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And recalling this so very clearly, in reviewing the sound track, I directed my very special attention towards these words, particularly to my words "Gerichtshof", which are audite on the sound track, meaning Tribunal. However, my words have Judge Daly's statement superimposed, because Judge Daly started talking before I had finished my statement.

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Q That is to say, you were interrupted again?

A Yes.

Q Now, the second item which I wish to clarify is your answer to Judge Daly's words, "Take your seat or I'll order you to be removed from the courtroom."

THE PRESIDENT: Dr. Kranzbuehler, we will be obliged to take the usual 15 minute recess because of the fact that the apparatus out here has to be changed every our and a half. It won't record any further, so in order to allow that change to be made, we will have to suspend for 15 minutes.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: You may proceed, Dr. Kranzbuehler.

BY DR. KRANZBUEHLER:

Q Dr. Schilf, before the recess I read part of the sound track to you which seems to show another misunderstanding. I read it once again.

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

"DR. SCHILF: I request that."

You heard that in the record the words "Ich bitte darum" translated as "I request you to do so." That is a very energetic request. Does it in your opinion correspond to the German meaning of the words, in particular, that what you wanted to express?

A In my opinion that interpretation into English does not correspond to the meaning of the three words I used. In the German interpretation of the words Judge Daly, I did not hear "Sit down please". Rather, as I remember it, I was told, "If you continue to speak, I shall have you removed from the Court". No examination could be made of the sound track because the film only gives the original language, and neither the interpretation into German, nor the interpretation into English is reproduced. I refreshed my memory because the German interpretation is still remembered by me, and moreover I talked with my colleagues who were present and who confirmed that in their recollection it was as I had said, namely, that the interpretation of the words "Take your seat", was: "If you continue to speak", then, I only remember exactly that then, "I shall have you removed from the court."

JUDGE WILKINS: And what was your response to that?

A I answered in German, "Ich bitte darum".

BY DR. KRANZBUEHLER:

Q What was that supposed to mean?

A That was supposed to mean I request that I be permitted to remove

myself from the court immediately, and I expressly used the words "I ask". (Ich bitte). Later on, I never spoke of "request" or "application". The words "Ich bitte darum" are a usual form of expression of a confirmation in response to an order including my own desire to leave the court. Then I heard the German interpretation.

Q Dr. Schilf, why did you desire to leave the Court?

A I was firmly convinced that in all events my motion for a short adjournment, to have this motion introduced before the end of the morning session. It was not possible for me to make this motion orally. Therefore, I wanted to leave the Court in order to make a written application and to present this written application to the Court. There was no other possibility for me to leave the Court in order to shape up this written application. May I add the following to that point. In this German interpretation I heard Judge Daly say, "Then you may remove yourself". I don't know whether it was clear in the court: at the moment when I left the podium for my seat, the Marshal of the Court was standing next to me and requested me to put together my files and leave the courtroom. The Marshal was standing beside me immediately, and his gesture could be construed in only one way, and consequently I packed my things together because I remembered that the Marshal walked several steps with me toward the door. Therefore, I was doubtful whether there was an order for my removal issued by the Court; whereas to my recollection according to the German interpretation, it was this: That I was to leave voluntarily. My recollection has it that the German interpretation clearly is that "you can leave voluntarily", in answer to my "Ich bitte darum", I ask for that. Whether my words "Ich bitte darum" --

Q Dr. Schilf, I believe that is quite enough to clear the facts of the matter. At any rate, it is certain that the Marshal of this Court with a gesture instructed you to leave the court when you left?

A That could not be misunderstood. The Marshal was standing next to me, and he will confirm that himself and my colleagues can confirm

that too.

Q After you had left the Court what did you do?

A (No response).

Q Did you hear my question?

A Yes. I felt extremely excited. I felt myself treated like a schoolboy. On this morning already for the third time I had witnessed that Judge Daly had interrupted me. I noticed that all my colleagues spontaneously rose from their seats and left the room with me. When we were outside in the hall, I was asked - I think Dr. Wecker asked me - "Schilf, what suggestion can you make?"

Q. Just a minute, Dr. Schilf. You said just now that your colleagues spontaneously rose from their seats. How do you know that it was spontaneous?

A. At the moment when I was going to go to my seat from the podium in order to gather my notes and files, I could hardly reach my seat because my colleagues tried from all sides to come towards me in that small place there between the tables.

Q. Was there any sort of prearrangement between you and the other defense counsels that at this or another occasion during this session, the defense counsel wanted to leave?

A. It is completely impossible, quite impossible, because this incident happened in a few seconds. Neither before nor during recess was any discussion possible, that this incident was to be arranged. That it was spontaneous can be seen from the circumstances, that in the moment when I tried to walk from the podium to my seat...

