

International Military Tribunal



THE NUREMBERG TRIALS

Complete Tribunal Proceedings

(V. 19)

International Military Tribunal

The Nuremberg Trials: Complete Tribunal Proceedings (V. 19)

**Trial Proceedings from 19th July 1946 to 29th July
1946**

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PREFACE

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Recognizing the importance of establishing for history an authentic text of the Trial of major German war criminals, the International Military Tribunal directed the publication of the Record of the Trial. The proceedings are published in English, French, Russian, and German, the four languages used throughout the hearings. The documents admitted in evidence are printed only in their original language.

The first volume contains basic, official, pre-trial documents together with the Tribunal's judgment and sentence of the defendants. In subsequent volumes the Trial proceedings are published in full from the preliminary session of 14 November 1945 to the closing session of 1 October 1946. They are followed by an index volume. Documents admitted in evidence conclude the publication.

The proceedings of the International Military Tribunal were recorded in full by stenographic notes, and an electric sound recording of all oral proceedings was maintained.

Reviewing sections have verified in the four languages citations, statistics, and other data, and have eliminated obvious grammatical errors and verbal irrelevancies. Finally, corrected texts have been certified for publication by Colonel Ray for the United States, Mr. Mercer for the United Kingdom, Mr. Fuster for France, and Major Poltorak for the Union of Soviet Socialist Republics.

ONE HUNDRED AND EIGHTY- SECOND DAY,

FRIDAY, 19 JULY 1946

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MORNING SESSION

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PROFESSOR DR. FRANZ EXNER (Counsel for Defendant Jodl):
Mr. President, may it please the Tribunal, I shall proceed with the reading of my final argument.

I should like to recall the fact that yesterday I tried to show that Jodl, in any event until the year 1939, could not have been party to a conspiracy. But perhaps it is maintained that Jodl did not join the conspiracy until after 1939. As a previous speaker has already explained, an officer who works with others in the place assigned to him in carrying out a war plan can never be considered a conspirator. He does, in fact, have a plan in common with his superior, but he has not adopted it of his own accord, nor has he concluded an agreement to that effect, but within the normal scope of service he simply does what the post he occupies demands.

Jodl in particular can be considered a typical example of this. He did not go to Berlin of his own free will. It had already been decided long before that he would enter the

Fuehrer's staff in case of war. Orders for the current mobilization year specified this. This mobilization year ended on 30 September 1939; for the following year General Von Sodenstern was already designated as Chief of the Armed Forces Operations Staff. Therefore, if the war had broken out 6 weeks later, Jodl would have entered the war as commander of his mountain division. He would then, in all probability, not be in this dock today. Thus it becomes clear that his whole activity in the war was fixed by a ruling which was independent of his will and had been laid down in advance long before. This fact is, in my opinion, in itself already striking proof that he did not participate in a conspiracy to wage wars of aggression.

When Jodl reached Berlin on 23 August 1939, the beginning of the war had been fixed for 25 August. For reasons unknown to him it was then postponed another 6 days. The plan for the campaign was ready. He did not need to conspire to produce it. If any conspiracy against Poland did exist at that time, the conspirators were to be found elsewhere, as we now know from the German-Russian Secret Treaty.

Jodl was not introduced to the Fuehrer until 3 September 1939, that is after the war had begun, at a time when the final decision had already been taken. From then on his official position brought him close to Adolf Hitler; but, of course, one must add, close to him in locality only. He was never really on intimate terms with him. Even then, he did not learn of Hitler's plans and intentions and was only told of them as the occasion arose to the extent that his work absolutely demanded. Jodl never became Hitler's confidant

and never had cordial relations with him. It remained a purely official relationship-often enough one of conflict.

In other ways, too, Jodl had remained a stranger to the Party. There is no suggestion of his having sought contact in Vienna, for instance, with the local Party leaders, although this would have been natural enough. Most of the Party leaders and most of the defendants he came to know only when they visited the Fuehrer's headquarters from time to time. With the exception of the officers, he had no relations with them. He abominated the Party clique in the headquarters and considered it an unpleasant foreign body in the military framework. He never ceased to fight against Party influences in the Armed Forces.

