

apologies for it.

Q Well, Doctor, I commend you for it. I must say this is the first time I heard the word "apology" come from your lips, and to hear it with reference to one phase of this is certainly commendable on your part; and I am sure that the Court will consider it, but let me ask you just one or two questions with reference to this last phase of it then I shall be through. I hope you understand that the only reason I am asking any of these questions is to try to understand your viewpoint. You say that you, the 26 of you, or whatever it was that were up there laboring to produce this petition, weren't able to come down here until you were sent for. Now, do you know that it was 3:23 when the Tribunal sent the Marshal to see you, or for you, rather, 23 minutes past 3? Now, you raise the question that some of you asked the Marshal at that time: "Is it a request or is it an order?" May I ask you what difference did it make whether it was a request or whether it was an order? You know that the Court was waiting for you down here, so I ask you what was the difference?

A We had just finished drafting our motion when the Marshal of the Court appeared, and Dr. Pohle was just reading the final draft. All of us had in mind to sign this motion. All it required was another few minutes for the purpose of checking and giving the signatures. We would have respected any request of the Tribunal, and wish to respect any requests, because we requested Dr. Hennig immediately go down together with the Marshal of the Court and notify the Tribunal that we requested the period of time of a few minutes only, that our absence be excused for that short period of time, and after elapse of that time we would appear with this motion in writing.

Dr. Hennig came back stating he had not been heard. He was of the opinion that we were to come down immediately at the order of the Tribunal. As a consequence thereto, the written motion, which is available here and is already in a state to be properly introduced as an exhibit, was hardly legible due to the many corrections inserted into it. On the way from our joint office to this courtroom, Dr. Pohle was charged to read, as well as he could, this rather illegible manuscript to the Tribunal.

Q Now, just so that you will know whether it was a request or whether it was an order. At the time that the Marshal told you that the Court desired all defense counsel here, which was at 3:23, all of you came to this courtroom at 3:50, and instead of your having to wait for the Court, the Court was in recess all of this time waiting for all of you to come here, did you know that?

A Your Honor, I personally know nothing about it. If the Tribunal waited for us, please permit me again to express my apologies. We parted in a great hurry, each one rushing to his own office. My office, for example, is one floor lower than the joint office where we were working at the time. I rushed back to my office in order to get my robe and immediately started on my way toward the courtroom. It is perfectly clear to me that when we collected and gathered in a great hurry, as far as I remember, here in this courtroom, we had waited for at least 10 minutes before the members of the Tribunal appeared. The Marshal of the Court went to other offices too, because our offices are distributed all over the building, and it is possible that our arrival here may have been substantially delayed.

I am surprised to hear that it allegedly took more

than half hour for you to gather here. Please accept my assurance that we exercised all speed in parting from the joint room, each one going to his office and rushing into this court.

Q Well, that was a great burst of speed, Doctor, you were in this building from 3:23 until 3:50, and I have a record of that time from the Secretary General. Now, just one final question. You heard Dr. Wecker, who has been serving as the chief defense counsel in Dr. Kranzbuchler's absence, on Friday afternoon when he was asked by Judge Anderson whether or not -- and Dr. Peschke also stated it if Dr. Wecker didn't -- that it was in joint agreement between defense counsel that you deliberately absented yourself from the courtroom during Friday until called here. You heard that statement, did you not?

A I am sorry, Your Honor, I didn't hear it. My hearing is bad.

Q Well, we have the record of it so I am sure there will be no dispute of that. Now, Doctor, there is just one thing I want to say to you, and it is this: Have you ever had a better or fuller opportunity for a hearing before any German tribunal that you faced than you have at the present time?

A No, Your Honor.

Q You have had a full opportunity to express your view of the situation as it arose?

