

"In reality I hoped it would not even come to war (with Norway). We did not want war with Norway. We only wished to prevent the English occupying Norway, and if we had not come to Norway we were certain that in a short time the Englishmen would have been there. And then we should have lost the war right at the beginning." Further it says: "We might almost omit our Navy, as the point of surprise was our sole success." Keitel has stated and it is quite evident that Jodl was a member of the little circle which according to Hitler's orders, should handle the problem of Norway. I refer to Keitel's testimony, doc.no.28, page 7, in the middle of the page.

Hearing of the interest with which the different Great Powers have comprised Norway one finds it rather remarkable that Norway had no military attaché in Berlin, like Denmark and Sweden.

Keitel's testimony in doc.28 is of direct interest in this connection. Keitel says about the meeting between the military commanders and Hitler on December 12th, 1939, on page 2, the fifth line from the bottom:

"The contents of the discussion were that Admiral Raeder's fleet apprehended English occupation of Norway."

On page 5, at the bottom of the page, Keitel is asked, how long before December 12th 1939 had Norway's position first been discussed. Keitel answers: "The dangers concerning the North Sea and Norway were discussed in the autumn 1939." In the same document page 13, 15th line from the top, Keitel says: "I will add that we got a great number of messages about the English action along the Norwegian coast, about the laying of mines against naval forts, the seizure of Altmærck by Englishmen." Keitel informs even more clearly on page 15, top: "In the autumn 1939 the German Navy saw

that it would be dangerous if England got foothold in Norway. This situation was kept under constant supervision - Admiral Raeder's speech at Hitler's about this was October 10th - Admiral Raeder constantly mentioned the danger of war at sea. The question was raised whether it would be possible for Norway to remain neutral towards everybody. We were very doubtful, if England forced Norway." - There is a "not" but this must be a slip of the pen. - "The Navy arranged discussions with Quisling." And further it says:

"The completion of the action has proved that England was about to occupy Norway and that one supposed it was possible for Norway to render opposition. This was put into the English orders. We found out later that it was a question of hours, who secured Norway."

One place or another it has been stated that Hitler thought the stem of English warships at Narvik touched the aft of German vessels.

Judge: Yes, that is correct, it is in one of the documents. I wonder if it is not in the closing section of the review of June 15th 1940.

Defence Counsel: On page 15, bottom, the question to Keitel is: "Is it not a fact that the plans for making an invasion in Holland and Belgium were changed because Quisling convinced the Führer about the necessity of an action against Norway first?"

Answer: "Quisling had no influence on this."

Question: How do you know that?

Answer: "I think that must be impossible."

A bit further at the bottom of page 7 in this document, Keitel says: "As far as I know, Quisling brought no plans with him (to Berlin in December 1939). He only spoke

of the political situation in Norway. I have never seen a military Quisling-plan." In Ribbentrop's testimony document no.26, page 5, line 7 from above it says: "The Führer handed over certain documents to me, which in the first place proved that Norwegian waters several times had been exposed to pressure. Further an episode at sea between "Altmarck" and the British destroyer "Cossack" occurred in Norwegian sea-territory. The Führer also handed over document-folders from the intelligence service to me which showed that the Englishmen were about to occupy the Norwegian coast very soon."

The testimonies which I have now read, strengthen to the utmost degree Reynaud's information from the other side.

When the world war began in September 1939 the Government declared our complete neutrality. It is printed in "Lovtidende" page 585. That same day the German Minister had declared that if Norway was subject to recurrent violations of neutrality, Germany would make arrangements to take care of her interests. Hitler has expressed himself in a similar way, (supplementary part II, page. 8). Political preparations of the Norway action of June 15th 1940 just mentioned by the Judge, page 8, the first column; ^{is stated here} "As a result of these steps Quisling was received by the Führer December 16th and again the 18th for personal information. In this conversation, the Führer several times emphasized that a complete neutral attitude of Norway and also of the whole of Scandinavia would politically be more welcome to him."

This is for that matter repeated in several reports of Hitler's statements in different places.

The Altmarck affair took place February 16th 1940, and for one that took notice it was evident that Norway now had come considerably closer to the actual danger of war.