He did not attend Party functions. He did not take part in any Reich Party rally, apart from the fact that he once watched the Armed Forces display there on official orders. He never participated in the Munich memorial days on 9 November. The prosecutor has repeatedly referred to his Gauleiter speech to prove that, in spite of all this, Jodl identified himself with the Party and its efforts, and that he was after all not a soldier but a politician, and an enthusiastic supporter of Hitler.

Here one must first note that Document L-172, which is presented to us as this Gauleiter speech, is not the manuscript of this speech but a collection of material compiled by his staff, on the basis of which Jodl then drafted his manuscript. In addition, the speech was made extemporaneously. Not a single word of this document proves that Jodl really spoke it. Also the occasion of the speech must be taken into account. After 4 hard years of

war, after the defection of Italy which had just taken place, before the fresh terrific burden which Hitler planned to impose on the population as the extreme effort, at this critical moment everything depended on upholding the people's will to carry on. For that reason the Party tried to get expert information upon the war situation so as to be able to buoy up sinking courage again. For this task the Fuehrer chose General Jodl, no doubt the only competent person. Many a person would have welcomed this opportunity to make himself popular with the Party leaders, but Jodl accepted the task contre coeur and against his will. The title of the address was: "The Military Situation at the Beginning of the Fifth Year of War." Its contents are a purely military description of the war situation on the various fronts, and how this situation was created. The beginning and the end, at least according to the document before us, constitute a hymn of praise to the Fuehrer, from which the Prosecution draws unwarranted conclusions. When a lecturer has first and foremost to win the confidence of his listeners-consisting of Party leaders-and when his task is to spread confidence in the supreme military leadership, then such rhetorical flowery speech is quite understandable.

Incidentally, Jodl does not deny that he sincerely admired some of the Fuehrer's qualities and talents. But he was never his confidant or his fellow conspirator, and even in the OKW he remained the nonpolitician he always was. Jodl was, therefore, not a member of a conspiracy. No concept of a conspiracy can help to make him responsible for criminal actions which he did not himself commit. And now I will deal with these individual Actions of which Jodl is accused.

According to Article 6 of the Charter, the Tribunal is competent to deal with certain crimes against the peace, against the laws of war and against humanity, as specified in the Charter and involving personal criminal responsibility of the guilty individual. If we disregard for the time being the crimes against humanity, which come under a special heading, there are two preliminary conditions to any individual punishment of the defendants:

(1) There must be a violation of international law in which they were guilty of complicity in some respect. The point of this whole Trial and that of the Charter after all lies in the fact that the force of the rules of international law is to be strengthened by penal sanctions. If, therefore, some specific violation of international law is committed, not only the responsibility of the particular country which violated the law will be established as heretofore, but in addition guilty individuals shall also be punished for it in the future. Thus there can be no punishment without a previous breach of international law.

(2) Provision for such a responsibility of individuals is however not made in all cases of a breach of international law, but only for those explicitly named in the Charter. Article 6(a) specifies the crimes against peace, Article 6(b), crimes against the laws and usages of war. Other actions, even if contrary to international law, are not mentioned.

Quite a few court sessions might have been dispensed with if the Prosecution had taken these two points into account right from the beginning, because, as I shall show, there is a tendency to accuse the defendants, beyond these limits, of acts contrary to international law which are not

specified in the Charter. Nor is this all: they are to be called to account also for deeds which are in no way contrary to law, but can, at most, be considered as unethical. In the following points I shall adhere to the clear arrangement of the Anglo-American trial brief and add to it what was brought up against Jodl by the two other prosecutors.

Point (1) Collaboration in the seizure and consolidation of power by the National Socialists has, as I already pointed out, been dropped.

Points (2) and (3) concern rearmament and the reoccupation of the Rhineland.

