

International Military Tribunal



THE NUREMBERG TRIALS

Complete Tribunal Proceedings
(V. 11)

International Military Tribunal

The Nuremberg Trials: Complete Tribunal Proceedings (V. 11)

Trial Proceedings From 8 April 1946 to 17 April 1946

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ONE HUNDRED AND SECOND DAY

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MORNING SESSION

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SIR DAVID MAXWELL-FYFE (Deputy Chief Prosecutor for the United Kingdom): I want to ask you some questions about the shooting of officers who escaped from Sagan Camp. As I understand your evidence, very shortly after the escape you had this interview with Hitler at which certainly Himmler was present. That is right, isn't it?

WILHELM KEITEL (Defendant): The day after the escape this conference took place with the Führer and with Himmler.

SIR DAVID MAXWELL-FYFE: Yes. Now, you say that at that conference Hitler said that the prisoners were not to be returned to the Wehrmacht but to remain with the police. They were really your words. That is right, isn't it?

KEITEL: Yes.

SIR DAVID MAXWELL-FYFE: That is what you said. So that is what you say took place. In your own mind you were satisfied when you left that conference that these officers were going to be shot, were you not?

KEITEL: No, that I was not.

SIR DAVID MAXWELL-FYFE: Now, will you agree with this? You were satisfied that there was a grave probability that these officers would be shot?

KEITEL: As I rode home I had a subconscious concern about it. It was not expressed at the conference.

SIR DAVID MAXWELL-FYFE: Then you sent for General Von Graevenitz and General Westhoff, did you not?

KEITEL: Yes, that is correct.

SIR DAVID MAXWELL-FYFE: I don't know if you can remember, because General Westhoff was a comparatively junior officer compared with yourself, but he says that it was the first occasion on which you had sent for him. Does your memory bear that out?

KEITEL: No, I did not call him. But he had been brought along to be introduced to me. I did not know him. I had summoned only General Von Graevenitz.

SIR DAVID MAXWELL-FYFE: You had never met him before? Do you agree that you had never met General Westhoff before, since he had come into that job?

KEITEL: I had never seen him before.

SIR DAVID MAXWELL-FYFE: That is what he said. Now you agree, as I understand your evidence, that you were very excited and nervous?

KEITEL: Yes, I vented my disagreement and my excitement very strongly.

SIR DAVID MAXWELL-FYFE: So that you agree with General Westhoff that you said something to this effect, "Gentlemen, this is a bad business" or "This is a very serious matter" or something of that kind?

KEITEL: Yes, I said, "That is an enormously serious matter."

SIR DAVID MAXWELL-FYFE: Now, General Westhoff said, in the next sentence, what you said was, "This morning Göring reproached me in the presence of Himmler for having let some more prisoners of war escape. It was unheard of."

KEITEL: That must be a mistake on Westhoff's part. It was a day later. We were then at Berchtesgaden and Generals Von Graevenitz and Westhoff called on me the next morning. And it must also be a mistake that I mentioned the name of the Reich Marshal Göring in this connection.

SIR DAVID MAXWELL-FYFE: So you were not very sure about that, were you, as to whether or not Göring was present. You were not very sure, were you?

KEITEL: I only became uncertain about it when in a preliminary interrogation I was told that witnesses had stated that Göring was present; thereupon I said it is not completely impossible but that I did not recall it.

SIR DAVID MAXWELL-FYFE: Well, to put it quite right, when you were interrogated, an American officer put exactly the

sentence that I put to you now. He put that sentence to you from General Westhoff's statement. Do you remember that he read what I have read to you now? "Gentlemen, this is a bad business; this morning Göring reproached me in the presence of Himmler for having let some more prisoners of war escape. It was unheard of." Do you remember the interrogator put that to you? Didn't he?

KEITEL: It was something like that at the preliminary interrogation, but I said that I was not certain that Göring was present.

SIR DAVID MAXWELL-FYFE: I was going to put exactly what you said—and you listen carefully, and if you have any disagreement, tell the Tribunal. You said, "I request that you interrogate Jodl about the whole incident and the attitude which I displayed during the whole conference in the presence of Göring, of whose presence during that conference I am not absolutely certain, but Himmler was there." That was your view when you were interrogated on the 10th of November, wasn't it? You said, "...during the whole conference in the presence of Göring, of whose presence I am not absolutely certain...." That was your view on the 10th of November?