On April 5th the Minister of Foreign Affairs received a threatening note from the Western Powers, that should have awakened the people in our country. It is important even though the Minister of Foreign Affairs omitted making the Government and Storting acquainted with it until some days later. The contents of the note have now been published in Stortings doc.nr.5 Negotiations in the extended Committee of Foreign Affairs and in the Storting April 8th 1940 page 2

On April 8th mines were laid out in Norwegian waters. I refer to Kohts report in the Storting April 8th. (The main extract p.19) In the afternoon of April 8th communication came about German warships being on their way north. Telegram to Aftenposten from Copenhagen - the main extract p.20. At the same place in the main extract a whole series of messages are to be found, denoting that something serious is at stake, April 8th - Telegram to H.T.B. in Tidens Tegn from Paris: "Similar French note to Norway and Sweden," April 8th - Reuter telegram in Aftenposten: "The mines were laid out early this morning." April 8th - Telegram in Aftenposten from Copenhagen: "German men of war on their way north." April 8th - Aftenposten: "The Norwegian note of protest." April 8th - Aftenposten: "Between 90 and 100 German vessels on their way north." April 8th - Arbeiderbladet: "Now what,"

Something I have not included here which is exceedingly illustrating - I at least do not know any one newspaper article that has made so striking an impression - it was Aftenposten for March 29th, which was full of alarming messages from the outside world. There was no copy to be had, otherwise I should have produced it here. That article should have awakened anyone.

The Defendant has repeatedly maintained - and we cannot doubt that it is an expression of his actual opinion - that his great dread was that Norway might come to deal Poland's fate. This was a frightening possibility to him - an actual possibility - that one of the great powers should come here and try to settle, and the other coming immediately afterwards and Norway thus becoming a seat of war, and divided between these war-wagers. When all is said: The Defendant had with these appeals no intention of benefiting the enemy or of harming Norway's

military forces. His actions must be seen on the background of the Defendant's distrust in Storting and Government, and especially the Government's will to defend ourselves. The ability of defence comes in here as we lacked almost all the necessary equipment. I remind on this occasion of the witness Major Kjelstrup's information that just a little part of the war equipment, ordered in the autumn 1939 had been delivered per April 8th, the Defendant's belief, that Norway's politics would ruin us, was not only a belief but a conviction - I must again use the word "possession" that no one or nothing was able to shake. On p. 6 in his statement of June 21st 1945 he says about April the 9th: When April the 9th came, it appeared to me after all that had happened the past 10 years, that it was God's judgement. It proved that I was right. The Government's politics had failed in the most appalling way." And further on page 7 in the statement: "From the beginning I had no other thought on April 9th than to watch the development of events and had not made preparations of any kind. But in the course of the day I realized that something must be done. One could not sit quietly and see everything fall down; I was leader of that political movement, of which the point of view had been right and of which line of direction had to such a great extent been confirmed by the development that everything else fell down like card-castles. One thing at least was clear to me that if something was not done now, Norway would be conquered by the Germans and handled accordingly. Instead of taking the consequences of the peace - and neutrality politics which the Norwegian people wanted, the Government had recklessly let loose a martial conflict of which the military issue was certain, and where the only question was of limiting the calamities. In Oslo no government authorities were present to take up contact with the Germans and to attend to Norway's interests. We supposed that

the King and the Crown Prince were on their way to Sweden 909.
where we knew the Crown Prince family had gone. We understood that
the Government had resigned, as we later expressed in our statement.
We understood that the members of the 'storting' had gone home, they
had at least also left. The military authorities were also dispersed.
I had that forenoon seen the Chief of the General Staff in the street &
I may be wrong, but in the War Department no one was to be found and a
general and complete confusion reigned everywhere. Under these circum-
stances an absolute state of emergency presented itself. In consider-
ation of the country's welfare it was absolutely necessary to form a
governing force in the capital of the country. And that could at least
for the present not be any other than I and Nasjonal Samling, whose
point of view had been judged correctly by the development. We were
the only political party-organization which was intact, and I for my
part had been member of two governments. I felt it as a call and an
imperative duty to my country. Nor did anyone else seem to be willing
to step into the breach and take action."

It is, I think made quite clear through the information issued, that
Quisling was systematically held outside all the military preparations
of the Germans. I have previously mentioned some of that which Keitel
has stated. In the same place he says: "As far as I know, Quisling
brought with him no plans to Berlin in December 1939. He only spoke
of the political situation in Norway. I have never seen a military
Quisling-plan." Further, one has Scheidt's memorandum of May 26th 1940,
unprinted doc. 13 page 5-6, stating: "I was forbidden to say anything
to Quisling about the German invasion that was at hand."

Several other things point in the same direction.

Quisling had at every given occasion expressed that it was Norway's
interests he wished to maintain, Norway's interests,

in the manner he thought they should be asserted. He has expressed that no one can shake his faith in his cause, and I do not think anything can change his opinion on this.

