

Official Transcript of the American Military Tribunal
in the Matter of the United States of America against
Alfried Krupp, et al, defendants, sitting at Nurnberg
Germany, on 19 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: Marshal, are all the defendants present in the
court?

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

THE PRESIDENT: Are there present those members of the defense
counsel who were ordered to be here at 9:30?

THE MARSHAL: May it please your Honor, the defense counsel are
present.

THE PRESIDENT: Counselor?

DR. BALLAS: Dr. Ballas speaking.

THE PRESIDENT: Dr. Ballas, ----

DR. BALLAS: Dr. Ballas.

THE PRESIDENT: ---before you proceed with any observation that
you have to make -- I assume that you have something to say concerning
this matter that is before the Tribunal -- the Tribunal ----

DR. BALLAS: Your Honors, I have a report to submit to you.

THE PRESIDENT: Very well. Now, before you do that, the Tribunal
has some remarks of its own that it desires to make. You may be assured
that you are going to be granted a full opportunity, before there is any
decision about the matter, to say whatever you care to say, as will be
granted to each of those that are concerned, but we prefer to say what
we have to say first, Doctor, so you will defer, with the understanding
that you will be accorded a full opportunity to say whatever it may be
that you desire to say before there is any decision made in the matter.

Now, we are confronted this morning with a question of the utmost gravity. It concerns not only this Tribunal, but all of the other tribunals that are now sitting in Nurnberg. It essentially involves the ability of these tribunals to function, except at the whim and will of counsel for the defense, whether we shall abdicate our authority and the control of the proceedings and surrender ~~it~~ to counsel for the defense; or whether, to state it a little differently, counsel for the defense can stop or invalidate the proceedings of this and other tribunals by the simple expedient of walking out of the courtroom without any notice whatsoever to the Tribunal, without advising it of the purpose for which the walkout occurs, or without the permission of the Tribunal and in open defiance of its authority and power to function as a military tribunal. ~~That is the nature of the question that we have for decision~~ *When the circumstances which prevail are considered,* before us. The gravity of it must be obvious to any thinking person who has the least concern for the authority of the ^{Nations} powers that are undertaking to function in this country, ~~under the circumstances which prevail.~~

The seriousness of this matter requires a brief statement of the circumstances which gave rise to it. By express enactment, not of some other country or countries, but of the Military Government of the United States of America for Germany, this Tribunal and all other tribunals are required, and I am referring now to Ordinance No, 7, adopted by the Military Government of the United States of America for Germany, are required to "confine the trial strictly to the expeditious hearing of the issues raised by the charges, to take strict measures to prevent any action which will cause unreasonable delay, to deal summarily with any contumacy, imposing appropriate punishment, including the exclusion of any defendant or his counsel from some or all further proceedings, but without prejudice to the determination of the charges." I have just read from the ordinance to which I referred.

In an effort to comply with the mandate of our Military Government to expedite insofar as was reasonably the trial of this case, two informal

conferences were had with members of the defense counsel and members of the counsel for the Prosecution. This was done in an effort to work out, if possible, a mutually satisfactory arrangement for the sitting of the commissioner before whom certain types of evidence should be taken, as authorized, as we then construed it, by Ordinance No. 7 to which we have just referred. These conferences did not result in a definite agreement, and accordingly, having in mind the mandate of the ordinance to expedite this trial as much as reasonably possible, the Tribunal felt obliged to take some definite action in that regard of its own motion.

At the morning session on last Friday, we accordingly announced a ruling in open session that a commissioner had been appointed and would begin sitting to hear the testimony of two witnesses that afternoon. At this juncture, after that ruling had been announced, the following occurred, and since it involves the crux of this unfortunate matter, at the risk of going into too much detail I am going to read from the official transcript of the proceedings, reflecting precisely what occurred.

"MR. RAGLAND:" --chief of the prosecution staff who is trying this case. This is he speaking.

"We also have a document book 26, which could be put on. Apparently there was some mixup in furnishing the exhibits."

Just preceding this statement, there had been some question about which document book should be put on, which is immaterial to the present matter.

"MR. RAGLAND: The book are ready and the exhibits are ready, except for the collection of the exhibits. I understand from the document room that it will take 20 or 25 minutes in order for these exhibits to be collected.

"PRESIDING JUDGE DALY: How about these witnesses? How many witnesses have you waiting to testify?"