KEITEL: There must have been some misinterpretation in the minutes, which I never read. I expressed my uncertainty about the presence of Göring and in the same connection put the request to interrogate General Jodl about it, since, in my opinion, I was not sure that Göring was not present.

SIR DAVID MAXWELL-FYFE: You agree that you did ask that General Jodl should be interrogated?

KEITEL: I made that proposal, yes.

SIR DAVID MAXWELL-FYFE: Well now, what do you complain about as to the next sentence? "...during the whole conference in the presence of Göring, of whose presence during that conference I am not absolutely certain...." Wasn't that your view?

KEITEL: Yes, I was rather surprised at this interrogation and when I was told that witnesses had confirmed that Göring had been present I was a little uncertain in this matter and asked that General Jodl be interrogated. In the meantime it became entirely clear to me that Göring was not present and that I was right as I had at first said.

SIR DAVID MAXWELL-FYFE: Had you discussed it with Göring while you were both awaiting trial?

KEITEL: After my interrogations I had the occasion to speak with Reich Marshal Göring and he told me, "But you must know that I was not there," and then I remembered fully.

SIR DAVID MAXWELL-FYFE: Yes, as you say, the Reich Marshal said to you he had not been present at the interview. That is right, is it not?

KEITEL: General Jodl also confirmed to me Reich Marshal Göring was not present.

SIR DAVID MAXWELL-FYFE: Well now, did you tell General Von Graevenitz and General Westhoff that Himmler had interfered and that he had complained that he would have to provide another 60 to 70 thousand men for the Landwache? Did you tell them that?

KEITEL: No, that is also a misinterpretation. I did not say that. It is not correct.

SIR DAVID MAXWELL-FYFE: You said that Himmler had interfered.

KEITEL: I said only that Himmler had reported the fact of the escape and I intended not to report it to Hitler on that day, since a number of escapees had been returned to the camp. I did not intend to report to the Führer on that day.

SIR DAVID MAXWELL-FYFE: Now, whatever you said to General Von Graevenitz, you agree that General Von Graevenitz protested and said, "Escape is not a dishonorable offense. That is specially laid down in the Convention." Did he not say that?

KEITEL: Yes, it is true he said that. But I would like to add that the statement of General Westhoff is a reminiscence which goes back over several years.

SIR DAVID MAXWELL-FYFE: Yes, but you agree, as I understand your evidence, that General Von Graevenitz did make a protest about the action that was taken, is not that so?

KEITEL: Yes, he did so.

SIR DAVID MAXWELL-FYFE: And then when he made the protest did you say words to this effect? I am reading of course from General Westhoff's statement, "I do not care a damn. We discussed it in the Führer's presence, and it cannot be altered." Did you say words to that effect?

KEITEL: No, it was not like that, but I do believe I said something similar.

SIR DAVID MAXWELL-FYFE: Similar?

KEITEL: But we are not concerned with...

SIR DAVID MAXWELL-FYFE: Similar, to that effect?

KEITEL: I said something similar.

SIR DAVID MAXWELL-FYFE: And after that did you say that your organization, the Kriegsgefangenenwesen, were to publish a notice in the prison camps where prisoners of war are held, telling all prisoners of war what action had been taken in this case, in order that it would be deterrent to other escapes?

Did you instruct these generals, your heads of the Prisoners of War Organization, to publish a notice in the camps saying what action had been taken in order to act as a deterrent?

KEITEL: I gave this due consideration while reading a report by the British Government and I came to the conclusion that there must be some confusion as to when I gave these

instructions. I am sure I did not do so at this conference. That was later, several days later.

SIR DAVID MAXWELL-FYFE: Well, you will find it is stated in the statement of General Westhoff that we put in, at the bottom of Page 3. General Westhoff says:

“The Field Marshal gave us detailed instructions to publish a list at the camps, giving the names of those shot as a warning. That was done. That was a direct order that we could not disobey.”