In order to judge the situation April 9th and everything else which this indictment comprises, it must be clear to us, that the Defendant's conduct must be judged as the situation was at the moment the events took place and not judged according to that which has occurred later on according to points which have appeared afterwards. It is easy enough today, to say that one should not have done that or that, but one should have done so and so. The Court must, however, judge the different phases of the charge from the circumstances which existed at the time the Defendant acted as he did.

We can now afterwards say that it was fortunate for Norway that the King, "Storting" and Government at once left Oslo, and we might perhaps thank the sinking of "Blücher" for this having taken place.

Just the fact that all state authorities had left the city made the Defendant think he had to step in on April 9th. If the Defendant had known that Germany would come April 9th and if further it had been decided beforehand that he should form a government, everything would have been altogether better prepared. Then we should not have experienced that peculiar, improvised nearly amateurish Government, whereof only 4 members were present, the other 5 were far away from Oslo, one in Stavanger, two in Trøndelag, one in North-Norway, and one in Sweden.

The advisory-meeting of April 7th was, as the court is informed - I refer especially to Buglesang's statement, an entirely regular meeting, and nothing appeared there which should denote that the Defendant knew that great events should take place about 2 days later. The members of the advisory-meeting

left for home immediately after April 9th.

The Defendant has strongly underlined that the reason he took hold was to be able to save what he thought could be saved. He did so to save poorly trained and poorly equipped Norwegian soldiers' lives and Norwegian possessions. Simultaneous with his proclamations he appointed himself Norway's Prime Minister and as such to the highest leader of the Norwegian military forces. Should he then want to harm the forces which he himself was leader of? That has not been his intention, nor has it been his intention to benefit Germany. The Defendant had through his work through several periods of his life shown that human life and the welfare of human beings meant a lot to him. It was his belief April 9th that the violent German war machine would crush the Norwegian troops which brought about the proclamations he is now indicted for. It is a long jump from saying it was not right of the Defendant to make these proclamations to saying these are propounded with the intention of benefiting Germany or harming Norway.

It is an extraordinary situation that the Defendant is now being reproached for the demobilization he worked for April 9th and 10th, when he April 15th, 5-6 days later got an official charge, approved by the Administrative Council, to demobilize the Norwegian Army. In the report about Quisling taking the power April 15th is stated: "I will myself assume the position as authority for the demobilization of the occupied territories in contact with the Administrative Council". The intention which the Defendant must have had is explained during the examination of Jodl August 15th this year (doc. 25). This testimony of Jodl should have been read, because for once one really meets a human being behind the words of a German testimony. It is a straight forward, forceful German officer who knows what he wants to say and says what he thinks clearly without any going about the bush. Jodl states that he does not think the Defendant can be reproached for bad intention.

And that he thought it impossible that the Defendant could have been put up in a role of paid spy. Jodl further sums up his impressions to the effect: "that the Defendant was a man who was informed about the political situation in Germany and not about the one in England, and that was his greatest crime. "It should have been interesting to have had Jodl here and heard what he meant with that sentence. But what he says here about Quisling's intention, is clear enough.

The war articles - also this section 80 i.a. - is according to the Military Penal Code, a section 3 only to be used in "wartime" - by which it means in that time warlike operations are made, in the time war actions are undertaken - with the supplement that they also come in use some time before the war, namely from the time the armed force, or the detachment concerned, are ordered on war-footing.

Before this case came up, I connected the war articles with summary - court martial, not as regulations to be used in our detailed court procedure. War articles belonged to the Middle Age. Aschehoug's dictionary of 1920 says that "war article" is an antiquated expression that should not be used any longer. It was Gustaf Adolf and other old warriors from that time and of that type who used war articles. There were severe penalties on the battlefield. If an officer or a soldier was caught in the very act he was shot according to these war-articles.

If it is so that the war articles can be employed also to circumstances before the beginning of the war, then the next question will be if the Defendant belonged to a detachment ordered on war-footing. I must here refer to the Defendant's own explanation according to which the Commanding General had promised him exemption, and according to this the war articles should not be employed on him. But the letter, I am sorry to say, has not been found. So I am not able to place it before the Court.

if the Court does not find it proven that the defendant was exempted from duty. I think it will be of importance to examine the situation on 9 and 10 April, when the proclamations took place, as to whether the country was at war. An appraisal of this question will at least contribute to the judgment of the intention which Section 89 sets as a condition.

