

27 Jan 48-M-FJC-1-1-Biolosi (Horn - Treidell)
Court III Case X

Official transcript of the American Military Tribunal
III, Case X, in the matter of the United States of
America against Alfried Krupp, et al, defendants,
sitting at Nurnberg, Germany, on 27 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: Are all the defendants present?

THE MARSHAL: May it please your Honors, all the defendants are
present in the courtroom except the defendant Houdremont, who has been
excused by the Court.

THE PRESIDENT: Judge Wilkins will preside.

MILOS CELAP - Resumed

CROSS EXAMINATION - Continued

BY DR. LIPPE (for defendant Janssen):

Q I shall be very brief in the rest of my questions, witness,
and may I ask you to be very brief in your answers.

Was M. Sandre provisional administrator for the Austin factory only,
or also for the private property of Mr. Rothschild, and for the Societe
Anonyme Austin?

A He was provisional administrator for the Austin company as well
as for the private property of M. Rothschild.

Q Did I understand you correctly to say that the lease agreement
of 3 September 1942 was concluded between Herr Stein and the provisional
administrator?

A Yes, that is correct. It was signed by Herr Stein on behalf of
the Friedrich Krupp Aktiengesellschaft and by Maurice Erhard as provisiona
administrator I think on or about the 3rd of September 1942.

Q From what do you conclude that in view of the legal principles prevailing then a sales agreement couldn't have been concluded between Herr Stein and the provisional administrator?

A Are you referring to the sale of the shares?

Q The sale of the factory.

A There wouldn't have been any difficulty as far as the factory was concerned, but from what I understand the solution adopted at the time, that is the lease treaty, was the easier solution for Krupp; also for compliance with the letter of the regulations existing at that time.

Q Well, I asked you about the factory.

A I don't know what the real intentions of Krupp were at that time, and I don't know why they didn't buy the factory as well. After all, that was a piece of property which they might well have acquired also. I want to add something: But, of course, one must say that the solution adopted, that is, the lease contract, was much simpler because after all - they purchased all the machines and once the machines were in their hands they could act in the same way as if they had purchased the whole factory.

Q Well, that is the conclusion you draw. At the discussion in February 1944 during which M. Sandre threatened M. Rothschild, was Herr Stein or one of his representatives present?

A I have told you already yesterday that at this conference only Rothschild, myself, and Sandre were present.

Q At the meeting with the attorney of Herr Rothschild at Lyons, I think his name is Procon, was Herr Stein present as a representative of his?

A No.

Q Was there any connection between that Herr Damont who represented the Jewish interests, and Herr Stein or his deputies?

A I have never heard about anything like that.

DR. LIPPE: I have no further questions.

PRESIDING JUDGE WILKINS: Is this on something new Dr. Wecker?

DR. WECKER: I hope so, your Honor. I believe these questions are necessary. But I will be brief.

PRESIDING JUDGE WILKINS: Well, I am going to say now that this witness has been cross examined at great length -- in fact at too great length. I shall reserve a ruling on it until I see what the question is, but it seems to me that the field has been amply covered. You may proceed.

CROSS EXAMINATION

BY DR. WECKER (for defendant Krupp):

Q. Witness, you made a grave charge against Krupp by saying that the deportation of your brother-in-law M. Rothschild to Auschwitz, was the result of certain connections between M. Sandre and a certain Herr Schmidt. We are not dealing with a company now, but with human beings of flesh and blood. Therefore I want to put a very direct question to you. Are you able to testify to the fact that the gentleman sitting in the dock over there had anything whatever to do with the deportation of M. Rothschild into the Auschwitz concentration camp?

A. I personally don't know any of these gentlemen here in the dock. I do hold the opinion and the firm conviction that my brother-in-law was arrested and deported to Auschwitz on account of the Austin factory, and only on account of that. Best proof is that he was arrested a very short while after the visit by the provisional administrator. He was therefore in my view arrested on account of the intervention of the Krupp factory and I hold the Krupp factory responsible. The Krupp factory on the other hand was administered not by a firm but by human beings of flesh and bones, as you say, and amongst those administrators are the gentlemen who are here in the dock.

Q. This grave accusation is based first of all upon the charge that Sandre is accused in the letter of M. Rothschild from prison of having reported Mr. Rothschild to the police.

A. Yes, that is correct. But even without the letter -- as my

brother-in-law was arrested ten days after the visit of Sandre I would have assumed even without the letter from the prison that Sandre was responsible. But in addition to that to that assumption I received this letter from my brother-in-law from the prison where he writes and accuses Sandre and bases that on the fact that he had received quite precise information. Also I would like to add that a man like my brother-in-law who at that time knew perfectly well what was going to happen to him, had no reason to lie and I ask the Tribunal that he be believed.

Q. Your second conclusion is that M. Sandre was married of Herr Schmidt's. Is that correct?

A. That is quite correct, and I think we have discussed this question at great length yesterday.

Q. We needn't talk about it any more, need we. Two more brief questions. When there was a change in the office of the provisional administrator was there an inventory taken every time?

A. The inventories were not taken and listed during every change. Only when Erhard was appointed was there an inventory taken. But I am very glad you asked that question because yesterday I forgot something, some clause in the Krupp contract which was to be executed. There was a clause in the contract between Krupp and the provisional administrator according to which an inventory was to be taken of everything, of the machines, the furniture, the spare parts, and the tools, and also the installations; but only the inventory of the machines was ever taken.

Q. One more question on the topic of the arrest of M. Rothschild. At the time when M. Rothschild was arrested wasn't there a general wave of arrests of Jews in France, or at any rate a large number of arrests?

A. That is quite correct, but I have to add there that Mr. Rothschild always defended his viewpoint quite clearly, and he charged that the appointment of a provisional administrator and the seizure and the spoliation of his property was not even in line with the then existing law in France and was quite illegal on account of the fact that he was a Yugoslav national

and that his case could only be treated under Yugoslav law which made no distinction between Jews and Aryans. I want to add: He first defended his view point before the Tribunal in 1941, and I want to stress that he was not arrested until 1944, exactly ten days after the visit we had by Mr. Sandre, and I want to say also that if they had arrested him on account of the fact only that he was Jewish, then they could have arrested him right from the start -- they knew where he was -- everybody knew his address-- they could have come to fetch him at the beginning when the anti-Jewish measures started in southern France.

Q. One very, very last question, and that is: the indemnity claim as you stated, amounts to eight million Francs, how can that be explained if the purchase price only amounted to two million Francs?

A First of all, it is correct that the machines were bought, and not even at the price of 2 millions, but only one and a half million by Krupp. But I want to add also that one year afterwards, the Krupp limited Compagny was founded with a share stock capital of 20 million. In this share stock capital of 20 million, 14 million were machines and installations, while 6 million were cash. Out of the 14 million listed for machines and installations, the Lyancourt factory accounted for 8 million. It is correct that Krupp has bought some machines in addition to the machines acquired from our factory, but that was perhaps 40 machines out of 200 or something of that kind. So, even if one considers it as a low estimate, one still has to say that our machines had a value of between 3 and 5 million, according to the Krupp estimate, and they even estimated it higher than that. The same machines were one and a half million from ours.

DR. WHEELER: No further questions, Your Honor.

MR. MANDELLAUB: Your Honors, I would like to ask just for clarification one or two questions.

PRESIDING JUDGE WILKINS: Make it brief, Mr. Mandellaub.

REDIRECT EXAMINATION

BY MR. MANDELLAUB:

Q Do you remember when the action against the Jews started in the unoccupied zone of France?

A The law against the Jews was promulgated on 22 of July 1941. That applies to the non-occupied zone. For the occupied zone, the anti-Jewish measures started almost right after the arrival of the German troops, that is, in October or November 1940.

Q Do you remember the summer of 1943, August, when mass demonstrations were made all over France in the occupied zone against the Jews?

A Yes, I remember.

Q And Mr. Rotschild was not arrested then?

A No, he was near Monte Leman at that time, and he was not even in hiding.

Q I have here the Ordinance of the 18th of October 1940, referring to the measures against the Jews in occupied France. I would like to show it to you, and tell me whether you refer to this ordinance and then to read to the Court, if you can identify it, who was appointing the commissars for Jewish properties?