Jodl had nothing to do with the introduction of compulsory military service or with rearmament. Jodl's diary contains not a single word about rearmament. He was a member of the Reich Defense Committee, which was not, however, concerned with the rearmament questions. He was here concerned with the measures which were to be taken by the civilian authorities in case of mobilization. There was nothing illegal in that. We were not forbidden to mobilize, for instance, in case of an enemy attack. The preparations in the demilitarized zone, which were proposed to the committee by Jodl, were also limited to the civilian authorities and consisted only of preparations for the evacuation of the territory west of the Rhine in order to defend the line of the river Rhine in case of a French occupation. The preparations were purely of a defensive nature.

If, in spite of that, Jodl recommended that these defensive measures be kept strictly secret, this is not evidence of any criminal plans, but was only the natural

thing to do. As a matter of fact, particular caution was imperative, for the French occupation of the Ruhr was still fresh in people's memories. Neither did Jodl have anything to do with the occupation of the Rhineland; he learned about this decision of the Fuehrer only 5 days before its execution. Further comment on my part should be superfluous, for according to the Charter neither rearmament nor the occupation of the Rhineland-whether contrary to international law or not-belongs to the criminal actions envisaged by Article 6. These cases would come within the Charter only if a preparation for aggressive war were seen in them. But who would have thought of an aggressive war at that period? In 1938, owing to lack of trained troops, we could not have put into the field one-sixth of the number of divisions our probable enemies, France, Czechoslovakia, and Poland, could have produced. The first stage of rearmament was supposed to be reached in 1942. The West Wall was to have been completed by 1952. Heavy artillery was entirely lacking; tanks were at the test stage; the ammunition situation was catastrophic. In 1937 we did not possess a single battleship. As late as 1939 we did not have more than 26 seagoing U-boats, which was less than one-tenth of the British and French total. As far as war plans were concerned there existed only a plan for the protection of the Eastern frontier. The description of our situation in the Reich Defense Committee is very typical. It was said that as a matter of course a future war would be fought on our own territory; hence that it could only be a defensive war. This-please note-was a statement made during a secret session of this committee. The possibility of offensive action was not

mentioned at all. But we were then not capable of serious defensive action either. For this very reason the generals considered themselves gamblers already at the time of the occupation of the Rhineland. But that any one of them could have been sufficiently optimistic to contemplate an offensive, of that there is not even the vestige of any evidence.

Points (4) to (6) of the trial brief refer to participation in the planning and execution of the attack on Austria and Czechoslovakia.

A deployment plan against Austria never existed. The prosecutors have submitted Document C-175 as such. But this is a misunderstanding; it is merely a program for the elaboration of diverse war plans, such as for a war against Britain, against Lithuania, against Spain, et cetera. Among those theoretical possibilities of war, "Case Otto" is also mentioned; this refers to an intervention in Austria in case of an attempt to restore the Hapsburgs. It says in the document that this plan was not to be worked out, but merely to be "contemplated." But since there was no indication whatsoever of such an attempt by the Hapsburgs, nothing at all was prepared for this eventuality.

Jodl did not attend the meeting on 12 February 1938 at Obersalzberg. Two days later came the order to submit plans for certain deceptive maneuvers, obviously in order to put pressure on Schuschnigg so that he should abide by the Obersalzberg agreements. There is nothing illegal in this, although the prosecutor speaks of "criminal methods." Jodl was completely surprised by the Fuehrer's decision to march in, made 2 days before it was carried out, and transmitted

by telephone. Jodl's written order served only for the files. If this had been the original order, it would after all have come much too late. It was issued at 2100 hours on 11 March and the troops marched in on the following morning. Developments were described to us here. The troops had purely peacetime equipment; the Austrians crossed the border to meet and welcome them; Austrian troops joined the columns and marched with the German troops to Vienna. It was a triumphal procession with cheers and flowers.

Then followed the case of Czechoslovakia. As late as the spring of 1938 Hitler stated that he did not intend "to attack Czechoslovakia in the near future." After the unprovoked Czech mobilization he changed his view and decided to solve the Czech problem after 1 October 1938-not on 1 October 1938-as long as no interference was to be expected from the Western Powers. Jodl therefore had to make the necessary preparations in the General Staff. He did this in the conviction that his work would remain theoretical because-since the Fuehrer desired under all circumstances to avoid a conflict with the Western Powers-a peaceful settlement was to be expected. Jodl tried to make certain that his plan should not be interfered with by Czech provocation. And things really did turn out as he expected they would. After the examination by Lord Runciman had revealed that minority conditions in Czechoslovakia could not continue as they were and showed the correctness of the German point of view, the Munich Agreement with the Western Powers took place.

