

DR. KRANZBUEHLER: Yes.

THE PRESIDENT: Allow me to ask this: I think it should be noted at this point that when you objected, as you had a right to do, against waiving the 24-hour rule, Judge Daly and the Tribunal didn't intimate that you would be required to waive it, did they, Doctor?

DR. SCHILF: Yes, that's right.

THE PRESIDENT: There was no indication that you weren't entitled to stand upon the rights of your client about that?

DR. SCHILF: By no means, Your Honor.

THE PRESIDENT: I don't have that portion of the transcript before me, but my recollection is that when you made the objection that Judge Daly, for the Tribunal, simply told you it was all right and let's go ahead with something else, or something to that general effect, is that your recollection about it?

DR. SCHILF: Yes, Your Honor, that's how it was.

THE PRESIDENT: Well, now, the reasonable interpretation of that is merely that there was no need, if you were going to insist upon the rule, as you had a perfect right to do, that there was no need for further discussion about it, but just try to get along with the case, isn't that a fairly accurate statement of the situation?

DR. SCHILF: Yes, it is quite correct. However, I had the feeling that because of the short time still available before the notice expired, our refusal would be put into a wrong light.

THE PRESIDENT: Yes, that you were in the attitude of merely insisting upon the rule for the purpose of obstruction, resorting the obstruction. We guessed your position about that.

DR. SCHILF: Yes.

THE PRESIDENT: You desired to explain that that was not accurate, and to give a reason why it was not true, but it appeared on the face of it?

DR. SCHILF: Yes.

THE PRESIDENT: Well, we get your position, Doctor.

BY DR. KRANZBUEHLER:

Q Witness, you said there was a second incident in the course of the morning session during which you personally were not given an opportunity to complete your sentence.

A Yes. That was before the recess. I, together with Dr. Wecker, had made an objection to a document. This was an affidavit, as far as I remember, by a Frenchman by the name of Bergé. According to the document book, there was an affidavit, and in this affidavit a statement was made under oath to a mere report, which was also offered by the Prosecution in evidence. I wanted to object to this, that the affidavit was offered in evidence, and was a mere written report and a memorandum which was not given under oath, because of the rapid decision of the Presiding Judge we could cross examine Bergé, I was hindered from expressing my thoughts, and my sentence, to the effect that the report by Bergé was no evidence at all. I immediately left the podium because I had the feeling that Judge Daly did not want any further discussion of the matter, although I wasn't quite clear whether my objection had been overruled because I had had no opportunity to point out that it was no evidence. I had only been able to complete, "it concerns the form."

Q Dr. Schilf, how long are you a defense counsel in Nuernberg?

A In the Spring of 1945, that is about two years ago, I began working before the IMT.

Q Do you mean 1946?

A Yes, I mean 1946. I worked before the IMT and after that in Case Number Three, the case of the Judges; I was defense counsel before certain American Courts, I defended in the trials of the physicians, the Milch case, and the Justice case which started almost at the same time. I am not able right now to give you the exact time when this happened.

Q During these cases were you ever reprimanded by the Court because of the form or shape your defense took?

A I was never reprimanded. I made it my habit to treat the American Military Tribunals with the greatest respect, and I was always interested, and I always made my statements with complete courtesy, and to introduce it with courteous words.

JUDGE WILKINS: Dr. Kranzbuehler, it is almost time for us to adjourn, and I wanted to place a question to him that he can think of over the noon recess.

I understand from you that you appeared not only before the IMT, but in case Number One, involving the physicians, and in case Number Four, I believe it was, involving the justices. Is that correct?

DR. SCHILF: The IMT and Case Three, the Justice Case. At present I am also working in Case 11, the so-called Wilhelmstrasse case.

JUDGE WILKINS: Were you in the physicians' case as well?

DR. SCHILF: No, I was not in the physicians' case.

JUDGE WILKINS: The Justice case?

DR. SCHILF: Yes.