PRESIDING JUDGE WILKINS: Well, is there any dispute about this, Mr. Mandellaub? I assume there is no dispute over the fact that an act of this kind was passed.

MR. MANDELLAUB: Yes, Your Honor, but I just thought yesterday it was not made quite clear that the orders came not from the government of Vichy but from the government of the German military commander, and the witness yesterday was not quite clear on this matter, and this ordinance shows that the order came from the military commander of France rather than from the Vichy government.

PRESIDING JUDGE WILKINS: You can show that, but it isn't for the witness to read.

MR. MANDELLAUB: All right then.

THE PRESIDENT: Well, I understood the witness to say yesterday that it was a decree, as he called it, of the Vichy government. I may have misunderstood him. The Vichy government appointed this commissar for Jewish affairs, although he was operating in occupied territories, functioning in occupied territory, although his headquarters was in Paris.

MR. MANDELLAUB: I had the same impression, and since then I was looking up the decree and found out that the witness might have a chance to correct the statement when seeing the decree.

PRESIDING JUDGE WILKINS: What does the decree provide?

MR. MANDELLAUB: It is written in French and German, and it gives the date, and it provides that for Jewish properties a commissar administrator could be appointed; and it is signed by "le chef de l'Administration

Militaire en France" (the chief of the Military Administration in France), and the ordinance is dated the 18th of October 1940 and is the second ordinance referring to measures against the Jews.

PRESIDING JUDGE WILKINS: Well, you may offer that as part of your case.

MR. MANDELLAUB: I have no further questions.

THE PRESIDENT: I was wondering what the Vichy appointee was doing functioning in the occupied area.

INTERPRETER TREIDELL: The witness would like to answer.

PRESIDING JUDGE WILKINS: Yes.

The WITNESS: That is, I want to add that is quite correct, and I thought I had clarified that also. When the first provisional administrator arrived, he practically chased me away from the factory. I have also seen the decree of 18 October 1940, and I know that the administrator was appointed on the strength of this decree issued by the German military authorities.

PRESIDING JUDGE WILKINS: Have you anything further. The witness may be excused.

(The witness was excused.)

MR. MANDELLAUB: Your Honor, we have a second witness, a Mr. Henri Maine.

PRESIDING JUDGE WILKINS: A French witness?

MR. MANDELLAUB: A French witness.

H E N R I M A I N E, a witness, too the stand, and testified as follows:

PRESIDING JUDGE WILKINS: Do you swear to speak without hate, nor fear, to say the truth, all the truth, only the truth? Raise your right hand and say I Swear.

(Witness repeated the statement.)

PRESIDING JUDGE WILKINS: You may be seated.

DIRECT EXAMINATION

BY MR. MADOLLAUB:

Q Witness, are you the witness Henri Maine?

A Yes.

Q You are of French Nationality?

A Yes.

Q What is your profession?

A I am a technician, chief of the Austin factory.

Q Since when have you been in the Austin factory?

A Since October 1920.

Q Have you been at the Austin factory in Lyancourt throughout the occupation?

A Yes.

Q Have you been during the time while Krupp was occupying the premises?

A Yes.

Q Do you remember a visit by Krupp officials at the plant of Lyancourt?

A Yes.

Q Witness, could you remember one of the defendants here in the dock to have been in Lyancourt visiting the factory?

A Yes, the gentleman to the left.

Q Witness, this gentleman to the left is Alfried Krupp von Bohlen und Halbach?

A That is the name that was announced to us before he came. He came some day in 1943 towards noon.

Q But when he came didn't you know which one was Alfried von Bohlen?

A No.

Q It is only now that you recognize that it was him?

A I recognized this man because I have seen him during the visit.

Q When the Lyancourt factory was occupied by the Germans for the first time, were you there at Lyancourt?

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A Yes, at that moment I was the only representative of Austin,

Q Did the German military authorities take away machines from the factory?

A Some machines were taken away, but these machines had been machines lent to us by the French government for the purposes of a temporary production for the needs of national defense.

Q Am I therefore correct that the machines which belonged to the Austin factory were not used for war production but only those which the Austin factory obtained as a loan from the French government?

A It is correct that the French government for this new production for national defense purposes furnished us with machines, tools, raw material, and workers, and that therefore our own peacetime production was not slowed down on account of this defense program.

Q Is it correct; therefore, to say that there were two departments for a certain time at the Lyancourt factory, one working for the national defense with French State owned machines, and the other the traditional production going on with the machines and material and manpower of the Austin factory?

A That is correct.

Q When Krupp arrived at Lyancourt, were all the machines which were still at the Austin factory then machines of the peacetime production of Austin?

A It is correct that all the machines serving our traditional production were there and that some of them had even the work bench still standing with parts on them. There were, however, a few machines of what you might call the armament production department, and these machines were later on surrendered by Krupp to the rehabilitation center of Campienne.

Q Did the German authorities consider the Lyancourt factory as a war factory and therefore declared this war factory as "boutin de guerre" (war loot), or did they consider it as a peacetime factory belonging to a Jew and therefore sequestered it?

A The factory was always considered as being Jewish property and not a factory within the framework of the clauses permitting the Germans to seize the factory as war loot.

Q When Krupp took over Lyancourt was the Austin factory forced to sell the machines to Krupp?

A I have not attended the negotiations. I do know that Krupp tried to get the factory into his hands, and that they were in competition with other firms, French firms as well as German firms; the conditions and circumstances being that the factory had to pass into

other hands because it was under the clauses of the law dealing with Jewish property.

Q But did Krupp buy the machines of Lyancourt factory?

A Yes, Krupp bought the machines of Lyancourt factory at a price, incidentally, which was quite ridiculous.

Q You know that the price was below the actual value of the machines?

A Yes, I know that because I attended several previous appraisals of the machines, and I myself produced an appraisal of the machines before.

Q Were these machines bought through the Krupp representative Stein?

A During the first negotiations I had to deal only with a certain man named Schmidt who was accompanying Walter Stein.

Q What happened to these machines --

PRESIDING JUDGE WILKINS: Who was what? I didn't get that.

A He was accompanying Walter Stein.

BY MR. MANDELLAUB:

Q Were these machines sold under the circumstances you described to Krupp, used by Krupp or resold by Krupp?

A A certain fraction of these machines were kept by Krupp, and these, the ones Krupp kept, they sent into various factories to have them remodeled and rebuilt for the purpose of the new production they were going to set up. Another part of the machines were sold by Krupp and those were more particularly the machines for our chain production.

Q Is it correct that Krupp sold these machines through Stein on the black-market of France?

A No/

Q Who sold the machines?

A Walter Stein.

Q To whom did he sell the machines?

A These machines were sold to some companies of a rather fishy nature called the S.M.A.O., or Bombardier, and some machines to some other firms of which I don't remember the name.

Q Is it correct that this Bombardier you speak of was an agency with all sorts of dealings carried out in France with the Germans?

A Yes.

Q In other words, Krupp sold through this agent to a rather dubious cliental part of the machines he had forced you to sell to Krupp?

A Yes, because it is a notorious fact that these salesmen as you might call them placed themselves spontaneously at the disposal of the Germans in France to resell the machines and thereby drained France of quite an important part of her machines.

Q Mr. Witness, you were present when new Krupp machines arrived at Lyancourt during the occupation. Were these machines which Krupp had also obtained in France?

A It is correct that most of these machines came from other French factories, and later on I myself recognized these machines in various parts of France.

Q What was the production which Krupp undertook in Lyancourt during the occupation?

A Krupp in the Lyancourt factory during the war executed orders for the German armed forces and for certain factories, German factories like the Brawag -- I am not sure that I pronounce the name right -- like the Elmag and others, and for them they produced mainly spare parts, brake parts, collectors, molded iron, and other parts. Also they executed certain orders for the German railroads and also certain parts were produced for the HKP near Paris.

Q Would you explain what is the HKP?

A I couldn't tell you what HKP in translation actually means and my dealings with them were not very extended, but I do know it was the German organization in Paris which assured the repair of German war material there.

Q Your Honor, the term HKP stands for Heeres Kraftwagen Park, which is a kind of army ordnance of motor vehicles in Paris for repair.

