

16 Jan 1948 MMSD 1-1 Nelson (Sachs)
Court 3, Case 10

Friday Jan 16

Official Transcript of Military Tribunal III,
Case X, in the matter of the United States of
America against Alfried Krupp, et al, defendants,
sitting at Nurnberg, Germany, on 16 January 1948,
0930, the Honorable Hu C. Anderson Presiding.

THE MARSHAL: Persons in the courtroom will please find their
seats.

The Honorable, the Judges of Military Tribunal III.

Military Tribunal III is now in session. God save the United
States of America and this Honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: Mr. Marshal, will you ascertain if all the
defendants are present in the Courtroom?

THE MARSHAL: May it please your Honor, all the defendants are
present in the Courtroom.

THE PRESIDENT: Let the record so show.

Judge Daly will preside for today's session.

MR. HUEBASCH: Yesterday afternoon we had finished with exhibit
704 which ---

JUDGE WILKINS: Excuse me, Mr. Thayer, Could you arrange for some
one to appear before the Commissioner today?

MR. THAYER: We can, Your Honor, if Defense Counsels are agreeable
to it. I wasn't clear last night after the conference whether or not
we could do that or not. We didn't want to insist upon it ourselves.

JUDGE WILKINS: Yes, you arrange for it. One of the witnesses
is to appear before him at one-thirty. I am sure you could make
those arrangements. You work it out between you and the defense counsels.

DR. WECKER: May it please your Honors, I don't know whether
during the meeting after the session I have made myself perfectly clear,
if I pointed out the right of the defendant to be confronted with the
witness. With that remark I wanted to indicate that all the defendants
and their defense counsels will want to make use of their right which
is laid down in ordinance No. 7 to conduct cross examination. This right

for cross examination is devised as we can see, from the American law on being confronted with the witness. For that reason, we were going to make the proposition and I think it has been made quite clearly that the commissioner should sit only on such days on which the defendants who are concerned by the testimony of the witness and want to be present can really be present at the commissioner's hearing.

JUDGE WILKINS: You are not going to take the position are you, that all of those witnesses have to appear here in Court or on some day when the defendants may be present?

DR. WECKER: May it please Your Honors, that was really the point of view I was taking, but not from my own sense of justice, but on the explicit wish of all the defendants which refer to ordinance No. 7 which gives them such a right and ---

JUDGE WILKINS: Let me say this to you a minute. The particular point that we raised last night at our conference was this: The prosecution has certain witnesses who are now waiting here who have made affidavits which have been admitted in evidence and under the rules, as you know, ordinance No. 7, we may accept statements or affidavits and so on. Now as a courtesy to the defense, we stated at the outset that you would be given the opportunity to cross examine these witnesses. It now develops that because of time we find that it will be impossible for us to have those witnesses appear because the best illustration of that is the witness Amman who took almost two days and we just cannot take the time. So, we are now giving you the opportunity inasmuch as you requested the opportunity to crossexamine these witnesses --- referring now to the witnesses who have executed the affidavits and you requested the opportunity to crossexamine them, we are now giving you the opportunity to crossexamine them before the commissioner and the prosecutor stated yesterday that there are several of them here now waiting for cross examination. So, this afternoon, at one-thirty, you will arrange with Mr. Thayer then for one of these witnesses to appear before the commissioner.

We have noted, and I am saying this just for the record, that while there are probably roughly 12 or 13 of the defense lawyers here this morning, often times in the conduct of this trial there have been as few as four and five and as we see it, it will be no great hardship at all for you to arrange for your more capable defense counsel to be present at those hearings before the commissioners, so Mr. Thayer, you will arrange for one of those witnesses to be before the commissioner at one-thirty.

Judge Daly suggested that you have two present so that if you have time to cover both that is what we desire.

MR. THAYER: I think, Your Honor, we have given twenty-four hour notice to two of the witnesses, Wagner and Krueger. May I inquire where such commissioner hearing will be held?

JUDGE WILKINS: We will try to be in communication with the Secretary General. In the meantime we will arrange, if there is a courtroom available, we will arrange for it in a courtroom. We will be able to give you more information on that before we adjourn at 1315, I'm sure.

DR. WECKER: May I ask just one more question, that is, whether the Tribunal has the rule that the commissioner, apart from the two cases which may be open to discussion, that on principle, the commissioner will also be allowed to sit on days when the defendants themselves cannot be present during the commission?

JUDGE WILKINS: Yes, it will be entirely up to the defense counsel, if you want the defendants here or whether you want certain ones of them to appear at the hearing before the commissioners.

May I suggest to you again that you already have an affidavit of these witnesses and you have copies of it so you know the testimony that this particular witness can give, therefore, you can determine whether you want several of your defense lawyers there or just one or two. That is a problem that you can easily determine because you have

all the information before you from that affidavit.

DR. WECKER: Your Honor, we discussed the question yesterday whether it would be possible to use the Saturday mornings for such sittings?

JUDGE WILKINS: Yes, Saturday mornings as well. We will arrange for it tomorrow morning, as a matter of fact.

Mr. Thayer, you can work on that theory and let us know at 1315.

MR. HUEBSCH: May it please the Court, returning to exhibit No. 704, page 25A of the English and 41 of the German, I would like to quote a few lines from Colonel Hegel's letter to the Als - Thom firm. He stated that:

"The machine was confiscated by a Wehrmacht office and a receipt was given."