MR. RAGLAND: Your Honor, our headphones are not working at the Prosecution table.

THE PRESIDENT: Well, we will have to stop a minute. It looks like yours are out of order when mine are working very nicely for the first time. These young men will fix this apparatus in a minute. All right, proceed. I think they are working now.

DR. KRANZBUHLER:

Q. Dr. Schilf, I asked you whether there was some sort of prearrangement to take this step, and you answered no. I now further ask you, was there any general prearrangement to use any occasion in order to make such a general exit or to provoke such an exit?

A. I can answer again, definitely no.

Q. What happened after you and your colleagues met outside in the hall?

A. Since I saw that all the colleagues who had been present had left after me, we immediately started a discussion outside in the hall. We remained standing at the stairs immediately outside the courtroom which

leads to the upper stories. Dr. Wecker, to my recollection, asked me, "What do you suggest now?" Without hesitation, I stated, "We must immediately make a written application and that motion must be presented in the English language before the end of the morning session." One of my colleagues, I believe Dr. Pohle, stated, "We will immediately go to our offices together and will draft this motion and put it in writing." My suggestion to make a written application was immediately and without further discussion accepted.

Q. Did this intended motion in the English language -- was it completed before the end of the morning session?

A. No, it was not completed.

Q. What was the reason for that?

A. To begin with, the excitement in general was very strong in this room to which we repaired. There were other colleagues who had heard of the incident, although they hadn't witnessed it, but who belonged to the Krupp defense. There were various assistants, various people of the press, who, however, were requested immediately to leave, and we started immediately to write down what had happened.

Q. Was the decisive reason for not completing the motion before the morning recess -- that the English record was not present?

A. The decisive reason was this: We noticed at first that there was obscurity and vagueness concerning what had happened on Thursday evening, that is, before the session, what had been discussed among ourselves.

Q. When you say among ourselves, do you mean the discussion with the prosecution?

A. Yes, as far as I know, although I was not present, there was a conference between the defense counsel and members of the Prosecution together with a representative of the Court.

Q. You need not talk further about it, since you were not present.

A. No, I wasn't. However, we weren't quite clear about it, what had been the result of this Thursday conference. All of us had heard the

ruling of the Court, that was before the recess, that already on the very same day at 1:30 the commissioner was to begin his session.

Therefore, there was a discussion as to what witnesses were to be called in in the afternoon session. When the facts of the matter were discussed, there was a further difficulty; namely, that not all of us remembered exactly as to the incident prior, immediately prior, to this session here before the exodus of the defense counsel. In spite of this, however, we started to shape the motion. Dr. Wecker dictated, and we found out that the sound track of the morning session could only be given to us at the end of the session. Therefore, we only studied the sound track after the noon recess, and there was about three-quarters of an hour to go until the end of the morning session. The difficulties appearing made it impossible to put this motion into English immediately, therefore, we began to shape this, to phrase this motion in German.

It was now 1 or 12:30, and separately we hastened to our lunch. After lunch, I personally suggested to study the sound track, because I knew the department where the film was checked. I asked Dr. Maschke to obtain an English-speaking secretary, and the three of us went to the room where the films were checked. We found out that the important and decisive parts in the film were extremely difficult to understand, and that as I have repeated several times, two persons were speaking at the same time so that the English and German texts overlapped.

Therefore, in the room where the film was checked, we requested other gentlemen present, I think there were three of them who helped us to find an exact reconstruction of what had happened with the aid of the film. Afterwards, that took a lot of time, we took the stonographic notation and went to our conference room. Dr. Maschke and the secretary tried to write down the reconstruction of the sound track, and the further shaping of the motion was continued with the aid of what we had been able to find out. I emphasized that the checking of the film took a lot of them. My other colleagues, approximately 15 of them, had meanwhile been busy with shaping the motion. When I returned with Dr. Maschke, there was a final draft of the motion. We decided to submit it to Dr. Pohle, who had

taken over the shaping, and to read it slowly.

Q. I didn't quite understand you. What was decided upon?

A. When I returned with Dr. Maschke to the conference room, my other colleagues were occupied with shaping a draft of the motion, and they had completed it. We decided to let Dr. Pohle read this draft. As is usual, if there are 15, several people working on a common statement, there were even at the first sentence changes or suggestions of changes.

Q. Dr. Schilf, I don't think it is necessary to go into the detailed changes of the draft. It is sufficient if you can tell me that there was uninterrupted work on the completion of this motion by all the defense counsel who had been present in the court?

A. I can confirm this fact, and I can add the following: I was sitting next to my colleague Gollnick, during the shaping of the motion, and both of us were extremely nervous and urged a rapid completion. We wanted to shorten the discussion which began to start with every sentence. The reading by Dr. Pohle was almost completed. The requests for changes had been discussed and some had been incorporated, when the Marshal of the court appeared in the conference room, and reported the order of the Court that we appear in the courtroom forthwith.