And in the statement which your counsel has put in, General Westhoff says:

“This must stop. We cannot allow this to happen again. The officers who have escaped will be shot. I must inform you that most of them are already dead and you will publish a notice in the prison camps where prisoners of war are held telling all prisoners of war what action has been taken in this case in order that it will be a deterrent to other escapes.”

KEITEL: May I make a statement to this?

DR. OTTO NELTE (Counsel for Defendant Keitel): The British Prosecutor is referring to a document which I submitted in my document book. I assume that is correct. And it is a document which the French Prosecution wanted to submit and to which I objected, since it is a compilation of interrogations which Colonel Williams prepared. I submitted this document so as to furnish proof at the hearing of General Westhoff that this document does not agree in 23

points with the testimony given by him. He has given me the necessary information. But he will first be in the witness box tomorrow. I therefore ask, if the British Prosecutor appeals to the Witness Westhoff, to produce at least his statement which he made under oath at the request of the American prosecutor Colonel Williams. This affidavit up to now has not been produced, whereas all other pieces of evidence from him contain only reports which have never been submitted to Westhoff for his signature, or for his acknowledgement, nor have been confirmed by his oath.

SIR DAVID MAXWELL-FYFE: My point was to make quite clear that I was not putting anything in from the first statement which was not contained in the defendant's document book. I thought that the complaint would be the other way, that if I took our own evidence alone that then it would be said that it is slightly different, for the difference is immaterial from the documents submitted in the defendant's document book. I have carefully collated them both. There is practically no difference between them but I thought it was only fair to put both sets of words.

THE PRESIDENT (Lord Justice Sir Geoffrey Lawrence): The Tribunal thinks the cross-examination is perfectly proper. Of course if Dr. Nelte does call General Westhoff as a witness, he will be able to get from him any corrections which General Westhoff thinks are necessary, which he makes to the affidavit.

SIR DAVID MAXWELL-FYFE: Yes, My Lord.

[*Turning to the defendant.*] Now, what I want to know is: Did you give orders to General Von Graevenitz and General Westhoff that it was to be published in the camps as to what measures had been taken with regard to these officers?

KEITEL: Yes, but several days later; not on the same day that these officers were with me.

SIR DAVID MAXWELL-FYFE: How long later?

KEITEL: I believe 3 or 4 days later, but I can no longer tell you exactly; in any event, not before I found out that shootings had taken place.

SIR DAVID MAXWELL-FYFE: Well, 3 or 4 days later would be just when the shootings were beginning, but what was published? What did you say was to be published as to the measures that had been taken?

KEITEL: In the camp a warning was to be published. In my opinion, we were not to mention shootings but only warn that those caught in flight would not be returned to the camp. I cannot remember the exact wording. It was traceable to an order which I had received from the Führer resulting from a conference I had with him on the matter of shootings.

SIR DAVID MAXWELL-FYFE: Well, is this a fair way to put your recollection of the order: That it was probable, according to your recollection, that those who attempted to escape would be handed over to the SD and, certainly, that very

severe measures would be taken? Is that a fair way of putting your recollection of the order?

KEITEL: My recollection is that a warning, that is a threat, was to be published to the effect that those who attempted to escape would not be returned to the camp. That was the contents of this publication, according to my recollection, which I then forwarded. I myself did not word it. Besides, only the administration of the camp, or rather the Luftwaffe were to be notified.

SIR DAVID MAXWELL-FYFE: Now, General Westhoff was not content with an oral order and came back to you with a draft order in writing, did he not?

KEITEL: I do not believe that he came to me. I believe he sent me this.

SIR DAVID MAXWELL-FYFE: I am sorry, but when I said "came back to you," I was talking generally; you are quite right that he passed on for your consideration a draft order in writing for you to approve; that is right, isn't it?

KEITEL: I do not believe that it was an order; but as far as I remember it was just a memorandum, a note. However, I must add that I was first reminded of this matter in the course of the interrogation by Colonel Williams.

SIR DAVID MAXWELL-FYFE: Well, what General Westhoff says, is:

"Contrary to Feldmarschall Keitel's order, I pretended that I had not understood properly. I worked the thing out on

paper. I said to Oberstleutnant Krafft, 'I want to have the word "shoot" included, so that Keitel can see it in writing. He may adopt a different attitude then.'