JUDGE WILKINS: Now, there are written transcripts of the proceedings of those trials and I'd like for you to find, and point out to this Court, if you can, any place in those proceedings where any American counsel, any German counsel, objected to a ruling by one of the members of the Tribunal, and thereafter, after the Court having ruled against the German counsel, appealed to the entire Tribunal the ruling of the one member of the Court. Do you follow me, Doctor? I understand your position to be that you were in the position of appealing from the ruling that Judge Daly had made, and when you said, "I protest", you were proceeding to protest the ruling, with the understanding that under German law you are permitted to do that, where three judges are sitting.. Now, I want you to search those proceedings and show us where in any case you or any other German counsel, when ruled against by the judge presiding, appealed to the three-man Court in that decision. Do you understand me? Pardon?

DR. KRANZBUEHLER: May I ask when Dr. Schilf will be given time to read these records which approximately contain twenty thousand pages?

JUDGE WILKINS: I assume that inasmuch as - that is, the Courts in which he was proceeding, appearing - he suggests he was attempting to appeal, that procedure is well known to him and he can say now, I assume without searching the records, whether or not that ever took place in any case in which he was appearing, at least.

THE PRESIDENT: May I ask this one question, Dr. Kranzbuehler, of you, Doctor, also. I was thinking of the question you made upon the authority of the Tribunal to punish for contempt, in the beginning of your statement. Have you any information or knowledge that one of the other Tribunals here sentenced a member of defense counsel for thirty days in jail for contempt of court?

DR. KRANZBUEHLER: Yes, I do know personally of a case like that.

THE PRESIDENT: I am not familiar with the details, but the Tribunal who exercised that authority as I have understood, informally....

DR. KRANZBUEHLER: As far as I remember, there was a complaint, a charge was made, or, rather, an indictment was presented. I believe according to American law this was necessary since it was a contempt of court outside of the courtroom.

THE PRESIDENT: Yes, that was my opinion, that in that instance, contrary to the situation here, it was a contempt committed outside of the presence of the Court, and hence there had to be some instance in the trial --

JUDGE WILKINS: Except, Judge Anderson, that your statement with reference to proceeding under American Law, don't labor under any misapprehension that we are proceeding under American Law here, Doctor. I think you understand that thoroughly, do you not?

DR. KRANZBUEHLER: Yes, I understand it. I will open the question later on.

THE PRESIDENT: Oh, yes, it should have been mentioned.... those six

members of the defense counsel who have been in the custody of the Marshal will be released upon their own reconnaissance, pending the determination, pending our decision on what further should be done. Do you understand what I mean by released under your own reconnaissance, released under your own custody, upon your own word, your own reconnaissance that they so be? Is that understood, Doctor?

DR. KRANZBUEHLER: Yes, it is.

(The Tribunal recessed until 1335 hours)

AFTERNOON SESSION

(The Tribunal reconvened at 1335 hours)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Before we proceed, Dr. Kranzbuehler - oh, pardon me, the switch isn't on - Before we proceed, the Tribunal is bound to announce that the talking in the gallery must cease. Our attention has been called to the fact that there was some talking going on among the spectators this morning to the extent that it disturbed some of those concerned with the trial of the case; and that must stop. And we are obliged to rule that only those who can find seats or for whom seats are available, will be admitted.

Now, one other matter. We were, I believe just before the recess I had called attention to an instance where punishment for contempt had been inflicted by another Tribunal. I have learned that - or in connection with your question for the authority of the Tribunal to act in that capacity in all these Tribunals in Nuernberg, I wonder if you recall another instance in the medical case, when a witness, a Gypsy who claimed to have been mistreated by one of the defendants in that case, committed an assault, or attempted to do so, perhaps upon one of the defendants who he thought had mistreated him; and as a result the Court summarily adjudged him to be in contempt of the Tribunal, and I believe sentenced him to ninety days. Had that come to your attention, Doctor?

DR. KRANZBUEHLER: Yes, Your Honor, I heard of that; yes, Your Honor.

THE PRESIDENT: All right.