Jodl is charged with having suggested in a memorandum that an incident might be created as a motive for marching in. He has given us the reasons for it. But no incident took place. This memorandum is not a breach of international law, if only because it is a question of internal considerations which never achieved importance outside. And even if this idea had been put into execution, such ruses have been used ever since the Greeks built their Trojan Horse. Ulysses, the initiator of this idea, is praised for this by the ancient poets as "a man of great cunning," and not branded as a criminal. I do not see anything unethical in Jodl's behavior either, for after all in the relations between states somewhat different ethical principles obtain than are taught in Sunday schools.

The occupation of the Sudetenland itself was effected just as peacefully as that of Austria. Greeted enthusiastically by the liberated population, the troops entered the German areas which had been evacuated to the agreed line by the Czech troops. Both these "invasions" are not crimes according to the Charter. They were not attacks, which would presuppose the use of force; still less are they wars, which would presuppose armed fighting; least of all are they aggressive wars. To consider such peaceful invasions as "aggressive wars" would be to exceed even the notorious analogies evolved by National Socialist criminal legislation. The four signatory powers could have included these invasions, which were still a recent memory, in Article 6, but this was not done because it was obviously intended to limit to acts of war the completely novel punishment of individual persons, but not to penalize such unwarlike actions.

Generally speaking, any interpretation of the penal rules of the Charter tending toward an extension is inadmissible. The old saying applies: "Privilegia stricte interpretanda sent." Here we have an example of privilegium odiosum. Indeed there has probably never been a more striking example of a privileging odiosum than the unilateral prosecution of members of the Axis Powers only. Now it might also be attempted to make Jodl responsible for having drafted an invasion plan against Czechoslovakia at a time when a peaceful settlement was not yet insured. Jodl, however, counted on a peaceful settlement and had good reason to expect it. He therefore lacked the intention of preparing an aggressive war.

To this statement of facts, which excludes the question of guilt, must be added a legal consideration: We have established beyond any doubt that there is no punishment for crimes against the peace without previous violation of international law. Now if the Charter makes preparations for aggressive war subject to punishment, it clearly means that a person who prepared an aggressive war which actually took place should be punished. War plans, however, which remained nothing but plans, are not affected. They are not contrary to international law. International law is not concerned with what goes on in people's heads and in offices. Things which are immaterial from an international angle are not contrary to international law. Aggressive plans which are not executed-including aggressive intentions-may be unethical, but they are not contrary to law and do not come under the Charter.

Here we are concerned with plans which were not carried out because the peaceful occupation of the Sudetenland based on international agreement was not an aggressive war, and the occupation of the rest of the country, which incidentally was also accomplished without resistance and without war, no longer had any connection with Jodl's plans.

This occupation of the rest of Czechoslovak territory in March 1939 need not be discussed in greater detail here, for Jodl was in Vienna at the time and did not take part in this action. Neither did he have anything to do with its planning, for that has no connection whatsoever with Jodl's earlier work in the General Staff. In the meantime the military situation had changed completely; the Sudetenland with its frontier fortifications was now in German hands. The unopposed entry which then took place therefore followed totally different plans, if such plans existed at all. Jodl did not take part in the actual invasion.

Point (7) of the trial brief deals with war plans against Poland. The essential things have already been said on this subject: At the moment when Jodl left Berlin, no deployment plan against Poland existed. When he returned on 23 August 1939 the intention was to enter Poland on the 25th. The plan for this was naturally ready; Jodl had no share in it.

The Prosecution stresses further that Jodl was present in Poland in the Fuehrer's train on 3 September and that this was proof that he took part in the war. Is this, too, a reproach against a soldier?