Now, this is a bit later:

"When I got the thing back, he had written the following in the margin: 'I did not definitely say "shoot"; I said "hand over to the police or hand to the Gestapo.'"

Then adds General Westhoff:

"So, that was a partial climb down."

Now, did you put a note on it: "I did not definitely say 'shoot'; I said 'hand over to the police or hand over to the Gestapo.'" Did you?

KEITEL: I cannot remember the exact wording of the note—as little as General Westhoff. But I did make a notation in the margin to the effect: "I did not say 'shoot'..."

SIR DAVID MAXWELL-FYFE: You see the point that I'm putting to you, Defendant? I want you to have it perfectly clear. Rightly or wrongly, General Westhoff believed that you had inserted the word "shoot"; and General Westhoff, to protect himself, put it back to you; and then you say, "I did not definitely say 'shoot'; I said 'hand over to the SD or the Gestapo.'"

KEITEL: No, I did not say "shoot" either, but Colonel Williams said I had written in the margin, "I did not say 'shoot.'" That is on record in the minutes of my interrogation.

SIR DAVID MAXWELL-FYFE: Well, now, what I want to know—and it is perfectly clear—is, do you deny that that in substance represents what you put in the document: “I did not definitely say ‘shoot’; I said, ‘hand over to the police or hand over to the Gestapo’ ”? Did you put words to that effect on the document?

KEITEL: It is probable that I wrote something similar to that for I wanted to make clear what I had said to those two officers. What I said was nothing new, but it was a clarification of what I had said.

SIR DAVID MAXWELL-FYFE: Now, the next point that I want to direct your attention to: Had you an officer on your staff called Oberst Von Reurmont, on your PW staff, Kriegsgefangenenwesen?

KEITEL: No, he was never on my staff.

SIR DAVID MAXWELL-FYFE: What was his position in the OKW?

KEITEL: I believe there was a Colonel Reurmont. He was a department chief and had nothing to do with the prisoner-of-war system; he was department chief in the general Wehrmacht office.

SIR DAVID MAXWELL-FYFE: In your office.

KEITEL: In the office, in the general Wehrmacht office under General Reinecke, yes.

SIR DAVID MAXWELL-FYFE: Do you know that on 27 March, that is on a Monday, there was a meeting, in which Colonel Von Reurmont took the chair, attended by Gruppenführer Müller from the Gestapo, Gruppenführer Nebe, and Colonel Wilde from the Air Ministry, from their PW inspector of 17; do you know that?

KEITEL: No, I never heard anything about it. It has remained entirely unknown to me.

SIR DAVID MAXWELL-FYFE: Are you telling the Tribunal that you had this colonel in your office, a colonel from the Air Ministry, two extremely important officials from the police, and they have a meeting to discuss this matter 2 days after you had your first meeting, 1 day after you had seen Von Graevenitz and Westhoff, and you did not know a word about it?

KEITEL: No, I knew nothing about this meeting. I cannot remember.

SIR DAVID MAXWELL-FYFE: Now, most of us are very familiar with the working of service departments. I do ask you in fairness to yourself to consider this. Are you telling this Tribunal that no report was ever made to you of that joint meeting between the representative of the OKW, high police officials, and the Air Ministry? And it never came up to you? Now, really think before you answer.

KEITEL: I cannot remember even with the best of my will. I was surprised by the communication about this conference, and I can remember nothing about it.

SIR DAVID MAXWELL-FYFE: Do you know that—I put it in Colonel Welder's statement when I was cross-examining the Defendant Göring—he said that at that conference it was announced that these officers were to be shot and that many of them had been shot? Did no report come to you that these officers were being shot and were to be shot?

KEITEL: No, not on the 27th. It was already discussed a while ago, when I received the first report. At that time I knew nothing about it; on that day, or even on the day following this conference.

SIR DAVID MAXWELL-FYFE: You agreed, though, that you got to learn, as I understand you, that they were being shot on the 29th; that would be a Thursday?

KEITEL: I can no longer say what day, but I do remember that it was later. I believe it was several days later.