MR. HUEBSCH: This is a quotation on page 41 of the German and 25A of the English.

"With regard to compensation therefore the policy applies which is laid down in the regulations concerning the honoring of receipts which was worked out with the French authorities. As to the question of compensation it is of no importance that this machine was placed at the disposal of the firm Friedrich Krupp AG, Rheinhausen.

"According to the regulations mentioned above the value at the time of the confiscation has to be paid by the German Wehrmacht as compensation. This value as determined on a fixed date has been estimated at 108, 700 RM by an expert and of this you have already been informed by the firm Krupp."

MR. HUEBSCH: Skipping then ----:

"Please take note that we cannot approve of the calculation made at that time showing a total amount of 13,400,000 Belgian francs ----

MR. HUEBSCH: To interpolate ---- approximately 670,000 RM. "and sent to the firm Krupp in your letter of 20 April 1942 (which is two weeks from the date of the letter) as the expense of procuring new machines is taken as a basis for this calculation.

16 Jan 1948 M. MSD 1-5 Nelson (Sachs)
Court 3, Case 10

"Please submit to us by 15 August 1942 by stating the above file number, the original certificates previously given to you. On receipt of the certificates the amount of 108,700,000 RM will immediately be transferred to you.

"....further applications will be useless since there is no chance of success in this matter.

MR. HUEBSCH: After Hegel has informed the Als - Thom firm that protest will be useless because of facts that are clear on the basis of the German understanding, Arnold sent a letter to the Frim Krama, Arnold, the plenipotentiary for the firm, sent a letter to the Krama firm which will be exhibit 705 on page 26 of the English and page 42 of the German.

In this letter he informs them, it seems, of the steps taken with the High Command of the Navy to increase the estimated price informing them that this attempt has been unsuccessful and, to quote:

"....The estimated price fixed by the German expert is decisive for the valuation of the confiscated machines. Besides it must be left to the firm Krupp whether it is perhaps willing to pay more than the estimated price. Since the firm Krupp as you know also rejected it, I refer you to the possibility of claiming the remaining compensation (to interpolate, the compensation above fifteen per cent of value which was offered, returning to the quotation:) from the competent French authorities."

MR. HUEBSCH: The next exhibit will be 706.

JUDGE DALY: The last was 705 and will be admitted.

MR. HUEBSCH: NIK 6553,

This is exhibit 706 and document NIK 6556, page 29 of the English and 46 of the German. This is a letter from Als - Thom to the German holding company to the Societe Francaise AEG, confirming the letter of the 21st of June which offered a new offer of 138, 991, 30 RM for the machinery confiscated and rejecting this offer as being in no way commensurate to the actual value of the machinery. They stated that the compensation is so small compared with the actual value of the machinery that we are unable to consider it.

JUDGE DALY: It may be marked as 706.

MR. HUEBSCH: As exhibit 707, NIK 6556, page 29 of the English and 47 of the German, we come to an extremely important document. This particular document which is a letter from the German Quartermaster in Paris to Als - Thom insists that the latest offer of

138,991.30 RM has to be considered just valuation. This letter is somewhat over two years of the original confiscation. To quote:

"...only the usual (this quotation commences at the bottom of 47 on the German and continues on to 48 of the German) local value on the day of confiscation is to be compensated in the case of goods confiscated in France, and not the value of procurement and loss of profit. The estimate drawn up in your letter of 24 Feb. '42 therefore cannot serve as a basis for the compensation, but only the purchase value taking into consideration the depreciation for 10 years of factory use. The value of RM 138,991.30 fixed by the expert Simmonis must be taken as a basis for compensation. "If the Als - Thom firm persist in their refusal, in spite of the firm agreements existing between the two Governments (that is, to interpolate, the German Reich and the French Vichy Government at that time — to return to the quotation) then the payment of compensation must be refused on the part of the German Reich for all time.

The Als - Thom firm was given from the 27th of July when this letter was dispatched until the 30th of July to inform the Chief Quartermaster with the Military Government.

JUDGE DALY: This last document will be marked 707.

MR BUESCH: Proceeding to another document, we submit it as marked 708, document NIK 6557, page 31 of the English and 49 of the German. This is a certified copy of the letter from the firm Als - Thom to the Director of Mechanical and Electrical Industries, that is a French Governmental agency wherein there is a discussion of the requisition of the machinery at Als - Thom firm, plant at Belfort for Krupp Stahlbau Rheinhausen requesting advice as to the view of the firm should take on various requisitions and counter-offers and value of the confiscated machines. Quoting Danbon who is the individual who sent this letter out for the firm:

"...we have the honor to draw your attention to the requisition of

16 Jan 1948 MMSD-2-3 Nelson (Sachs)
Court 3, Case 10

a bending machine by the German Authorities in our factories at Belfort in April 1941.

"This requisition appears to us to be in contradiction to the International Hague Convention and the Armistice convention by the fact that the machine was sent to Germany."

"Negotiations had well advanced, but as no agreement could be obtained, the matter was taken up again by the German Authorities (the Kriegsmarine) who, in consequence of a report by a German expert (to whom we had never been called) adjudicated us a compensation which we consider ridiculous and refused to accept."

MR. HUEBSCH: Passing from this letter to the following document NIK-6558 to be marked as exhibit 709 ---

JUDGE DALY: The last one may be marked NIK-6557 as 708.