DR. ALFRED SCHILF - Resumed

DIRECT EXAMINATION - Continued

BY DR. KRANZBUEHLER:

Q Dr. Schilf, prior to the recess Judge Wilkins asked you whether you remember motions made against the decisions of the Presiding Judge and appealing to the decision of the entire Tribunal. Did you have an opportunity during recess time to determine on that question?

Are you able to give us an answer now?

A Yes. I can now give Your Honors an answer. I wish to say in advance, as far as my own experience is concerned, up to date I have not experienced prior to my appearing before Your Honors here, that a change in the person of the Presiding Judge was determined each day prior to the start of the proceedings. The Tribunals, before whom I had occasion to appear to date, had a permanent Presiding Judge, at all times the same judge. But I have repeatedly experienced that when motions were made, either on the part of the Defense Counsel or the Prosecution, the members of the Tribunal held a short consultation in the courtroom; the manner in which this was handled was as follows: The microphone was put off, and the members of the Tribunal held a short consultation, and then announced, through the Presiding Judge, the decision the Tribunal had come to. I think that your Honors here also acted in the same manner repeatedly.

Q Did you also experience that in announcing a determination a Judge ever said specifically, "I speak for myself only without knowing what my colleagues have in mind."

A At the moment I am not sure whether this applied to a decision of the Court, or whether it applied to a statement expressing the opinion of a member of the Tribunal only. But I wish to add the following: During recess time I was able to learn that a colleague who defended in the doctors' case, repeatedly, after a decision had been announced by the Presiding Judge, appealed, requested the decision on the part of all the members of the Tribunal. Due to the short period of time at my disposal I wasn't able to speak with this colleague myself, but I was told that in the doctors' case such an appeal submitted to the entire Tribunal after a decision had been announced by the Presiding Judge, did occur. And finally, permit me to state that as far as this incident is concerned, and this is only a matter of course, I had in mind German procedural law, and under German procedural law it is general usage, after the Presiding Judge

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has announced his decision, that a motion be made to appeal to the decision of the entire Tribunal. This is what came into my mind spontaneously, and in view of the speed with which this incident occurred, that course was the primary thought I had, and particularly so in view of the fact that I was pressed and rushed in my anxiety to safeguard my client's interests before the morning session closed to submit my motion to Your Honors. After recess the new proceedings were supposed to be already instituted.

AFTERNOON SESSION

DR. KRANZBUEHLER: Doctor Schilf, I think that will be sufficient to clarify the facts of the case. I would now like to ask you what were your own personal feelings in connection with this entire incident -- your conduct on January 16 -- did you at any time have the intention or the motive to show contempt to this Tribunal or to conduct yourself in a way unbecoming to your office?

A I may solemnly state that I did not have any such intention, nor was I conscious or aware of having disregarded any order issued by the Tribunal. Even now I cannot see wherein an order is to have existed, as I stated before, the German interpretation of "Take your seat" was rendered to me in the reduced form of "If you continue to speak, then you will be removed from the courtroom." I beg to make a specific statement of this fact. Your Honors, in using the words: "Ich bitte darum" -- I request you to do so --

DR. KRANZBUEHLER: Just a minute. Your Honors, the expression "Ich bitte darum" is interpreted in general: "I request you to do so." Dr. Schilf has already stated that this expression is merely a form of courtesy, which I would interpret using the words "Very well", something like that. I would like to bring up this question of interpretation for the sake of the record.

THE PRESIDENT: Permit me to say, doctor, that I personally remember not everything that occurred during the unfortunate incident, but I do personally remember that the translation of that particular language that you refer to came through the ear phones as "request", because it was noted and discussed by us afterwards, when we had realized what has happened. All right.

DR. KRANZBUEHLER: Your Honors, I am aware of that, and

I wish to cite this as one example for the difficulties which arise owing to misunderstandings arising from interpretation, in judging this entire question.

DIRECT EXAMINATION (Continued)

BY DR. KRANZBUEHLER:

Q Dr. Schilf, in your conduct on 16 January did you at any time have the intention or were you aware that your conduct was provocative to the United Nations?