Point (8) of the trial brief concerns attacks on the seven countries from Norway to Greece. The trial brief gathers these seven wars together into one point, and quite rightly

too. They form one unit, because all of them resulted from military necessity and with logical consequence from the Polish war and from Britain's intervention. It is for this very reason that the fact that Jodl had nothing to do with the unleashing of the war against Poland is so important when judging him.

The historians will have to do a lot more research work before it is known how everything really came about. The only criterion for the judgment of Jodl's behavior is how he saw the situation at its various stages; whether, according to what he saw and knew, he considered Hitler's various decisions to wage war justified; and to what extent he influenced developments. That is all that we are concerned with here.

In connection with Norway and Denmark, may it please the Tribunal, I should like to refer to the statements made by Dr. Siemers the day before yesterday, and therefore I shall omit what comes next, but I should like to insert a statement at this point, namely, a statement regarding international law which is not contained in my manuscript. With reference to the statements made by Dr. Siemers in this regard the day before yesterday, in order to avoid any misunderstanding, I should like to add the following:

(1) There is not the slightest doubt that merchant ships of a state at war may pass through the neutral coastal waters. If its enemy, in order to prevent any traffic of that sort, mines the coastal waters, such action is a clear breach of neutrality. Even warships have the right to pass through, insofar as they adhere to the rules which have been stipulated and do not participate in any combat action in the

coastal waters. And if this applies even to warships, it applies all the more to ships which are transporting prisoners of war.

(2) The fact that a war is a war of aggression does not in any way influence the validity and application of the normal war and neutrality rights. A contrasting opinion would lead to absurd results and would serve only to deal a deathblow to all the laws of war. There would be no neutral states, and the relations between the belligerents would be dominated by the principle of brute force. Each shot would be murder, each instance of capture would be punishable deprivation of liberty, each bombardment would be criminal material damage.

This war, in any event, was not conducted along such principles by either side, and even the Prosecution does not uphold this point of view . . .

THE PRESIDENT (Lord Justice Sir Geoffrey Lawrence): [*Interposing.*] One moment, Dr. Exner.

[There was a pause in the proceedings while the judges conferred.]

THE PRESIDENT: Go on.

DR. EXNER: Nor does the Prosecution maintain this point of view, otherwise they would not have charged the defendant with certain deeds as being crimes against the laws of war and the rights of neutrals. The entire charge under Count Three would not be understandable. And apart from that, Professor Jahrreiss has dealt with this question on Pages 32 to 35 of his final argument.

Jodl heard for the first time in November 1939-and this from Hitler himself-about the fears of the Navy that Britain was intending to land in Norway. He then received information which left no doubt that these fears were basically right. Furthermore, he had regular reports according to which the Norwegian coastal waters were coming more and more into the English sphere of domination, so that Norway was no longer actually neutral.

Jodl was firmly convinced-and still is today-that the German troops prevented the British landing at the last minute. No matter how Hitler's decision may be judged legally, Jodl did not influence it; he considered the decision justified and was bound to consider it as such. So, even if Hitler's decision were to be regarded as a breach of neutrality, Jodl did not give criminal help by his work on the General Staff.

Like every military expert, Jodl knew that if Germany had to fight out the war in the West, there was no other course but a military offensive. In view of the inadequacy of German equipment at the time and the strength of the Maginot Line, there was, however, from a military point of view, no other possibility for an offensive than through Belgium. Thus Hitler was, for purely military reasons, faced by the necessity of operating through Belgium. But Jodl also fully knew, as did every German who had lived through August 1914, how difficult such a political decision was as long as Belgium was neutral, that is, willing and able to keep out of the war.

The reports which Jodl received, and of the accuracy of which no justified doubts could be entertained, showed that

the Belgian Government was already co-operating, in violation of her neutrality, with the general staffs of Germany's enemies. This, however, can be waived here in the defense of Jodl. It suffices to know-and this is indisputable-that part of Belgium's territory, that is, the air over it, was being continually used by Germany's Western enemies for their military purposes.

And this applies perhaps even more strongly to the Netherlands. Since the very first days of the war, British planes flew over Dutch and Belgian territory as and when they pleased. Only in some of the numerous cases did the Reich Government protest, and these were 127 cases.