MR. HUEBSCH: This is a letter from Bellier, the director of Mechanical and Electrical Industries at the French Ministry of Industry and Transport in Paris advising Als - Thom that the Vichy Government has opposed removal of the machinery from German Government in French soil and advising Als-Thom to refuse to negotiate or if any payment be accepted such payment will be only provisionally. To quote one sentence from the middle of this letter on page 33 of the English and 50 of the German:

"The requisitioning of the bending machine in question should therefore be considered as having taken place without the French Government's consent and against its will."

I shall proceed with one more sentence of this quotation:

"In these circumstances, you should not accept any settlement proposed by you ---"

JUDGE WILKINS: Proposed to you, I think you said proposed by you.

MR. HUEBSCH: "proposed to you with regard to this requisitioning, as other than provisional, and with the reservation that any such acceptance does not constitute an acknowledgement of the legality of the action."

JUDGE DALY: That is NIK 6558 and is admitted as exhibit 709.

MR. HUEBSCH: The prosecution now offers as exhibit 710 document NIK 6559 on page 33 of the English and 51 of the German. This is a letter from the director of the General Accountant of the Ministry of National Economy and Finance at Paris to Als - Thom pointing out that the German Military Commander in France has been prevailed upon to offer a new and higher indemnity for requisitioned machinery, but that future restitution in kind be rejected for the time being. This was on the 29th. of January 1944 practically two years and nine months from the date of requisitioning. Quoting from the middle of the letter still on page 33 of the English and 51 of the German:

"He (that is the Military Commander in France) stated that this offer would probably be higher than the one previously made, but also pointed out, however, that it would be based on the price of the machine at the time of acquisition by the Als - Thom Society and that the price of construction of a similar machine at the time when the requisition took place could not be taken into consideration."

I believe that disposes of —

JUDGE DALY: That is exhibit 710.

MR. HUEBSCH: As exhibit 711, prosecution submits document NIK 6560, page 35 of the English and 53 of the German. Als-Thom then sent a letter to the German Quartermaster in Paris emphasizing the right to restitution in kind for requisitioned machinery, that they are willing to accept an indemnity on the value of the machinery at the time of requisitionings, but not at the cost price and that the price can not be considered at sale price.

JUDGE DALY: It may be marked exhibit 711.

16 Jan.-M-BK-3-1-Putty (Int. Sachs)
Court III, Case 10

MR. HUEBSCH: The Prosecution would like to submit as Exhibit 712 Document NIK-6561 at page 37 of the English and 55 of the German which is a letter where Alstom informs the Director of the General Accountant of the Ministry of National Economy and Finance in Paris as follows:

"Subject: Removal of bending machine by the German authorities". I now pass to the center of the letter:

"The renewed proposal of compensation made by the Military Commandant in France mentioned by you has reached us in the form of a letter dated 7 January, a copy of which you will find enclosed. On 8th February we sent a reply based on your suggestions." This reply being the preceding document, NIK-6560, wherein they rejected the counter-offer.

JUDGE DALY: The last document may be marked Exhibit 712.

DR. WECKER: Your Honor, I want to raise an objection to the submission of this document. Unfortunately I was not able to take up the matter before this book was submitted or do so earlier because I had to look at the photostatic copy first. My objection is based on the fact that the document does not show where it comes from. It has no letterheading from which one could get anymore information. It is not signed.

MR. HUEBSCH: May it please the Court, this is a document that was submitted under the original interrogation of Monsieur Marcel Rapin, was found in the files of the Alstom firm as part of their official correspondence, and was certified to by the French authorities conversant with the situation and officially designated as having the power to certify the documents, namely, Michel Habib and Captain Gerthoffer.

JUDGE DALY: Well, there is a statement in the first sentence:

"We thank you for your letter of 29 January and have given our close attention to the matter." It seems to me quite clear that the letter identifies itself. The objection is overruled. That would be --

MR. HUEBSCH: 712.

JUDGE DALY: 712. 6561. That is the one that has been admitted.

MR. HUEBSCH: Thank you. As Exhibit No. 713 the Prosecution submits Document NIK-6562 at page 38 of the English and 56 of the German. This is a certified copy of a letter from the German Quartermaster in Paris, that is, the Leitender Intendant of the Military Governor in France, to Alsthom insisting that the cost price of the machine and appropriate depreciation up to the date of requisition be taken as a basis for indemnity. I would like to proceed to the letter to quote:

JUDGE DALY: That would be 713.

MR. HUEBSCH: 713 -- to quote from the middle of the letter at page 56 of the German and 38 of the English:

"As already explained by Herr Stenger on the occasion of the conference of 10 February 1944, the indemnity can only be computed on the value of the machine on the date of the confiscation, based on the cost price at the time."

Skipping:

"Accordingly, it is respectfully requested that a declaration be sent that with the payment of an amount of RM 190,470" -- which is an appreciable rise in the original offer, interpolating that last remark and now returning to the quotation -- "all claims against the Wehrmacht" - dispensing with the reference to Krupp, as another additional interpolation - "and therewith also against the German Reich, which arise from the confiscation of the three roller bending machines are settled.

"As soon as this declaration has been received, the amount will be transferred to the specified bank account for payment."

I would like to proceed from this document to NIK-6562. This last document, NIK-6562, was submitted as --

JUDGE DALY: it was marked as Exhibit 713.

MR. HUEBSCH: 713. That's right. NIK-6563 is submitted for marking as Exhibit 714.

JUDGE DALY: Document NIK-6563.