Q. Do you know the exact words of the Marshal?

A. I did not hear the exact phrases, however, I heard the answer by Dr. Wecker, whether the Court was sending the Marshal -- whether it was a request or an order, and I understood him to say that at first it was a request. Therefore, we requested Dr. Hennig to appear in the court room immediately.

THE PRESIDENT: Allow me to interrupt for a moment to get the pertinent fact here. It seems to be pertinent, if any of this is. What time was that, Doctor, do you recall, when the Marshal appeared and served that order or notice or request, whatever you may have construed it to be, upon you, if you recall approximately what time?

THE WITNESS: Your Honor, I am sorry, I don't know the exact time.

JUDGE WILKINS: I can refresh his memory on it, if he desires it. The Marshal was ordered to report to you gentlemen at 3:23 in the afternoon, and you entered the courtroom at 3:50. That may help you.

THE PRESIDENT: While we have interrupted long enough to inquire about the time, are you able to state, in view of the circumstances, about what time it was that you left the courtroom and the exodus took place?

THE WITNESS: I think it was between 11:30 and 11:45. I remember the following, the recess was longer than usual.

THE PRESIDENT: We think that is approximately correct, according to our recollection. We took no note of it at the time because we didn't appreciate the significance of it. Very well, Doctor.

Q. You said, witness, that Dr. Hennig was sent to the court immediately. What was his order?

A. Dr. Hennig was sent with the order to inform the Tribunal that we, the whole of the defense counsel, would appear in a few minutes in order to present a written motion or statement. In view of the fact that the Marshal of the court had appeared in our conference room, we agreed not to retype the draft which had been repeatedly retyped, and we decided that Dr. Pohle, who apparently knew what this much corrected draft was all about, was to read it on behalf of all the defense and Dr. Pohle went immediately when the order of the Court came to appear ----

Q. Just a minute. I believe you are skipping some incident, aren't you? The Marshal of the court appeared again in the conference room?

A. As far as I remember, I didn't see the Marshal in our conference rooms any more, but I only heard that Dr. Hennig, who came up the stairs, "But it isn't a request of the Court, it is an order by the Court." We immediately rushed to our own office in order to put on our clothes and to appear in the court, after it had been clarified that the Court did not want to wait the few minutes until our draft had been completed.

Q. When you came down here, was the Court in session or was there a recess?

A. We assembled here, and to my recollection, we had to wait about ten minutes before the Court appeared.

Q. After the judges had appeared, did Dr. Pohle have an opportunity to present the motion which you had shpaed?

A. No, he was not given an opportunity. Dr. Pohle immediately, after the judges had appeared, tried to get up to the podium, and he was standing there all that time when the Tribunal began its questioning.

JUDGE WILKINS: Excuse me, Dr. Kranzbuehler. I speak only for

myself, but I am not a great deal interested in what happened in the afternoon, but I am particularly interested, as one member of the Tribunal, in what happened in the morning, but I don't care to stop you or preclude you from proceeding, if you think it is necessary.

DR. KRANZBUEHLER: If I may start with that, that the incidents of the afternoon and in particular the absence of the defense counsel in order to shape the motion played no important part, I shall leave the questioning on that point.

JUDGE WILKINS: No, you misunderstood me. I said I was not interested in what took place when we finally committed the six attorneys to goal at that proceeding. That, as I see it, has nothing to do with what happened in the morning, but then I am only one member of the Tribunal.

THE PRESIDENT: That is right.

DR. KRANZBUEHLER: I want to conclude interrogation on this point anyway.

Q. I want to ask you, why did you personally have no misgivings to remain absent from the afternoon session?

A. My position was very precarious, although I had heard Judge Daly's words, at least the German interpretation, "You may leave the Court of your own will." On the other hand, the Marshal immediately appeared next to my chair, and with a gesture requested me to leave the Court. Therefore, I didn't know what the Court had ordered exactly. That was one of the reasons that I personally urged that the written motion be completed before the end of the morning recess, because I wanted to have my personal position clarified, whether I was allowed to re-enter the courtroom. When the order of the Court came, to the effect that the defense counsels were to appear in court, I was personally doubtful whether this applied to me, too, and I requested Dr. Pohle, before making his statement, to request the Court whether I was allowed to enter the courtroom. That, however, became unnecessary because I in the meantime appeared here and the Marshal of the Court stated that I was also to

take my seat. At first I wanted to wait outside the Court for a ruling of the Court.