A I have had full opportunity and also rendered my point of view clearly, namely, my own subjective point of view, The facts as I saw them and considered them, and may I emphasize specifically that I appreciate that I was permitted to speak freely here for I am suspected of contempt of court, and I was embarrassed at first from saying what I wanted to say, but I was permitted to say it, namely, that the interruptions and the request to leave the courtroom moved me very deeply because, as I said before, I felt that I was being treated like a schoolboy. I became very excited over this, and personally I thought that my honor was being infringed upon. In view of the speed with which we worked in preparing the draft, we did make mistakes and did not notify the Tribunal that we were busy with that work. I thought that this was the reason on the ground of which I must tender my apology, and I herewith wish to tender that apology.

Q For your entire conduct last Friday, do I understand it, Doctor?

A If Your Honors -- as I am directly affected by this -- if Your Honors have reason to complain of my conduct and not only my words, then I, as a matter of course, am willing -- as I am hearing this for the first time also -- to request that you accept my apology on that point and wish to add that I did not have the intention to misbehave myself and primarily I did not have the intention to show any contempt of court or any disrespect.

Q Of course, your disrespect was directed to Judge Daly, and I understand you are addressing your apology to him?

A As a matter of course, Your Honor, and I also wish to state that from my own personal point of view I also thought my honor was being infringed upon. If there was no

intention to infringe upon my honor, I am, of course, willing to make suitable and due apology to Judge Daly.

Q I just wanted to know if you are asking an unconditional apology. As I understand it now, you feel that your conduct was such that you offer your apology to Judge Daly and to the Court?

A Yes, Your Honor.

Q I just want to say before Judge Anderson takes over that I was ver much surprised because the counsel in this case are men of unusual experience, all of you. Your conduct, Doctor, up until a week or so ago was of the very best, courteous at all times to each other and to the prosecution, and to the Court; and we couldn't help but come to the conclusion that there was some outside force that was helping this action that was taking place, and of course when it occurred and in the way it did we couldn't overlook it. No reputable lawyer in the United States would ever think of being disrespectful to the Court in the way in which it happened here, and we wouldn't stand for it there, and we won't stand for it here, and I for one was ready and am ready to deal with each one of you who have been found in contempt of court and to agree that whatever punishment be meted out would be a good stiff one to let all German counsel know that the courts are operating these Tribunals and not at the convenience or for the benefit of the German counsel. Now, I am sure that the apology that you have offered probably be an extenuating circumstance that we three judges will be glad to consider because we have no desire to make things difficult for you. We have only the desire to see that your clients have a fair trial; and if you fail in that duty, we shall do our best to help you, but when you left the courtroom

jointly as you did on that occasion, you know yourself that your clients cannot have a fair trial, and you can't expect the courts to carry that burden.

EXAMINATION

BY THE PRESIDENT:

Q I have only one observation, Doctor. Do you -- is your hearing impaired to the extent that you have to wear an instrument to aid your hearing?

A Yes, Your Honor, I do wear an instrument, and without that instrument it is not possible for me to follow any discussion; but in this courtroom I am able to do so by means of the earphones I am wearing.

Q All right.

EXAMINATION

BY JUDGE WILKINS:

Q Excuse me, Doctor, you haven't been wearing any ear instruments during the progress of this trial, have you? I haven't observed any.

A No, sir, I did not.

THE PRESIDENT: That is all.

THE WITNESS: Your Honor, will you permit me to say the following. On Friday afternoon I was only able to understand what came through over the sound system to where I was sitting, which was what we were being asked, but the answer did not come through over the sound system; and therefore, I did not hear, for example, what Dr. Wecker said because he was not speaking into the microphone, but was speaking directly from his place. All that was heard was the English interpretation from the interpreter's box. The German version was not audible over the sound system.

THE PRESIDENT: That is correct. Dr. Wecker was not

at the podium.

BY THE PRESIDENT:

Q I am not clear about one phase of your testimony this morning -- I am not sure about it. Did I understand that you said that you understood the order to leave the room as the way the translation came through as a permission to leave and that you were going out to prepare a motion?