MR. HUEBSCH: At page 39 of the English and 57 of the German. It is a certified copy of a letter from Alstom to the Director of the General Accountant of Ministry of National Economy and Finance in Paris giving the details of the negotiations with the German authorities specifying the value of the machines taken away by German authorities for Krupp's use and refusing to continue negotiations with the Germans on the basis of present German conduct of the dealings. This is a letter of the 25th of February, 1944. Quoting from page 57 of the German and 39 of the English:

"We cannot sign the declaration for which we are asked because it is contrary to our interests and to the very principles which the Head of the Government has proposed to us in the recent circular to which you make reference.

"In these circumstances we do not propose to give an immediate reply to the letter of the Intendant" - that is the other quartermaster - "but to wait as long as possible to see the result of the new steps which you propose to take."

JUDGE DALY: It may be marked Exhibit 714.

MR. HUEBSCH: Proceeding further down the page:

"The purchase price of the machine in 1930, ex factory, transportation charges, customs duties, erection and electrical equipment not included, amounts to RM 350,590 -- as stated in the letter of the Intendant dated 7 January.

"To this price should be added the outlay for additional costs which we estimated at 2,800,000 francs" - which is 140,000 Reichsmark.

Then there is a discrepancy between the English and the German regarding the estimate of the German constructor for an identical machine which Alstom had inquired about for replacement purposes. In the English it is 370, 550 Reichsmark. In the German document book the figure is 370,000 Reichsmark. This infinitesimal discrepancy of 550 Reichsmark or 11,000 francs does not affect the substance of the case,

but I wish to draw the Court's attention to it.

On page 40 of the English and 58 of the German, continuing with this document, quoting:

"In view of the reasons outlined above, it is our opinion that the amortization rate of 50% stipulated in the Intendant's letter of 7 January is excessive.

"On this subject we should like to point out to you that in negotiations with the interested authorities it would be preferable to speak of a coefficient of wear and tear and not of an amortization rate because we base our argument on the fact that the machine was preserved in perfect condition, a fact known at the time when the machine was removed." And this will be brought forth further as the reason for the confiscation when clarification is brought to the manner in which the confiscation was carried out by members of the Krupp firm. Quoting:

"On the other hand we should like to point out to you that in our opinion calculation of the indemnity due to us should not be based on the purchase price of the machine in 1930 since in his letter of 24 July 1944" - that is Document NIK-6556 which is found at page 29 of the English and 47 and 48 of the German -- "the Intendant advised us that according to the terms provided by the Armistice the indemnities for requisitions must be in line with the local value of the objects on the date of the requisition."

JUDGE DALY: Counsellor, I have been reluctant to say this because I was afraid that you might misconstrue it, but we have stated on several occasions that the members of the Tribunal are reading all of these exhibits, and in practically all of these that have been presented we have had a great deal of the contents.

Now we have spent a great deal of time on this because you are going, I assume, to stress the points that you claim important in both oral arguments and in your brief, and we are going to read them all anyway.

MR. HUEBSCH: Yes, I apologize, Your Honors, for taking up the Court's time.

JUDGE DALY: All right.

MR. HUEBSCH: Coming to the last document in the book, we would like to mark as Exhibit 715 Document NIK-6564 at page 41 of the English and 60 of the German.

JUDGE DALY: It may be marked Exhibit 715.

MR. HUEBSCH: I would like to read the index of this, if Your Honor please. This is a certified copy of a letter from Alsthom to the German Quartermaster in Paris acknowledging receipt of the offer of 12 February 1944 and postponing an answer to this offer until negotiations undertaken by the French authorities should be concluded. Finishing with Document Book 22 we proceed to 22-A which Dr. Max Mandellaub will present.

MR. MANDELLAUB: May it please the Court, the Prosecution now offers Document Book No. 22-A and proceeds with NIK-13448 offered as Exhibit No. --

JUDGE ANDERSON: 716, isn't it?

JUDGE DALY: Yes.

MR. MANDELLAUB -- 715 which is a copy of a letter from the Armament Inspector Dijon to Schmidt, the Plenipotentiary of the German Army and Director of Alsthom, conveying the order of confiscation of the Alsthom sheet metal machines. On the copy are handwritten remarks by Thiess of Friedrich Alfried Huette Rheinhausen where the machines were to be dispatched for removal. Thiess is an employee of Krupp and a brother-in-law of the defendant Loeser, where he has been brought into the firm by the defendant Loeser and was to survive the resignation of Loeser. He is still today with Krupp.

JUDGE DALY: He is still what?

MR. MANDELLAUB: He is still today with the Krupp firm.

JUDGE DALY: Who determines that - whether he is still there or not - the occupying Government?

MR. MANDELLAUB: Yes.

JUDGE DALY: This may be marked Exhibit 716.

MR. MANDELLAUB: The Prosecution now offers as Exhibit No. 717 Document No. NIK-13449 which you will find on page 3 of the English and page 2 of the German. It is a letter from the High Command of the Navy to Krupp Stahlbau Rheinhausen informing the Main Office that the High Command of the Navy is not in a position to order the firm Alsthom to accept the price offered by the Krupp firm. This indicates that the authorities have been asked to interfere and express their position by saying that they are not in a position to interfere.

JUDGE DALY: It may be marked Exhibit 717.