Is it correct to say that Krupps production, to sum it up, was a production almost entirely for the needs of Germany and not for any sector of the French economy?

A It is obvious that Krupp came to Lyancourt to produce for the German needs and not for the French needs, and that whatever production for the benefit of France was made was really only a minute fraction of the whole production, and besides that, if I may use another expression, it was just sneaked in. It was only incidental this little production for France which was carried out. It was not on the program, anyhow.

Q Mr. witness, yesterday another French witness was not quite clear about the amount of production which went into the French civilian sector, and he gave as a possible figure, if I remember, five per cent. He was not sure about that. Could you, according to your own experience, since you were there during the war, give your own estimate?

A I would say that whatever production was of interest for the French economy in the total of the production would have amounted approximately to between 2.1 and 2.2 per cent.

Q Now, while Krupp was producing in Lyancourt for years, the liberation of France was approaching. Can you tell us what happened a few days or a few weeks just before Lyancourt was occupied by the American troops?

A Two to three weeks before the Germans had to get out, Krupp, through the services of his German - and German only - employees, had the whole assembly line dismantled and dismantled.

They wrecked the files, and the machines serving to produce large cylinders were taken away; loaded on trucks and, I think, sent to Germany.

Q Was this done by the Krupp employees, or was this done by any army official?

A It was done by German workers of Krupp, or working for Krupp.

Q Was Walter Stein still there in Lyancourt at that time?

A Yes, he left only a few days before the Americans arrived.

JUDGE DALEY: Excuse me, Mr. Mandellaub. May I ask the witness the question whether these machines that were just testified to as having been taken away were part of the machines that Krupp firm bought when they first came in there.

A No, there were only one or two Austin machines amongst this mass of machines there. The ones that were taken away.

JUDGE WILKINS: Well, do I understand then that excerpt for one or two machines the other were the ones that Krupp had installed?

A Yes.

JUDGE WILKINS: How many specifically were there that they took?

A Eighteen.

JUDGE WILKINS: And what type of machines were they?

A These were rectifiers, cylinder turner machines, cylinder restifiers, cylinder cutters, cylinder presses, two turning lathes, and one tower and two cutting machines.

JUDGE WILKINS: Were they heavy machines? Large machines?

A The restifiers, the two restifiers were comparatively heavy; also the cylinder cutters.

JUDGE WILKINS: Had those machines been used by the Austin Company prior to the occupation, in their manufacturing business? That is, in the production of tractors and so on?

A The two machines I was referring to, yes.

JUDGE WILKINS: What about the other then? The sixteen others?

A No, they were not used by Austin previously, because they had been taken away from other French factories by Krupp.

JUDGE WILKINS: None of those eighteen had been used in war production?

A No, the German war production was the only war production they had ever been used for.

Q Is it, therefore, correct that when leaving Lyancourt, Krupp took with him two Lyancourt machines belonging to the Austin factory and another amount of machines originating from other enterprises in France? I think the witness has not understood?

A Yes, it is correct to say that; but it was not correct to act like that.

Q Witness, you are only asked to testify to the facts and not to what is correct or not. The employees of the Austin Factory who remained or came back to Lyancourt after the first exodus, were they induced by menace and threat to work for Krupp?

A Perhaps to speak of threats is using a bit too big a word. I would rather put it that way: we were advised to rather work for Krupp at Lyancourt than to go and work for Krupp in Essen.

Q Were you personally confronted by a German official of Krupp in Lyancourt with the alternative of working for Krupp at Lyancourt or being sent to Essen to work for Krupp there?

A Yes.

Q What was the name of the Krupp official who put this alternative before you?

A Leo Schmidt.

Q Can you tell me when this was, approximately?

A It was in September, 1942? Can I add something personal there?

Q Surely. We will talk about these later. Will you please translate now?

A I want to add the personal fact: I had no intention to work for Germany and, therefore, I had asked a friend of mine for a job with him and he had accepted me as production director in his factory, and then when I went to Schmidt to ask him to release me from work at Lyancourt, he answered, "Well, after all, I think it is better for you if you work at Lyancourt for Krupp than if you have to go to work for Krupp at Essen", and I want to add that two of my workers tried to do the same thing, to get out of working at Krupp-Lyancourt, and three days later they were in Germany, and I can give you the names of those two workers.

Q Would you please give the names of those two workers who were sent to Essen?

A One was Duriot. He is living at Soutrene; and the name of the other man is Libot -- Libotte.

Q And these two men were sent to Krupp-Essen because they tried not to work for Krupp at Lyancourt?

A They were not sent to Krupp at Essen. I was quite well informed about the negotiations that took place, and I know that when these two workers came and asked for the release from their jobs, the Director of the factory of Lyancourt, Krupp-Lyancourt, informed the German Labor Exchange at Beauvais, and that three days later they were shipped, one of

them in the direction of Berlin, and the other one I don't know exactly where, but I think he was sent to the Rhineland.

Q Thank you. I have no further questions.

CROSS EXAMINATION

BY DR. WEIZ:

Q Weiz. Witness, as technician --.

JUDGE WILKINS: Excuse me. Whom do you represent? I forgot.

Q I am the assistant to Dr. Gollnick, who is in charge of Spoliation for the whole defense counsel; apart from that Gollnick is the defense counsel of Eberhardt. Witness, in what capacity were you working as a technician in the firm at Lyancourt, after the firm of Krupp took over production in your factory?

A I retained the functions I held before, but I had what you might call a guarding angel; that is, they gave me a double.

Q In what sphere of work did this function of the guarding angel take place?

A I couldn't make any decision without referring it first to this guardian angel and I had to submit to his decisions.

Q Were these decisions in the technical field or in the commercial field?

A I never dealt with commercial questions and my decisions were only in the field of technical questions and of personnel management.

Q You testified before that Krupp bought machines. That is a commercial function, isn't it?

A That is quite true, but I was not the man who went to buy the machines. I only went there to see whether these machines were fit to produce the necessary services for our production.

Q The production - to carry out production for whom?

A For Germany.

Q I didn't understand this answer, Witness. You took care that the machines which were sold from Lyancourt were suitable to manufacture

products for Germany?

MR. MANDELLAUB: I think the mistake is in the translation. He translated achete' instead of vendu. He said "verkauft" (sold) instead of "gekauft" (bought).

JUDGE WILKINS: Oh, yes, you are quite right in your interpretation.

Q I can phrase the question differently, Your Honor. I simply want to know, Witness, what were your functions when the sales took place?

A I had no function in the commercial field during those sales or purchases. The only thing I did was when machines were bought by Krupp from other regions and brought to Lyancourt, I would examine whether they were fit for our technical purposes.

Q Whom did you then advise?

A I made my observation to a certain Monsieur Cosimar, and another man whose name was Gelle, or Gellen, or something of that nature.

Q Were these German gentlemen?

A Yes.

Q Did they belong to the firm of Krupp?

A Yes.

Q Were they subordinate to Herr Stein in Paris?

A They were under his direct orders.

Q Did you know Herr Stein personally?

A Yes, I saw him two or three times per week.

Q Witness, you said before that machines were bought by Krupp?

A Yes.

Q Were these machines bought by Herr Stein?

JUDGE WILKINS: We will take our usual morning recess.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

DR. WEIZ: I would like to continue with the cross-examination.

CROSS EXAMINATION(Cont'd)

QUESTIONS BY DR. WEIZ:

Q. Mr. Witness, we were last discussing your collaboration with Mr. Stein in Paris and we discussed the purchases of that machinery which was put up in Lyancourt. Now I assume that all the machines which had been bought by Mr. Stein had always been bought on the order of Krupp?

A. Yes, Stein, himself, took care of all the transactions of sale and purchase. Now, as to what you call my collaboration with this man, Stein, it consisted of Stein's giving me orders and my trying not to execute them.

Q. Were collaborations with Stein of such a nature that you always knew which office or agency gave out the suggestions on the basis of which Stein bought machinery?

A. My relations with Mr. Stein were not close. As far as the machines were concerned which Stein sold from the Austin factory I knew to whom they went because the purchasers came directly to the factory. As far as the machines were concerned which Stein bought elsewhere for Lyancourt or acquired or took elsewhere, I very often went to see these machines because I wanted to find out and I was supposed to find out whether they were fit for the production they were meant for.