A Yes, that is exactly what happened, Your Honor. I was of the opinion that I had received permission to leave the courtroom. I was going to request you to give me such permission for the purpose of drafting the motion, but it became indistinct and obscure because the Marshal of the Court came over to my seat and by a gesture indicated to me that I was to leave the courtroom.

Q What I understood from your testimony is that you understood it to be a request rather than an order -- or rather a permission rather than an order, is that correct?

A Yes, Your Honor, a permission and not an order, and that is why I was so surprised to see the Marshal of the Court standing next to me obviously for the purpose of taking me out of the courtroom. That was a surprise to me.

Q Yes, and your understanding of what Judge Daly said was based upon the interpretation, the German, as it came through. Well, now, the pertinent thing about it frankly to me is that if that was the German interpretation about it, why your colleagues became so affronted or offended that they, without conference with you so far as I could observe, or any conference among themselves, that they got up in a body and marched out of the courtroom, if there was nothing in a permission granted to a lawyer to leave, it seems to me that would provoke or be calculated to provoke

that action on their part. Now, perhaps, you could explain that.

A Obviously misunderstandings were incurred, for the Marshal of the Court obviously took what was said to be an order, for otherwise he wouldn't have been permitted to come over to my place ; but I didn't say one word, or exchange one single word with my colleagues, and I have no means to verify that they acted spontaneously or according to a pre-determined arrangement. As far as I am concerned, it is a fact that I was permitted to leave the courtroom, that is, that I had been turned out of the courtroom, in view of the action of the Marshal of the Court.

Q Now, the Marshal didn't take hold of you, did he, Doctor?

A No, Your Honor, he did not, on the contrary --

Q I must say that I didn't see why it -- I didn't observe the action of the Marshal so far as I am personally concerned. There was no order given to the Marshal, was there, by the Tribunal?

A Your Honor, I am sorry, but I don't know. Obviously, there is a discrepancy of opinion. It would have been possible to entertain discrepancies of opinion on this subject. The fact is that the Marshal of the Court came over to my place -- and again, for myself it was not clear to me whether I had permission to leave or had been ordered to leave -- all I heard was the German interpretation; and therefore I had no means of hearing the exact, clear wording of what Judge Daly actually said. All this happened very fast, and it is highly understandable that in view of the fast exchange of words the German interpretation may not have been quite as clear as it should have been.

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THE PRESIDENT: Well, go ahead, Doctor.

DR. KRANZBUEHLER: No further questions.

(Witness excused.)

Dr. KRANZBUEHLER: Your Honors, will permit me to address a few questions to the Marshal of the Court, as the next witness.

THE PRESIDENT: Yes. Take the stand, hold up your right hand, Marshal.

BUD JONES, a witness, took the stand testified as follows:

THE PRESIDENT: Do you solemnly swear the testimony you are going to give concerning the issue before the Court to be the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: I do.

THE PRESIDENT: Have a seat.

BY DR. KRANZBUEHLER:

Q Marshal, were you present in the courtroom when this exchange of words took place between Judge Daly on the one hand Dr. Schilf on the other, which immediately preceded the general exodus of the defense counsel?

A I was.

Q Did you go over to where Dr. Schilf sat, making a gesture of your hand?

A Dr. Schilf was not seated at this time, but I walked over and met him on his way back to his seat, and thus motioned him to leave the courtroom.

Q For what reason did you have to make such a motion of your hand?

A I had heard the Judge order -- well, not order -- had heard the Judge speak to the Doctor, and I was ready and Judge Wilkins turned to me and said, "Mr. Marshal;" when the attorney started back towards the podium, I stood up and I believe I received some sort of a sign, pointing down towards the floor of the court. I walked down, met the Doctor as he came to the podium, and turned around and started back to his seat, I believe, when he saw me, and I turned and motioned for the Doctor to leave the courtroom.

Q And that motion of yours was actually to convey an order to Dr. Schilf to leave the courtroom, is that right?

A That is right.

DR. KRANZBUEHLER: Thank you. I have no further questions,
Your Honor.

BY JUDGE WILKINS:

Q Mr. Marshal, I think you have furnished me the information about the time, 3:23, when we first sent you to request the defense counsel to come down?

A I received it from the Secretary General, yes, sir.

Q And how many counsel were in the room when you went up there?

A I don't know exactly, sir, I know there were between -- roughly between 15 and 18.

Q And did you give them any instruction at all?

A Sir, I tried to repeat your -- the exact phrasing of the Tribunal. When I was asked whether it was an order or a request, I answered honestly that I didn't know, but I gave -- advanced the advice that I thought they should come down as soon as possible. They told me at that time to come down and ask the Tribunal for from 5 to 10 minutes.

Q Did you go back up there later?

A Yes, sir, after about 5 to 10 minutes, one of the Judge's Secretaries was out in the hall, and instructed me to go up and bring down the counsel. I started out, met most of the counsel on the way down here, and did not place a guard on them or anything. They came by their own will power down to Court III.

JUDGE WILKINS: All right, I have no further questions.

BY THE PRESIDENT:

Q Mr. Marshal, when you walked toward Dr. Schilf, the order had already been given by Judge Daly to the effect, according to the English translation, that "You may remove yourself, then."?

A Yes, sir.

Q After Dr. Schilf had requested that that be done, or something to that effect, your actions were after that?

A Yes, sir.

Q Well, now, was Dr. Schilf then -- at that time, was he on his way out the door, or was he approaching the podium?

A Sir, when I started from my seat, Dr. Schilf had started back and had turned around to go back to the podium when I stood up.

Q Where was he when he turned around?

A He had started for his seat the first time, and turned around to go back to the podium when Judge Wilkins turned to me and asked me to go down to the podium.

Q Was that after he had been directed by Judge Daly to take his seat?

A Yes, sir.

Q When you intercepted him, constructively, at least, he was en route to the podium, or at least appeared to be?

A When I stood up, sir, he was en route to the podium. When I reached about the court reporters' desk, he changed his mind and started back towards his seat.

Q Reversed his direction and started back towards his seat?

A Yes, sir.

Q Gathered up his papers and then left the courtroom?

A Yes, sir.

Q It wasn't necessary for you to take him out?

A No, sir.

Q Or take hold of him, you didn't do that, of course.

THE PRESIDENT: That is all.

BY JUDGE WILKINS:

Q Just one other question, Mr. Marshal, so we have it in the record. About how many defense counsel were seated here at that time, if

you recall?

A I would say, sir, without any degree of being certain, that there were about 8 or 9, sir.

Q What did you see them do at this time?

A Sir, when I came to Dr. Schilf, I was making a motion for him to leave the courtroom, and I noticed before I had even made the motion, why, most of the defense counsel were on their way out to the door. I was puzzled at the time, I didn't know what to do. I stood there while they all went by me, and Dr. Schilf was about second or third from the end, sir.

Q Were there any remaining then after that?

A No, sir.

Q You sat through the proceedings, all the rest of the time, didn't you?

A Yes, sir.

Q Did any of them return?

A No, sir.

Q Did you see any of them return at all until we ordered you at 2:23 to go for them?

A No, sir.

JUDGE WILKINS: All right, that is all.

BY THE PRESIDENT:

Q There is one other incident that may be put in for the record, that a portion of the counsel were out of the door before the Court had finished its judgment in the afternoon, not in the morning session, and they were directed to be brought back in the courtroom?

A Yes, sir.

Q That was before that, they had misunderstood the ruling of the Court with respect to whether we were through or not, is that correct?

A Yes, sir, I believe so.

THE PRESIDENT: All right, that is all.

DR. KRANZBUEHLER: One more question, Your Honor, to the Marshal. You just said that at some time, Dr. Schilf had been on the way back to the podium. Where was he in this courtroom when, according to your opinion, he was on his way back to the podium? Would you please show us the spot?

THE WITNESS: I can tell you. He was just about entering between the two counsel tables, and he stopped and turned around and walked back to the podium.

THE PRESIDENT: What do you mean by the two counsel tables?

THE WITNESS: The two defense counsel tables, sir.

THE PRESIDENT: Well, I didn't realize there were two there.

All right.

DR. KRANZBUEHLER: Are you sure, Mr. Marshal, that he turned around to go back to the podium, or isn't it possible that he just turned around in order to get to the door?

THE WITNESS: No, the Doctor had turned around. I remember when I started down towards him that I believe he was going to pick up some papers or a motion or something that was lying on the podium. When he started to reach towards the earphones, I stepped up my speed a little bit. He walked over towards the counsel table after I arrive and met him halfway and gathered his papers and then started for the door.

DR. KRANZBUEHLER: Thank you, Your Honors. No further questions.

THE PRESIDENT: That is all.

(The witness was excused.)

DR. KRANZBUEHLER: May I then call as the next witness, Dr. Wecker?

THE PRESIDENT: Now, Dr. Kranzbuehler, may I suggest that as to those matters that don't seem to be in any controversy, they not be covered again? All right.

DR. KRANZBUEHLER: Your Honor, my examination of Dr. Schilf was carried on in detail in order to enable me to be so much shorter in handling the examination of the other witnesses.

THE PRESIDENT: Yes.

DR. WECKER, a witness, took the stand and testified as follows:

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

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

BY DR. KRANZBUEHLER:

Q Dr. Wecker, the first discussion on the appointment of a commissioner was attended by you on January 13, is that right?

A Yes.

Q At that discussion, was any agreement reached on the question as to whether a commissioner was to be appointed and could be appointed?

A At the discussion, the Tribunal proposed that a commissioner be appointed in order to expedite the trial. Thereupon, an agreement was reached to the effect that the defense counsel jointly with the Prosecution were to find ways and means whereby, by other ways than by appointing a commissioner, it could be endeavored to introduce testimony of witnesses or to replace the cross examinations. At that time, I had the feeling that the Tribunal had made a proposition but had not given an order for the appointment of a commissioner.

JUDGE WILKINS: Doctor, would you excuse me just one minute? Judge Anderson, who didn't attend that conference, had asked me this morning whether or not an agreement had been reached, at which I told him and at which Judge Daly told him no, so that I assume that ---

COURT INTERPRETER: Judge Wilkins, the first meeting or the second meeting? He is talking about the first meeting.

JUDGE WILKINS: I explained to Judge Anderson that so far as I knew, no agreement had been reached at the second meeting, and I assumed that if one was reached, it was reached after I had left, which was about 5:30, as you will remember, so I just wanted to tell you what I had

advised Judge Anderson regarding the agreement.

Q On the occasion of that conference on 13 January, were objections made by the defense counsel on principle to the effect that the defendants had a right to be confronted with the witnesses?

I personally pointed out very specifically the right to be confronted, and first of all, I particularly pointed out Article IV # and and V E of Ordinance No. 7; moreover, to the proclamation No. 3 of the Allied Control Council; furthermore, I pointed out the fundamental rights and prerogatives of the defendants, which, irrespective of any ordinance or any law, apply to all cross examination.

Q Is it correct that on that occasion, Judge Daly opposed your statements, saying that the Germans had no constitutional rights?

A I don't remember any such statement on the part of Judge Daly.

Q Were you present at the second conference on 15 January?

A Yes, I was.

Q In this second conference of 15 January, in the presence of one of the two Judges, was an agreement reached on what was to take place?

A Yes, it was.

Q What, according to your opinion, did this agreement consist of?

A In the way of introduction, may I say that I was somewhat surprised that after no agreement had been reached in the first conference on the subject of the appointment of a commissioner, in the second session the commissioner -- we were already confronted with a commissioner in the second session. As far as the result of this conference --

THE PRESIDENT: Dr. Kranzbuehler, the time is up. The machine has to be changed.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: You may proceed, Doctor.

BY DR. KRANZBUEHLER:

Q. Witness, you took part in the session of the 15th of January?

A. Yes.

Q. You just now said that during that session according to your recollection an agreement had been reached between the Prosecution, Defense, and the Judge who was present.

A. Yes, an agreement was reached.

Q. What was the contents of that agreement?

A. To my recollection it was this: That after the Court had presented this Commissioner, so to speak, to the Defense counsel, we could not avoid having this institution of a Commission but that we had to accept it in principle; however, with the reservation that the Prosecution and the Defense, with the aid of a list, would work out a plan as to what witnesses were to be called because of counter-affidavits, which witnesses were to be examined by the Court, and which witnesses through the presentation of the records of former trials, could be eliminated; and, finally, which witnesses were to be heard by the Commissioner.

Q. Concerning this agreement was there any further talk between you and the Prosecution, after the participating Judge had withdrawn?

A. Pretty early in this conference Judge Daly retired, and toward the end of the conference Judge Wilkins also withdrew. At the request of Judge Wilkins, we together with the Prosecution toward the end with Mr. Thayer, discussed this matter.

Q. Was a date set at which the list of affidavits was to be discussed in order to determine who was to be examined?

A. I remember that the list was to be given to us by the Prosecution on the next day. That would have been Friday, and that on Saturday we were to meet again with the Prosecution in order to determine with the aid of this list what witnesses should be eliminated according to the proposed scheme.

Q. Were you present at the beginning of the Friday conference, that is, the 16th of January?

A. Yes.

Q. Did you hear the ruling which ordered the appointment of a Commissioner?

A. Yes.

Q. And at the same time it was ordered that the Commissioner was to start his hearings on the same afternoon, with the examination of two witnesses?

A. Yes. I started to say something concerning this ruling.

Q. Was this ruling a surprise to you?

A. Yes, a complete surprise.

Q. Why?

A. It was a surprise because expected to see the list of the Prosecution, and we wanted to talk with the Prosecution on Saturday in detail, what we were to do.

Q. What did you do after the ruling of the Court had been handed down?

A. As far as I remember I went to the podium and made a few statements concerning the fact that in my opinion the right of confrontation required it that all defendants be present at a cross examination by the Commissioner and that this matter involved very difficult problems of a practical nature.

Q. Were your statements considered in any manner?

A. No. I think I remember Judge Daly said, "We will remain at the ruling that we have handed down. We will stick to this ruling."

JUDGE DALY: Just a minute, please. Let me see if I can refresh your recollection. Do you remember who it was the record indicates announced when the hearing would be held?

THE WITNESS: No.

JUDGE DALY: Well, would it surprise you to know that it was Judge Wilkins who announced it?

THE WITNESS: I don't know, I only know it was one member of the Tribunal.

JUDGE DALY: All right. Go ahead.

BY DR. KRANZBUEHLER:

Q. In the course of the morning session were you always present?

A. Yes.

Q. Did you make any further motions?

A. No, not I.

Q. You heard that other motions were made?

A. I heard the motion by Dr. Pohle.

Q. Did you hear what happened after this motion?

A. I think that the motion was over-ruled. I am not quite sure what the reaction of the Court was.

Q. And then you heard Dr. Schilf attempt to make a motion?

A. Yes. And before that there was a recess.

Q. Well, now, witness, you yourself left the Court after Dr. Schilf left the Courtroom, is that right?

A. Yes.

Q. Will you give us the reasons which personally moved you to leave the Courtroom?

A. Yes. It was my feeling which told me to leave the Courtroom. I reacted with my feelings because I believed that not only had the honor of my colleague Dr. Schilf been slighted, but that the collective honor of us had been slighted.