To interpolate, that referred to witnesses whose presence had been announced as being available, and whom the Prosecution expected sometime

19 Jan 48-M-FJC-2-4-P. Stewart (Steuer)
Court III Case X

during the day to put upon the stand, or to have the testimony taken otherwise.

"MR. RAGLAND: We have at least two with respect to whom the 24 hour notice has been given. I am not sure whether they are in the building at the moment, but I can check. We did ask them to be here at 1 o'clock this afternoon in order that they may go on before a commissioner at 1:30."

"PRESIDING JUDGE DALY: My only reason in inquiring was so that we could use the Court's time between now and one-thirty.

"MR. RAGLAND: It would be possible to check in two or three minutes to see whether these witnesses are available, Your Honor.

"PRESIDING JUDGE DALY: All right.

"DR. POHLE: Your Honor, may I use the time available now until the witness is brought in, to go back to the question discussed this morning concerning the Commission. For the moment I just want to say this: According to Article V of Ordinance 7 - - "

I interpolate, that is a reference to the Ordinance of our Military Government --

JUDGE DALY: Four, isn't it, I think it is four, isn't it --

THE PRESIDENT: Oh, yes, it is the Roman numeral four instead of five, it is IV-e of Ordinance 7.

(Continuing): "Each of the defendants is entitled through his defense counsel to bring out evidence and to cross examine witnesses brought in by the Prosecution. This Ordinance can be said to mean, according to our opinion, that each defendant has the right to cross examine each individual witness through his defense counsel. That is to say, to be present, or represented during the cross-examination.

"PRESIDING JUDGE DALY: Just a minute, is it the plan of counsel for the defense that each time a witness is made available for cross examination, that witness is to be examined by counsel representing these defendants? If that is the attitude of these defendants we are entitled to know it at this time."

I interpolate that that was a reference to the position that Dr. Pohle had taken that the counsel for each of the twelve defendants each held a separate right, apparently, to cross examine every witness. In other words, twelve cross-examinations.

(Continuing) "DR. POHLE: Yes, Your Honor.

PRESIDING JUDGE DALY: All right, it will be done by commissions" - evidently meaning a Commissioner, by a Commissioner.

" - as already stated. There are enough defense lawyers. I think the record indicates there are 36 names on there. There may have been some duplications, one lawyer may appear for more than one person but there are twenty odd lawyers in this case. We will proceed as announced.

"DR. POHLE: Your Honor, we cannot leave out the right of the defendants. We understand the Ordinance to mean the ---

"PRESIDING JUDGE DALY: This Tribunal determines how it construes and reads these Ordinances, and it has the responsibility for it. If at any time your reading of an Ordinance is different from ours, we constitute the Tribunal, and you will have to submit to our ruling on it.

"DR. POHLE: Judge Daly, I knew that. I just want to point out here that each of the defendants, during the recess, told me of their desire to have their rights guarded, and to be present during the cross examination by the Commissioner.

"PRESIDING JUDGE DALY: Do you have something to report on the other matter?

"MR. RAGLAND: I understand the witnesses have been released until this afternoon. However, we have Document Book 26. Twenty-four hours' notice has been given on that. We have a number of exhibits. Unfortunately, they are exhibits in the latter part of the book, and we think that with a brief explanation as we go along we can put in the documents somewhat out of order, but I think there won't be any difficulty.

"PRESIDING JUDGE DALY: As to the place where the Commission will sit this afternoon and tomorrow, it will be announced this afternoon, if not before the recess this morning.

"DR. SCHILF: Your Honor, there is one difficulty which I should like to have discussed here.

"PRESIDING JUDGE DALY: Is this on the question of the Commission?

"DR. SCHILF: Yes.

"PRESIDING JUDGE DALY: There will be no further discussion on that. We will proceed with the document book. Proceed with the document book, please."

I interpolate, counsel for the Prosecution was then standing at the podium with the document book in hand, preparing to present it.

"DR. SCHILF: Your Honor, I protest... is there a desk here? We do not have copy of the transcript here.

"PRESIDING JUDGE DALY: Did you hear me say, counsellor, that there will be no further discussion on the Commissioners here?

"DR. SCHILF: Yes, and I protest this ruling.

"PRESIDING JUDGE DALY: You will please take your seat or I will order you removed from the courtroom.

"DR. SCHILF: I request that you do that.

"JUDGE DALY: All right. You can remove yourself, then. Proceed."