Judge: I beg to put forth a question. I have understood the prosecutor thus: That even if the defendant's statement about being exempted by the commanding general is accepted, a question may be put as to his coming under Section 9 in the Military Penal Code, nr. 5.: Anyone who is guilty of transgression of Section 94, or who on the battlefield is guilty of

Defense Counsel: Yes, I am coming to that. In connection with what I now have said about this question: When did the war begin, I will mention that there is quite a difference between stepping in if possible to prevent a threatening war and stepping in during an aggressive war with the consequences such a step could have. Did war between Norway and Germany exist on 9 and 10 April? One must be aware of that every hostile act means that a condition of war exists. On the morning of 9 April, the government rejected the German Minister's ultimatum and decided upon "quiet mobilization". The order to mobilize only concerned the field brigades in South Norway. I call attention to the sensational information which the Chief of the General Staff, Colonel Hatteland, furnished about the General Staff's earnest appeal for mobilization each day from 5 April. The government's passivity did not suggest that it would go to war if the development should be as serious as the days before 9 April suggested. And as is well known, there must be two parties to have a war.

That the Minister of Foreign Affairs stated to HJB in the morning that a general mobilization had been decided, does not change the actual situation otherwise than to make the situation more confused. At Hamar in the afternoon of 9 April the question of rendering resistance or not was taken up anew. One might perhaps have finished by coming to the same result as the Danish government, if the German claim of Quisling as Prime Minister had not irritated the government and the Storting's president as strongly as it did. Characteristic in this respect are the minutes from the King's Council at Trysil on 10 April, where the question of Quisling or no Quisling is the point that the King takes position to. Copy of the King's Council is included in the main extract p. 13. In the first column, at the bottom it is stated: "Letter concerning King's Council of the King's letter is altogether incorrect, it is the protocol itself, it should read: "Protocol from King's Council at the King's. This protocol in original was together with several other documents which I received the other day and which were to be distributed. I suggested that it be taken care of as it was an historical document that should not be distributed. The protocol which is written in loose sheets is signed by the King himself and countersigned. It states: "King's Council at the King's". The Crown Prince was present, Prime Minister Nygaardsvold and also the Ministers Ystgaard, Hjeltnes, Lie, Strömsted, Frihagen, Hindahl and Lundberg were present. The Ministers of Foreign Affairs, Koht and the Ministers Vold and Torp were absent. The King's Council advised the King to communicate rejection of the ultimatum which Germany in produced draft had made about appointing Major Quisling Prime Minister. The King approved the advice for the King's Council." Then I must refer to Storting's document No. 2. I suppose these printed pamphlets Storting's doc. 1, 2 and 5 are distributed to all members of the Court.

Judge: We have them, but not here, I think.

Defence Counsel: Stortings doc. no. 2 concerns the Storting-meetings at Hamar and Elverum April 9th. Two Storting-meetings were held at Hamar, and this is the afternoon-meeting which was abruptly cut short at about 7 o'clock. It is quite a long speech by Rygsaardsvold, and the point is this: "Out from this, to make a long story short, I have come to the result that it is possibly better to try to negotiate with the German Minister who has sent us two letters, on the basis of the attacks stopping until we have discussed how to arrange affairs." and then he concludes with the following words: "Most of us, I suppose, are for trying this negotiation without of course, binding ourselves. Then we will see how it will turn out." In other words, he has preliminarily said that we were very brave this morning, but now we see everything a bit different after having heard what has happened elsewhere in the country. The opposition rendered by Norway, April 9th and 10th, was no more than an assertion of our neutrality. We had a neutrality guard before April 9th, and the quiet mobilization order given in the morning April 9th - 4 hours after the first shots had been exchanged with the foreign warships - was only meant to enlarge the neutrality guard. April 11th was the first mobilization-day, and the quiet mobilization could not be counted as discontinued before April 20th. Negotiations went on several days, the German Legation had contact with the Government until April 19th, and it was first on that day that the Norwegian Minister left Berlin. He had, however, that same day after commission from the King and Government requested permission to stay and continue his work. I have no other source for this than Commodore-Captain Christoffer Meyer's article in "Morgenbladet" the other day. It has been very difficult to get more information about these things.

When I applied to the police through the Ministry of Foreign affairs to hear about the prelude to these affairs, I was told one must wait for the Government, as several of the members were away. I gave up. But it is correct of course that Minister Scheel stayed in Berlin until April 19th and according to commission of his Government asked permission to continue staying there.