SIR DAVID MAXWELL-FYFE: Well, let us, Defendant, make every point in your favor. Let us take it that it was, say, Saturday the 31st, or even Monday, the 2d of April. By Monday, the 2d of April—that is 9 days after the escape—you knew then that these officers were being shot?

KEITEL: I heard about it during these days, perhaps around the 31st, through the Führer's adjutancy when I again came to the Berghof for a situation briefing. I was not told though, that all of these officers had been shot; some of them had been shot while attempting to flee. I was told that a little before the beginning of the conference.

SIR DAVID MAXWELL-FYFE: They were not all shot until the 13th of April, which was nearly another fortnight. Were you told of the manner, in which they got out of the cars to relieve themselves and were then shot in the back of the head by someone with a revolver? Were you told of that?

KEITEL: No, I found out only through the adjutant that a report had been given to the Führer that shootings had followed the escape.

SIR DAVID MAXWELL-FYFE: Now, I want you to come to one other point, later on. You remember that my colleague, Mr. Eden, on behalf of the British Government, made a statement in the House of Commons later on, toward the end of June. Remember that?

KEITEL: Yes. I recall that.

SIR DAVID MAXWELL-FYFE: And is it correct, as General Westhoff said, that you had told your officers not to make contact with the Foreign Office or the Gestapo, to leave this matter alone and not try and find out anything about it? Is that right?

KEITEL: I told them that since the Wehrmacht was not concerned with the means of searching for and catching the escapees, nor concerned with what happened afterwards, the office for the prisoner-of-war matters could not give any information on this subject as it did not deal with the matter itself and did not know what had really happened. That is what I said.

SIR DAVID MAXWELL-FYFE: Then the answer is, yes, that you did tell your office to leave the matter alone and not to get in touch with the Foreign Office or the police?

KEITEL: No, that is not quite right. The chief of the Amt Ausland was connected with the Foreign Office. I only instructed that the officers should not give any information about this case or any matters connected with it, since they had not participated and knew only from hearsay what had happened.

SIR DAVID MAXWELL-FYFE: I should have thought that my previous question—you just repeated the effect of my previous question; I won't argue with you. I will come to the next point. You had an officer on your staff named Admiral Bürckner, didn't you?

KEITEL: Yes, he was chief of the Amt Ausland.

SIR DAVID MAXWELL-FYFE: He was liaison between your office and the Foreign Office?

KEITEL: Yes.

SIR DAVID MAXWELL-FYFE: Now, did you give him orders to prepare an answer to England, an answer to Mr. Eden's statement?

KEITEL: It is possible that I told him that, even though he could not receive any particulars from the offices of the Wehrmacht.

SIR DAVID MAXWELL-FYFE: I don't want to read it again; I read the reply a day or two ago. But eventually the reply was drawn up, I think, by the Foreign Office in conjunction with Oberstleutnant Krafft of your office, wasn't it?

KEITEL: No, at that time...

SIR DAVID MAXWELL-FYFE: Don't you remember Krafft...

KEITEL: I gave instructions that the answer was to be dealt with by the RSHA but not by the prisoner-of-war department. I did not give any instructions to Lieutenant Colonel Krafft.

SIR DAVID MAXWELL-FYFE: But didn't he go to Berchtesgaden to assist the representative of the Foreign Office and Hitler in drawing up a reply?

KEITEL: I do not know. I did not speak with him nor did I see him.

SIR DAVID MAXWELL-FYFE: You know that when they saw the reply, according to General Westhoff, all your officers touched their heads and said, "Mad." You have seen that statement, haven't you, "When we read this note to England in the newspaper we were all absolutely taken aback; we all clutched our heads—'Mad'—we could do nothing about the affair." All your officers and you, yourself, knew the reply was an utter and confounded lie. Wasn't it a complete and utter lie? You all knew it.

KEITEL: They all knew it. I, too, learned of the reply; and it was clear to me that it was not based on the truth.

SIR DAVID MAXWELL-FYFE: So that it comes to this, Defendant, doesn't it—that you will go as far as this: You were present at the meeting with Hitler and Himmler. That is what you say. At that meeting Hitler said that the prisoners who were caught by the police were to remain in the hands of the police. You had a strong probability that these prisoners would be shot and with that you used this incident as a deterrent to try and prevent other prisoners of war escaping. All that you admit, as I understand your answers this morning, don't you?