THE PRESIDENT: Dr. Exner, will you refer the Tribunal to the evidence which you have for that statement?

DR. EXNER: I beg your pardon?

THE PRESIDENT: Will you refer me to the evidence that you have for that statement?

DR. EXNER: What statement, Mr. President?

THE PRESIDENT: That protests were made in 127 cases.

DR. EXNER: I am referring to the statements made by the witness Von Ribbentrop. He said that 127 protests were made.

THE PRESIDENT: Go on.

DR. EXNER: The Prosecution does not put the legal question correctly. Before air warfare gained its present importance, conditions were such that a state wishing to remain neutral could prevent its territory from being continually used at will by one of the belligerents, or else its neutrality was clearly terminated. After air warfare became possible, a state might relinquish or be forced to relinquish

to one of the belligerents the air over its territory, and yet remain outwardly and diplomatically neutral. But by the very nature of the idea, the defense of its neutrality can be claimed only by a state whose whole territory lies de facto outside the theater of war.

The Netherlands and Belgium, long before 10 May 1940, were no longer de facto neutral, for the air over them was in practice, with or against their will, freely at the disposal of Germany's enemies. What contribution they thus made toward Britain's military potential, that is, toward the strength of one of the belligerents, is known to everybody. One need only think of Germany's most vulnerable point, the Ruhr.

Our adversaries obviously maintained the point of view that insofar as the barrier constituted by Holland and Belgium protected Germany's industrial areas against air attacks, their neutrality was immaterial; but with regard to the protection afforded to France and England, any violation was a crime.

Jodl naturally realized the situation. His opinion on the legal aspect, was, of course, a matter of complete indifference to Hitler.

Here, too, his activity remained the normal activity of a General Staff officer.

THE PRESIDENT: One moment, please. Dr. Exner, is it your contention that it is in accordance with international law that if the air over a particular neutral state is made use of by one of the warring nations, the other warring nation can invade that neutral state without giving any warning to the neutral state?

DR. EXNER: In this respect I should like to maintain that this continual use of the air space over a neutral state-that is, for purposes of attack, for these planes flew over such territory in order to attack Germany-was a breach of neutrality. This breach of neutrality justified Germany's no longer regarding Belgium as a neutral country. Therefore, from the standpoint of the Kellogg Pact, or any previous assurance given with respect to neutrality, no charge can be made against Germany in this regard. Whether one can reproach Germany for the fact that she did not declare war in advance is something I leave open to discussion.

Incidentally, it may be presumed that the flights made by the British planes were not announced in advance either.

THE PRESIDENT: Well then, you are not prepared to answer the question I put to you?

DR. EXNER: Yes. The question was to the effect, Mr. President, whether a prior declaration was necessary; that was the question, Mr. President, was it not?

THE PRESIDENT: Whether you can attack a neutral state without giving any prior warning, that is, whether, in accordance with international law, you can attack a neutral state in such circumstances without giving any prior warning. That is the question.

DR. EXNER: My contention is that it was no longer a neutral state when it was attacked.

THE PRESIDENT: Then your answer is in the affirmative; you say that you can attack without giving any warnings, is that right?

DR. EXNER: There is an agreement in international law that war must always be declared in advance. In that sense

Germany would have been bound to declare war beforehand. However, above and beyond that, because of the fact that this was not a neutral state, I do not believe that any other obligation still existed. I cannot see just why there should have been any obligation toward this state because it had been neutral at one time.

THE PRESIDENT: Well then, you say that there is a general obligation to declare war before you actually invade. You don't say, do you, that the fact that Holland was a neutral state prevented that obligation attaching?

DR. EXNER: That I am not prepared to assume. A general obligation I admit, but I do not believe there was a special obligation because of the former neutrality of Holland and Belgium. I fail to see what justification could be given for that.

THE PRESIDENT: Go on.