Judge: Do you know which number of "Morgenbladet" this was in?

Barrister Fougner: It is August 27th this year. The court may have it later.

Defence Counsel: Were Norway and Germany at war at this time while the diplomats continued staying. Breach in the diplomatic connection is usually a prelude to the state of war. Yes, as for this question, I do not have to mention April 19th. As to this question, it is enough to ask: Did state of war exist between Norway and Germany April 9th and 10th? And to that I mean the answer must be no.

No. 5 of the Hague Conventions, article 10, states: "That a neutral state opposes, even with might, any violation of its neutrality, cannot be regarded as a hostile act." According to the same Convention's first articles, the land territories of neutral powers are inviolable and a neutral power must not tolerate any violation of its neutrality. It is then a duty for the neutral to use force, but it is not therefore war between the countries.

It was first on April 24th the Germans expressed in a decree that Norway and Germany were at war. (The supplementary extract p.19-20). At the bottom of page 19 is printed: "1940, April 20th, arbeiderbladet, Reichskommissar's mandate in Norway etc..... Berlin April 27th..... The Government Nygaardsvold has through its proclamation and its course of action and by the military combat actions which took place according to its will, created a state of war

between Norway and the German Reich. To secure maintenance of the public peace and the public life in the Norwegian territories which are under the protection of German troops, I ordain First then Germany acknowledges state of war. This is not decisive for the question of state of war or not, but I think the fact that the Norwegian Government had asked to retain the diplomats down there is decisive. And even if another date was found - I do not know which it should be - we were at least not at war with Germany April 9th and 10th. The circumstances of which I here have rendered account, are as I said, treated by Commodore Captain Meyer in this article, several sections there might be of interest. I will ask Barrister Fougner to read it.

Barclay Fougner (read):

"The facts are that neither before nor after the Germans' attack on Norway, no order was given at all about mobilization of the Naval Defence, the Air Defence or the Air Forces. Nor was there any order for the Field Army about general mobilization was issued, only the fairly well known order about "quiet mobilization," signed at 3.45 o'clock on 9 April by the Minister of Defence at the chief of the General Staff's office in accordance with the Government's resolution. The order, however, concerned only the Field Brigades in South Norway. In spite of the fact that it was given about 4 hours after the first shots had been fired in the Oslofjord and after reports had come in about shooting at Kristiansand, Bergen and Agdenes, this limitation and way of proclamation of Thursday, 11 April, being the first mobilization-day - showed that it was only meant as a strengthening of the "neutrality guard," and that the government at the moment, could not have thought about waging war, only of opposing intentional violation of neutrality. The summoned brigades could not be counted as altogether mobilized before, at the earliest 20 April.

The opposition rendered, during the night of 9 April, at the four harbours of war was not due to any special order from the government. It was in accordance with a regulation in the instructions for the neutrality guard of September 1939, a regulation which was also in force during the first world war. The opposition against the assailants both that night and later, was an attempt to repulse a violation of our neutrality, which according to the international law, is not regarded as a hostile act. It was opened without knowing at first, which nationality the advancing ships belonged to, except at Bergen, where they were discovered to be German. At 5 o'clock (Norwegian time) on 9 April the German Minister in Oslo came to the Ministry of Foreign Affairs with

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the German government's claims.

They were rejected. But the contact was not broken. On the 10th the press in Oslo communicated that the Storting in its meeting at Hamar on the 9th had nominated a delegation that was to come to Oslo to negotiate about the claims of 9 April. On the 11th the Oslo press communicated that the German Minister had been to see King Haakon at Alverum the day before, but that nothing official about the results had been issued as yet about the meeting. In the Oslo press the result was only mentioned on the 12th in a telegram from Berlin as follows: "According to information from political circles in Berlin, it is not correct when the foreign press states that the negotiations between the Norwegian King and the German Minister in Oslo are broken."

On the 13th the press brought a Berlin-telegram of 12 April wherein was reported from "responsible source" that the negotiations between the German authorities and the Norwegian King are not broken. The German Minister is today going to see King Haakon again.

The Oslo press contained nothing these days about what the Apperly-vold government and the Norwegian Commander-in-Chief were doing.

It was made known later that the government first on the morning of 11 April decided to render military opposition and that it, the following days, had to move from place to place constantly pursued by German bomber planes. According to General Ruge's later information the Commander-in-Chief did not at the time of the order, know if Norwegian forces were placed at or south of Kongsvinger, nor were they cert- in of Norwegian forces having been placed in Aistfold. Telephone connections were impossible. No report were to be obtained about the circumstances in Telemark, Hordaland, Stavanger or in Brundelag. The Norwegian troop detachments, who had assembled in these districts, acted each for themselves independently. It may be added: the technical suppositions for "mobilization" in this word's meaning did not exist any longer.