Q. May I understand your answer in that way? Your answer is somewhat evasive, if I may say so -- that you did not know whether Stein acted on his own initiative or acted on the orders of the firm of Krupp?

A. I think there never was a factory director who would go and tell his own secrets to the Chief of his assembly hall and more particularly so if this factory director is a German and the Chief of the assembly hall is French.

Q. Now, some questions in conclusion regarding the production in Lyancourt. Did I understand you rightly to say that you produced for several German enterprises?

A. We worked almost exclusively for Krupp whether they used the name of Krawag, for which we worked or Elmag or the Treibstoffwerke, it was always for Krupp and even when we, to some extent, worked for Putot, we worked in reality for Krupp Repair Shop.

Q. Do you mean by Putot, the so-called "K" works in Paris?

A. No, the Krupp Repair Factory at Putot had their work shops along the Seine River and had a big sign up, "Krupp Repair Shop".

Q. What did this repair shop repair actually?

A. They repaired trucks and in short any motor vehicles used for civilian transportation of Krupp or for German Military transportation.

Q. One last question, Mr. Witness. The production in Lyancourt, according to your views was that war production, production of war material?

A. The production at Lyancourt was to a certain part direct war production and for the rest, it was production for the benefit of Krupp at Essen, for instance, the cylinders which can also be indirectly called war production.

Q. Mr. Witness, do you know the exact concept under International Law of War Material?

MR. MANDELLAUB: I think a technician cannot be asked a legal definition of war material.

PRESIDING JUDGE WILKINS: We will listen to what the convention may contain later. It is not for this witness to say what the law may be, counsel.

DR. WEIZ: I didn't want to ask the witness what the International Law is, but what he means by saying that a certain part of this production was war production. I shall frame my question differently.

PRESIDING JUDGE WILKINS: You may ask him to explain his answer if you wish.

CROSS EXAMINATION (Continued)

BY DR. WEIZ:

Q. Witness, is it your view that every product of any factory which in any way can be used for war purposes represents production of war materials?

MR. MANDELLAUB: I think the defense counsel goes back to inducing legal terminology. I think he should ask the witness what he understands by war material.

PRESIDING JUDGE WILKINS: He may answer the question.

THE WITNESS: Fundamentally speaking, yes.

CROSS EXAMINATION (Continued)

BY DR. WEIZ:

Q. Mr. Witness, let's go back to the machinery which was bought by Mr. Stein and which was put up in Lyancourt. When did these purchases take place -- what were the years?

A. The purchases of machines began in November, 1942, and the majority of these machines came from the Bretin factory for large optical material, at Louviers.

Q. And the machines which had been bought at Lyancourt -- when did these transactions take place?

A. I didn't attend these transactions, but I know they started in June, 1942, and finished in August of the same year, that is, 1942.

DR. WEIZ: I have no further questions.

PRESIDING JUDGE WILKINS: Any other questions?

CROSS EXAMINATION (Continued)

BY DR. BEHLING:

Q. Mr. Witness, would you kindly answer the following questions: apart from the factory at Lyancourt, were other French factories used during the occupation period for production for the German Armed Forces, either directly or indirectly?

A. Fundamentally speaking, of course, I didn't deal with the other factories, but according to my knowledge there were only very few French factories working directly for the German Armed Forces. May I continue? I think that in general, the French factories worked through the intermediary of German factories, like the Austin factory, Lyancourt, which was completely taken over by the Krupp Company of Essen.

Q. Surely there were other factories which had been taken over by German management?

A. Not in our region.

Q. Mr. Witness, how many machines were there in Lyancourt in 1939?

A. I would say about two hundred machines.

Q. And what kinds of machinery was it? Just tell us in outline?

A. It would take very long to list all the machines we had, but they were all different kinds of machines to be used for the production of tractors, apart from the usual machines, that is, the cutters, the pressers, and the various machines normally used for the production of tractors, we had quite a number of machines which were particularly equipped for the production of the Austin tractors.

Q. Is it correct, Mr. Witness, that the cutters and pressers and the lathes were also used for war production by the firm of Austin

when the firm produced shells and ammunition for the French Armed Forces?

A. I have already answered this question when I told you that, when we started the war production for the French Armed Forces, we received from the Government or Army Arsenal special shell towers and machines, and furthermore, in order to prevent any interruption in our tractor production, we hired other workers, and female workers for this job.

Q. Did you also supply tractors to the French Armed Forces?

A. We produced only tractors for agriculture.

Q. Could they also be used for war purposes?

A. Of course, you can use a vehicle for liaison purposes, but I think that would not be very suitable in this case, because these tractors were very slow and you would not use such slow vehicles for liaison purposes. You would, rather, use it for agricultural purposes.

Q. At least the components could be used as spare parts for machinery used for war purposes?

A. I don't see how.

Q. Now, for instance, spare parts which were really made for tractors -- you could put that into a tractor which was used for war purposes?

A. I have never seen it done.

Q. Mr. Witness, is it correct that when taking over the factory or when the machinery was bought by the firm of Krupp, an expert opinion was obtained from a French firm and that the good offices of the mayor of Dupis, as the first county official of Lyancourt were used for this purpose?

A. First of all, I don't know any mayor of Lyancourt by the name of Dupis. Second, the little I know about these transactions concerning the machines -- because, after all, I am a technician and not a salesman -- amounts to the fact that experts who appraised the machines and

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gave an opinion came together with Stein and Schmidt to the factory
and negotiations went on with the approval of Stein and Schmidt.

Q Mr. Witness, in your affidavit of the 25th of July, 1947, you say that the peacetime production which remained for Austin was only very small and was not more than 5% of the new Krupp production. This figure 5%, tallies with the data given by another French witness which we had here yesterday. Today you give us a figure of 2.1% to 2.2% of the civilian sector. How do you arrive at these new figures?

A First of all, all the work done by Krupp in our factory was subject to an inquiry, and a report of a commission was made on this work. Unfortunately, I don't have this report here, but I have studied it carefully. On the basis of this report and this information and on the basis of the figure I have stated in the meantime, I have arrived at this figure of 2.1 to 2.2%. When, on the 25th of July, 1947, we were asked to give an affidavit with regard to these questions, we were asked to what, approximately, amounted the production for the civilian sector, and then we said something like 5%, but in the meantime I have studied the figures and have arrived at this more precise figure. Besides that, I have sworn here to say the truth and nothing but the truth, and I am not going to split hairs as to whether I stated approximately 5% and now give the precise figure of 2.1 or 2.2%.

Q But you didn't bring these data along with you, Mr. Witness?

A No, I haven't brought them, but I can send them here if they are needed, and I can certify them, too.

Q What kind of data are they?

A I will have a list of the comparative working hours and I will have it certified by the mayor and will have it sent to the Tribunal.

Q Who compiled this list of working hours?

A I have made that list for the benefit of the French Administration of Assets.

Q And when was that compilation made?

A A few months ago.

Q On what basis was this compilation made?

A On the German books of contracts.

Q The German books -- have you completely conserved them?

A The whole accounting was sent to Krupp Putot and I had to get the copies of the whole contracts and commission back, in order to make this list of the comparative working hours.

Q Do you want to say then that you had a complete list of data which enabled you to make a completely correct compilation?

A Yes, this list was made with great precision and is quite correct.

Q Would you kindly submit it to the court so that we can check it?

MR. MANDELLAUB: I don't understand quite correctly. Do you want now to have the witness produce this?

PRESIDING JUDGE WILKINS: No, presumably later.

Q Mr. Witness, was there general conscription of labor in France?

A I don't know whether compulsory labor service had been introduced in all of France, but at least for our region it was imperative.

Q Is it correct that all discharges from factories had to be reported to the local labor offices or to the German Labor Offices?

A That was an obligation.

Q Therefore, the dismissed workers, Duriot and Lipotte -- their dismissals had to be reported to the labor office?

A Yes, unfortunately, I am not in a position to prove by documents the attitude of the Germans in that instance, but I know quite a bit about the affair. I know all the workers were gathered afterwards and they were told they had to think over this case of the two workers, Duriot and Lipotte, quite seriously because that was what could happen to them if they ever got the idea of either asking to be released from work or trying to get another job somewhere else.