DR. EXNER: Now I shall turn to Greece. Hitler wanted to keep the Balkans out of the war, but Italy had attacked Greece against his will at the beginning of October 1940. When the Italians got into trouble, a request was made for German help. Jodl advised against it, since British intervention in the Balkans would then have to be reckoned with and every hope of localizing the Italo-Greek conflict would thus be lost. Hitler then ordered everything to be prepared in case of need for German aid to Italy against Greece. These are the orders of 12 November and 13 December 1940.

If the attempt to localize the Italo-Greek conflict did not succeed, it was clear that Greece would be involved in the great Anglo-German struggle. The question was now

whether Greece would come within the war zone controlled by the British or the Germans. In the case of Norway, Belgium, and Holland, part of the territory of these countries was already at Britain's disposal before the beginning of open hostilities, and they were, therefore, objectively at least, not neutral, which possibly they could no longer be. It was the same with Greece now. The Indictment referring to Greece established that British troops were landed on the Greek mainland on 3 March 1941, after Crete had for some time before that come within the area controlled by the British. Hitler did not give permission for aerial warfare on Crete until 24 March 1941, and began the mainland attack only on 6 April.

Here, too, Jodl had no influence on Hitler's decisions. He could have no doubt that Hitler's decision was inevitable in view of the way in which the war between the world powers was now developing. There was no choice; ever-increasing parts of Greek territory would have been drawn into the sphere of British power and would have become the jumping-off points for bombing squadrons against the Romanian oil fields unless Germany stopped this process. Moreover, the experiences of the first World War were disquieting; the coup de grâce had at that time been made from Salonika.

Hitler wanted to keep Yugoslavia out of the war, too. The German troops in the Balkans had the strictest orders to respect her neutrality rigorously. Hitler even rejected the proposal by the Chief of the Army General Staff to ask the Yugoslav Government for permission to allow sealed trains with German supplies to pass through its territory.

The Simovic Putsch in Belgrade on the night after Yugoslavia joined the Tripartite Pact was considered by Hitler to be a malicious betrayal. He was of the opinion that the change of government at Belgrade, which reversed the course of its foreign policy, was only possible if Britain or the Soviet Union or both had provided cover from the rear. He was now certain that the Balkans would be fully drawn into the war tangle. He was certain that the German troops in Bulgaria were severely threatened, and also the German supply line which ran close to the Yugoslav frontier.

Under these conditions Hitler on the morning following the Belgrade Putsch took the decision for war, any preparation for which was absolutely lacking. Jodl's suggestions, and later Ribbentrop's too, to make things unambiguous by means of an ultimatum, were never considered. He wanted to make sure that Yugoslavia and Greece should not come into the sphere of influence of Britain but into that of Germany. The next day's news concerning Moscow's telegram of friendship to the Belgrade Putsch government and about the Yugoslav deployment then already in progress, as confirmed by the statement of the witness Greiffenberg (Document Book 3, Document Number Jodl-65, Exhibit AJ-12), and lastly the Russo-Yugoslav Friendship Pact, were for Jodl irrefutable signs that Hitler had correctly foreseen the connection of events. The decision to fight was taken by Hitler, and by Hitler alone.

Point (9) concerns the war against the Soviet Union. What each of the two Governments in Berlin and Moscow actually wished to achieve by the agreement of 23 August 1939 is not certain. One thing, however, is certain, and that

is that these partners who were until then enemies had not arranged a love marriage. The Soviet Union was for the German partner a completely mysterious quantity, and remained so. Anyone who fails to consider this fact can in no way judge Hitler's decision to make a military attack on the Soviet Union, least of all the question of guilt.

If anywhere, it was in the Russian question that Hitler came to a decision without even listening to the slightest advice from anyone, to say nothing of taking it: He wavered for many months in his opinion about the intentions of the Soviet Union. The relations of the armies on both sides of the demarcation line from the very beginning were full of incidents. The Soviets at once occupied the territories of the Baltic States and of Poland with disproportionately strong forces.

In May and June 1940, when there were only 5 or 6 German covering divisions in the East, the Russian deployment against Bessarabia with at least 30 divisions, reported by Canaris, and the deployment into the Baltic territory caused great anxiety. On 30 June 1940 apprehensions were again allayed, so that Jodl-as

Document 1776-PS has shown-even thought that Russia could be counted on as an aid in the fight against the British Empire. But in July there were renewed worries. Russian influence was progressing energetically in the Balkans and the Baltic territories. Hitler began to fear Russian aggressive intentions, as he told Jodl on 29 July.