In the proclamation which the government sent out on 11 April significantly enough no mention is made either about the mobilizing or organizing of military opposition at all, only about assistance "to maintain a legal government in the country. Norwegian Constitution, Norwegian freedom, and Norwegian independence."

In the King's proclamation of 13 April an appeal was made to all Norwegian men and women to do everything in their power to save the freedom and independence of our dear native country.

The occupied territories were made acquainted with these proclamations long afterwards, and hardly anyone in these territories knew during those days what the Government's intentions were.

None of the two proclamations mention a word "war". On the contrary "assault" and "attack" is spoken of. They both show that the government at last — and for the first time — decided to render opposition, that is 11 April, one was reduced to basing this opposition on improvisations without regulated gathering of troops even in the territories which were not occupied yet.

When I take the conclusion:

"Sunday 14 April Bishop Berggrav, 'Fylkesmann' Christensen and the Supreme Court's Chief Justice, Paul Borg, spoke reassuring words in the radio. - Tuesday 15 April the press reported:

"The occupied Norway has gotten a legal government of seven men."

"In the King's Council of 13 April a reply to Paul Borg's telephone message to the Legation in Stockholm, concerning what had happened was agreed upon. The reply stated that the King had

"full understanding of the state of emergency that has made the Supreme Court step in to form an Administrative Council for the

territories occupied by the German military forces." In the reply no objection was raised as to the forming of the Council or to

its composition. Otherwise it is evident from the reply that the Norwegian government on 13 April still had no wish of part-taking in the war against Germany, and that it still was willing to negotiate under certain suppositions. - A telegram from Berlin on 15 April had reported "from well-informed sources": In the question

of an alleged state of war between Norway and Germany it was stated that neither from the Norwegian King nor from German sources any statements had been received to that effect. Nor has the Norwegian King's Legation in Berlin left the care of Norway's interests in Germany to any other Legation. A telegram from Berlin on 19 April reported:

"The Norwegian Minister Schwell who yesterday, according to a communication from King Haakon and the Nygaardsvold government, had asked for permission to stay in Berlin and continue the Legation's work, has today on account of the hostile attitude the Norwegian King and the Nygaardsvold government has taken, been requested, together with the Legation's personnel, to leave Germany already today." A broadcasting message from Berlin brought the government to send out a proclamation of 29 April 1940, wherein was stated:

"The German Reich has itself established a state of war with Norway. Norway did not want war and it did not carry weapons against anyone."

Judge: Consequently, the defense counsel's opinion is that Norway only entered into war with Germany when Germany declared a state of war, as far as I understand.

Defense Counsel: Yes.

Judge: However, on 14 April the Government agreed on a temporary arrangement for special repressive measures during war, which were enforced that same day.

Defence Counsel: I do not deny, of course, that it came to a state of war between Norway and Germany shortly after 9 April which day is not important. But I maintain that was not declared at the time the defendant sent out his proclamations. The paradoxical is that it came to a state of war because Quisling stepped on the scene. This is carrying things to extremities, but it can not be doubted that Quisling's appearance was a strongly contributing factor to the government taking up the fight. But this does not influence the defendant's intention which was to avoid war and save Norwegian lives and property. The defendant thought that he, in this way, could prevent Norway entering the war. If the Court should come to the result that the resolutions of the Military Penal Code can be employed here, I point a aside to Section 81, instead of Section 80, I, Section 81 which is a more lenient resolution, no criminal intention is implied. In this item of the indictment the Military Penal Code's section 9 nos. 1 and 5 concerning the Law's sphere of action is referred to. No. 1 provides that the defendant as a Major without salary can be ascribed under "all those employed or belonging to the armed forces of the country" - a question which the Court must take a standpoint to, as the defendant decidedly denies his duty to serve.

I must say some words about item 5. - according to item 5 anyone "who on the scene of war makes him self guilty of crimes against" i.e. Section 80, is to be punished by law. As I have just explained there was no war these days, nor any scene of battle in the sense of the law. Moreover, the defendant did not appear on any scene of battle, but in the radio in Oslo. In the indictment on this occasion reference is made to the last part of Section 12 in the Civil Penal Code, which also are employed in the Military Penal Code, I, last part of Section 12.