And now, at that juncture, Dr. Schilf went to the table, defense table where counsel sit, and gathered up his papers, sauntered out, and shortly, very shortly after this, all of the members of the Defense Counsel who were then present in the Courtroom, without any notice to the Tribunal, without any request for permission to do so, without any statement of what their intention was, and apparently without any consultation among themselves, deliberately got up while the proceedings were in progress and left the Courtroom. Not realizing for the moment what was intended by this move, never contemplating that such action could be possible on the part of officers of the Court, as the defense counsel are, we allowed, for the time being, the reading of the documents to continue for what was, perhaps, more than a reasonable time in order to afford counsel for the defense, or some of them, at least, to return to their duty to their clients and to this Tribunal. When they did not return we directed the Marshal to order them to appear forthwith. After some short delay they arrived, and the members of the Tribunal considering it their duty

to do so, examined them in open session to determine those who participated in the walkout. We thought then, and have no doubt now, that those who did so were guilty of a flagrant contempt committed in the presence of the Tribunal, and accordingly ordered them into custody of the Marshal with the direction that they be produced here this morning for such further action as the Tribunal deemed proper.

We reserved our judgment as to those members of defense counsel who were not present at the session when the walkout occurred, but who, knowing that it had occurred, and that there was no one present in the session representing the defendants at the proceedings in progress, wilfully abstained from appearing and performing their duty to their clients and to the Tribunal. As a result of the conduct of defense counsel in walking out of the session then in progress, and leaving these defendants unrepresented while their prosecutors were offering evidence against them, such proceedings - or the result was, to say the least of it, to cast very serious doubt upon such proceedings as were had while that situation lasted. To say the least of it, the Tribunal was unable to proceed according to the normal course of procedure, and the rules regulating the trial of this case. And moreover, as a result of that action we were bound to interrupt the orderly proceeding of this case, to adjourn the session abruptly short of the time fixed for that purpose. And we are also prevented this morning from proceeding with the trial as normally would have been done.

That by the action of counsel, the proceedings of this Tribunal to a very substantial and serious extent were obstructed, and its authority to regulate the conduct of this trial was directly and openly challenged, to this, there can be no doubt. Since it has been held that these Tribunals sitting here at Nuernberg do so pursuant to the authority of the four Allied nations, including the United States of America, who were victorious over the armed forces of the German Reich, it seems equally clear that the challenge is,

if not directly, indirectly, to the authority of these nations now occupying Germany.

I have stated that because during a portion of Friday's proceedings these defendants in the dock here were confronted with evidence introduced by their prosecutors, without having any representation at all, to take care of their interest; that there was, to say the very least of it, a serious doubt about the validity of what occurred in that situation. And it may be that the only course possible to remove that doubt is to take the time to repeat all that what was done. That, the Tribunal will decide at a later date, having primary regard to what is required to protect the rights and interests of the defendants in the premises in that respect, although it will involve a very substantial delay. If we conclude there is any possibility that any substantial right of these defendants has been prejudiced, or prejudice will result from a failure to repeat, why, notwithstanding that delay, it will be done. Fortunately, no oral testimony or evidence was heard during that interval. The proceedings consisted entirely of the introduction of written documents, which can, if we should decide it necessary, be very readily reintroduced. That we will determine upon the basis not of the Tribunal's convenience or the convenience of counsel, but what is required in the interest of these defendants.

Now we will hear if those concerned have anything to say.

DR. BAILAS: May it please the Tribunal, before Your Honor started these proceedings I wished to say that I, that morning on Friday, was also present in this Court, and that I, too, left the Court together with the other attorneys. In the afternoon I was absent from the court building and, therefore, could not attend the session. Therefore, I wish to avail myself of this opportunity in the first open session since the Tribunal has reconvened to render this notice to the Court, Your Honor.

JUDGE WILKINS: I had seen you leave., Doctor, and I had intended to

ask you about it today.

THE PRESIDENT: Well, we take that statement, Doctor. We may say it is very commendable.

DR. KRANZBUEHLER: Your Honor, the six defense counsel present here who are under contempt of court have asked me to take over their defense. I am willing to do so, and within the task set upon me by this defense I would like to ask to be permitted to call defense counsel Doctor Schilf in the witness stand to testify under oath as to his conduct at the session on the 16th of January 1948.

THE PRESIDENT: That will be granted, Doctor.

DR. KRANZBUEHLER: I call defense attorney Doctor Schilf.

THE PRESIDENT: Will you raise your right hand and repeat after me, please:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth, and will withhold nothing, and will add nothing.

(The witness repeated the oath.)

THE PRESIDENT: You may be seated.