KEITEL: Yes, I do admit; but I have not been interrogated on this matter as to just what my position was with Hitler, and I have not testified as to that, and that I did not give this warning, but that this warning was an order of Hitler and was the cause for another severe collision between Hitler and me when the first report of shootings reached me. That is how it was.

SIR DAVID MAXWELL-FYFE: I won't go through the details again.

One other point: When did you learn of the use of cremation and the sending of cremation urns to this camp?

KEITEL: This remained unknown to me and I do not recall ever having heard of it. The matter was afterwards purely a concern of the Luftwaffe, in which I was later involved, through my simple presence; I do not know whether I ever heard or saw anything about this.

SIR DAVID MAXWELL-FYFE: But you will agree with me, Defendant, that anyone in the world who has had to deal with prisoner-of-war problems would be horrified at the thought of bodies of shot officers being cremated; it is simply asking for trouble, isn't it, from the protecting powers and everyone else, to put it at its lowest? You will agree with that; I am sure you have had a good deal more to do with prisoners of war than I. Don't you agree it would horrify anyone who has to deal with prisoners of war that bodies should be cremated—that the protecting powers at once would be put on suspicion?

KEITEL: I am entirely of the same opinion that it is horrible.

SIR DAVID MAXWELL-FYFE: And if any service finds that its camps are receiving 50 urns of ashes of cremated bodies of escaped prisoners of war, that would be a most serious matter which would be taken to the highest ranks of any service, isn't that so?

KEITEL: Yes, even though I had nothing to do with the prisoner-of-war camps of the Luftwaffe apart from having inspectional powers.

SIR DAVID MAXWELL-FYFE: I won't ask you further about the Luftwaffe. Now I think we can deal quite shortly with the question of the lynching of Allied airmen.

[Documents were handed to the defendant and also to the Tribunal.]

Now, Defendant, I would like to remind you that there was a report of a conference on the 6th of June, Document 735-PS, which has been put in against the Defendant Ribbentrop; it is a report of General Warlimont, Exhibit GB-151, with regard to the criteria to be adopted for deciding what were terror-fliers. You must remember the document, because you yourself dealt on Friday with the note...

KEITEL: Yes.

SIR DAVID MAXWELL-FYFE: ...against legal procedure, which you already dealt with.

KEITEL: Yes.

SIR DAVID MAXWELL-FYFE: Now, you said during your evidence—you remember you told us why you did not want legal procedure: Because it was a difficult problem for a court-martial to decide and also it meant a 3-month delay in reporting the death sentence to the protecting powers.

KEITEL: Yes, I did make those statements.

SIR DAVID MAXWELL-FYFE: And then you said that you had a discussion with Göring, who said that lynching should be turned down. Do you remember saying that on Friday.

KEITEL: Yes.

SIR DAVID MAXWELL-FYFE: Now, that was not accurate, was it? Because I want to just show you what did happen. That document which you annotated was the 6th of June. And on the 14th of June...

KEITEL: Yes.

SIR DAVID MAXWELL-FYFE: ...it is Document D-774, which will be Exhibit GB-307, initialed Warlimont—your office sent a draft letter to the Foreign Office for the attention of Ritter, sending on this formulation of what were terror-fliers. And if you look it over it says that it is necessary to formulate, unambiguously, the concept of the facts which are to constitute a criminal act. And then the draft letter, Document D-775, Exhibit GB-308, to the Commander-in-Chief of the Air Force, for the attention of Colonel Von Brauchitsch, which says that:

“On the basis of the preliminary talks and in agreement with the Reich Foreign Minister and the head of the Security Police and SD”—the Defendant Kaltenbrunner—“the following facts are to be considered terroristic acts which are to be taken into consideration when publishing a case of lynch law or which justify the handing of enemy airmen from the Air Force Reception Camp of Oberursel to the SD for special treatment.”

And then you set out what was agreed and you say:

“Please obtain the consent of the Reich Marshal to this formulation of the facts and, if necessary, give the Commandant of the Air Force Reception Camp of Oberursel verbal instructions to act accordingly.