MR. MANDELLAUB: The Prosecution now offers as Exhibit No. 718 Document No. NIK-13450 which appears on page 5 of the English and page 3 of the German. This is a letter initialed by Thiess regarding the machines of Alsthom dated July 21, 1943, in which the first paragraph reads:

"According to information given by attorney-at-law Schuermann, the whole confiscation was carried out at the time in contravention to the rules of the Hague Convention for Land Warfare. This in itself allows only seizure for the purpose of use, but not seizure with the intention of actual transfer of property."

Schuermann - this is Kurt Schuermann of the Legal Division - thus informs Mr. Thiess that there was no legal possibility to ask for property transfer of the Alsthom machine, and yet as will be shown by the next document which we offer as Exhibit No. 719 --

JUDGE DALY: Excuse me. The last one, NIK-13450, will be marked Exhibit 718.

MR. MANDELLAUB: 718. This is 719, Document No. NIK-13451, which appears on page 6 of the English and page 40 of the German, dated July 18, 1944, signed by Thiess, the same Thiess who obtained information almost or exactly a year before that time, and in which he continues to make arrangements so that the machine should become actual property of Krupp while the machine was already built in the Rheinhausen plant, working for Krupp for almost more than three years, and without the settlement of the owner. The Krupp employee Thiess writes as follows. This is on page 6 of the English and page 4 of the German.

"We on our part are extremely interested in acquiring the machine finally at the estimated value of RM 190,000. But we decline negotiations and dealings with Alsthom, as we are of the opinion that the machine was confiscated by the German Ruestungsinspektion and thus it devolves upon the German authorities to arrange the settlement with the French and that we, thereupon, shall then enter into clearing negotiations with the German authorities."

JUDGE DALY: That may be marked Exhibit 719, and may I suggest, Mr. Mandellaub, that you refer to the portion which you call attention to, and we will mark it in the record and will indicate it, and I don't think that we will need any extensive reading of those portions then.

MR. MANDELLAUB: Yes, Your Honor. The Prosecution now offers as Exhibit No. 720, Document No. NIK-13347, which is on page 8 of the English and page 6 of the German. It is an affidavit of Kurt Schuermann confirming that he was consulted by Thiess and informed Thiess of Krupp Stahlbau Rheinhausen concerning the interpretation of international law, and especially by reason of the Hague Convention for Land Warfare, the acquiring of property rights, machinery seized from the enemy was not possible.

JUDGE DALY: It may be marked Exhibit 720.

MR. MANDELLAUB: The Prosecution now offers as Exhibit No. 721 Document No. NIK-13385 which is on page 10 of the English and on page

9 of the German. I would like to take a few minutes to discuss this affidavit because it stresses an important point which the Prosecution would like to make. On page 10 of the English and on page 9 of the German we find Eisfeld stating - Eisfeld is a Krupp employee who is no longer with the Krupp firm today.

"Shortly before Easter 1941 I heard that Krupp Stahlbau had been fitted into a new U-boat program. In Rheinhausen we had a bending machine which, however, was technically not quite up to the mark for the new U-boat program, and with the help of which we could have bent sheets only with a loss of time. Therefore, a bending roll was to be procured for us. Just before Easter 1941 I received marching orders from the Navy High Command in order to go to Dijon, France. Such marching orders were necessary in order to make such a journey. In Dijon I contacted the German Armament Inspectorate concerned, and I was informed of two bending rolls to be inspected, one in Belfort and one in Bordeaux. First I went to Belfort accompanied by an officer of the Armament Inspectorate in order to inspect the bending roll at the Alsthom plant. In Belfort we were received by a certain Herr Schmidt who as far as I can recall was the German provisional manager of the Alsthom works. As specialist I examined the machine and in spite of certain defects found it suitable for the new production at Stahlbau Rheinhausen. Herr Schmidt told me that he would like to keep the machine there.

"After inspection of the machine, I decided to forego another inspection in Bordeaux since the machine appeared to me to be suitable, returned to Rheinhausen and reported to my superior on the result of the journey." His superior was Mr. Herrmann, and Mr. Herrmann was directly under the Krupp Vorstand. "A few days later three of my men received marching orders to Belfort in order to dismantle the machine." The Krupp men. "Those three men were mechanics from the repair shop of Stahlbau Rheinhausen. In the meantime I had received a telephone call from the Navy High Command in Berlin,

informed the Navy High Command to the same effect as Herr Herrmann, i.e. that the machine would meet our needs and the official from the Navy High Command told me over the telephone that he would now deal with the matter further, see to it namely that the confiscation of the machine was declared official. When my three mechanics arrived in Belfort, they found that the machine had already been officially confiscated."

I would like to point out here that before Mr. Eisfeld had given his opinion as to the suitability of the machine, the machine was not confiscated; only after he had informed that it would suit the needs of Krupp the confiscation was pronounced officially.

JUDGE DALY: It may be marked Exhibit 721.

MR. MANDELLAUB: The Prosecution now offers as Exhibit 722 Document No. NIK-13381 on page 13 of the English and on page 12 of the German, the affidavit of Hans Herrmann, technical manager of Krupp Stahlbau Rheinhausen, confirming to a large extent the affidavit which we introduced as Exhibit 721 in which also the relations between the U-boat program and the procurement of that machine were stressed.

JUDGE DALY: The document may be marked Exhibit 722.

MR. MANDELLAUB: This concludes Document Book No. 22-A. Before we proceed to Document Book No. 23 I would like to indicate in a few words the importance of the Alsthom affair to the whole speculation count. As will be shown later, the machine lootings which were done throughout the war by the Germans and in which Krupp participated amounted to thousands of machines looted by the Germans, in which Krupp had its share, and the Prosecution could not follow up each individual machine to show to the Court how the confiscation and the procurement of the machine was done. Therefore, we thought it illustrative to show the Court one specific example, which we did, in introducing details of the Alsthom confiscation.

JUDGE WILKINS: Well, will you have examples of others as well, or are you just resting with this one? Will you make some showing that

there were thousands of others in the same way?

MR. MANDELLAUB: Yes, Your Honors. We have other examples referring to other countries, such as Holland, which we will bring up in a later document book, and we will have also an overall proof for the number of machines which we could find as having been acquired in this or similar ways by Krupp.

JUDGE WILKINS: Yes.

MR. MANDELLAUB: Now Mr. Maurice Huebsch is going to present Document Book No. 23.

MR. HUEBSCH: While the Secretary General is passing out the books, I would like to make a short remark to the Court about Mr. Ragland's physical indisposition this morning. We expect there may be a slight delay in his coming down to the courtroom, so he should be here shortly. Mr. Thayer suggested that I mention this to the Court should there be any expectation that he would be here at this present time.

JUDGE ANDERSON: Who is that?

MR. HUEBSCH: Mr. Ragland, the Deputy Chief Counsel.

JUDGE ANDERSON: Yes.

JUDGE WILKINS: Does this document book relate to spoliation as well?

MR. HUEBSCH: This document book - Montbelleux relates to spoliation of ore resources. Montbelleux is a warfare oil mine located at Montbelleux near Fougères, France, and had a French woman, the wife of Monsieur Lucien Haudebert, in Paris, as the owner. She had inherited an ownership interest in the mine, and the gist of the document book is the conduct of negotiations between Krupp operating through the organization Todt and Madame Haudebert's husband, Lucien Haudebert, was to be as sized up in the concessioner, one Edgar Brandt.

During the first World War, all Wolfram mine from Montbelleus was routed directly to French industry. Following the war, the impossibility of realizing a profit on the operation of Montbelleux, which was rather low-grade ore and economical only in the case of inflated prices of wartime, set the French operators to abandon the concession for some time. The documents will bring out when the concession was re-opened, the manner in which it was re-opened, and the uses made by the German war effort of all ore which was mined there for the benefit of Krupp. We shall skip the first document in Book 23 -- I should rather say we shall omit that document and pass to the third document, NIK 7000. It is marked as Exhibit 723. NIK-7000 is an affidavit wherein Robert Beche-- pardon me, I omitted the page numbers on that. It is on page 7 of the English and 8 of the German.

PRESIDING JUDGE DALY: It may be marked Exhibit 723.

MR. HUEBSCH: To read shortly from the index, Robert Beche, in his affidavit, mentions the exploitation by the Fried Krupp firm of the mine at Montbelleux, stating that "Assumption of the mine possession and exploitation was done without authorization from" Edgar Brandt, concessionnaire, "or any payment to him. All extracted ore was shipped out of France to Germany, aiding German aggression and denying the essential metal to French industry."

Exhibit 724, we would like to present document NIK 6997, at Page 3 of the English and 4 of the German, which is a report by this same Robert Beche, covered or included by reference in his affidavit, and this report also deals in detail with the activities of the German authorities operating with and through Krupp and the Organization Todt, which has been covered in this courtroom, in the Wolfram mine at Montbelleux, France.

PRESIDING JUDGE DALY: It may be marked Exhibit 724.

DR. WECKER: Your Honor, I only want to put a question, that is, whether this Monsieur Beche who has testified on behalf of a French authority can be called here for testimony in this Court. I think this is a sort of affidavit which, if I am right, will be accepted by the Tribunal as a

regular affidavit. That is why I want to know whether we can have this affiant for cross examination.

PRESIDING JUDGE DALY: Is the Prosecution prepared to make him available?

MR. HUEBSCH: Yes, sir, Mr. Beche will be available as a witness.

PRESIDING JUDGE DALY: All right.

DR. SCHILF: May it please the Tribunal, Dr. Schilf for defendant Janssen. Your Honor, I have certain misgivings that the Exhibit 723, which carries the NIK number 7000 --- well, in that case, I mean Exhibit 724, which is the second document in the book, I have certain misgivings about it being accepted as evidence. According to the wording in the German document book, it is the report about the relations between the Montbelleux mine and the German authorities.

PRESIDING JUDGE DALY: Just a minute, counsel. Whatever it is called, he is going to be subject to cross examination. You can cross examine him on any question you have regarding it.

DR. SCHILF: I do apologize, Your Honor, but my objection is really about something different. Perhaps may I just finish what I was going to say? This document 6997 is, in my opinion, no evidence because it is after the important date of the 23rd of October, 1940. This report was not made in the form of an affidavit. Quite obviously, it is only a private sort of notation. It is only the third document, which carries the number NIK 7000, which has the Exhibit number 723, only that has an affidavit and therefore can be accepted as evidence.

PRESIDING JUDGE DALY: I understand your objection is to its form. The objection will be overruled and you will be given an opportunity to cross examine.

JUDGE WILKINS: The other point is that that report that you are referring to, Doctor, is made a part of the affidavit of this gentleman whom you will have the opportunity to cross examine.

DR. SCHILF: Your Honor, but this report has not been given under oath. Only the addition has been given under oath, and that is a question of form.

PRESIDING JUDGE DALY: You have made that statement two or three times. Your objection is overruled. We will proceed.

MR. HUEBSCH: To pass to document NIK-6977, it will be submitted as Exhibit 725. That is on Page 8 of the English and 10 of the German. This is an affidavit by Lucien Haudebert. This is the husband of the owner of the mine, concerning her ownership, that is, the ownership of his wife, the seizure of the mine in 1942 by the Germans, payment to himself by the German mine director, and the destruction of the installations and building as the Germans fled during the attack of the American forces on the mine.

PRESIDING JUDGE DALY: It may be marked Exhibit 725.

MR. HUEBSCH: Prosecution would like to submit as Exhibit 726 Document NIK-8063, at Page 11 of the English and 13 of the German, wherein Griesbauer, who is the commissar installed in the mine by the German authorities, notified Haudebert and also notified the main administration of Krupp's ore mining administration, some of the members of which are enumerated, and the document was initialed by Hiep, one of the main functionaries in the Krupp ore mining administration. It informs them, Minsieur Haudebert, about the indemnification for the confiscation of his mine, agreeing to pay him 10,000 francs, which is 500 Reichsmarks, for the area and 4,000 francs or 200 Reichsmarks for the office building.

PRESIDING JUDGE DALY: It may be marked Exhibit 726.

MR. HUEBSCH: As Exhibit 727, the Prosecution would like to submit a translation of excerpts of document R 124, a very long document, so we submit only minor excerpts. This document was admitted before the IMT. It appears on Page 13 of the English and 16 of the German. The section to which we wish to call reference is at 14 of the English and 17 of the German, wherein Minister Speer, to quote his words, "I reported to the Fuehrer on the development of the Wolfram-mine Montbelleux. The development should be carried through completely."

PRESIDING JUDGE DALY: It may be marked Exhibit 727.

MR. HUEBSCH: As Exhibit 728, Prosecution submits NIK -- I believe

that counsel has an objection, I will halt that for a moment.

DR. WECKER: If it may please the Court, I apologize for coming only now in order to object again to the last accepted document, which received the exhibit number 727. This again is one of the well-known excerpts from the document R 124, which constitutes a large-scale record. It has come up time and again here, and therefore I would like to state that the Prosecution was kind enough to try to produce the original of this document. We, the defense, participated in these attempts, but so far the Prosecution have not succeeded in finding the original of the complete document. For that reason, I think this document should not have been offered as an exhibit in these proceedings, at least, not until we have found the complete original.

PRESIDING JUDGE DALY: The rules provide for the admission of this kind of a document. The objection is overruled. We will proceed. The last one is 727 -- 728 was the one you were addressing.

DR. HUEBSCH: 728 was the one I was going to submit.

PRESIDING JUDGE DALY: That may be marked Exhibit 728.

MR. HUEBSCH: If I may call the attention of the Tribunal to Exhibit 728, NIK 10609, Beche's affidavit, wherein he refers to the visit of certain German mining experts from the organization Todt, and accompanied by Krupp engineers, affirming that Krupp took over the management of the mine once the organization Todt had done some reconstruction work towards putting it into complete operation. He goes on to detail an account of the destruction of the mine thereafter. But what I wish to point out particularly was the 50 tons of refined ore, the value of 10 to 15 million francs -- an appreciable sum in any financial transaction -- which was removed, with the Kruppengineer Stahl stating that he wished to exhaust the layer in two months, and using all means of rapid exploitation within his power for that purpose.

Passing to Exhibit 729, document NIK 8068, which is a letter once again from the Krupp main ore mining administration, with Hiep and Kyllmann as the heads, I call particular reference to this document, because

I am referring back subsequently to a document already submitted to this Tribunal wherein the management of Montbelleux is informed of the approval of the compensation to Haudebert as mine owner, and I would like to quote this sentence, "That the firm Krupp be completely left out in the negotiations with the owners, as well as when making payments to them. Therefore everything pertaining to this matter must be done in the name of the Organization Todt." With the Court's indulgence, I would like to refer to a document.

PRESIDING JUDGE DALY: Well, let's see. This last one, appearing on Page 18 of the English, that you have just referred to may be marked Exhibit 729.

MR. HUEBSCH: A document in book 17-A, which was admitted as Exhibit 637, wherein, at Page 13 of the English, and I am sorry I cannot inform the Court as to the German page, because our file copy was not available to me at this time — it is a detailed discussion of the exploitation of the Wolfram ore mine at Montbelleux. There is just one line, where Krupp admits that the firm Krupp had advisors at the mine while the Organization Todt was preparing to take it over and hand the mine to the Krupp concern.

As Exhibit 730, Prosecution would like to submit document NIK 8064, at Page 19 of the English, 21 of the German, wherein Commissar Griesbauer writes a letter for the Organization Todt to Fried Krupp, again the main ore mining administration, discussing the decision to settle compensation on the mine owner Haudebert, and foregoing any discussion with Edgar Brandt, the concessionnaire.

PRESIDING JUDGE DALY: It may be marked Exhibit 730.

MR. HUEBSCH: As Exhibit 731, Prosecution submits NIK 8066, again a letter of Griesbauer — pardon me, that is Page 21 of the English and 22 of the German. This is again a letter of Griesbauer, noting the earlier communication of the 3rd of June, 1944, which appeared at 18 of the English and 20 of the German.

PRESIDING JUDGE DALY: It may be marked Exhibit 731.

MR. HUEBSCH: Informing Krupp —

PRESIDING JUDGE DALY: I beg your pardon, I just wanted to make sure it was marked. Go right ahead.

MR. HUEBSCH: He is referring to this sentence, that the firm Krupp be completely left out in the negotiations, and stating that he will conduct all negotiations in the future as it has been his practice to date.

I would now like to present as Exhibit 732 document NIK 8067, at Page 22 of the English, 23 of the German.

PRESIDING JUDGE DALY: It may be marked Exhibit 732.

MR. HUEBSCH: 733 would be document NIK 8065, at Page 23 of the German and Page 24 — I beg your pardon, 24 of the German and 23 of the English.

PRESIDING JUDGE DALY: It may be marked Exhibit 733.

MR. HUEBSCH: To call the Tribunal's attention to this particular document, this is an agreement between the Reich, represented by Todt, and Fried. Krupp A.G. at Essen, concerning the mine Montbelleux and detailing technical, administrative and personnel problems over a period of four or five days in July, 1943. The responsibilities of the division of the rights and interests between Krupp and Todt are taken up in this document. As 734, document NIK 6249, at Page 28 of the English and 29 of the German, there is a letter from the Montbelleux management about lumber required for the pits.

PRESIDING JUDGE DALY: It may be marked Exhibit 734.

MR. HUEBSCH: As Exhibit 735, there is a—this is document NIK 11747, at Page 31 of the English and 31 of the German. There is an order, a works certificate required for ignition machines.

PRESIDING JUDGE DALY: It may be marked Exhibit 735.

MR. HUEBSCH: As Exhibit 736, the Prosecution submits document NIK 11749, with further delineation of items required for exploitation of the mine. This is at 32 of the English and 32 of the German.

PRESIDING JUDGE DALY: It may be marked Exhibit 736.

MR. HUEBSCH: As Exhibit 737, the Prosecution submits document NIK 11750, at 33 of both the English and the German. This particular document goes into further elucidation of the manner of exploitation by reason of the fact that conveyor cages for the removal of the ore from the mine are discussed, and conveyor cages of one dimension proved to be unsuitable to the mine and further lifts are called for.

PRESIDING JUDGE DALY: It may be marked Exhibit 737.

MR. HUEBSCH: As Exhibit 738, Prosecution submits NIK 11748, at Page 34 in both the English and German document books regarding the placement of an iron quota at the disposal of the mine management.

PRESIDING JUDGE DALY: It may be marked Exhibit 738.

MR. HUEBSCH: As Exhibit 739, Prosecution submits document NIK 6248, wherein the mine management -- this is on Page 35 of the English and 36 of the German -- the mine management requests from Scherer, the plenipotentiary for France of the German Armament Ministry, certain machinery and materials which are specified.

PRESIDING JUDGE DALY: It may be marked Exhibit 739.

MR. HUEBSCH: As Exhibit 740, Prosecution submits document NIK 6247, wherein there is an -- at Page 38 of the English, 40 of the German -- an additional request for machinery and materials urgently needed for the mine.

PRESIDING JUDGE DALY: It may be marked Exhibit 740.

MR. HUEBSCH: As 741, document NIK 13168 at Page 43 of the English and 44 of the German, this being the last document in the book. It is an affidavit of Wilhelm Julius Hiep, then chief of the bookkeeping department of the ore mining department of Krupp. He deals with the management of the mine at Montbelleux, the exploitation of the mine and shipping of the

ore after the failure of negotiations with the concessionnaire Edgar Brant, explaining the financial arrangements which were made at that time.

PRESIDING JUDGE DALY: It may be marked Exhibit 741.

MR. HUEBSCH: This concludes the Prosecution's presentation of document book 23, and if the Court please, the Prosecution would be available after recess to present document book 26, if it be the Court's pleasure to recess at this time.

PRESIDING JUDGE DALY: Yes, we can take the fifteen minute recess at this time. Did you have something to say, Counselor, before we take the recess?

DR. WECKER: Yes, Your Honor, I would like to say something. In that Volume 23 which the Prosecution have just submitted, Prosecution are trying to establish the relation or connection between the case of spoliation and the firm of Friedrich Krupp. Prosecution, unfortunately, have not told us what they mean by spoliation. The Tribunal knows that in the Control Council Law 10, which is the basis of this indictment—

PRESIDING JUDGE DALY: Is this an objection to the document book, or what is the purpose of this statement, Counselor?

DR. WECKER: The purpose of my statement, Your Honor, is that I would want to ask Prosecution to tell us how they are going to prove a connection between these cases of spoliation and the firm of Krupp.

PRESIDING JUDGE DALY: Well, I don't understand the Court has any right to order the Prosecution to explain anything to you. If they want to do it, they can, but we will not take up that question.

DR. WECKER: But if I may just say, Your Honor, the Prosecution in submitting their documents must present some proof on which count of the indictment they are trying to present this evidence, and then they must really show which connection exists between the document and the indictment. So far, the Prosecution have not given us that connection.

PRESIDING JUDGE DALY: It is a question of argument.

JUDGE WILKINS: May I suggest to you that you have before you the

16 Jan. - ~~M-MW-6-4-P~~ Stewart (Int. Sachs)
COURT III, CASE X

opening statement made by the Prosecution, and it is impossible for them to put in their evidence all at one time, but after they have submitted all of their evidence on spoliation, I am sure that this question in your mind will be cleared up, Doctor.

PRESIDING JUDGE DALY: We will take a recess.