A This is absolutely out of the question. I was not aware of this. It never occurred to my mind to think of it. I reacted instinctively, although I was going to remove myself from the courtroom, because as I stated, while acting as defense counsel for twenty years past, it has never yet happened to me before that I was removed from a courtroom. Please permit me to add, as I have already emphasized, that I was always conscious of having paid the highest honor to the Tribunal and having to do so in my office as defense counsel. I would also like to say that I was informed -- and this also applies to other Tribunals before whom I have acted elsewhere -- that respect was always paid by these Tribunals to me, in turn. My conduct on Friday was based on factual motives only. I was excited and my excitement was caused because I really felt that my honor had been touched upon. Before German Tribunals it is legally not admissible for an attorney to be removed by the Tribunal from the courtroom. The disciplinary power over German defense counsel is basically centered in agencies other than that Tribunal before which the defense counsel is acting. Although since 1928 I have been acting as defense counsel, it has never yet happened to me that I was threatened with removal from the courtroom. I was of the opinion that,

exercising my usual courtesy, I was going to present my motion to this Tribunal. I have to express my regret that pursuant to misunderstandings, Your Honors may have gained the impression that I was not paying you due respect, or that I was even going to show contempt to the Tribunal. In conclusion, permit me to say there can be no talk of my having been incited to such conduct. Your Honors, please permit me to refer to the fact that as far as the Carroll affair is concerned, I am not even acquainted with it in detail. I don't know Mr. Carroll at all.

THE PRESIDENT: Now, Doctor, that Carroll matter had absolutely nothing to do with this, that is correct, isn't it?

DR. SCHILF: Yes, Your Honors, it has nothing to do with it.

THE PRESIDENT: It had nothing to do with it. Go ahead. Pardon my interrupting you. I thought I didn't see any necessity to bring that in.

DR. SCHILF: Your Honors, may I say the following for clarification? It wouldn't have been possible for myself to have permitted myself to be influenced in this matter. I solemnly state this was not the case whatsoever. I was driven by factual reasons only. They were the motives for my conduct.

DR. KRANZBUEHLER: Your Honors, I have no further questions to put to Dr. Schilf.

THE PRESIDENT: The Tribunal is in a position, of course -- this is none of the prosecution's business, and we have no amicus curiae to act for us, so we have to put such questions, or the few we care to put to Dr. Schilf ourselves. So I will ask Judge Wilkins to make such inquiries as he thinks will bring out the facts. That is

all we are trying to find out -- the attitude of this witness toward the Tribunal.

EXAMINATION

BY JUDGE WILKINS:

Q Dr. Schilf, my questions will be few and to the point, and I ask that you listen to the question and answer it as briefly as you can. I want to say first to Dr. Kranzbuchler that this record should show that this is the first time, as I recall it, that you have been in this case since the Christmas holidays. I am satisfied that had you been present last Friday morning, this incident would never have happened.

We are particularly interested in the fact of your refusing to obey the order of Judge Daly, your conduct at the time, and your leaving the courtroom, of course, which you were ordered to do, followed immediately by your colleagues together. I don't care about any other phases of the matter at all. Do you have under your German practice a Code of Ethics?

A Yes, we do, Your Honor.

Q Are you taught that you must respect the orders of a court, whether you disagree with them or not, and whether the order of the court may be correct?

A I cannot answer this question simply by saying "yes" or "no", Your Honor.

Q I don't expect you to.

A According to procedural law, the attorney -- that is, the defense counsel, as well as the prosecutor, pursuant to a decision of the presiding judge, has the right to appeal to the entire Tribunal to review that decision, that is, once the presiding judge has announced the decision.

Directly thereafter, the person making the motion may request that such decision be defined by the entire Tribunal.

Q I understand that. You say that is your German practice, and we will not dispute it. We will accept it. I want to know if under your practice -- and as I understand it, you were one of the counsel in the Justices case -- all right, under your practice, then, before the Nazi courts -- would you be permitted to stand at the podium and refuse three times to obey the order of the Nazi judge?