Q. This conception of yours, was it based on the last incident concerning Dr. Schilf, or was it based on the whole atmosphere prevailing in the morning session?

A. I think it was the atmosphere of the whole morning session.

Q. Can you explain to me in what manner, in your opinion, the honor of the German defense counsel had been slighted during this morning session?

A. Your Honors, it is not so much the words that were used: There is a German proverb which goes, "It is the tone which makes the music." It is also a French proverb, "C'est le ton qui fait la musique." I had

the feeling that the tone, if I may speak quite frankly, the tone used by Judge Daly toward my colleague Schilf was not one which should be accorded to a reputable lawyer.

Q. That is one reason for your excitement and for your decision. Didn't you also think of your client, whose interests you have to safeguard during this trial?

A. After this atmosphere began setting in I had the spontaneous feeling that at the moment I could not do anything for my client, except to leave this Courtroom and to discuss with my colleagues as to what to do in this situation, to show the Court what our desires were. In particular, how to make it clear to the Court that Dr. Schilf wanted to make a motion on which the Court had not yet ruled.

Q. Is it correct, if I summarize the incidents leading up to your decision, in this manner: Firstly: Your own objections to the ruling of the Court in the afternoon concerning the interrogations by a Commissioner on that very afternoon, based on the fundamental rights of the defendants, and there was no change in the decision of the Court; secondly: Dr. Pohle's motion that during the examination by the Commissioner all defendants desired to be present, and reference to the right of the defendants to be present during these examinations; in answer to this there was no decision by Judge Daly but continuation of proceedings. Thirdly; Attempt by Dr. Schilf on the basis of the ruling of the Court to make the suggestion to adjourn proceedings for one hour in order to enable the defense to consult with the defendants as to who definitely wanted to attend the afternoon session of the Commissioner. Attempt to make this motion was cut off after the first three words, and there was no possibility afforded to offer this motion.

JUDGE WILKINS: Let me get it clear. Who offered the motion?

DR. KRANZBUEHLER: The last motion?

JUDGE WILKINS: Yes, you asked him about a motion which was cut off after the first three words. My question is, who offered the motion?

DR. KRANZBUEHLER: Dr. Schilf. He attempted to make a motion.

Q. (By Dr. Kranzbuehler) Is this summary correct? Are these the three decisive factors which caused you to feel that something has to happen in order to bring the viewpoint of the Defense Counsel before the Court?

A. Herr Kranzbuehler, you have accurately described and summarized the reasons. However, the best of considerations cannot reproduce the fundamental feeling that moved all of us. However, I can speak only for myself. It overwhelmed us. In this feeling I arose from my seat and I said to myself the situation being what it is I cannot safeguard the interests of my client except after a conference with my colleagues.

THE PRESIDENT: Witness, I didn't get that. When was that uttered, Doctor? When did you say that?

THE WITNESS: When I arose spontaneously and left the Courtroom.

DR. KRANZBUEHLER: You said that you arose spontaneously.

THE WITNESS: Yes.

DR. KRANZBUEHLER: You did not arrange with anyone prior to leaving the room?

THE WITNESS: No.

JUDGE WILKINS: Doctor, there is a question there. You have had a chance, I assume, to have the record read to you, or you read it?

THE WITNESS: No.

JUDGE WILKINS: Is it your position that this statement that you say you made will show in the record? You said, as I understood you, that as you arose you said, "The situation being what it is I can't continue without consultation" and so forth. What I want to know is, I assume the record will show that statement then?

THE WITNESS: Which record do you mean, your Honor.

JUDGE WILKINS: The court proceedings. The stenographic report, the record that is being taken on the sound track.

THE WITNESS: You mean the record where I was asked by Judge Anderson after the event had happened?