: :

12. The defendant De Koning who lived together with Oudemans with employees of the farmstead Utrecht, gave up this place on Mai 5, 1943 to avoid being picked up by the police and sent to Germany to the Arbeitsdienst. He moved, together with two other students who also had not signed the Loyalty declaration, into a hut in the woods near Esbeek which the three of them had built one meter underground. Here they stayed till October, supplied with money from their parents. The defendant Oudemans visited them almost daily. In this hut they were discovered once by the policeman Smit. He didn't make anything of it and in fact came by now and then to talk with them. In August he mentioned to them that he was engaged in the transport of fliers who had baled out. He asked the defendants to make their hut available to shelter one of the fliers overnight before crossing the border. To this they agreed, and one evening Smit arrived with an English flier. Together with De Koning and the two other students the flier spent the night in the hut, and in the morning he was transported across the border by Smit.
13. Towards the end of September, when it got too cold for the students in the hut in the woods, Smit provided them with a chicken coop on the farm of De Bruyn in Esbeek . They made the place somewhat livable for themselves. Oudemans, who still had a place to live with the forester of the farm, came to visit his friends almost every day. After Smit had moved to Baerle-Massau he got them in touch with Wismann, the Police officer. Both policemen indicated that they had helped the students and that Wismann, too, was busy helping fliers to cross the border. Shortly after that Wismann showed up with two fliers at the chicken coop in order that they could spend the night there. Wismann also asked the two defendants De Koning and Oudemans to accompany him to the border the next morning. For this purpose the defendants provided bicycles. On the way to the border De Koning secured the rear and Oudemans the front while Wismann stayed with the fliers. On the other side the fliers were received by Smit , and Oudemans and De Koning took the bicycles back. The defendant Schmidt was not involved in incidents 12 and 13.
14. The defendants De Koning and Oudemans soon became acquainted with the defendant Schmidt. He had taken fliers across the border by himself, but now he asked De Koning and Oudemans to help him out and accompany him to the border, for reasons of safety. They agreed to this.

The defendants Oudemans and De Koning admitted to have helped the defendant Schmidt in the following instances: **a.** Accompanying four fliers to the border, together with Wismann and Schmidt. (Case 7) In this particular instance Wismann and Oudemans secured the front while De Koning stayed with the fliers, and Schmidt brought up the rear of the loosely spaced group. **b.)** Escorting four fliers (Case4); Oudemans drove van Geels' car, Wismann, De Koning and the fliers were in the car which brought them close to the border. In the woods short of the border they parked the car, and the fliers were accompanied to the border by Wismann, De Koning, Schmidt and Oudemans. Wismann drove the car back to van Geel, while the others made their way back on foot. **c.** In addition the defendants admit to have taken the following number of fliers to the border and to have given them shelter : Three men with Schmidt and Wismann, one man with Schmidt, and finally two more, with Schmidt.

### III. Theodorus Vogels.

15. The defendant Vogels of Hilvarenbeek was approached by telephone one day by Eugen van der Heide, also of Hilvarenbeek. He was asked whether he would pick up some people from the train station in Tilburg and drive them to Esbeek. The defendant claims that he often did this for people, since the bus connections were very bad. On the afternoon of the day in question he parked his car in front of a hotel across from the Tilburg train station. There he asked for the man by the name given to him: Visser, and loaded him and four others into his car. After they had taken their seats and Vogels began to drive he had a conversation with Visser (Schmidt). They talked about the fact that they both had been students and that neither of them had signed the Loyalty declaration that was demanded of them. The defendant Schmidt said about this conversation that he had the impression that Vogels must be of the same spirit as he was. Therefore he asked Vogels whether he might be able to get the use of the car on other occasions. He didn't mention at all that his companions were Allied fliers. He also said he didn't notice that the fliers were talking among themselves. However, the defendant Vogels admitted that he did overhear a conversation that convinced him that the men in the back of the car were Englishmen. The defendant drove through the town of Hilvarenbeek and further to Esbeek where he dropped off Visser (Schmidt) and his companions at the agreed upon stop. This was a place between two villages, behind a pond, where there was a tree lying across the road.

A few days after that Vogels went to the teacher Eugen van der Heide and told him that he didn't want anything further to do with this kind of transports. Eugen van der Heide told him on this occasion that the further transport of the fliers had gone smoothly, and that they had been sheltered the night before in a chicken coop. This made it clear to Vogel that he was dealing here with a whole organization that smuggled Allied fliers across the border. He admits that he would have had the obligation to report the organization to the police. He claims that he didn't do it, because he felt sorry for the fliers who would have ended up as POWs.

#### IV. Jeanne Willems

16. The defendant lived close to the border at the place where the defendant Schmidt crossed the border frequently with the fliers. This location saw always lively activity of smugglers of all sorts. In the house next to that of the defendant's parents smugglers often were present. This house was always unlocked and empty; it had, however, a bed in a small room in one corner of the house. In August the defendant made the acquaintance of Smit when he, coming back from a border crossing, sought shelter from a rainstorm in the stable where she happened to be. At this occasion he asked her whether she would be willing to receive some letters from Brussels for him. He would come and pick them up occasionally. She agreed to this. Six times there were letters from Brussels for the Dutchman. She didn't notice anything remarkable about these letters.

In the course of the various border crossings which Smit carried out together with the defendant Schmidt, the defendant Willems became acquainted with defendant Schmidt. She knew him as "the man with the glasses", but didn't know his name. The defendant Schmidt assumes that she knew about the work in which he was involved together with police officer Smit. Once as defendant Schmidt was coming back from a border crossing in Weelde he was approached by defendant Willems who asked him when he would get together with Smit again. She had some important matter to discuss, and there was someone waiting for him. Defendant Schmidt arranged for a meeting in five days. Then he would come back and take along whoever it was. When defendant Schmidt returned a day later than arranged, defendant Willems led him to a flier in the aforementioned house who was then escorted to Brussels by Schmidt, together with a few others. The defendant seeks to defend herself by mentioning that she was approached by another smuggler with the name Teddy who is not identical with the policeman Teddy. This Teddy had asked her to inquire of Schmidt whether he would take a man over the border. This she had done without knowing what kind of a man this may be. After she had named a day and the smuggler had brought a man to her, she gave him shelter in the empty house mentioned earlier. It then occurred to her that the man could perhaps be an Allied flier. The smuggler had told her that the man had enough food for one day, but, should Schmidt arrive later than arranged, she should give the man some food. When Schmidt arrived indeed a day late she gave the man some bread and butter. Then she noticed from his speech that he was a stranger. Soon after that Smith took the man with him. The defendant denies having given the stranger any help or food while he stayed in the empty house. After the defendant Schmidt came back from his mission he told Willems that the transport had been successful. The defendant Willems does not recall this conversation.

#### V. Petrus van Geel

17. The defendant, being a feed merchant, got around quite a bit in the country. At one occasion he got to know the teacher Lingemann from Zeist, who bought some groceries for himself. He denies any further

contact with him. He has known police officer Wismann since two years and has met with him often. He has taught Wismann to drive a car. He has no knowledge of the relationship between Lingemann and Smit, and also denies any knowledge that Schmidt was involved in the smuggling of fliers. In July 1943 the defendant received a call from Lingemann who asked him whether he would be willing to take three young men across the border. At that van Geel contacted Wismann and told Lingemann the time and place where Wismann would meet with the young men. At the appointed time the three appeared in a café in Esbeek. Lingemann referred them to Wismann who then took them over the border. The defendant Schmidt was one of the three men. Defendant Geel didn't think anything of this, since Wismann had taken the three over the border. In September and October Wismann approached van Geel and wanted to borrow his car. In the first instance he didn't give a reason why he wanted the car and van Geel didn't ask. In the second instance Wismann said that he had confiscated some rye and had to get rid of it. Oudemans who van Geel knew from the farm came and picked up the car. The defendant claims that he had no idea for what purpose his car was used. The defendant Schmidt has said during his questioning that the defendant van Geel was the go-between of Wismann and Lingemann. He himself claims to have been in van Geel's house at one time. Schmidt modified his statements during the trial by stating that he did not know whether van Geel knew anything about the fact that he and the police officer Wismann were transporting Allied fliers over the border.

#### VI Eduard Coster.

18. The defendant Coster lived for some time in the house on Rue Jules Le Jeune 4 in Brussels which was also the home of Lotti Ambach, her mother Elise Chabot, and of the couple Frisque. Through his relationship with the Frisque family he got acquainted with Lotti Ambach and her family, and they became friends. During one of his visits with the Ambachs in October 1943 he met three strangers. In the course of the conversation he learned that the strangers were American and English fliers who had to bale out and were fugitives. Defendant Coster who speaks English, told them that he was born in Chicago. He knew that these fliers were being transported by Miss Ambach and her mother, and that their presence at the Ambach house was kept a secret. He assumed that they had returned to England. A second time the defendant met with three other fliers during a visit at the Ambachs. He also met Schmidt there. Of him he only knew that he was Dutch. On February 15, 1943 the defendant Coster met Lotti Ambach at the train station just as she was waiting for defendant Schmidt with another one of the fugitive fliers. The defendant claims to have met Lotti Ambach there accidentally, since he was meeting a friend from Antwerp who was arriving on the same train. When told by Lotti Ambach that she was also expecting someone, the defendant told himself that she probably was picking up another one of those fliers. The defendant admitted that he ought to have reported Lotti Ambach's activities to the German authorities. He also knew that severe punishment threatened if he neglected to report her. But he stated that it was a matter of honor not to denounce a friend and neighbor.

VII The married couple Emil Frisque and Madelon, née Ambach.

19. The defendants lived in the house Rue Jules Le Jeune 4 on a separate floor from the apartment of Mrs. Chabot and her daughter Lotti. The families saw each other frequently. Through her visits with her mother Madelon learned that her mother was hiding fugitive fliers and that she was helping to transport them over the border. Altogether she knows of 9 or 10 fliers who found shelter at her mother's house. About three times she also met the defendant Schmidt at her mother's house. She knew that the fliers were brought over from Holland. She had conversations with the fliers, since she speaks English, and she asked them about conditions in England and about possible common friends of hers and her husband's. Occasionally she also gave her mother cigarettes for the fliers or leftover food. The defendant Emile Frisque encountered two fliers once in his mother-in-law's apartment. He reprimanded her because of it, but she told him that in her own apartment she had the right to do as she pleased. One evening the defendant heard from his wife what the true facts were. She complained under tears that her mother didn't have any sense, and that she still continued to hide and transport fugitive fliers. After that the defendants decided to move out of the house. They felt obliged by family honor not to denounce their mother/mother-in-law to the German authorities. Since they could not find another apartment in Brussels, however, they were obliged to further witness the activities of mother and sister.

C.

During the course of the trial it has become clear that the transport of fugitive enemy fliers was an activity that was carried out by a large organization that was spread out all over Holland and Belgium.

Those members of the organization who carried out the transport from Holland alone were, besides the defendant Schmidt, the teacher Eugen van der Heide, and the Dutch policeman Smit. The current trial only deals with the defendant Schmidt and those fliers whom he transported. The details of this investigation show that there were many different helpers who sheltered the fugitives, supplied them with clothing and brought them to certain meeting points that were only known to the organization. From there they were brought along certain secret routes to the defendant Schmidt, who guided them along a route only known to him personally to the main forwarding station in Brussels. The fact that Schmidt was able to transport 50 fliers to Brussels in merely 5 weeks shows, besides the dangerous nature of his activities, that there was a vast network of willing helpers at his disposal. The location where the fliers were initially housed and forwarded to Schmidt are not known to us.

I.) The defendant Schmidt has in full intention collaborated with the enemy in the instances 2-10. He states as his motif that he is opposed to the

National Socialist philosophy and thus was not willing to be loyal to its representatives. Consequently he sees it as his duty to support the enemies of National Socialism.

The defendant Schmidt who as acted intentionally in favor of the enemy, is therefore guilty of a crime under § 91b RStGB for transporting of the fliers, as well as of espionage (# 11) under § 2 KSSVO. These crimes carry the death penalty.

II.) The defendants Oudemans and De Koning have been persuaded to the first step of housing a flier, in July 1943, by the policeman Smit. From then on they have in substantial ways aided the transport of enemy fliers. Thus 15 fliers were transported by Oudemans and De Koning, in 6 separate operations. They guided them over a 4 km stretch to the border, while they both took over the function of security guards in case of controls by the border patrol. The defendants knew that the fliers were to be transported further after crossing the border. They both gave patriotism as the motif for their actions. The attitude of De Koning is further shown by the fact that he, after refusing to sign the declaration of loyalty required of all students, preferred a life with like-minded friends in the woods and in a chicken coop to serious work on the many problems that his nation was facing at this time. He remained a decided opponent of loyal conduct. The carrying out of these transports (#13,14) by Oudemans and De Koning proves that they both acted with the intent of aiding the enemy. After § 91b RStGB both deserve the death penalty.

III. The defendant Vogels aided the transport of enemy fliers (#15) It is true that he only found out during the trip that there were Englishmen in his car and that he thought they may be fugitive fliers. But at this point he had only traveled 10 to 15 minutes with them and still had to go 6km further, through the village Hilvarenbeek to Esbeek. The defendant did not cut the trip short. During the conversation with Schmidt the defendant showed that his attitude was similar to Schmidt's. Therefore Schmidt was able to secure Vogel's car for further activities of the same nature. From the account of this conversation between the two as well as of the subsequent regular transports of fliers, the court assumes that the defendant acted with the intent of aiding the enemy. The defendant gives as reason for his actions that he felt sorry for the fliers who were sure to be taken prisoners. Because he dropped off the fliers at secret meeting points, and because he agreed to make his car available for further transports, it is clear that he knew about the organized effort of aiding the enemy fliers. He admitted that much in a conversation with Eugen van der Heide. Although they only talked about the fact that the transport had been successful and that the fliers had been sheltered in a chicken coop in Esbeek, the intelligence of the defendant leads the court to conclude that such a conversation only told him what he already knew, namely that he served a large organized effort to transport enemy fliers out of the country.

The defendant has thereby proven that he also is guilty of a crime under § 91b RStGB. The fact that he did not report the teacher Eugen van der Heide when he learned of the nature of the transport does not represent a further crime. It only proves that the defendant was prepared to aid the organization. His initial remark to Eugen van der Heide that he rather not have anything further to do with this matter does not take away from his guilt.

Considering the dangerous nature of the organization and the willingness of the defendant to support it, the defendant deserves the death penalty.

IV. As far as the defendant Jeanne Willems is concerned, it is not possible to determine for sure how much she actually knew about the true purpose of the meetings between Schmidt and the police man Smit. From the fact that she asked Schmidt whether he would take a man over the border who had been brought to her by a certain smuggler, up to now unknown, one can deduce that she accepted the situation without questioning and even agreed to bring a fugitive flier to Schmidt. Her conversation with Schmidt cannot imply that they were simply smuggling someone over the border. **The person in question was already in Belgium when he was brought to Jeanne Willems and could have moved freely from there. ( this does not make sense to me. Magdalene. I** Besides, Schmidt was under the impression, as he himself said, that Jeanne Willems was informed about his activity with policeman Smit, which was smuggling fugitive fliers through the country. Another fact has to be mentioned: Schmidt was holding back with incriminating information about the other defendants. When he was personally confronted with Jeanne Willems he tried to take back some of the statements he had made earlier.

The conduct of the defendant Jeanne Willems (#16) can be judged as possible intentional support of a fugitive flier, starting from the day that she led one of the fliers to Schmidt. However it seems questionable that the full intent as stated in § 91b RGtGB existed. One cannot deny that she, as all inhabitants of border regions, possesses a certain cunning. But being a farmhand, her educational standing is not such that one can assume she fully intended to aid the enemy and understood what she was doing. Therefore, in the case of defendant Jeanne Willems, one can only prove cooperation with the enemy to the extent of § 7,1 of the Schutzverordnung (protective decree) for Belgium. When considering the punishment it has been taken into account that the defendant Jeanne Willems hardly ever left the farm of her parents. She is a simple farm girl with very little education and a narrow outlook, so she can not be made fully responsible for her actions, however serious they are. The way in which she was persuaded to do what she did seems rather to suggest that Smit took advantage of her naiveté. It will be sufficient to punish the defendant with 10 years penitentiary. This may also serve as a deterrent to others.

- V.) Defendant van Geel is a friend of one of the main players in the organization that carried out the transport of enemy fliers, police officer Wismann. He knows the main defendant Schmidt who has been in his house once. He also twice lent a vehicle to Wismann which was used for the transport of fugitive fliers. The defendant denies, however, to have known anything about the whole operation. Defendant Schmidt had claimed at an initial questioning that van Geel was a go-between for Lingeman and Wismann, but in subsequent questioning he took this back and only said that he didn't know whether van Geel had any knowledge of the transports. Besides it could not be established in our inquiries that van Geel has been personally involved in any transport of fliers. On the other hand, it is obvious that in such a small town it must occur to the population that three well-known students who are living in the woods all summer and then in a chicken coop in the fall may be involved in some political activities and perhaps even in the transport of fugitive fliers. The

defendant van Geel must have also had such a suspicion, especially since he was friends with Wismann to whom he brought once, in July 1943, three students to smuggle over the border. This was initiated by Lingeman. Such speculation is, however, not useful as proof. It does not seem justified to base a court decision on it. The defendant cannot be charged with knowingly lending his vehicle for the transport of enemy fliers. Therefore he is not guilty either as to § 91b RGtGB nor as to § 7,1 of the Schutzverordnung. A total acquittal is not in order, however. The border crossing of the defendant Schmidt and two other students in July 1943 which was facilitated by defendant van Geel constituted a violation of § 8 of the decree of May 10, 1943, which introduced German criminal law in the Netherlands. According to this decree any border crossing not authorized by the German military agency is forbidden. Through the phone call from teacher Lingeman and the personal contact with the three young people whom he escorted across the border, the court is convinced that the defendant van Geel knew very well that they were students whom he helped to escape the impending transport to Germany into the work camp. From the great fuss that was made everywhere about the loyalty declaration that the students had to sign, the defendant must have known very well that the students were obliged to report to the authorities. By his conduct he aided the students to disobey the decree of the commandant of the Netherlands of March 5, 1943 that said students had to report for work in Germany. Therefore the defendant is guilty according to § 4 KSSVO.

In choosing the punishment it is necessary to consider the attitude of the defendant as well as the objective danger of his conduct. This man who frequently conducted business with German agencies did not mind that he helped students who were known as decided opponents of a loyal cooperation with the military government. He also didn't mind that these young men, once outside Holland, would certainly become involved in activities that were against the German Reich. The dangerous consequences of the border crossing by the three students became obvious later when Schmidt began his activities. Also the assistance that he gave the defendant Wismann, by lending him his automobile and not inquiring about the use it was put to, shows that the defendant van Geel has to take responsibility for his negligent behavior. It brought him into contact with a very dangerous organization. His violation of the decree of the military commandant, § 4 KSSVO is to be punished, also as a deterrent for others, by 5 years penitentiary.

- VI.) The defendant Coster learned during his visits with the Ambach family that they were engaged in transporting fugitive fliers on a grand scale, being part of a widely spread organization. On each of just two visits with the family he met three different fliers. According to his own statements he was aware that the family was hiding them and then "handed them on" to others who helped them. He assumed that they eventually made it back to England. His concept of the framework of the organization was quite correct. This is clear from his testimony. He said that when he once accidentally met Miss Ambach at the North train station the thought crossed his mind that she probably was picking up another flier. The defendant who is highly intelligent, recognized also that so many fliers could be brought together only if there was a wide-spread network of helpers. When he saw the defendant Schmidt in the company of one of

the fliers it became clear to him that even fliers who had baled out over Holland were brought into Belgium.

To sum it up: The defendant had won a clear picture of the organization that helped fugitive fliers to return to their home country through his acquaintance with the persons in the Ambach family, who were involved in housing and smuggling the fliers and through his conversations with 6 different fliers. His thoughts when meeting Lotti Ambach at the train station show that he also knew about the method by which fliers were smuggled through the country. It is a fact that the defendant was seen together with Miss Ambach at the train station. Since he suspected the reason why Miss Ambach was at the station one can argue that their meeting was not accidental. Since, however, it has not been proven that Coster ever housed or smuggled any fliers himself, the court does not wish to imply that defendant Coster was at the station in order to help bring a flier to Ambach's apartment.

Consequently the defendant Coster is merely guilty of a crime against § 7,2 of the Schutzverordnung for Belgium-Northern France, since he failed to report the activities of those who housed and smuggled fugitive fliers to the German authorities. Considering the purpose of the Schutzverordnung as far as it is part of the effort to combat support of the enemy by the population : This decree has the purpose to punish those who cannot be convicted of active support of the enemy. Nevertheless the circumstances are such that persons who have knowledge of such activities but don't report them to the authorities are considered "trustworthy" by the activists and capable of helping them. It is only a small step to persuade such people to actively cooperate. The Schutzverordnung § 7,2 applies not only to the definition of the crime but also spells out the punishment. This paragraph even considers the death penalty for certain cases.

The measure to apply in deciding the punishment is the degree of objective danger of the activities that the defendant had knowledge of. The defendant Coster has made possible, by not reporting the activities of housing and smuggling fugitive enemy fliers, the continuation of such activities. In this investigation it was found that within a very short period 24 fliers were smuggled out of the country. Considering this the number of fliers per month that baled out and were not captured is considerable, which shows the dangerous character of the activities. The success of these smuggling operations was only possible with the help of a great number of people. Therefore a deterrent punishment is in order. The defendant Coster has had, as has been shown in this investigation, far reaching knowledge of the organization to house and smuggle fliers, and he knew of the danger to the German war effort. He bears full responsibility for his actions. Therefore he is condemned to death.

## VII. The Spouses Frisque

The defendant spouse Frisque has supplied the fliers who were housed by her mother with Tobacco and food, but this is to be considered under Schutzverordnung § 7.1 as an action dictated by her relationship to her mother. It is also to be considered as a voluntary action, however. Furthermore the actions of both spouses Frisque fall under Schutzverordnung § 7.2 which deals with the knowledge about certain forbidden activities. Both Frisques knew

that the family Ambach was housing and transporting fugitive fliers on a regular basis. They also knew that it was their duty to report such activities to the authorities. Since it was Mrs. Frisques mother who helped the fliers, this did place the defendants in a conflict of interest situation which is considered in cases like this as ameliorating circumstance. According to the wording of Schutzverordnung § 7.2 the judge can still pronounce the defendant guilty if he sees fit. Furthermore, under § 7.1 and § 7.2 the only possibility not to be punished would exist if the defendant had a direct family relationship with a flier himself. Consequently the conflict of interest in this case can only be considered for a lessening of the punishment, not for an acquittal. In weighing all the facts of the case it has been found that the defendants are guilty of a serious failure to report the above mentioned activities to the authorities. The defendant spouse Frisque was entirely clear about the extent of the involvement of her sister and mother in the organization to house and smuggle the fugitive fliers, as well as about the dangerous nature of these activities and of her own conduct. She met 9 or 10 fliers at her mother's house. She also told her husband, defendant Frisque, the whole story. Besides that, he himself also encountered 2 fliers in person at Mrs. Ambach's apartment. In consideration of the considerable psychological pressure on the defendants, had they reported mother and sister to the authorities, the court can only impose the punishment of incarceration upon them. Under the circumstances: Shared responsibility for the continuation of the dangerous activities of housing and smuggling of fliers, but considering the family relationship of the defendant spouse to Mrs. Ambach, 3 years of imprisonment for each of the defendants seems in order.

The defendants Schmidt, Oudemans, De Koning, Vogels, and Coster are forfeiting their entire estate, according to § 93 RStGB, whereby in the case of Coster § 7.2 of the Schutzverordnung applies.

Signed: Ostendorf  
Military chief presiding judge.