A I have to say, Your Honor, it would have been possible for me to do that according to German procedural law which applied to those Tribunals before which I acted during the Nazi period, according to my experiences. This law would have been adhered to.

Q Did you ever try it?

A Yes, Your Honor, I did so repeatedly and successfully.

Q All I can say is that I must disregard the judgment that I read in that case entirely. But I want to ask you something further. You appreciate, don't you, Doctor, that the three of us judges sitting here -- we are governed not only by the words that a lawyer says, but his conduct and his actions at the time?

A I am afraid that I didn't quite understand your question, Your Honor. May I ask you to repeat it.

(Whereupon the question was repeated by the interpreter)

A Yes, Your Honor, I quite appreciate that. It is a matter of course.

Q Just one other preliminary question -- do you have rather a quick temper?

A Your Honor, I have no quick temper, but just at that very moment, because it never happened to me before, being

told that I was to be removed from the court, I was deeply moved.

Q I am talking about the preliminary questions before that. Just to refresh your memory, then, doctor, because as I understand it, you take no issue with this written record as recorded, except that the import of the words in English may be a bit more severe in English than in German?

A Well, I have certain misgivings, Your Honor, inasmuch as it was not possible for me to be aware of having been disobedient to an order of the Tribunal. I have repeatedly stated it would only be possible for the order to have read: "Take your seat". The German interpretation, however, was rendered in a conditional grammatical form, namely, as far as I remember: "If you continue to talk."

Q I want to go back to the matter of your temper.
Did you lose your temper and control of yourself at the time?

A I would say that I did lose my temper and control, because I was moved, due to the fact of having to be removed from the courtroom.

Q I want to call this to your attention. I am referring to this preliminary question, before the final one about your removal from the courtroom. Let me say something that the record doesn't show regarding your conduct as I observed it. When you first attempted to address Judge Daly, after Dr. Pohle had addressed the court, when Judge Daly sustained the objection he refused to hear from you further, in which he said: "Is this on the question of the commission?", to which you replied: "Yes". Judge Daly then said: "There will be no further discussion on that. We will proceed with the document book. Proceed with the document book, please." Are you aware of the fact that you left the podium after that question and the two following, which I shall read to you later, and came toward the court at least four or five feet, then returned hurriedly to the podium, grasping and grabbing the ear phones on each of these three occasions, and on the last occasion, pushing aside Mr. Mandellaub, who was there ready to proceed at the order of the court. Now, I ask you, are you aware that because your actions at the time, with your eyes blazing toward the court, had as much to do with the court's reaction as your words used on that occasion?

A May I say the following, Your Honors, in answer thereto? Again I can only emphasize and stress that I was not aware of having pushed Mr. Mandellaub away from the podium, as stated, your Honor.

Q I am sure you were not.

A Please permit me to add we are compelled to act with great speed and to rush to the podium in all instances where we have to submit motions or raise objections. It is possible that I may have acted somewhat hastily in moving towards the podium, but I wish to state I was unsatisfied with the fact that Dr. Pohle had touched upon only one point of the many difficulties involved, which had to be clarified for the same afternoon, before 1:30, and for that reason I wanted the clarification of those technical questions and discussion on how the commission was to be carried out altogether. I wished to rush those discussions due to pressure of time.

Q I understand that, Doctor. What I am asking about is, do you recall your actions at the time -- and all we can do is judge by what you had on your mind and what you did at the time -- you appreciate that, do you not?

A Yes, Your Honor, but please accept my assurance that I was not aware of conducting myself in an improper or disrespectful manner. I am surprised.

Q That is the point I am coming to. If you had been man enough at the commencement of this proceeding this morning, or even throughout these proceedings now, to say that you recognized that your conduct could have been disrespectful to the court, and had apologized, I am sure this court would have shown leniency toward you, as we have been throughout these proceedings. I only have to call attention to the fact that on either Monday or Tuesday night, Judge Daly and I both met with a committee of your counsel and the prosecution to help you arrange your witnesses to appear before the commissioner, and again on Thursday night we met with a group of your representatives, Judge Daly remaining until after

five, and I until 5:30, in an endeavor to be of assistance to you. And I say to you now, had there been the least indication coming from you that you recognized that you had made a mistake, that you had lost your head, and as a result, your colleagues had lost their heads, too, we would be in a different position now. So far as I am concerned, with reference to your statement that we may have gained the impression -- not only did we gain that impression, but I tell you frankly now that we were definitely impressed with the fact that you were disrespectful to the Tribunal, not only by your words, but by your conduct, and we could come to no other conclusion. Permit me to ask another question or two, because I was primarily interested in your conduct at that time. After Judge Daly told you that there would be no further discussion on that, you then proceeded: "Your Honor --", and Judge Daly said: "Proceed with the document book." You again interrupted. Incidentally, may I ask you if under the German practice, may not a judge interrupt a lawyer at any time? Do you understand the question? To refresh your memory, I recall your stating when Dr. Kranzbuehler was examining you, that you had been interrupted three times by the judge, by Judge Daly, and therefore, you felt your honor was hurt, or injured. Under your German practice, is it not customary for a judge to interrupt a lawyer whenever he sees fit to do so, or does the lawyer conduct the proceedings of the court?

A Of course, it is not the attorney who conducts the proceedings, but I personally can say that I do not remember at any time before a German Tribunal, when petitioning a motion or making factual statements, to have been interrupted.

Q Do you mean to say that throughout your entire

practice a judge has never interrupted you at any time?

You don't want to tell me that, do you?

A No, Your Honor. I can't make a general statement like that. I emphasize I don't remember the case where it happened to me.

Q Well, then perhaps you might view the position of the judges from our viewpoint, because under American practice, once the judge has ordered to cease that line of questioning or to pursue that question further, the lawyer obeys.

A Yes, Your Honor, I can only emphasize again, even today I don't recognize on what the order of the presiding judge was actually based and what it consisted of. I desired to request the decision of the entire Tribunal and for that reason I stated: "I protest", and I appealed to the decision of the Tribunal.

Q I'm coming to that. I have the written record here. I want to put it squarely up to you, and I will take up where I left off. Your last answer, "Your Honor", when Judge Daly said: "Proceed with the document book" -- this was the third time you interrupted again. "Your Honor, I protest that I am not permitted to go on--". Judge Daly again, unfortunately, from your standpoint, had to interrupt to say "Did you hear me say, counsellor, that there will be no further discussion on the question of the commissioners here?", and instead of abiding by the order of the court, you again interrupted and, as I say, raced back to the podium, as I have indicated, and grabbed the ear phones, and said: "Yes, and I protest again this ruling and request that a decision of another court --". Then you were interrupted by presiding Judge Daly, Doctor, to have you

take your seat. "You will please take your seat or I will order you from the courtroom," to which you replied in still the same offensive, enraged attitude, that you had pursued throughout the entire proceeding: "I request or I ask that be done." Now, what more could you expect us to do than what we have done?

A May I say the following, Your Honor, in connection herewith? As far as I remember the incident, I never even left the podium stand. This, of course, cannot be determined by the transcript, but I was of the opinion that I had been standing at the podium throughout the entire time, beginning with my words: "The following difficulties are still to be discussed," up to the end when I heard approximately: "Then you may remove yourself." I don't remember having left the podium.

Q That is why I am convinced that probably you were -- had lost your temper and didn't know what you were doing because we on the Bench have conferred on the matter since and recall that very vividly just exactly what you did even though the record does not show it, and I am making the statement now so that the record will show it, and I tell you that is what occurred.

A Your Honor, I heard that no further discussion was to take place, but I didn't want to discuss it. I wanted to make a motion. The motion was to be introduced in any case before the termination of the morning session, in order to solicit a short adjournment to enable us to prepare for the afternoon hearing in good time.

Q Now, there is only one other phase of it that I want to ask you about it because I have personally been so surprised by your conduct in this and your attitude today that I do feel I want to ask you these questions in fairness to yourself, so I can be sure that I understand your attitude toward this Tribunal. You said a minute ago, and I wrote down your words, "In my anxiety to protect my client's interest." Pursuant to the order that you had received by Judge Daly, you left the courtroom at about a quarter of twelve, did you not?

A Yes, Your Honor.

Q Now, you have how many assistants, Doctor?

A For this case I have one assistant.

Q And who is he?

A Dr. von der Lippe.

Q And was he here that morning?

A He was not present, Your Honor.

Q Now, you met with the other attorneys when they left

the courtroom immediately after you did, and as I understand it, you wanted to draw up a petition?

A Yes, Your Honor.

Q Now, are you aware of the fact that -- and the Secretary General has kept this time exactly, and I have particular reference to your desire to protect the interests of your client which you just said a minute ago -- are you aware of the fact that after having left the courtroom at a quarter of twelve, you and this other group together with your assistants, and as I have been able to count them I think there are about 27 here all tolled, that you all met after your luncheon in a room in which you work, drawing up this petition, that no one was here to protect the interest of your client, nor any of the other defendants here, that you were so anxious to protect the interest of your client that you did not send your assistant down here, nor did any of the other defense counsel who were working on this petition send any of their assistants here; and that as Dr. Wecker told Judge Anderson afterwards that it was agreed between all of you that none of you would come down to the courtroom.

Now, I am just wondering what you think your duty to your client is in view of that action?

A Please permit me to say --

Q Go right ahead, please.

A Please permit me to say my assistant, Herr von der Lippe, after I had left the courtroom, was not seen by me at all. I didn't have him called either in order to help prepare our motion. Already in direct examination I stated that the Marshal of the Court was standing next to me and requested me to leave the courtroom. It wasn't clear to me

as far as I personally am concerned whether I was even permitted to re-enter the courtroom, and I desired to have that query clarified by this written draft.

Q I will clarify it for you. You were ordered from the courtroom, Doctor, but what steps if any did you take to see that your assistant was here protecting Mr. von Buelow whom you represent?

A Dr. Janssen.

Q Dr. Janssen, what steps did you take to see that somebody was here to represent your client's interests.

A While we were drafting our motion we received current reports as to what was happening in the proceedings.

Q And you received the report that there were no defense counsel in the courtroom, didn't you?

A Yes, Your Honor, I knew that.

Q Did you expect the court to adjourn as a result of your absence?

A No, Your Honor, under no circumstances.

Q What did you expect?

A We had expected that only documents would be introduced.

Q Well, weren't you interested in being here, Doctor, when documents were being introduced?

A Not to the same extent as if there was an examination of witnesses.

Q Well, that is interesting because I took down your words a minute ago about being interested in protecting the rights of your client, and I assume therefore, that you consider your absence from this courtroom and the absence of all the other defense counsel of no consequence when the Prosecution is introducing documents. Is that your attitude?

A Your Honor, we heard that only documents were being introduced. Captain Rice also came to our discussion and stated that the Defendant requested Document Book 31 to be brought down. We immediately procured this document book. I ran down to my office and procured two copies of Document Book 31, handing these over to the secretary of Captain Rice. I was convinced that the objections to be raised against these documents introduced while we were absent could still be raised after all of us had reappeared in order to present our motion in writing to the Tribunal.

Q And you think it was necessary, Doctor, for all 26 of you, or 24, or whatever it may be, to work up there in one room together, drafting this petition and not even sending one or two of your colleagues down here to protect the interest of your client, is that right?

A I admit, Your Honor, it was a mistake for which I wish to apologize and to express my regret. Contrary to our intention, we were not able to present our motion in the English language before termination of the morning session. In direct examination, I already emphasized that it was my specific intention to introduce this motion in the English language latest by 12:30, before the luncheon recess takes place, and to introduce that motion in writing; but due to pressure of business in connection with this motion, it apparently did not occur to us that at 1:30 at the start of the session we were to send a messenger and to notify the Tribunal that we were preparing the draft for a written motion, which, as soon as it was completed, would be handed over to the Tribunal. This was definitely a mistake. I have not had occasion here to speak on this subject. This mistake was made, and I personally am willing to tender my