“It is further requested that you obtain the Reich Marshal’s consent also to the procedure intended for the handling of public announcements.”

And then if you look at Document D-776, Exhibit GB-309, that is a letter from you to the Foreign Office, a draft letter for the attention of Ritter, dated the 15th of June, to the same effect. You ask him to confirm by the 18th. And then Document D-777, Exhibit GB-310, is a similar draft letter to Göring, marked for the attention of Colonel Von Brauchitsch and asking him to reply by the 18th. Then Document D-778, Exhibit GB-311, records a telephone call from Ritter saying that the Foreign Office will have to delay a couple of days in giving their view. Document D-779, Exhibit GB-312, gives the first note from the Defendant Göring. It says on 19 June:

“The Reich Marshal has made the following notes with regard to the above letter:

“The population’s reaction is, in any case, not in our hands; but, if possible, the population must be prevented from acting against other enemy fliers”—I ask you to note the word “other,” that is, enemy fliers that do not come within the category of enemy terror-fliers—“to whom the above state of affairs does not apply. In my opinion, a state of affairs as above can also”—and I ask you to note the word “also”—“at any time be tried by a court, as it is here a question of murders which the enemy has forbidden his fliers to commit.”

Then, in Document D-780, Exhibit GB-313, there is another copy of the memorandum from the Foreign Office which I read in some detail when I was presenting the case against the Defendant Ribbentrop; and it is interspersed with comments of your officer, General Warlimont, in general

agreement with the memorandum. I do not want to go through that again.

Then, in Document D-781, Exhibit GB-314, your office wanted to get quite clear what the Defendant Göring meant, so you write to him again for the attention of Von Brauchitsch:

“It is unfortunately not possible to gather from your letter whether the Reich Marshal has concurred with the facts communicated to him, which in the publication of a case of lynch law are to be regarded as terroristic actions, and whether he is prepared to give the Commandant of the Air Force Reception Camp of Oberursel the verbal instructions to this effect.

“It is again requested that the Reich Marshal be induced to give his consent and that this office be notified if possible, by the 27 instant.”

Then, just passing along, Document D-782, Exhibit GB-315—it says that the Foreign Minister will reply in a day or two; and in Document D-783 of the 26th, that will be Exhibit GB-316, comes the answer, a telephone memorandum, a telephone call, adjutant’s office of the Reich Marshal, Captain Bräuner:

“The Reich Marshal agrees with the formulation of the concept of terror-fliers as stated and with the proposed procedure. He asks for information this very day about measures taken.”

So it is not right, is it, Defendant, that Defendant Göring disagreed with the procedure? Here is a call from his adjutant’s office—and it is noted by your office—saying that he agrees with the formulation of the concept and with the proposed procedure. This must be right, must it not?

KEITEL: Yes. I had never seen this document; but I understand, under the applied measures, transfer to the

Oberursel camp for Air Force prisoners of war, not lynch law. Perhaps I may add something about the discussion I had with the Reich Marshal...

SIR DAVID MAXWELL-FYFE: It is quite clear. I am not going through the correspondence again. I pointed it out as we went along. Your letters are saying both lynching and the measures to be taken for the publication of lynching and the other procedure of segregating these people in the hands of the SD, pending confirmation of suspicion of terror-fliers. It is quite clear. I have taken you through nearly 10 letters in which it is stated implicitly that it is put to the Reich Marshal on both these points, publication of lynching and segregation from other prisoners of war. He is saying, "I agree with the proposed procedure."

KEITEL: May I add something?

SIR DAVID MAXWELL-FYFE: Yes, do.

KEITEL: I recall very distinctly my discussion with Reich Marshal Göring at the Berghof. We waited for Hitler who was to give a speech to the generals. This must have been at about the same time. In this discussion two points were mentioned. Point one was the conception of the desired—or how should I say—of the planned or the conceived lynch law. The second question was that my influence with Hitler had not been strong enough to definitely settle this matter. These two points I talked over with Göring that day. We established that the entire method discussed here should be the prerequisite for the free use of lynch law, that we agreed that as soldiers we rejected it; and secondly, I asked him