The transfer of several divisions from the West, where they were no longer required, actually had nothing to do with this. This occurred at the request of the commander in

the East who could not fulfill his security task with his weak forces.

Hitler's worry above all concerned the Romanian oil fields. He would have preferred to eliminate this threat back in 1940 by a surprise action. Jodl replied that owing to the bad deployment possibilities in the German Eastern Territories this could not be considered before winter. Hitler demanded verification of this opinion and Jodl arranged for the necessary investigations in a conference with his staff at Reichenhall, which was obviously misunderstood by the Russian Prosecution. On 2 August Hitler ordered improvements to be made in the deployment possibilities in the East-a measure which was no less indispensable for defense than for an offensive.

Toward the end of August-this is the order of 27 August-10 infantry divisions and 2 Panzer divisions were brought into the Government General in case a lightning action should become necessary for the defense of the Romanian oil fields. The German troops, now totaling 25 divisions, were indeed intended to appear stronger than they really were, so that an action should become unnecessary. This is the meaning of Jodl's order for counterespionage (Document Number 1229-PS). Had there been offensive intentions at that time, there would presumably have been an attempt to make Germany's forces appear smaller than they were.

At the same time Hitler appears to have given the Army General Staff orders-without Jodl knowing anything about it-to prepare an operational plan against Russia for any eventuality. In any case, the Army General Staff, General

Paulus, worked on operational plans of this kind as from the autumn of 1940.

Unfavorable information then accumulated after the Vienna arbitration on 30 August 1940. If Jodl was to believe his utterances, Hitler was becoming convinced that the Soviet Union had firmly resolved to annihilate Germany in a surprise attack while she was engaged against Britain. The leaders of the Red Army had, according to a report of 18 September, declared a German-Russian war to be inevitable (Document Number C-170). In addition, reports came in of feverish Russian preparations along the demarcation line. Hitler counted on a Russian attack in the summer of 1941 or winter of 1941-42. He thus decided, should the discussions with Molotov fail to clear up the situation favorably, to take preventive steps. For in that case the only chance for Germany lay in offensive defense. For this eventuality, preparatory measures were ordered by Hitler on 12 November 1940 (Document Number 444-PS).

The failure of the discussions with Molotov decided the question. On 18 December 1940 Hitler gave orders for the military preparations. Should the coming months clear up the situation, all the better. But it was necessary to be prepared in order to deliver the blow in the spring of 1941 at the latest. This was presumably the latest possible moment, but also the earliest, since more than 4 months were required for the deployment.

Jodl, as an expert, emphatically pointed out to Hitler the enormous military risk which could be run only if all political possibilities of averting the Russian attack were really

exhausted. Jodl became convinced at that time that Hitler actually had exploited every possibility.

The situation grew worse. According to reports which were received by the Army General Staff at the beginning of February 1941, 150 Russian divisions, that is, two-thirds of the total Russian strength known, had deployed opposite Germany. Yet only the first stage of the German deployment had begun.

The Soviet Government's telegram of friendship to the participants in the Belgrade Putsch on 27 March 1941 destroyed Hitler's last hope. He decided upon an attack, which however had to be postponed for more than a month owing to the Balkan war.

The deployment was undertaken in such a manner that the mechanized German units, without which the attack could not be conducted at all, were brought to the front only during the last 2 weeks, that is, after 10 June.

Genuine preventive war is one of the indispensable means of self-preservation, and was indisputably permitted according to the Kellogg-Briand Pact. The "Right of Self-Defense" was understood by all the signatory states.

If the situation was wrongly construed, the German military leaders cannot be blamed for their error. They had reliable reports on Russian preparations which could only make sense if they were preparations for war. The reports were later confirmed. For when the German attack met the Russian forces, the German command received the impression of running into a gigantic deployment against Germany. General Winter developed this here in detail in addition to Jodl's statements, particularly with regard to the