Q You didn't witness this incident yourself personally, did you?

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A My very functions obliged me to attend numerous speeches made
to us by our German masters.

Q Mr. Witness, on the 28th of December, 1940, Lucien Secon was appointed as the first commissar administrator. When the administration was taken over, was a list handed over of the machinery still there at that time?

A No, no inventory was taken. Besides that, this first provisional administrator who had been appointed with the approval of the German administration did not stay very long because he happened to have quite a criminal record, and it was found out that he wasn't fit at all to direct a French factory.

Q When the factory was taken over on the 13th of January 1941, I believe it was through Dormois, was an inventory of the machinery made?

A No, an inventory of machines was only made when Erhard, another provisional administrator, had his negotiations with Stein.

Q That was in 1942?

A Yes.

Q How many machines were at Liancourt at that time?

A I couldn't tell you exactly.

Q Approximately, Mr. Witness?

A 200 and some, perhaps 207, something like that.

Q Then more machines were at Liancourt when Erhard's list was made, than at any previous time?

A I don't think so.

Q But for 1939, you gave us the figure of 200 for the machinery, and now you told us that there were 207 in 1942.

A You asked me for approximate figures before also, you didn't ask me to give you a precise figure then.

Q Mr. Witness, I only want you to tell me whether in 1942 you had more machinery than in 1939, or whether it was smaller, or in which direction it had developed?

A We had the same number of machines as in 1940.

MR. MANDELLAUB: I think, if I understand correctly, in 1939. He was asking if he had the same number of machines in 1942 as in 1939, that was the question.

A The only machines we had more than in 1939 were the machines which had been lent to us by the French armament office.

Q Didn't you lose any machinery in the course of the war?

A No.

Q Did you evacuate any machines when the German troops approached?

A We had no time for that. We left two, three, or maybe four hours before the Germans themselves arrived.

Q In your direct examination you said, Mr. Witness, that other machines were brought to Lyancourt during the war. Is it correct that Krupp brought German machines to Lyancourt as well?

A If you mean by your question that they brought in machines from Germany, I must say no, but amongst the machines which were brought in from the Bretin factory at Louvri r, there were some German machines, but these machines had belonged to French factories previously.

Q Mr. Witness, had other German firms been drawn in by the armed forces in order to take over the management at Lyancourt?

A I don't know.

Q A little while ago, you said that Krupp was in some competition with other firms, and that it only got the management after that?

A Yes, I knew that there were several firms, German and French, interested in getting their hands on the Austin factory, and I knew that from prospective buyers who came to Lyancourt, and I found out from there that there was a competition between Krupp and other firms. I want to add something. Also, I know that there was a French sales organization which was under the direct influence of the Hermann Goering Works, and I knew that they wanted to get their hands on the Austin factory, and that they were very sorry they couldn't get it, but it was given to the Krupp factory at Essen.

Q Do you know, Mr. Witness, who was the decisive factor in transferring the management of the Lyancourt factory to Krupp, or don't you know anything about that?

MR. MANDELLAUB: The question wasn't which was the German agency, which was the agency.

A No, as a technician, I didn't know that.

Q Mr. Witness, where did Mr. Stein reside at Lyancourt?

A On an Autin estate which was called Le Chateau, the castle.

Q Didn't Mr. Stein reside permanently in Paris?

A Yes, he also had a residence in Paris.

Q He was only temporarily in Lyancourt, if I have understood you correctly?

A Yes.

Q Is it correct that Stein emigrated to South America with the permission of the French Government?

A I don't know.

Q You didn't see him again after the war?

A No, I haven't seen him again. If I had seen him, I would have had him arrested.

Q It is a fact, though, that he emigrated with the permission of the French Government, just for your personal information.

MR. MANDELLAUB: Your Honor --

PRESIDING JUDGE WILKINS: He stated he doesn't know.

Q Mr. Witness, one last question. When you worked for the French armed forces, did you exclusively produce armaments, or did you work for the civilian sector?

A I have answered this question already in direct examination. We continued full scale our production for the civilian sector, that is, the tractor production. Besides that, we set up a new department for the national defense.

Q Now, in percentages, how large was this production for the

civilian market as compared with your total production?

A What production do you mean, the armament production?

Q I mean peace production, production of tractors.

A The peacetime production remained the same.

Q Mr. Witness, now one final question. How many machines did you receive from the French armed forces in order to build up armaments production?

A We had 12 to 18 towers, called Marquis tower, and we had a certain number of drilling machines, but I must say that the whole production was only being started and put into operation, and that it remained in this first stage because we had the first evacuation in May, and then the definite evacuation already in June.

Q Mr. Witness, Monsieur Celap was in Lyancourt all the time, that is, before the Germans were there, is that correct?

A No.

Q Now, when did Monsieur Celap leave?

PRESIDING JUDGE WILKINS: It is past our adjournment time. We are running over in the hope that we can finish with this witness before we adjourn.

INTERPRETER TREIDELL: Your Honor, shall I translate the answer?

PRESIDING JUDGE WILKINS: Yes, go right ahead.

A Mr. Celap first left Lyancourt on the 9th of June, 1940, in the direction of Lyon and southern France. He returned in July 1940, to claim his factory from the German troops occupying the factory. Later on, he was forced to leave the occupied zone and to go to the unoccupied zone of France, and I saw him only after the liberation, afterwards.

Q But prior to that, Monsieur Celap was in Lyancourt all the time, wasn't he?

A Fundamentally speaking, yes.

Q Then he could form a clear picture regarding the conditions

prevailing there at that time, can't he?

A I should think so, yes.

DR. BEHLING: Thank you.

PRESIDING JUDGE WILKINS: Any other questions?

MR. MANDELLAUB: No further questions, Your Honor.

PRESIDING JUDGE WILKINS: The witness may be excused. We will
adjourn at this time.

(A recess was taken.)

AFTERNOON SESSION

(The hearing reconvened at 1330 hours.)

THE MARSHAL: The Tribunal is again in session.

MR. MANDELLAUB: May it please the Court, we have a witness here by the name of Paul Hansen waiting outside.

PRESIDING JUDGE WILKINS: What is he, French or German?

MR. MANDELLAUB: A German witness.

PRESIDING JUDGE WILKINS: All right.

PAUL HANSEN, a witness, took the stand and testified as follows:

PRESIDING JUDGE WILKINS: You will hold up your right hand 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.

(The witness repeated the oath.)

PRESIDING JUDGE WILKINS: You may be seated.

MR. MANDELLAUB: May it please the Court, I would like to address the witness in his own language, which is German.

PRESIDING JUDGE WILKINS: That is agreeable.

DIRECT EXAMINATION

BY MR. MANDELLAUB:

Q. Witness, will you please tell the Court your name?

A. Paul Hansen.

Q. You are a Krupp employee?

A. Yes.

Q. Since when have you been employed by Krupp?

A. Since the first of April, 1929.

Q. What was your position in Krupp?

A. Until 1931, I was deputy department chief in the forge installation department in the Technical Office in the firm of Krupp. From 1931 until 1941, I was in charge of the department. I was the department head. From 1941 -- rather, in 1941 I was put in charge of furnaces, rolling mills and forge installations of the Technical Office. In 1943, I was appointed

department head of the Technical Office.

Q. Are you still the chief of the Technical Office?

A. Yes, today I am still in charge of the Technical Office, besides other tasks.

Q. What are the other tasks which were added to your functions?

A. In January 1946, I became the betriebs director, the plant manager, in charge of the power supply, power plants, and for the maintenance of the Gusstahlfabrik. In addition, I was put in charge of negotiations on dismantling or reparations after the end of the war.

Q. Witness, I want to read a document to you, Document NIK 12406, which consists of a list of plants and is signed by you, and I want to ask you for identification whether this list was signed by you.

PRESIDING JUDGE WILKINS: Is that in evidence, Mr. Mandellaub, as yet?

MR. MANDELLAUB: This document is going to be introduced in evidence at a later date, I think in document book No. 38. We only want to mark it now for identification in order to save time.