DR. KRANZBUEHLER: May it please the Tribunal: Before I start on the examination of this witness I wish to refer to the fact that up to this time I have not received the transcript covering that session during which this incident occurred. I have only just now for the first time heard parts of that transcript read out.

THE PRESIDENT: Well, Doctor, do you desire to have before you this transcript?

DR. KRANZBUEHLER: Your Honor, I wish to move that the entire proceeding here be adjourned until such time as I shall have had an opportunity to study and read the transcript of that session. The time required will be until tomorrow morning.

THE PRESIDENT: We are obliged to decline that request for an adjournment to that time, Doctor, but if you desire, we shall pass to you the transcript which I have before me, which was furnished to the Tribunal as being authentic, and if it should appear to be

19 Jan.-M-BK-3 & 4-7-Biolsi (Int. Steuer)
Court III, Case 10

necessary to do so, why, we will grant you some time later; that portion of the transcript, I may say, that seems to us material to the matter, I read in full, and it is rather brief. So suppose you proceed with the examination of the witness, and we will determine later. Do you wish this before you?

DR. KRANZBUEHLER: I would ask you to let me have it, Your Honor.

THE PRESIDENT: Yes.

THE PRESIDENT: I have marked at the bottom of the page where I began reading.

DR. KRANZBUEHLER: Thank you very much, your Honor.

Your Honor, I am not sufficiently familiarized with American law to know whether in initiating this examination of Dr. Schilf I am not renouncing and yielding up a right which is due to me, therefore, before beginning this examination, I would like to make another motion because subsequently it may be said that I had waived that prerogative.

THE PRESIDENT: Doctor, we are not going to conduct this matter, you may be assured, according to any technical rules of procedure involving waiver. This matter is far too serious and far too important to be put off on a mere technicality. I don't know what you have in mind with respect to a motion, but you may be assured, and I feel that my associates have the same idea about it, that if you desire to proceed with this examination now, you will not have waived any right that you would otherwise have as a representative of these five men.

DR. KRANZBUEHLER: I thank you, Your Honor, but perhaps mine may be a question which on principle belongs at the beginning of the examination. On Friday these defendants were arrested during open session. This was done by order of this Tribunal. I don't know pursuant to what law this arrest took place, but I am of the opinion that in view of the fact that this Tribunal ordered this arrest to be made, this Tribunal is prejudiced and has no right to rule on this question. I, therefore, move that the Tribunal declare itself as lacking jurisdiction to determine this question, and turn over such jurisdiction to another Tribunal sitting in Nuernberg, a Military Tribunal.

THE PRESIDENT: We passed on that. The motion, Doctor Kranzbuehler, will be put in the record and must be overruled.

The authority which is to be found in the military ordinance enacted by the Military Government of the United States of America for Germany -- there is no need to repeat the section to which I refer, it is Article VI of that ordinance, which has already been read and it

authorizes this Tribunal to deal summarily with contempts and as I pointed out in my opening remarks, this contempt was one committed not out of the presence of the Court, but in the presence of the Court, in the room. Therefore, we hold under this ordinance that we have the authority to deal with it. So your motion will be overruled.

DR. KRANZBUEHLER: In view of the fact that the Tribunal has declared itself as having jurisdiction, I am driven to reject Judge Daly as prejudiced in this matter.

THE PRESIDENT: That motion will likewise be overruled, Doctor. The ordinance provides -- where is that? -- just one moment, please, as being ascertained, I ask that while this Tribunal is acting under the provisions of this military ordinance, that since you refer to the law in the United States of America, the rule there is, although it will not apply here, that a Court itself has the power to punish contempts committed in its presence, and to do so summarily. The provision to which I refer is Article II, Section E, which provides that neither the tribunals nor the members of the tribunals, nor the alternates may be challenged by the prosecution or by the defendants or their counsels.

DR. KRANZBUEHLER: Your Honor, I knew of this provision, but I was of the opinion that it applied only to the proceedings towards the defendants, the so-called war criminals, but not to any intermediary proceedings. That is why I put this motion, but I take notice of the fact that it has been overruled.

THE PRESIDENT: Yes. Not only for the reason of the provision of the ordinance, Doctor, but we have no doubt, Judge Wilkins and I, quite apart from that, that Judge Day is not in any sense of the word disqualified to act upon this matter. The record reflects nothing, in our opinion, that could be construed as a disqualification of his authority to pass on this question.

DR. KRANZBUEHLER: I am now starting on Dr. Schilf's examination.

DIRECT EXAMINATION

DR. KRANZBUEHLER:

Q Dr. Schilf, were you present, from the beginning at the session of 16 January, the morning session?

A Yes, I was present.

Q Did you hear the decision to appoint a commissioner?

A Yes, I heard that decision.

Q Were you prepared for that decision, or was it a surprise to you?

A It was a complete surprise to me, and the surprise consisted primarily of the fact that the first session of this commission was even fixed for the same day, namely, the start of the afternoon session. During recess time I heard that on the evening prior to that day, on the occasion of the unofficial meeting, preparations were made for the session of this commission between the representatives of the prosecution and the defense counsel, and as far as I was informed, I heard that both parties expected that the commission's session would start today only, namely, on Monday. A list of witnesses was to be exchanged and it was to be clarified which witnesses were to be examined in the main session -- that is, the trial here, and which were to be examined by the commission. Also, certain technical measures were to be discussed and prepared. In the morning session on Friday I heard Dr. Wecker, representing the defense counsel, expressing approval of the establishment of the commission, and it was perfectly clear to me that the institution of a commission as such had also been recognized on the part of the defense counsel. Thereupon, during recess time I spoke with my client, Dr. Janssen, informing him of what had taken place and emphasizing the advantages which would arise for him, as a defendant, due to the fact that examinations of witnesses were to be undertaken by commissioners. I cited to him various examples which I had gained from my experiences in Nurnberg. In recess time, therefore, I was fully convinced that the commission as such had been appointed and the defense counsel had approved of that appointment, but as far as the carrying out of the commission, undertakings as such, there were various

difficulties to be overcome.

Q Did you discuss these difficulties during recess time?

A Yes, I did. I spoke with Herr Wecker and I can't give you the names now -- I spoke with gentlemen standing around me and I asked if the commission was to start as early as this afternoon at 1:30 according to the ruling of the court, which witnesses were going to be examined. Nobody was in a position to tell me what witnesses were to be heard in the afternoon by this commissioner. When recess was over I simply didn't know what to do. Everything was absolutely vague and obscure. We didn't know how on the same day, approximately two hours later, such proceedings were to be instituted. I, myself, was not at all prepared. I had no means of preparing myself as long as I didn't know what witnesses were to be heard before the commissioner. As stated, the people I asked were unable even to tell me the names of the witnesses.

Q After the morning recess did you hear Dr. Pohle's motion to the effect that all defendants wished to avail themselves of the right to attend the examination conducted by the commissioner?

A Yes, when recess was over from the start of the session I was present uninterruptedly. I heard that Dr. Pohle expressed the wish of all defendants to attend the commission's session of the afternoon of that day.

Q Were you convinced that this motion of Dr. Pohle's was in accordance with the rights due to the defendants?

A Yes, I was convinced of that, but I didn't think it possible to carry out such a motion in practice because first of all we had to know the witnesses to be heard before the commission, and primarily, we had to know whether these witnesses referred to counts 1 and 4 of the indictment -- that is, preparation of aggressive war, and conspiracy, as independent fact of the indictment, conspiracy also as it applies to aggressive warfare, because after knowing these facts, we would be able to know which of the defense counsel had to be present at the trial here and which members of the defense counsel had to be present at the

trial here and which members of the defense counsel had to attend the commission. The solution, according to which all the defendants wanted to go and attend the commission -- this was a desire which Dr. Pohle expressed to the Tribunal -- represented no final solution, because the members of the defense had to coordinate their actions among each other. They had to determine whether conspiracy applied to both counts of the indictment in which case the necessity might arise that the entire defense counsel might have to appear before the commission.

Q Did you hear whether a ruling was made by the Tribunal in answer to Dr. Pohle's motion?

A I didn't hear any ruling being made. At least, not as applying to what I thought the solution might be, a practical solution of this difficult situation. I didn't hear a ruling of the Tribunal in this respect.

Q After Dr. Pohle left the podium, you were not clear as to what was going to happen that afternoon?

A Absolutely. It was absolutely vague and unclear to me.

Q What was your intention when you took the podium stand yourself?

A It was absolutely clear to me that in the morning session the Tribunal had appointed a commissioner. I had heard Dr. Wecker expressing the agreement of the defense counsel. Furthermore, I had heard that originally the opinion had prevailed that for technical reasons the discussion could only be initiated for Monday of the following week, which is today. Thereupon, as Dr. Pohle had not made any further statements, I wished to make a formal motion for a short adjournment of this Tribunal, so that all these technical questions be solved, questions which appreciated the ruling as made by this Tribunal.

Q Therefore, you wished to make a motion to adjourn this proceeding, in order to give the defense counsel an opportunity to consult among themselves as to how the Tribunal's rulings to appoint a commissioner would be carried out that afternoon?

A Yes, your statement is correct.

Q When you started to make your statement, was it clear that such a motion of yours was founded on the ruling made by this Tribunal?

A This conviction was conformed for me, when the presiding judge today read the portion of the transcript referring to the session. I wish to add the following: Immediately on Friday when the film had been taken from the Court and deposited in the recording room, Dr. Maschke, a secretary and I went to the recording room in order to listen in to that portion of the film covering that session. I had started my statement with the following words, and I was going to refresh my memory: "There is a serious difficulty to be faced in this connection," and when I had said this, I was interrupted by Judge Daly. These few words of mine, as became clear today, this morning, also from the English transcript read by the presiding judge, these words, according to my opinion, proved without a doubt that my intention was to point out at the beginning of my statement certain technical difficulties which still existed, obstructing the implementation of the Tribunal's ruling. I am of the opinion that these words are of particular significance, because as we are now given an opportunity to clarify these incidents, important evidence is furnished by the fact that I used the word "difficulty", in that connection.

Q You said that Judge Daly interrupted you?

A I listened in to the film with Dr. Maschke and a secretary, as I stated before. The film with Dr. Maschke and a secretary, as I stated before.

19 Jan. 48-M-GJ-o-2-Bushnell-(Stever)-
Court 3 case 10

The film of that session only reproduces the original language used. It was extremely difficult and involved a great loss of time to gather from the film the exact formulation and wording used, because various portions of the film reproduced two voices, namely, Judge Daly's English and my own German, and these voices ran parallel. Dr. Maschke and I requested the gentlemen who were listening to the film to verify on their part what the exact wording had been, and after long endeavors which involved a loss of time, we ascertained that my words lost in a statement made by Judge Daly, that I had discontinued speaking, having been interrupted by Judge Daly.

Q Dr. Schilf I want to read this portion which is of significance and then switch over to what has been taken down from the film. Kindly confirm to me that to the best of your memory the following what happened. I start with the transcript:

"DR. SCHILF: Your Honor, there is one difficulty which I should like to have discussed here.

"PRESIDING JUDGE DALY: Is this on the question of the commission?

"DR. SCHILF: Yes.

"PRESIDING JUDGE DALY: There will be no further discussion of that.

We will proceed with the document book. "Proceed with the document book place"

I now refer to the film, which reproduces the following words in a slightly different way from that of the English transcript:

#JUDGE DALY: Let's proceed with the document.

"DR. SCHILF: May it please the Tribunal, I protest against being cut off from further statements. I protest against such rulings.

"JUDGE DALY: Didn't you hear that there is no further discussion on the question of the commissioner?

"DR. SCHILF: I protest against this ruling and request a ruling by the Tribunal.

"JUDGE DALY: Take your seat or I will order you to be removed from the courtroom.

"DR. SCHILF: I request you to do so.

"JUDGE DALY: All right, you can remove yourself then."

Is what I have read to you just now from the film -- is this in accordance with what you, yourself, heard from the film?

A Yes, I am relying on my memory though. But we were very careful in verifying this portion of the film, at least ten minutes, so that we would be sure and get a reliable reproduction of what occurred. The secretary took stenographic notes and I think what what you Dr. Kranzbuehler, just read to me, is in accordance with what I recall from my memory of the incident, as it occurred in the court, as well as in accordance with the film that we listened in to. May I refer to the following --

JUDGE WILKINS: Just a minute, Dr. Schilf, Did I understand that he said it is in accordance with his memory of it?

DR. KRANZBUHLER: Yes, Your Honor, that it is in accordance with his memory.

Q I would like to point out a further significant discrepancy, as it exists between the film and the transcript, respectively. Is it correct that you not only stated: "I protest against this ruling: but that you added, "and request a ruling by the Tribunal?"

A Yes, I exactly remember the original incident that in accordance with German procedure law, as I recalled it at the time, I solicited the president's ruling on so serious question as the putting of a motion and I remembered that the Tribunal in the very session can rule on such a point. That is the Tribunal in its full membership, presiding judges and assisting judges. It was my opinion and I was aware of how significant my motion was, and I sought to have a solution whereby I could invoke a decision and ruling of the entire Tribunal, not the ruling of the President alone.