Q. Witness, this incident, was it the first time something like that had happened to you?

A. May I say this, and please permit me to say this quite openly, during the morning session I witnessed that I was interrupted three times. If the Court is interested in hearing the individual incidents, I want to request you to ask me to do so, so that I may clear those three incidents where I considered myself interrupted. Dr. Kranzbuehler, please can you ask any ruling of the Court whether I am to describe the three incidents when I felt myself interrupted?

Q. May I ask whether the Court is interested in hearing the details?

THE PRESIDENT: I shouldn't think so. I think that record -- whatever the record shows in that respect, of course, is true, and quite frankly, it doesn't seem to be the determining course in the conduct of the trial of this case. The Tribunal was bound to interrupt when it thinks that the counsel -- when the procedure requires it, that counsel is persisting in some line of questioning with respect to a ruling that has already been made. That doesn't seem to me to be material Dr. Kranzbuehler, even if it is true.

Since I have interrupted you, it was stated in the beginning that these five members of the counsel -- that we wanted to give them a full hearing, to take a full opportunity to say what they had to say about this before we reached any decision about what to do with the, and we don't want to restrict that, but we must say, in all frankness, that we think the examination of Dr. Schilf has gone somewhat beyond the real question in the case as the Tribunal sees it. The fact is that whatever else may be said, without any warning, without any notice of what was intended or anything else, this trial was left here to proceed without the defendants having any counsel representing them. Go ahead, but we don't think those

incidents are material. It may be stated affirmatively that when they returned, Dr. Pohle did attempt to read a statement, make a statement. There was that attempt, and the Tribunal did not allow it for the reason that it felt then and now that he, having been one of those who left the courtroom, he and the others were in contempt of the trial. Now, go ahead.

BY DR. KRANZBUEHLER:

Q Dr. Schilf, in the course of the morning you thought yourself interrupted three times on an occasions when you thought yourself justified to reserve the rights of your client?

A Yes, that is correct. Before the recess I objected --

Q Dr. Schilf, I thought the Tribunal has stated its opinion that it is not interested in details, and we can let the details go, because the important thing is to establish your own opinion about these matters. And the opinion is that in all these three interruptions, in your opinion, that is in your experience as a German defense counsel, you were interrupted and your rights were violated?

A Yes. I have to say that because I had the feeling that we seemed to give the appearance of making unjustified objections. When document book 25 was announced by the Prosecution we were asked whether the defense had been given twenty-four hours' notice. I went to the podium and stated that we wouldn't waive the twenty-four hours' notice. However, I wanted to give an objective reason for that, and the sound film which I listened to, proves it; I could say "with the enormous amount" - and at that point I was interrupted - I wanted to express the fact that we had to have time to read the document books prior to their presentation in evidence in this Court. Therefore, I wanted to express that we just didn't, out of meanness, didn't want to waive the twenty-four hour rule out of meanness, but rather because there was a reason for it, and not a formal one.

JUDGE WILKINS: You are referring now, as I remember, to what happened at about shortly before a quarter of twelve, when Mr. Ragland could not proceed further, and stated at that time that he desired to take up a certain document book, but that the full twenty-four hours wouldn't expire until twelve noon. It was then very close to a quarter of twelve, at least between eleven-thirty and a quarter of twelve. Judge Daly suggested that perhaps the defense would waive the matter of fifteen minutes or so, and you then went to the podium and said, "we

insist on the full twenty-four hours." Is that the time you are referring to? And then Judge Daly responded, "Very well, if that is your position" - and we passed that matter. Is that correct?

A Yes, that is correct. However, in order to explain that we didn't just want to waive this out of mere formality, but rather that we wanted to explain that we refused to waive because of the enormous amount of document books introduced and that we had to study the documents before the session, and that book 25 had not been read by us. Therefore, I wanted to give my reasons in order to convince the Court that this wasn't an obstructionist point of view on not waiving, but that there was an actual reason for it. Those are the words which are recorded in the sound track. "That with the enormous -- "

JUDGE WILKINS: As I understand it, doctor, you were a bit fearful that the Court, after seeing the position that you had taken over the matter of a mere fifteen minutes, might come to the conclusion that you were delaying the trial a bit and you wanted to explain your position, was that it?

A Yes, that's right. To my recollection, I thought it was one o'clock that the 24-hour notice expired; in other words, not fifteen minutes, but after the noon recess.

JUDGE WILKINS: All right. We were of the opinion, because it happened at twelve-fifteen; rather, it happened shortly before a quarter of twelve. So we will call it thirty minutes.

BY DR. KRANZBUEHLER:

Q That was the one incident in which you felt that you should have been --

THE PRESIDENT: Well, now --

Q (Dr. Kranzbuehler continuing) - should have been given an opportunity to state your opinion?

THE PRESIDENT: Allow me to ask - have you finished that question, Doctor?