A. Yes.

Q. That is a list which you compiled?

A. Yes.

Q. Thank you.

A. May I add that I used my assistants in the Technical Office for this list? I checked this list, however.

Q. You compiled this list with the aid of your assistants but the list was made at your responsibility?

A. Yes.

PRESIDING JUDGE WILKINS: You want to have that marked at the present time or later?

MR. MANDELLAUB: I think, your Honor, it should be marked at a later date. We only would then refer to this identification of the witness when we offer this document.

PRESIDING JUDGE WILKINS: All right. You refresh our memories on it then, will you?

BY MR. MANDELLAUB:

Q. Witness, I have in front of me a photostat of lists which also bear your signature, and which consist of a compilation of machines, machines and installations which were taken from occupied countries during the war, or rather, which arrived at Krupp during the war from occupied countries and which at the end of hostilities were retained and were found in the firm of Krupp at Essen or in other places, and which were especially marked for the purpose of restitution. I want to show you this list now. It is a photostat, and I want to ask you whether this list was compiled at your responsibility.

PRESIDING JUDGE WILKINS: Is this another list?

MR. MANDELLAUB: Yes.

PRESIDING JUDGE WILKINS: Mr. Mandellaub, we may get a bit mixed up if we don't follow some procedure whereby these may be marked for identification now. We prefer that this instrument which you showed this witness a minute ago be marked with the next exhibit number for identification so we may identify it later when you take it up.

MR. MANDELLAUB: Your Honor, you want an exhibit number for this?

PRESIDING JUDGE WILKINS: Yes, I believe the next number is 805 according to my records.

MR. MANDELLAUB: All right. I would like to introduce Exhibit 805 for identification, Document NIK-12406.

PRESIDING JUDGE WILKINS: All right. Do you have some other documents?

MR. MANDELLAUB: This second document which I mentioned now, which is Document NIK-13275, I offer for identification as Exhibit 806.

PRESIDING JUDGE WILKINS: Yes, it will be so marked.

The copy of Exhibit 805 -- is that in one of the document books at the present time?

MR. MANDELLAUB: Yes, your Honor, we would like to offer this document as Exhibit No. 806--

PRESIDING JUDGE WILKINS: I am not talking about 806. 805 which was submitted -- is that in one of the document books at the present time, so we will know where to find the copy.

MR. MANDELLAUB: No, but we are offering 806 for identification --

PRESIDING JUDGE WILKINS: I understand. But what book will it be in?

MR. MANDELLAUB: I think, your Honor, in Book 38.

Your Honor, this Document NIK-13275 which we offered in evidence as Exhibit 806 is not offered for identification but is offered as an Exhibit.

PRESIDING JUDGE WILKINS: Yes; you are asking about it now, aren't you?

MR. MANDELLAUB: Yes.

PRESIDING JUDGE WILKINS: It will be admitted, 806.

BY MR. MANDELLAUB:

Q. Witness, did you look at every page in the document?

A. Yes.

Q. Did you recognize this list made at your responsibility?

A. May I add to this that these are three lists which were made at different periods. The third list was made by me in Nurnberg in the Palace of Justice with the aid of data which were sent to me from the office. This third list does not refer to the Gusstahlfabrik Essesn, the cast-steel foundry which is shown on the list.

Q. Witness, then you can confirm that these lists were made at your responsibility?

A. Concerning the third list I want to say that I will accept responsibility only insofar as to say that it was based on the data given to me by

my office and that the list was compiled on the basis of these data.

Q. In other words you accept responsibility for the material sent to you by the various firms and that you have reproduced the data in your list?

A. Yes.

Q. Can you give us a short explanation of how these lists were compiled in the Gustahlfabrik?

A. Yes. To compile these lists we used the following means. One: We used the index still preserved in Essen to check those cards about foreign machinery which were still there. Two: Through inspections of the plants we checked on the machines whether they were still there, and moreover we checked whether, in addition to the machines noted in the index, further foreign machines were in the plants. Three: There was a commission of the R.D. & R Division consisting of approximately 30 people who also checked the plants to see whether there were any foreign machines in the plants. These machines from abroad were compiled in the lists made for reparation purposes.

DR. VORWERK: Your Honor, with regard to this witness there is some vagueness which exists in my mind. This witness was called before the Commissioner a few days ago concerning an affidavit which is not here, namely, for cross examination. It is my belief that the Prosecution is quite entitled to show these affidavits to the witness for identification, which has happened. However, I want to reserve the right - since until now I have not seen these documents - to cross examine the witness concerning them. Furthermore, it is my opinion that at this stage the witness should only be asked whether he made this affidavit or not. I therefore object to further questioning of this witness before the affidavits have been made available to the Defense counsel.

PRESIDING JUDGE WILKINS: Has this witness appeared before the Commissioner heretofore?

MR. MANDELLAUB: Yes, your Honor, he appeared before the Commissioner in different matters than here discussed. I also would like to point out to

the Court that we are not submitting affidavits of this witness. We are only submitting lists of machines which were prepared under the responsibility of this witness.

PRESIDING JUDGE WILKINS: Why didn't you cover this when you had the witness before the Commissioner?

MR. RAGLAND: Your Honor, this question arose when this witness was before the Commissioner on last Saturday. After discussion with Defense counsel I understood that we agreed that he was before the Commissioner to be cross examined on the affidavit which had been executed; and that we would bring him before the Tribunal today in order to have him identify certain exhibits or compilations which had been made. I also understand that the documents which we have here were served upon Defense counsel some 20 hours ago and at that time there was an agreement to waive the full 24 hour requirement. I think Dr. Wecker is familiar with the agreement which was reached concerning this matter.

PRESIDING JUDGE WILKINS: You may proceed, and some one may probably send for Dr. Wecker. Do you know about the inquiry, Dr. Pohle?

DR. POHLE: Your Honor, I can confirm what Mr. Ragland has said. We met yesterday. Since the representatives of the Prosecution told me that these were documents and that they merely wanted to have the witness identify them, I had no misgivings about waiving the 24-hour rule.

PRESIDING JUDGE WILKINS: Yes.

DR. POHLE: I don't know whether the documents are present. I didn't check on that. I understood our agreement to the effect that the interrogation was merely for the purpose of identification.

PRESIDING JUDGE WILKINS: Well, as I understand it, Mr. Mandellaub, all you propose to do with this witness now is to identify a list that he's prepared from which you will be able to show that a certain number of foreign machines were found in the Krupp plant?

MR. MANDELLAUB: Yes, your Honor if there hadn't been any objection we would be through by now.

PRESIDING JUDGE WILKINS: Yes - apparently Dr. Vorwerk wasn't aware of this arrangement between you and Dr. Wecker and Dr. Pohle....so let's get to this point and get this witness off the stand as soon as possible.

BY MR. MANDELLAUB:

Q. Witness, then you recognize that these documents shown to you and which have NIK No. 13275 are lists compiled by you with the aid of various data and which were signed by you?

A. Yes.

MR. MANDELLAUB: Thank you, witness.

PRESIDING JUDGE WILKINS: Any questions on cross examination, gentlemen? All right. The witness may be excused.

(The witness was excused.)

MR. RAGLAND: Before we continue the regular proceedings there are a couple of other matters which I would like to bring up briefly.

PRESIDING JUDGE WILKINS: Very well.

MR. RAGLAND: When the Prosecution presented Document Book 18 it did not offer in evidence Document NIK-12557 which appears on page 44 of the English and 46 of the German. We would like to offer this document in evidence at this time.

PRESIDING JUDGE WILKINS: Will you let me have the NIK number again?

MR. RAGLAND: NIK 12557.

PRESIDING JUDGE WILKINS: And the book?

MR. RAGLAND: It is offered in evidence as Exhibit --

PRESIDING JUDGE WILKINS: 807.

MR. RAGLAND: 807.

PRESIDING JUDGE WILKINS: And the book number?

MR. RAGLAND: Book 18.

This document is an affidavit of Martin Sogemeier who is now in Nurnberg and who will be offered for cross examination on this affidavit before the Commissioner tomorrow afternoon. I won't discuss the affidavit in any detail. I would like, however, to mention that it deals primarily with three matters. First, the position and activities of the defendant Krupp in the RVK. Second, the procedures which obtain relative to the allocation of foreign labor to the coal mining industry. And third, the relationship between the RVK, the Central Planning Board, and the knowledge which the members of Presidium of the RVK obtain relative to the activities of the Central Planning Board.

PRESIDING JUDGE WILKINS: May I ask you a question. I have here an affidavit that the Secretary General has handed us, by Dr. Martin Sogemeier --

MR. RAGLAND: I am coming to that now, your Honor. That is the second matter we are coming to.

PRESIDING JUDGE WILKINS: It has a different NIK number.

MR. RAGLAND: That is correct. With regard to that I would like to state that when the Prosecution offered Document Book 18 the Tribunal inquired concerning the relationship between the Economic Group Mining and the RVK. You will recall in this connection that the Prosecution offered in evidence a number of circulars of the District Groups of the Economic Group Mining. And in response to the Tribunal's inquiry the Prosecution stated that it intended to offer additional evidence relative to the relationship between the Economic Groups, the District Groups, and the RVK. It is for this purpose that the Prosecution now desires to offer in evidence Document NIK-13787 as Exhibit 808.

PRESIDING JUDGE WILKINS: All right. They will both be admitted. 807 and 808.

MR. RAGLAND: Dr. Sogemeier will also be available tomorrow afternoon for cross examination on this affidavit.

PRESIDING JUDGE WILKINS: And will this 808 become a part of a particular document book?

MR. RAGLAND: I would suggest, your Honor, that it be inserted at the back of Document Book 18.

PRESIDING JUDGE WILKINS: 18.

MR. RAGLAND: I should add that the full 24 hour time limit has not been met with respect to this affidavit. However, the Defense has agreed to waive the 24-hour requirement.

PRESIDING JUDGE WILKINS: That's fine.

MR. RAGLAND: With respect to the contents of the affidavit I will state merely, as I have indicated before, that it shows the relationship between the Economic Group Mining and the District Groups on the one hand, and the RVK. And secondly, it shows how the circulars of the District Groups or how the information contained in those circulars were obtained, and it shows to whom the circulars were sent.

May it please the Tribunal, we now have another witness.

PRESIDING JUDGE WILKINS: All right. Will you have the Marshal produce the witness?

What witness is this, what nationality?

MR. RAGLAND: He is a witness whose affidavit appears in Document Book 27. His precise name, I will have to wait one moment to give it to you.

The witness will be here in a moment. He was waiting in Room 207.

PRESIDING JUDGE WILKINS: I might ask you, Mr. Ragland, on this Exhibit 806 -- what book will we consider that part of?

MR. RAGLAND: That is the first one, your Honor?

PRESIDING JUDGE WILKINS: 806 -- there are other documents presented by the witness Hansen.

MR. RAGLAND: That is a document presented by Mr. Mandellaub. I am not sure. I will have to inform you in a little while when Mr. Mandellaub returns.

PRESIDING JUDGE WILKINS: Is the witness going to testify in German?

MR. RAGLAND: Yes, your Honor.

HEINZ SCHMID-LOSSBERG, a witness, took the stand and testified as follows:

PRESIDING JUDGE WILKINS: Raise your right hand 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.

(The witness repeated the oath.)

PRESIDING JUDGE WILKINS: You may be seated.

MR. RAGLAND: Mr. Mandellaub is going to interrogate this witness. He is going to be here in a moment.

PRESIDING JUDGE WILKINS: You may proceed with the preliminaries, his name, and explain about the lights and so on, Mr. Ragland.

MR. RAGLAND: Here he is now. Before we go ahead may we answer your inquiry relative to Exhibit 806?

PRESIDING JUDGE WILKINS: Yes.

MR. RAGLAND: Exhibit 806 will go as the last document in Document Book 27.

PRESIDING JUDGE WILKINS: 27.

MR. RAGLAND: Yes, 27.

PRESIDING JUDGE WILKINS: Thank you.

Will you explain about the lights to him so he will know?

MR. MANDELLAUB: Witness, when the red light flashes, that means you must stop. When the yellow light flashes, that means go more slowly ... altogether speak slowly so that the interpreters can follow you.

DIRECT EXAMINATION

BY MR. MANDELLAUB:

Q. Will you please tell the Court your name?

A. My name is Heinz Schmid-Lossberg. I'll spell the name:
S-c-h-m-i-d dash L-o-s-s-b-e-r-g.

Q. Mr. Schmid-Lossberg, will you tell the Court what position you held during the war in the Armaments office?

A. During the war beginning in 1942 I was the business manager of the Armaments Office -- Rüstungskontor -- G.m.b.H. In addition, since about August 1942, I was a member of the Advisory Council of the Rohstoffhandelsgesellschaft.

Q. Witness, after the war did you see the documents and data of the ROGES, of the company for which you worked?

A. A little while ago -- perhaps one or two months ago -- and at the request of the prosecution, I received a number of original documents of the ROGES in Berlin, which are here now.

Q. Will you please explain to the Court what the ROGES is and was?

A. May I give you a brief quotation of the law, the German Revisions und Treuhand-Gesellschaft, Berlin, which is a Reich-owned auditing office. The audit report for the business year 1942/1943 states as follows: "The ROGES was founded in December 1940 at the request of the then High Command of the Armed Forces, the Economic and Armaments Office, and the Reich Ministry of Economics, whose desire it was to utilize the raw materials in the occupied countries of Western Europe and to accelerate their use in the German war economy. The business shares of the original capital of the ROGES until August 1942 were in the hands of the Wirtschaftliche Forschungsgesellschaft (WIFO) Berlin; in the reorganization of the military economic tasks and the incorporation in this connection of the OKW armaments office, they came into the hands of the Reich Ministry for Armaments and war Production through an agreement of the 30th of August 1942. The Armaments Control Office received the shares from the Armaments Ministry in trust."

Q. Then the word "Roges" means Rohstoffhandelsgesellschaft, Raw Material Trading Company?

A. The legal name was Rohstoffhandelsgesellschaft, and it was abbreviated Roges.

Q. What are the functions of this Roges Company?

A. The functions were, as mentioned in my quotation, and I can quote from Page 5:

"Besides registration and utilization of war booty on order and to the account of the Armed Forces High Command, the Roges (Raw Material Company), is first of all responsible for procuring raw materials for the Central Rationing Board of the Reich, upon instructions of the Reich Ministry of Economics and Reich Ministry for War Production."

Q. Therefore, there were two main tasks with which Roges dealt: one, the utilization and registration of war booty; secondly, the distribution of raw materials to the Central Rationing Board?

A. No, the distribution. The tasks were reproduced accurately, but not distribution. We had the business and commercial aspects, the accounting I would say; the registering office, bookkeeping and auditing offices. It didn't, itself, procure the booty, didn't purchase it itself, neither in occupied countries nor in Germany, itself. Certain organizations did that. Perhaps the troops, themselves, had orders of the Commanders, and only after the purchases of the booty had been concluded, did Roges do the accounting and auditing. The registration part of this task was done by the Roges by order of the higher authority.

Q. In other words, the Roges was one of those German agencies which through their functions and their tasks supervised the registration of booty and other goods from foreign countries?

A. Yes.

Q. How were the goods of all types sub-divided which went through these registrations?

A. The main categories, of course -- there were a number of tasks

which did not fit into the main task, as I said before, the main task had been described as booty and purchased goods.

Q. The goods registered for distribution-- were they sub-divided into so-called booty and so-called purchased goods?

A. Yes.

Q. What did you understand by booty?

A. I can't give you the definition, because as far as I know, the Roges was given these goods by the military commander or other Army agencies as captured goods.

Q. How were these captured goods actually registered and through whom?

A. I think I answered this question.

Q. Will you please list the offices which registered these captured goods abroad?

A. The Supreme Military Commander, Troop and Military Commander,

Q. The troops in various command offices?

A. The Reichskommissar and others.

Q. For instance, in Holland the Reichskommissar did, then and there, confiscate and register certain goods as captured goods?

A. Yes.

Q. How was it with the so-called purchased goods?

A. These were goods which were uncleared stocks and goods which were on the black market.

Q. The definition of purchased goods was, one: goods for the black market; two, other unsettled stocks and sources?

A. Yes, the idea was this: it was assumed that something which had to be hidden need not exist -- and the black market was not supposed to exist.

Q. During the war was there a black market in the occupied countries which was supported and aided by German authorities during the occupation?

A. It is hard to answer this question. It depends on the standpoint.

Q. Let's look at it this way: is it correct that Hermann Goering, in his capacity as Plenipotentiary-General for the Four-Year Plan, stated in several decrees concerning the question of black market purchases in countries occupied by Germany, that he expressly approved these purchases and that he thoroughly organized these purchases on the black market?

A. Yes.

Q. Is it correct to say that before these instructions decreed by Goering, black market purchases were made on a wild basis, so to speak, by the interested parties concerned -- before Goering put an end to this wild activity by giving it a State seal of approval?

DR. VOITWERK: Your Honors, I object to this question. The last two questions were not questions of the direct, but were cross-examination questions.

PRESIDING JUDGE WILKINS: I assume this is purely preliminary. Are you leading up to something?

MR. MANDELLAUB: I am leading up to a positive statement of the witness.

PRESIDING JUDGE WILKINS: Well, we will withhold judgment on it until we hear what the testimony is.

THE WITNESS: Would you please repeat the question? I don't remember it.

BY MR. MANDELLAUB:

Q. Is it correct to say that before this decree was issued by Goering, the black market of the Germans in occupied countries was preceded by so-called wild black marketing, in which individual Germans without state approval tried to enrich themselves in the so-called black market of the occupied countries by buying goods of all types and conditions, under were purely black market conditions, and that the

Goering decree had the purpose of putting an end to this wild black marketing by substituting it with a state approved black market?

A. In general, this question can be answered yes, but may I make a few explanations? It seems to me that the situation was like this: immediately after the invasion of the German troops, the rationing system set up by the French Government began tottering. The troops, themselves, needed one or the other thing for themselves, and thus tried to buy whatever was available in the country. Naturally this was continued, in view of the scarcity existing in Germany. It increased and it is probably true to say that this or the other German agency or firm bought under these conditions and that these wild conditions endangered the rationing of the French authorities, supported by the German military authorities. Moreover, the German offices outbid one another. Goering, in his capacity as head of the Four-Year Plan, decreed a complete and strict purchasing prohibition, with the death penalty attached for violation. No German offices were to make purchases without official approval, or purchasing permits, whatever you want to call it. There was opposition to this and people pointed out that the black market had not been created artificially, but I might say it was a natural outgrowth of conditions since the demand was considerably larger than the supply.

PRESIDING JUDGE WILKINS: Mr. Mandellaub, excuse me for interrupting. Aren't you leading up to the question of these machines? What is the purpose?

MR. MANDELLAUB: The purpose is to show the real character of the so-called "Kaufgutwaren". It is somewhat misleading. Even in the German language it doesn't mean much. In order to explain that, we have to go into the origin of "Kaufgutwaren". It changed slightly throughout the war. Therefore, I wanted to ask the witness this question.

PRESIDING JUDGE WILKINS: Are you laying the groundwork with

regard to these particular machines?

MR. MANDELLAUB: I am laying the groundwork with regard to particular machines and raw materials which were then distributed, so to speak, by Roges, after they had been acquired in one or the other way in occupied countries.

PRESIDING JUDGE WILKINS: It appeared to me that you were going to great length to describe black market conditions.

JUDGE DALY: Does this come under the spoliation count?

MR. MANDELLAUB: Yes.

JUDGE DALY: Then it would be necessary to show that particular items were taken, rather, that they got into some offices in Germany. We can't infer that because they got into some offices in Germany, they were taken in accordance with some black market scheme, can we?

MR. MANDELLAUB: We want to show these commodities were distributed to German firms, among them Krupp, who know where these commodities came from and under what conditions they were acquired.

PRESIDING JUDGE WILKINS: I assumed that was the case, but I wondered why you were going to such length to explain.

JUDGE DALY: I can't understand even that, because if they were purchased on the black market and came here to Germany, that would not be spoliation. Do you make that claim?

MR. MANDELLAUB: Part of these black market deals were paid out of occupation costs of the country spoliated.

JUDGE DALY: Wouldn't that proof be tied up with the subject of spoliation rather than some plan in which some agency working here in Germany called Roges?

MR. MANDELLAUB: Roges not only worked here in Germany, but abroad.

JUDGE DALY: What I am trying to get at is this: prosecution has the burden of proving the guilt of each of these accused beyond a reasonable doubt. The very fact that some black market material came

and was handled through Roges does not impress me even if somebody who eventually got that black market material is guilty of spoliation.

MR. MANDELLAUB: Your Honor, we have two sorts of commodities which came through Roges -- first, the so-called "beutegut", looted goods --

JUDGE DALY: That is quite different with looted goods.

MR. MANDELLAUB: -- the second one, with a more legal aspect. Prosecution claims that Roges was obtaining both categories of commodities in occupied countries and was distributing or registering the distribution of these goods to German firms, among them Krupp, and we know that a minimum figure of both beutegut and kaufgutwaren which were acquired by Krupp. We further claim that Krupp knew of the looted character of one category of these goods, and secondly, that the firm of Krupp knew of the dubious character of the second category, hidden under -- under the term "Kaufgutwaren" (purchased goods).

JUDGE DALY: That is what I am getting at. Those in the second category -- do you claim that consists of spoliation -- buying goods purchased on the black market?

MR. MANDELLAUB: The money which the German authorities obtained for the purchase of these goods was obtained by squeezing the economy of occupied territory, by obtaining supplementary occupation costs which were not justified by the expenses of the occupation, itself, and were clearly meant to be a surplus.

PRESIDING JUDGE WILKINS: This was just a cover-up arrangement, then?

MR. MANDELLAUB: Yes.

PRESIDING JUDGE WILKINS: I understand. I am sorry I interrupted but we have a better idea of what you are trying to prove, as a result. You may proceed.

DIRECT EXAMINATION (Continued)

BY MR. MANDELLAUB:

Q Will you confirm very briefly to me, so that we can change this topic or continue this topic, that the captured goods and purchased good were two categories which were registered by Roges? Can you confirm to me that purchased goods were goods which were bought and obtained in the occupied countries under the black market conditions by German official agencies?

A Yes.

Q Can you confirm to me that these black market goods were in part bought from occupation money?

A In principal, purchases were made in this way: the accounting bank paid the corresponding sum in Reichsmark, received foreign currency authorization and the equivalent value was paid in French currency at Paris. It is correct to say that I obtained this knowledge from the files shown to me recently. It is correct that in several cases, occupation costs were used by the military commanders to defray the cost of such purchases. Whether this was only a loan I don't know.

Q As a result of these documents, you were able to find out that occupation money was used by military commanders for these purchases in some cases, at least?

A Yes.

Q In another case you have stated that money was paid to the Berlin Office; that foreign currency authorization was received and then the Paris Offices were ordered to give the corresponding sums in francs, is that right?

A Whether they were ordered, I don't know. But the normal currency exchange between foreign countries makes me think it was so. Whether it was done in this manner I don't know.

Q In what countries did Roges have to register goods, or to procure them?

A In France, Belgium, the Netherlands, and later Italy.

Q Luxembourg?

A No, I don't think so.

Q In eastern countries?

A Only booty.

Q Booty? Other countries?

A I don't know.

Q What were the offices listed by Goering, which were in charge of registering the goods right then and there, at the localities concerned?

A May I add to this that the basic decree, if I may call it that, was issued by Goering on 15 June, 1942, and was signed by Goering on that date, and a special office was created which was called Bevollmaechtiger fuer Sonderaufgaben --- Plenipotentiary for Special Tasks. This plenipotentiary for Special Tasks became the Air Force Colonel Felschens. He was the first chief of that office. On the 27th of July, 1942, Felschens issued a basic decree about the central steering of black markets in occupied countries; there is a distribution list which I need not read now. In this decree it was fixed just what organizations were to do and what was to be authorized for purchase. In France there was a Plenipotentiary for the Ministry of Ammunitions and Arms. In Paris, this person was to be authorized to purchase metals, cables, engineering equipment, tools, machines, textiles, food, excepting oils and fats, and particularly, eggs, canned vegetables, and liquors.

Q Can you give us, in short, the offices?

A 2. Reichfuehrer SS of the German Police in Paris; 3. