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Nazi Archives and the Americans: From Legal Evidence to NARA Record Group

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Nazi Archives and the Americans: From Legal Evidence to NARA
Record Group

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Introduction

Archives are often defined as materials that are created by either a person or entity in the conduct of their affairs and kept due to the value the material has.¹ These materials can be anything from business records to personal letters and may seem to have little value to those who did not create them. Yet over the course of the last century, the documents held within archives or that are considered to be archives have become something that defines a culture's or a nation's identity. A nation's archives have now come to hold the records and documents that define what that nation is, such as the Declaration of Independence or the Constitution which are housed at the National Archives and Records Administration (NARA) in Washington D.C. With the lofty place that these documents have, enemies of the nation can take them as spoils of war, to be used for intelligence purposes during and long after the war has ended.

During World War II, it became apparent that the capture of enemy documents would be necessary for intelligence purposes if the war was to be won quickly. For the Allies, that meant that their main focus would be capturing German documents so that they could gain the upper hand against the nations of the Axis Powers. Intelligence was the immediate goal of capturing these documents but their uses and travels would span countries and decades. When the war was won and the feelings of victory ended with the Nuremberg War Trials and the denazification of Germany, the captured Germany documents came to reside in Washington D.C. NARA Record Group 242: Collection of Foreign Records Seized contains records that were seized from the Nazi Regime during World War II and were used for numerous purposes before eventually being

¹ "Archives," Society of American Archivists, last modified 2016, <http://www2.archivists.org/glossary/terms/a/archives>.

returned to Germany. The life of these records has largely seen usage by the U.S. and was surrounded by controversy during the process of the return.

The Capture and Storage of the Nazi Documents

The history of captured German documents started long before the end of World War II. To run a society with as many facets as the Nazis did, a documentation system must be in place to record individual activities and actions that were taken by certain groups. “In order to establish a racially pure society, the Nazis “required not only the mobilization of existing records for political ends but the creation of new records that would recognize the biological categories the Nazis held to be so consequential,” Peter Fritzsche observes.”² In 1936, Bavarian archival administration director Josef Franz Knöpfler stated, “There is no practice of racial politics without the mobilization of source documents, which indicate the origin and development of a race and people....There is not racial politics without archives, without archivists.”³ Little did the creators of these documents know that eventually these same documents that structured their society would lead to the downfall of the Nazi Third Reich as well as the trial of many of its higher officials. “Records, then, may be instruments of power, but paradoxically, the same records can also become instruments of empowerment and liberation, salvation and freedom. The Nazis’ obsession with recording and listing also made them receptive to the liberating effect of lists, as everyone knows who has seen Schindler’s List. The detailed record-keeping system of the Nazis still forms an excellent source for restitution and repatriation.”⁴ It would be towards the

² Randall C. Jimerson, *Archives Power: Memory, Accountability, and Social Justice* (Chicago: Society of American Archivists, 2009), 244.

³ Jimerson, 244.

⁴ Jimerson, 244.

end of the war before the Allies realized the power of the Nazi archives, but when that realization occurred, the Allies captured and used these documents to gain the upper hand.

By the fall of 1944, American officials realized that they would not be able to govern Germany through the administrative structures that they had earlier believed would survive the war. With that realization came the decision to put Germany under direct military rule, and for that, routine administrative records from the German administration became very important. For full occupation, the records from past administrations were necessary for the occupiers to build their own administrative structures. When war trials became necessary, governmental and Nazi Party documents also became important. Records became more important as the denazification process started.⁵

With these documents being of importance to the creation of a new German government under the occupation of the Allies, there came a need to capture the documents. The British and the Americans planned to work together in the confiscation and evaluation of documents for intelligence purposes.

The planning for the seizure of German records and archival material being in Washington [D.C.] and only slowly became at least somewhat coordinated. A number of American civil and military agencies and institutions independently defined their sometimes opposing interests in the German records. A report commissioned by the U.S. Army dated November 1947 lists no fewer than 121 Western Allied agencies and offices dealing with the captured records between 1944 and 1947.⁶

⁵ Astrid M. Eckert, *The Struggle for the Files: The Western Allies and the Return of German Archives after the Second World War* (New York: Cambridge University Press, 2012), 13.

⁶ Eckert, 14.

The British did not necessarily understand the policy-making procedures or how wartime offices and agencies mushroomed in Washington D.C. On the Allies part, there was not a lack of planning to capture the documents; there was a lack of coordination.⁷

While military planners had some hand in the eventual capture and use of the documents, the original idea to protect these documents came from professional archivists. The concern of the archivists was not the intelligence value of the materials but to protect the archives from destruction. The idea was raised in May 1943 when archivist Ernst Posner, one of the few Jewish archivists in the Prussian Archival Administration before the Nazis came to power, gave a lecture entitled “Looking for what was salvageable: Early Attempts to Protect Archives.” Posner pointed out more than the historical value of the records in his lecture; he spoke of the uses of the documents by the occupying force.⁸ “The great importance of the records becomes fully evident, if, where the native authorities have fled or offer passive resistance, their archives, too, are unavailable to the invader.”⁹ Posner’s argument became more valid as the Allies moved toward Germany and postwar occupation.

The importance of not allowing these documents to be destroyed was also pointed out to the archivists of the U.S. National Archives and the British Public Record Office by Archivist of the United States, Solon J. Buck. While not working in Germany at the time, Buck explained the massive task in Italy.

Not only property rights but human rights are involved, and evidence of citizenship, birth, and family relationships are necessary to restore them. The people of Italy have been deprived of full knowledge of what has been going on under the Fascist regime. If there is ever to be a re-education of the people, it can only be done through preservation of the records of true actions of this regime....The destruction of the evidence will only encourage a mythology. It seems to me that the Germans have been very systematic in

⁷ Eckert, 14.

⁸ Eckert, 15.

⁹ Eckert, 15.

their handling of the records of occupied countries... They are keenly aware of the fact that loss of essential records in a modern industrialized country results in a far-reaching paralysis of its life, which serves the enemy's ends. Even when a war is over, a country may recover only partially from this paralysis and complete recovery, if it is attained, is a matter of years and possible generations.¹⁰

The capture and protection of documents was necessary yet British and American archival experts found it easier to work with each other than it was to work with the military. Not always were efforts to protect the archives compatible with the objectives of the military. "Archivists tried repeatedly to explain to intelligence officers that a professionally organized archive lost its value the moment its finding aids were destroyed or the files were mixed up even if not a single sheet of paper were destroyed."¹¹ Even so, in this time of war, combat operations and securing documents that were relevant to the military took precedence over the protection of other archives.

While the idea of protecting archives was raised in May 1943, not much happened until after December of the same year. On December 29, 1943, a letter was released from the Allied Force Headquarters by General of the Army Dwight D. Eisenhower emphasizing the policy that the War Department had put in place to protect archives.

Today we are fighting in a country which has contributed a great deal to our cultural inheritance, a country rich in monuments which by their creation helped and now in their old age illustrate the growth of the civilization which is ours. We are bound to respect those monuments so far as war allows. If we have to choose between destroying a famous building and sacrificing our own men, then our men's lives count infinitely more and the buildings must go. But the choice is not always so clear-cut as that. In many cases the monuments can be spared without any detriment to operational needs. Nothing can stand against the argument of military necessity. This is an accepted principle. But the phrase "military necessity" is sometimes used where it would be more truthful to speak of military convenience or even of personal convenience. I do not want it to cloak slackness or indifference. It is a responsibility of higher commanders to determine through A.M.G. Officers the locations of historical monuments whether they be immediately ahead of our front lines or in areas occupied by us. This information passed to lower echelons through

¹⁰ Eckert, 15-16.

¹¹ Eckert, 16.

normal channels places the responsibility on all Commanders of complying with the spirit of this letter.¹²

Following the release of this letter, the War Department began working with the National Archives and other civilian groups. Archivists from the National Archives were sent to war zones to serve as archives or monument officers.¹³ These people were often awarded higher military rank in order to give them better authority among the troops.¹⁴

Once in the war zones, the archivists were charged with constructing lists of records of importance that fell behind enemy lines. Another duty of these archivists was to write guides detailing conservation and protection procedures that would be used. Once published by the War Department, these guides were dispersed to military commanders who might have important archives and monuments under their control. The guides directed military officers to “consider all archives valuable, important and in part vital for intelligence and other military purposes, whether located in ancient archives, large depositories, the most modern archives, or in current office papers. Examine ruins and debris carefully, for it could not be assumed that records stored in partially or completely destroyed buildings would themselves be necessarily ruined.”¹⁵ Soldiers attempted to keep the records in the best possible conditions. “Buildings in which archives were stored were exempted from secondary functions as billets wherever possible, and where infrastructure was deemed unacceptable for the records, they were moved to another area

¹² Letter from Dwight D. Eisenhower, General, U.S. Army, Commander-in-Chief to All Commanders, December 29, 1943. (Records of the War Department General and Special Staffs, National Archives).

¹³ U.S. National Archives, “The Seizure of European Records during World War II,” last modified August 17, 2016, <https://prologue.blogs.archives.gov/2016/08/17/the-seizure-of-european-records-from-world-war-ii/>.

¹⁴ Eckert, 19.

¹⁵ U.S. National Archives, “The Seizure of European Records during World War II,” last modified August 17, 2016, <https://prologue.blogs.archives.gov/2016/08/17/the-seizure-of-european-records-from-world-war-ii/>.

of the same building or to a new location entirely.”¹⁶ However, best practices weren’t always followed under the pressure of war and daily life even though a remarkable effort was made to protect the records as best as possible.

With some information on how best to care for the documents circulated amongst the soldiers, there were still accounts of documents being mishandled. Accounts range from using documents to keep warm in the winter, records from the Bavarian War Archives being moved to a stable, and documents being carelessly thrown down chutes into trucks. War life quickly wore down archivists and soon, there remained very few in Europe that were charged with protecting captured documents.

...have insisted throughout that measures taken in regard to the treatment of modern Documents must rest in their hands: and that in fact this has resulted in little more than grandiose schemes for exploitation. So far as protection is concerned, no general scheme of procedure appears to have been devised and no generally effective measures taken....We reach the end of the SHAEF [Supreme Headquarters Allied Expeditionary Forces] period...without anything having been done in a comprehensive way to safeguard Archives during that dangerous period.¹⁷

While documents were mishandled and not adequately protected, those that were quickly came into use.

As archivists and others gathered German documents, the War Department in Washington D.C., and the War Office in London planned for the evaluation and use of the documents. The two offices sought to combine two objectives that were not necessarily compatible, “to gather both “operation intelligence” (information needed for combat) and “occupation intelligence” (information needed for governing Germany after its defeat).”¹⁸ As the

¹⁶ U.S. National Archives, “The Seizure of European Records during World War II,” last modified August 17, 2016, <https://prologue.blogs.archives.gov/2016/08/17/the-seizure-of-european-records-from-world-war-ii/>.

¹⁷ Eckert, 20.

¹⁸ Eckert, 21.

war moved towards a close, the aim to gain evidence for war crimes trials was added. Documents that were captured were seen as joint property of Great Britain and the U.S.¹⁹ Earlier in the war, Military Intelligence Research Sections (MIRS) were created in Washington D.C., and London for the purpose of gaining and dispersing information from the records.²⁰ “They [the records] were first evaluated in London at the Military Intelligence Records Section (MIRS) and then shipped to the United States because, the argument went, the country was shouldering the greater burden of the war, especially in the Pacific. The Americans did, however, accept British claims to German navy records, especially those dealing with submarine warfare.”²¹ Before the Allies reached Germany, this process worked very well. As the number of documents streaming into the MIRS increased, the procedures quickly broke down.

The Americans were unfamiliar with using captured documents for intelligence purposes. The British were concerned that the War Department did not have an estimate of the number of German troops until a year after Pearl Harbor was attacked. Due to this reason, the MIRS was established. Even so, the U.S. Army established the G-2 Document Section to assist in the on-site evaluation of the record and their transfer to London. Often times, the records arrived in London too late to be of use in planning and mostly served to confirm information gotten elsewhere. “By June 1945, MIRS has processed at least 150 tons of paper.”²² This was unprecedented as no one had ever attempted “document intelligence” on this scale.²³

¹⁹ Eckert, 21.

²⁰ U.S. National Archives, “The Seizure of European Records during World War II,” last modified August 17, 2016, <https://prologue.blogs.archives.gov/2016/08/17/the-seizure-of-european-records-from-world-war-ii/>.

²¹ Eckert, 21.

²² Eckert, 22.

²³ Eckert, 22.

By May 1945, new procedures were necessary to deal with the large mass of documents that were flooding into the MIRS. The Bissell-Sinclair Agreement continued the collection of documents and dispersion of intelligence.

Additionally, the new agreement recognized that many more categories of documents from military archives – (several tons instead of one ton weekly) – would now be available, and it prescribed that when these were removed the general archival principle of file integrity should be observed; i.e., every effort should be made to remove the records intact and complete. Should it be necessary to remove a portion of a record series, a charge-out slip indicating removal should be left at the site. If military government required the records for their needs and there was also a military intelligence need for them, the latter requirement was to be filled by duplicating the records; and the original documents were to be left at their location.²⁴

This agreement allowed for the transfer of documents to the U.S. to safeguard them as well as to supply information that would be necessary for war crimes trials. A London Military Documents Center and a German Military Documents Section (GMDS) near Washington D.C., were to replace the MIRS. By 1946, the agreement was amended to state that the records would remain intact in Washington D.C., until the U.S. and Great Britain decided upon their disposition.²⁵

At the beginning of 1946, these new document centers began to close. The London Military Documents Center closed in February 1946, releasing the remaining documents in Great Britain to appropriate British agencies. The GMDS in the U.S. fared the same fate when it ceased to exist as an intelligence organization in 1947. Those documents were transferred to the Office of the Adjutant General's Departmental Records Branch. The rest of the captured records that were in the U.S. were given to the appropriate agencies.²⁶

²⁴ Seymour J. Pomrenze, "Politics and Procedures for the Protection, Use, and Return of Captured German Records," in *Captured German and Related Records: A National Archives Conference*, ed. Robert Wolfe. (Athens: Ohio University Press, 1974), 15.

²⁵ Pomrenze, 16.

²⁶ Pomrenze, 16-17.

Records that were deemed unsafe to return to German authorities or could not remain in German hands were housed in records depositories in Germany that had been established by the U.S. Army and State Department. These records were centralized so they could be accessed by authorized users.

Collections of Nazi organizations were brought together mainly at the Berlin Document Center, and records of many of the Reich ministries at the Ministerial Collecting Center near Kassel. (These were moved to the Berlin Document Center in February 1946). Jewish, Masonic, labor and other records of the persecuted were centralized at the Offenbach Archival Depot, from which point they were returned to their owners or to logical successors. Those of semiprivate and private German organizations were, in part, placed in a Field Information Agency, Technical (FIAT) organization for further transmission to authorized users.²⁷

Other record sets were used by other agencies for a myriad of uses, most of which involved supporting the Allied occupation zones.

While it seemed like the discovery of some of these documents was difficult and an experience that was more often than not futile, large compilations or stores of documents found could warrant their own document center. Some of the military personnel searching for these documents got lucky, as in the case of the documents that would eventually make up the majority of the Berlin Document Center. The discovery of the central membership registry of the Nazi party was lauded as one of the most important finds in the case of Nazi archives but mishaps on the part of the U.S. Army almost caused the loss of these important documents.

Legend has it that soldiers of the Seventh Army found the membership records in a paper mill near Munich and saved them from destruction. But according to reports in German newspapers licensed by the British and American authorities, credit was due not to the GIs but rather to the owner of a Munich paper mill. Instead of shredding the documents as the Nazi party headquarters had ordered in April 1945, Hans Huber hid approximately eight million index cards – each one detailing an individual's membership in the Nazi

²⁷ Pomrenze, 20.

Party – under scrap paper and reported his “treasure” to the American city commander of Munich at the end of May.²⁸

When Huber presented three stacks of these index cards, the Counter Intelligence Corps of the Seventh Army did not immediately act. The U.S. military government’s archival advisor, Sargent B. Child, was furious at the lack of action. “Although “any damn fool” should have understood how important the material in the sacks was, Child wrote, no one had pursued the matter until Major William D. Brown, the newly assigned officer of the Third Army, followed up on the matter four weeks after Huber had reported having the membership file.”²⁹ These cards were the documents that the Allies needed to move forward with the denazification process, yet the cards waited in Munich for months before eventually being transferred to the Berlin Document Center in January 1946.³⁰

The story of the Berlin Document Center may be best told through the stories of those that were instrumental in filling the archives with the documents of the Nazi Regime. Kurt Rosenow was a German Jew with a background in law and political science that emigrated to the U.S. in 1940, close to the beginning of America’s involvement into the war. Due to his background, he was assigned to U.S. intelligence and spent the later part of 1945 working with documents in Berlin. ““When I arrived in 1945,” said Rosenow, “there were no files, no documents, nothing in writing or print.” The Russians, upon entering Berlin, he said, had taken whatever records Goering’s people had not evacuated. But in the underground halls they had left the huge telephone listening installation – though, of course, with the wires cut. “When all the

²⁸ Eckert, 44-45.

²⁹ Eckert, 45.

³⁰ Eckert, 45.

machinery was removed,” he said, “it was quite eerie: these huge cellars, gapingly empty.”³¹
His original assessment of Berlin and lack of documents would soon be proven wrong.

Rosenow kept a diary of his experiences as a Tech-sergeant from August 27, 1945, to February 5, 1947. Many of the documents that the group working with Rosenow found were of extreme importance and in following decades would help define what was written in history books. Two of his exceptional finds came in August 1945, at Wilmersdorferstrasse in Berlin and in October 1946. “[August 1945] Building heavily damaged. Empty except for a few books in basement...Removed a book on protectorate Bohemia-Moravia, book on Der Juedische Ritualmord, Jewish Ritual Murder, and a life history of Heydrich...[October 1946]...Pucklerstrasse 16: there are approximately 1,000 Letiz-Ordner storage files, each of which could contain more than a hundred items of Ahnenerbe.”³² The location referenced in Rosenow’s October 1946, entry was the SS “Ancestry Institute” where research on the Aryan race was conducted as well as where racially “pure” German mothers were looked after and their children kept.³³

The documents mentioned in his diary were just some of the thousands that Rosenow handled during his time in Berlin after the war. “To visualize what is there now, imagine the files stacked up, one upon the other: it would be 13km high – eight miles.”³⁴ Through the work of Rosenow and many others, millions of documents were archived for the use of the Allies. “The documentation of the Nazi era, much of it now in those archives [Berlin Document Center], is the most complete any country ever produced. Given the Nazis’ obsession with secrecy, it is

³¹ Gitta Sereny, “Giving German Back its Past,” *The Independent (London)*, May 15, 1994, accessed February 21, 2017, <http://search.proquest.com.libproxy.uwyo.edu/docview/313091858?pq-origsite=summon>.

³² Sereny, “Giving German Back its Past.”

³³ Sereny, “Giving German Back its Past.”

³⁴ Sereny, “Giving German Back its Past.”

astonishing that virtually everything they did, planned or thought was put on paper.”³⁵ The Berlin Document Center is known to hold eleven million files of Nazi party members, thought to be 85 percent of the total membership, 600,000 files of those in the SS, 550,000 files of those in the SA, a registry of 72,000 doctors, and the files of the “Reichs Culture Chamber,” all of which would aid with the denazification process after the end of the war.³⁶

The Berlin Document Center was a multifaceted institution and many of the documents that came to reside there in the years after the war did not actually come from Berlin. Many records of the governmental structure and entities were kept in locations across Germany to aid in the building of an Allied government. Many governmental documents were housed in the Ministerial Collection Center in Fürstenhagen, which was known to hold 1420 tons of records and 52 tons of microfilm. The Ministerial Collection Center also employed 1300 former German government officials.³⁷ When Britain, France, and the U.S. began to merge their zones in early 1946, the documents at the Ministerial Collection Center as well as other German diplomatic files began the move to the Ministerial Document Branch. At that time, the Ministerial Document Branch was a part of the Berlin Document Center, which had yet to become a collection point for materials solely related to the Nazi Party.³⁸

The documents at the Berlin Document Center were of an importance that when the Berlin blockade began in 1948, military officials considered moving the entire center to western Germany, away from the Soviet occupied zone. This process would be extremely expensive and it was decided instead to prepare to destroy the materials if the Soviets invaded. Water mains

³⁵ Sereny, “Giving German Back its Past.”

³⁶ Sereny, “Giving German Back its Past.”

³⁷ Eckert, 53.

³⁸ Eckert, 53.

were enlarged so as to quickly flood the center in case of invasion. Select record groups of high importance, to include two tons of files from the Reich Main Security Office, were transported to the U.S. or moved to a branch of the Berlin Document Center in Darmstadt. Other records, such as the Auswärtiges Amt records, were placed on cargo planes that were being used for the Berlin Air Lift for their return journey to the west.³⁹

The Berlin Document Center was only one of the many facilities and institutions that housed the captured German documents. These facilities covered Europe in hopes of sorting through the documents and quickly finding the information that was needed by the Americans and the other Allied nations for both intelligence and historical purposes. Thousands of documents were spread across hundreds of miles and had to be translated and transported as their information and uses became more clear. The Americans had a large part in the eventual resting place of many of these documents.

The amount of records led to the U.S. Army administering numerous records depositories across Germany. “There were at least one thousand different deposits of valuable German records scattered all over the country in every conceivable place....Moreover, the army was faced with the problem of administering not one but many depositories (some eight major centers, eleven minor centers, and an unspecified number of temporary depositories) – even as late as 1948.”⁴⁰ This meant that thousands of tons, or about forty thousand linear feet, of material resided in depositories, awaiting disposition. In the years between 1944 and 1947, about 150 German collections had been used by about 125 different Allied agencies.⁴¹

³⁹ Eckert, 53-54.

⁴⁰ Pomrenze, 20.

⁴¹ Pomrenze, 20.

Post-War Uses of the Captured Documents

After World War II ended, the captured German documents saw many uses. The documents were used for official military histories, denazification purposes, by military agencies such as the U.S. Air Force (USAF), and as evidence in the Nuremberg War Trials.⁴² The documents added greater levels of information to official histories and were often used to gain an idea of a more comprehensive history.⁴³ Even so, official military histories and further intelligence by the USAF and other military agencies were not the main uses of the documents in the post-war era. After nearly a decade of war, the Allied Powers were using their spoils of war to bring justice to a world that was hurting. The documents would serve as evidence in an event that had been previously unseen in world history and that would create a legacy that was almost as controversial as the return of the documents themselves.

As early as 1942, the Allied powers saw the need for the trials of war crimes after reports poured in pertaining to the systematic murder of Jews by the Nazis. Immigrants and refugees pleaded with Western governments to act upon these reports. From there, the Allies began building their policies on war crimes.

In the House of Commons on September 8, 1942, British Prime Minister Winston Churchill declared that “those who are guilty of the Nazi crimes will have to stand up before tribunals in every land where their atrocities have been committed in order that an indelible warning may be given to future ages.” U.S. President Franklin Roosevelt declared it to be United States policy “that the successful close of the war shall include provision for the surrender to the United Nations of war criminals.” Reeling from the Wehrmacht’s furious campaign in the East, the Soviet government denounced “the barbaric violation by the German Government of the elementary rules of international law.” Foreign Minister Vyacheslav Molotov alluded to “the courts of the special international tribunal,” which he said would “punish according to the severity of the

⁴² Detmar H. Finke, Harry R. Fletcher, and Telford Taylor, “Session II: The Historical and Legal Use of Captured German and Related Records by the United States Armed Forces,” in *Captured German and Related Records: A National Archives Conference*, ed. Robert Wolfe. (Athens: Ohio University Press, 1974), 63-100.

⁴³ Detmar H. Finke, “The Use of Captured German and Related Records in Official Military Histories,” in *Captured German and Related Records: A National Archives Conference*, ed. Robert Wolfe. (Athens: Ohio University Press, 1974), 65-72.

criminal code, any of the leaders of Fascist Germany who in the course of the war have fallen into the hands of states fighting against Hitlerite Germany.”⁴⁴

Even though the Allied leaders agreed that the Nazis should be tried for their war crimes, they were still uncertain as to how to proceed in the prosecution, especially as a group. London and Washington D.C. moved slowly in their proceedings, “unwilling to give too much voice to the governments in exile, opposed to diverting war-making resources into retaliatory exercises, fearing German vengeance in the event of a too aggressive policy against war criminals, and uneasy about working with the Soviets on the issue.”⁴⁵ Policy was developed over the next three years before the trials eventually began in 1945.

The Nuremberg War Trials consisted of a number of legal proceedings that occurred from 1945 to 1949 in Nuremberg, Germany. The initial trial, lasting from October 1945 to October 1946, had a court made of representatives from Great Britain, the Soviet Union, France, and the U.S.⁴⁶ The court indicted twenty-four and sentenced to death twelve top Nazi officials: Hermann Goering (Hitler’s heir designate), Rudolf Hess (deputy leader of the Nazi party), Joachim vom Ribbentrop (foreign minister), Wilhelm Keitel (head of the armed forces), Wilhelm Frick (minister of the interior), Ernst Kaltenbrunner (head of security forces), Hans Frank (governor-general of occupied Poland), Konstantin von Neurath (governor of Bohemia and Moravia), Erich Raeder (head of the navy), Karl Doenitz (Raeder’s successor), Alfred Jodl (armed forces command), Alfred Rosenberg (minister for occupied eastern territories), Baldur von Schirach (head of Hitler Youth), Julius Streicher (radical Nazi anti-Semitic publisher), Fritz

⁴⁴ Michael R. Marrus, *The Nuremberg War Crimes Trial 1945-46: A Documentary History* (Boston: Bedford Books, 1997), 19.

⁴⁵ Marrus, 19-20.

⁴⁶ Telford Taylor, “The Use of Captured German and Related Records in the Nürnberg War Crimes Trials,” in *Captured German and Related Records: A National Archives Conference*, ed. Robert Wolfe. (Athens: Ohio University Press, 1974), 93.

Sauckel (head of forced-labor allocation), Albert Speer (armaments minister), Arthur Seyss-Inquart (commissioner for the occupied Netherlands), and Martin Bormann (Hitler's adjutant).⁴⁷

The captured German documents were used as evidence against these men and many others but the title of "Nuremberg documents" means more than just those used as evidence.

The phrase *Nürnberg documents* really means two quite different things that should be kept clearly and separately in mind. It referred originally and most usually to the captured or seized documents used as evidence at the Nürnberg trials, and it is these documents that are referred to in the title of this paper [*The Use of Captured German and Related Records in the Nürnberg War Crimes Trials*]. But *Nürnberg documents* also means the records of the trials themselves: various court papers, transcripts of testimony, court opinions, and administrative files of the trial apparatus. The trials themselves were an episode in history, and the records of those trials are also referred to as the Nürnberg records.⁴⁸

The Nuremberg Trials were one of the biggest uses of the captured German documents and led to the further creation of documents that now reside in numerous archives.

Colonel Murray Bernays was one of the many people that worked on the procedures used during the Nuremberg Trials. His notes, like those of many others, have become part of the collective that is titled the Nuremberg documents. These notes include copies of documents that were used in the prosecution as well as notes and memos from others outlining what the next steps in the trial proceedings would be. "There has always been very real agreement among the Allies that well-run trials are far preferable to courts-martial and field executions. Fascist myths would be more likely to spring up if defendants weren't given their day in court, and in any case

⁴⁷ "The Nuremberg Trials," United States Holocaust Memorial Museum, accessed November 29, 2016, <https://www.ushmm.org/outreach/en/article.php?ModuleId=10007722>.

⁴⁸ Taylor, 92.

it goes against the grain to condemn even the lowest criminal without trial.”⁴⁹ The processes were put in place years before, but the formal indictment was signed on October 6, 1945.⁵⁰

Bernays was a lesser known entity in the Nuremberg Trials. His counterpart, chief prosecutor for the U.S., Robert H. Jackson, was more well known in his role, but Bernays worked with many of the primary documents that led the trials to their eventual end. “They [Nazis] are being prosecuted because they saw fit to play the dual role of soldier and politician, and in the latter role were as deeply implicated as Hitler and Goering themselves in planning and making wars which were aggressive in their intention, treacherous in their inception, and ruthless in their execution.”⁵¹ The documents that were left behind and coalesced into centers like the Berlin Document Center became the basis of arguments and procedures built by both Bernays and Jackson.

Before the documents that would make up the greatest portion of evidence in the Nuremberg Trials and the trial transcripts themselves became a collective, a collection was made of the declarations of war crimes made by governments in the United Nations. These declarations harkened back to documents from 1907, ones that dictated how war was to be carried out. The same documents spelled out the punishment for violating these rules.

Recalling that international law, and in particular the Convention signed at the Hague in 1907 regarding the laws and customs of land warfare, do not permit belligerents in occupied countries to commit acts of violence against civilians, to disregard the laws in force, or to overthrow national institutions, (1) affirm that acts of violence thus inflicted upon the civilian populations have nothing in common with the conceptions of an act of war or of a political crime as understood by civilized nations, (2) take note of the declarations made in this respect on the 25th October, 1941, by the President of the United States of America and by the British Prime Minister, (3) place among their principal war

⁴⁹ “Murray Bernays, Lawyer, Dead; Set Nuremberg Trials Format,” *New York Times*, September 22, 1970, Accessed March 28, 2017, http://www.nytimes.com/1970/09/22/archives/murray-bernays-lawyer-dead-set-nuremberg-trials-format.html?_r=1.

⁵⁰ Marrus, 39.

⁵¹ “Murray Bernays, Lawyer, Dead.”

aims the punishment, through the channel of organized justice, of those guilty of or responsible for these crimes, whether they have ordered them, perpetrated them or participated in them, (4) resolve to see it in a spirit of international solidarity that (a) those guilty or responsible, whatever their nationality, are sought out, handed over to justice, and judged, (b) that the sentences pronounced are carried out.⁵²

The Allies used previous documents to build a precedent in war trials that was unseen, bringing four separate nations together in the prosecution of the Nazi leaders on four separate accounts.

Once the four nations were assembled for the trials, a charter was written and the opening statements reflected what had transpired during the war and what atrocities the Nazis had committed.

The privilege of opening the first trial in history for crimes against the peace of the world imposes a grave responsibility. The wrongs which we seek to condemn and punish have been so calculated, so malignant and so devastating that civilization cannot tolerate their being ignored because it cannot survive their being repeated. That four great nations, flushed with victory and stung with injury, stay the hand of vengeance and voluntarily submit their captive enemies to the judgement of the law is one of the most significant tributes that Power ever has paid to Reason. This Tribunal, while it is novel and experimental, is not the product of abstract speculations nor is it created to vindicate legalistic theories. This inquest represents the practical effort of four of the most mighty of nations, with the support of fourteen more, to utilize International Law to meet the greatest menace of our times – aggressive war. The common sense of mankind demands that law shall not stop with the punishment of petty crimes by little people. It must also reach men who possess themselves of great power and make deliberate and concerted use of it to set in motion evils which leave no home in the world untouched. It is a cause of this magnitude that the United Nations will lay before Your Honors.⁵³

The opening statement of the trials laid out the history of the war and the prosecution of Jews. It also outlined some of the reasons, and eventually documents, that would be used to prosecute the Nazis. Documents had a special numbering system that was used to quote and cite the documents

⁵² Report, "Declarations by United Nations Governments and Leaders on the Subject of War Crimes," June 14, 1944, box 2, #3817, Murray C. Bernays papers, American Heritage Center, University of Wyoming, Laramie, hereafter cited as Bernays papers.

⁵³ Report, "Opening Address for the United States of American by Robert H. Jackson," Undated, box 2, Bernays papers.

throughout the trials so that they could be referenced at a later date. Numbers of Jews murdered were referenced from reports and other documents to aid in the presentation of the case.⁵⁴

Some of the crimes with which the Nazis were charged were unheard of. As the Tribunal at Nuremberg was the first of its type, what crimes the Tribunal had jurisdiction over had to be laid out early on.

The following acts, or any of them, are crimes coming within the jurisdiction of the Tribunal for which there shall be individual responsibility: (a) *CRIMES AGAINST PEACE*: namely, planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances, or participation in a Common Plan or Conspiracy for the accomplishment of any of the foregoing; (b) *WAR CRIMES*: namely, violations of the laws or customs of war. Such violations shall include, but not be limited to, murder, ill-treatment or deportation to slave labor or for any other purpose of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns, or villages, or devastation not justified by military necessity; (c) *CRIMES AGAINST HUMANITY*: namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war, or persecutions on political, racial, or religious grounds in execution of or in connections with any crime within the jurisdiction of the Tribunal, whether or not in violation of domestic law of the country where perpetrated.⁵⁵

Because of the breadth of the crimes that had occurred during the war, it was necessary to use both eye witness accounts as well as documents as evidence in the trials. While the type of crimes that the trials would be prosecuting were laid out in the charter, the rules of the proceedings allowed for either side to gain the documents and witnesses necessary to form their side of the case. “The Defense may apply to the Tribunal for the production of witnesses or of documents by written application to the General Secretary of the Tribunal. The application shall state where the witness or document is thought to be located, together with a statement of their

⁵⁴ Report, “Opening Address for the United States of America by Robert H. Jackson,” Undated, box 2, Bernays papers.

⁵⁵ “Charter of the International Military Tribunal,” *Trial of the Major War Criminals Before the International Military Tribunal Volume 1*, International Military Tribunal, November 14, 1945 – October 1, 1946, pg. 11, From Library of Congress, *Trial of the Major War Criminals before the International Military Tribunal*, https://www.loc.gov/rr/frd/Military_Law/pdf/NT_Vol-I.pdf.

last known location. It shall also state the facts proposed to be proved by the witness or the document and the reasons why such facts are relevant to the Defense.”⁵⁶ In these trials, the documents were just as important to both sides as the witnesses were.

The documents used to prosecute the war criminals did not come together for the Allies within a single day. Over the course of multiple weeks, documents from the Soviets, Americans, French, and British made their way to being known to each of the groups and would eventually find their way into some argument or point made by the prosecution. These documents required time for translation and inspection by the Allies as shown by this memo received by COL Bernays. “The above unit has received some documents of significance for our purposes. Lieutenant Rothschild has proposed limiting translation to so much of these document as appears to Lieutenant Rothschild, or his personnel, to be pertinent to our case...Lieutenant Rothschild agrees with me that in the case of documents such as those referred to above, the entire document should be translated.”⁵⁷ The breadth of documents that came to be viewed by Bernays was immense, including interrogations of people, reports from military units, information about the Reich Main Security Office, and more.⁵⁸

A focus of the trials was to bring justice to those that had suffered at the hands of the Nazis in the concentration and death camps spread across Europe. Reports, such as the one from the War Refugee Board found in the Bernays papers, of the conditions of the camps and the brutal treatment that took place there were key in this part of the prosecution.

⁵⁶ “Rules of Procedure (Adopted 29 October 1945),” *Trial of the Major War Criminals Before the International Military Tribunal Volume 1*, International Military Tribunal, November 14, 1945 – October 1, 1946, pg. 20, From Library of Congress, *Trial of the Major War Criminals before the International Military Tribunal*, https://www.loc.gov/rr/frd/Military_Law/pdf/NT_Vol-I.pdf.

⁵⁷ Memo, “Subject: Translators for Documents, Research Unit, OSS,” July 12, 1945, box 2, Bernays papers.

⁵⁸ Numerous memos, box 2, Bernays papers.

Recently the Board received from a representative close to the scene two eye-witness accounts of events which occurred in notorious extermination camps established by the Germans. The first report is based upon the experiences of two young Slovakian Jews who escaped in April, 1944 after spending two years in the Nazi concentration camps at Auschwitz and Birkenau in southwestern Poland. The second report is made by a non-Jewish Polish major, the only survivor of one group imprisoned at Auschwitz. The two reports were prepared independently and are reproduced exactly in the form they were received by the War Refugee Board, except for a few deletions necessary for the protection of persons who may still be alive... The Board has every reason to believe that these reports present a true picture of the frightful happenings in these camps. It is making the reports public in the firm conviction that they should be read and understood by all Americans.⁵⁹

These reports acted as eye-witness accounts of the inside workings of the concentration camps, giving those who presided over the trials a glimpse into the atrocities that had occurred. While the figures given in such reports were approximated, in terms of people that entered the camps, those working, those exterminated, the approximations were still enough evidence to move the trials forward.

The documents dominated the literature of the trials, with quotes and references to specific documents littered throughout Robert Jackson's opening and closing statements. The defendants argued and gave testimony against what the documents and eye witness accounts had said but Jackson said that with the number of documents one must question how much the defendants' testimonies were worth.

We have presented to this Tribunal an affirmative case based on incriminating documents which are sufficient, if unexplained, to require a finding of guilt on Count One [Conspiracy to commit crimes against peace, war crimes, and crimes against humanity] against each defendant. In the final analysis, the only question is whether the defendants' own testimony is to be credited as against the documents and other evidence of their guilt. What, then, is their testimony worth?⁶⁰

⁵⁹ Report, "German Extermination Camps – Auschwitz and Birkenau," November 1944, box 2, Bernays papers.

⁶⁰ Report, "Closing Address for the United States of America by Robert H. Jackson," Undated, box 2, Bernays papers.

Jackson argued that it was in the men's natures to deceive and that credibility was one of the main issues of the trials. The documents that were spread across Germany and the world were key in the attempt to bring justice to those that had suffered the atrocities of the war.

While the Nuremberg Trials and the use by the United States Air Force were two of the most prominent uses of the documents by Allied and American military forces, the documents were also extremely important for military histories. By the summer of 1945, Colonel S. L. A. Marshall, the head of the Historical Division of the European theater of operations, was worried about the availability of the captured German documents to write the official United States Army history of the European theater of operations. Due to the hierarchy of informational requirements of entities within the military, intelligence organizations and war crimes operations were given priority over the military historians to use the documents. However, the documents were not the only primary source information that historians had at their disposal. The postwar interviews of German officers and the studies prepared by former German commanders and military specialists became another useful source of information as military historians began the task of writing the history of the war.⁶¹

The documents that found themselves used as evidence at Nuremberg or for intelligence and history purposes found their use not ending with the final days of the Nuremberg Trials. The use of the captured documents continued long after the sentence had been handed down and for uses that were unknown at the time. While many of the documents are still used for histories today, the documents found a revived use during the Cold War.

The widespread capture of German records during the Second World War provided “a priceless source for operational intelligence while the war lasted” and “crucial evidence for the trial of major war criminals” after Germany’s surrender....Such archives also

⁶¹ Finke, “The Use of Captured German and Related Records in Official Military Histories,” 65.

possessed significant political power. By the “beginning of the Cold War, both sides of the Iron Curtain has already realized that historical research and archival access were an ‘inexpensive resource in the battle of political systems.’ They were simply deemed too important to be left to historians and archivists alone.”⁶²

A new era was dawning in the use of the captured German documents but the start and the ramping up of the Cold War also marked the call for the documents to be returned to their rightful owners. This would spur a controversy that would last for decades.

The Return of the Records

The U.S. began returning documents as early as 1945. In some cases, returning documents to the country from which they came was difficult such as in the case of the East Germany after World War II. Much of this area became part of Poland after the war and the people had migrated to what would become West Germany. The documents that had come from the East Germany of World War II would be returned to the new West Germany. Documents that could still provide intelligence to the Allies were kept for a longer period of time.⁶³

The return of the records to Germany was planned to take place in three phases: (1) declassify the records; (2) microfilm records of interest for future use; and (3) return the originals to West Germany. By the late 1940s, the Army had evaluated the documents and decided which documents would be microfilmed for further use. This process was supposed to start in the late 1940s, but due to smaller numbers of personnel after the war, resources were not available for the microfilming of the records. As support for the microfilm project rose and the historical community expressed concern that copies of the documents would not be kept for research

⁶² Jimerson, 258.

⁶³ U.S. National Archives, “The Return of Captured Records from World War II,” last modified August 24, 2016, <https://prologue.blogs.archives.gov/2016/08/24/the-return-of-captured-records-from-world-war-ii/>.

purposes, the Department of the Army partnered with the American Historical Association to begin the microfilming process.⁶⁴

At the beginning of 1958, the Department of the Army began the transfer of records to the National Archives. This transfer involved multiple transfers of the custody of the documents to different agencies along with name changes of the agencies before the documents came to be in the custody of the National Archives. The army withdrew from the project, leaving the newly created World War II Records Division to perform accessioning, arrangement and disposal functions on the records. When the records came to the National Archives, the declassification project was still about eight months from completion. In 1961, the American Historical Association withdrew from the microfilming project, leaving the Special Collections Branch, which had come to house the captured records, to finish the project that had been going on for five years as well as completing the guides that would accompany the microfilm. By spring of 1968, the microfilming had been completed, yet the work on the guides continued.⁶⁵

Discussions about the return of the documents began in 1950 and U.S. agencies worked to decide a return policy. The start of the Korean War hindered the return of the records as much as it jumpstarted it. The rearmament of the Federal Republic of Germany in lieu of the rising conflict directly impacted the issue of the captured records, especially the military records.

The political milieu has changed. The total picture may well require the return to Germany of everything possible. For example, if the German Government insists, as one of its conditions to assigning German Troops to SHAPE [Supreme Headquarters Allied Powers Europe], that to repair German honor and prestige properties and records taken from Germany be returned to it, Nazi-tainted or otherwise, there is little that foreign [policy] planners can do but accede. In other words, Germany now holds in Europe the

⁶⁴ U.S. National Archives, "The Return of Captured Records from World War II," last modified August 24, 2016, <https://prologue.blogs.archives.gov/2016/08/24/the-return-of-captured-records-from-world-war-ii/>.

⁶⁵ Herman G. Goldbeck, "German Military Documents and Captured Records Sections," in *Captured German and Related Records: A National Archives Conference*, ed. Robert Wolfe. (Athens: Ohio University Press, 1974), 58-59.

balance between EAST and WEST and she will...use it for all it is worth. Records become an insignificant factor to us in such a situation.⁶⁶

While the strength of Germany's position in the negotiations was over estimated, it caused the Department of the Army to make the wording of the return policy flexible enough to allow the U.S. full control over the return of the records. Germany was allowed the records that it needed for its defense contribution in Korea but records that were still of interest for U.S. intelligence and military history purposes were not to be returned.⁶⁷

Talks resumed in 1951 to return the records with more political issues arising. The "restitution" of German records was a common topic of debate while personnel from the Library of Congress and the National Archives opposed this term. "...in their view, it implied that the American government sought to return unlawfully confiscated material. Because the confiscations had been sanctioned by Allied law and had served the aims of demilitarization and denazification, any suggestion of unlawful acquisition was not considered desirable."⁶⁸ The committee charged with drafting the return policy believed that if it became politically advantageous to return the records, it should be done as a "voluntary gift of materials." "A gift to which the United States has a clear and indefeasible title – a gift which is made not because there is any valid German claim, but because it suits the purposes of the United States, a gift, in other words, which is precisely analogous to transfers of munitions to the North Atlantic Treaty countries."⁶⁹ The first draft of the return policy of November 1951 used "restitution" for the act

⁶⁶ Eckert, 177.

⁶⁷ Eckert, 177.

⁶⁸ Eckert, 180.

⁶⁹ Eckert, 180.

of returning the documents while the second draft of February 1952 used “return” instead. From that point on, “return” was used in official correspondence.⁷⁰

The final draft of the return policy came about in October 1952. The policy stated the legal basis for how the documents were confiscated and then went on to state the willingness of the U.S. to return the documents to Germany. “It is the announced policy of the United States to promote friendly relations with the Federal Republic of Germany on a normal basis, to bring about effective participation by the Federal Republic in the European Defense Community on a basis of equality, and to remove unnecessary obstacles to the attainment of these objectives. In view of this policy, the seized German documents will be returned to the Federal Republic.”⁷¹ While the general intent stated full cooperation, the list of exceptions to the return policy were long and vague, so as to allow leeway in interpretation.

The following categories of material may be retained: (a) Such military, intelligence, cryptographic, technological, or other similar documents, as would, if returned, jeopardize the national security interests of the United States or its Allies; (b) Materials concerned primarily with German occupation of other states, the return of which would jeopardize the national security interests of the United States or its Allies. Such materials relating to the occupation of friendly countries may be returned to the respective friendly countries; (c) Documents tending to glorify the Nazi regime, or which are of inherent propaganda character, or which deal with the organization, personnel, and operation of Nazi Party institutions, except where such transfer would not jeopardize the democratic way of life in the Federal Republic.⁷²

The policy was very specific in its list of exceptions and its intent but did not include a timetable for the return of materials. The timeline in which documents would be returned to Germany was left up to the individual agencies that held the documents.⁷³

⁷⁰ Eckert, 181.

⁷¹ Eckert, 183.

⁷² Eckert, 184.

⁷³ Eckert, 184.

The division on the decision about what to do with the documents was just as prominent in London as it was in Washington D.C. Government agencies in London found themselves on both sides of the argument, one group intent on showing good will and following the requests for the documents' return as far as they could while the other was against the return of the documents due to the possibilities it would mean for those invested in writing military history. The most important documents held by the British were the Auswärtiges Amt files. Those documents would remain in limbo while the other holdings, including the military records, had their guidelines for return written by a Joint Consultative Committee (JCC). Even with this committee in place, the return of the documents by the British did not happen as smoothly as the committee would have hoped.⁷⁴

The JCC under the guidance of John Wheeler-Bennett quickly realized that some sets of the records held by the Allies were incomplete. Gaps in military records began showing themselves as historians began preparing official histories of the war for the Navy and Air Force. The JCC worked to determine what agencies had which documents in order to gather information on all of the captured German documents, allow access to those from different agencies, and “reach a consensus before the German records were published.”⁷⁵ With these goals in mind, and being the agency at the forefront of the British return of the documents, the JCC was still undecided about the return.⁷⁶

The negotiations over the documents continued for years, without the U.S. giving much in their policies. The West Germans used the negotiations as part of their policy to remove themselves from the period of Allied occupation. “The great symbolic value of records,

⁷⁴ Eckert, 193-194.

⁷⁵ Eckert, 195.

⁷⁶ Eckert, 195-196.

especially diplomatic records, made the demand for their return a matter of national prestige. For the members of the West German public, the fact that the captured documents were being held abroad and edited for publication by Allied historians was tantamount, as one commentator put it, to a “demolition of our history.” From that standpoint, the absence of the records amounted to a loss of history and identity.⁷⁷ For archivists in Germany, the captured documents meant having to constantly justify their professional career. “So long as the records remained in British and American possession, the Bundesarchiv and the Political Archives of Auswärtiges Amt were under pressure to justify their existence.”⁷⁸ While negotiations were not in favor of the Germans, the fight for the documents guaranteed access to the records as well as the microfilming project.

For some Allied historians, the issue in not returning the captured documents was not a matter of national prestige like many Germans thought, but more a question of access. Scholars Hermann Mau and Paul Kluge believed that the records should be a matter of international cooperation so that scholars from all countries be given the same access to the records. “By the way, I tend to believe that we will hardly fare any better once the records are again in German possession. According to the news reaching me and my own personal observations, the tendencies of German archivists to reclassify records are growing stronger and will perhaps at some point make a joint effort by historians necessary to combat the absurd secretiveness.”⁷⁹ Access was one of the main reasons that the negotiations for the return of the records stretched on for so long. There was a fear, as Kluge mentioned in his letter to German scholar Gerhard Ritter, that the documents would be hidden or reclassified after their return to Germany and made unavailable for use by scholars.

⁷⁷ Eckert, 375.

⁷⁸ Eckert, 377.

⁷⁹ Eckert, 382.

Years after Kluge's letter to Ritter. Ritter put the "source situation" of the documents in a broader, post-war perspective. He never abandoned the idea that German historians should have priority in interpreting the past using the documents, but the issue once again boiled down to access to the documents. "Personally, I find it very annoying that our diplomatic records are divulged so unscrupulously to the entire world and that every little college in America or Australia can photocopy them as much as they like. Well: back then in Paris we also copied archival material unscrupulously. Mutual archival theft appears to have become part of the modern style of warfare now, and undoubtedly, the historian profits from this."⁸⁰ It was obvious that as the negotiations for the return of the documents continued, the Allies were benefitting far more from the documents than the Germans were or would for decades.

The capture of the German documents and their microfilming by the National Archives were held to be a great gain in the area of historical scholarship for the U.S. and the other Allied Powers. While military histories were the first to benefit from these documents, personal historians as well benefitted from the treasure trove that was now so close. "Seldom are historians suddenly given access to documentary materials covering all aspects of a nation's life during a whole era. Yet this is the opportunity now afforded to historians in America. Within a short time they will have available documents of the Hitler era in Germany reflecting its origins, causes, administrative system, philosophy, policies, military system, propaganda, and almost every other imaginable feature of significance or interest."⁸¹ Thousands of documents of the German Third Reich were now available to American historians and scholars but no one really

⁸⁰ Eckert, 382.

⁸¹ Eckert, 379.

understood the cost or the toll that making this information available would take on the original documents.

Generations of historians could appreciate the external views of their country's histories that the Allies had written from the captured documents but the German scholars, archivists, politicians, and officials of the 1950s did not have this luxury. The negotiations for the returns were lengthy and other problems arose from the capture and holding of these documents. "They [Germans] leveled a host of accusations against the Allies: the confiscation of the records had been a violation of international law, as were the microfilming and sale of microfilms; foreign historians wanted to dominate historical research and neutralize competition from German historians; collecting evidence for Nuremberg left the original arrangement of holdings irreparably destroyed."⁸² While the time it took for the Germans to regain their documents, with original order in disarray, was not what the Germans had expected or wanted for their histories, it can be said that the Allies want for information on their enemies is what kept the documents from molding in a building or being used for fuel during and after the war. The microfilming of these documents has allowed thousands of pages of paper to be available to generations beyond those who remember the war.

By March of 1968, the U.S. Army had returned thirty-five shipments of records to Germany that had been captured during the war. The microfilmed copies of these records now reside at the National Archives under the title of NARA Record Group 242: Collection of Foreign Records Seized.⁸³ The record group consists of more than 680 unique series, ranging

⁸² Eckert, 382-383.

⁸³ U.S. National Archives, "The Return of Captured Records from World War II," last modified August 24, 2016, <https://prologue.blogs.archives.gov/2016/08/24/the-return-of-captured-records-from-world-war-ii/>.

from governmental to a few personal records from abroad, including Eva Braun's diary.⁸⁴ The microfilming project of the 1950s and 60s created over 70,000 rolls of microfilm that are duplicates of captured German and related records.⁸⁵ One of the most famous series is the Heinrich Himmler collection, which contains documents pertaining to the Reich Main Security Office.⁸⁶ All of these records are now available to the public.

Conclusion

The documents contained in NARA Record Group 242 have had a long history in that the documents that reside there come from World War II and earlier. These documents have traveled the world from their origin in Germany, to London for intelligence purposes, and finally to Washington D.C., for further intelligence gathering and microfilming purposes. The information gained from these documents was crucial in setting up the Allied government in Germany after the war, as well as in providing evidence for the Nuremberg War Trials, an event of a scope that the world had never seen before. These documents provided the basis for military histories for decades, keeping both historians and archivists engaged in the narrative of these documents and their travels.

It is believed that all of the captured German and related records have been microfilmed and returned to their rightful owners but historians will never know for sure. Due to the conditions of war, soldiers and other personnel kept records, destroyed them for reasons unknown, and lists were never made of the individual documents as it was impossible on a scale

⁸⁴ U.S. National Archives, "The Gems of Record Group 242 – Foreign Records Seized," last modified August 10, 2016, <https://prologue.blogs.archives.gov/2016/08/10/the-gems-of-record-group-242-foreign-records-seized/>.

⁸⁵ "Captured German and Related Records on Microfilm," U.S. National Archives, last modified October 1, 2012, <https://www.archives.gov/research/captured-german-records>.

⁸⁶ "National Archives Collection of Foreign Records Seized (RG 242)," U.S. National Archives, last modified August 15, 2016, <https://www.archives.gov/iwg/declassified-records/rg-242-seized-foreign-records>.

of that magnitude. The eventual return of the documents to Germany was marked with controversy as multiple countries used the documents to serve their own purposes. NARA Record Group 242, and other archival collections such as the Bernays papers, will continue to be a home for the records and the information that they gave, but the history of the records themselves is not reflected in their documentation.

The concept of capturing a nation's archives for the use of intelligence purposes have spread far beyond the initial War Department policy that called for the capture of the Nazi archives. In modern times, the same ideas and concepts can be seen being used by militaries, such as those of the United States, in places such as Iraq and the Middle East. The policy proposed in 1943 showed that archival material was important not only to the nation that created it, but to those that wished to destroy that nation. In today's world, capturing a nation's archives has become an extremely important military operation that is essential to a military's success.

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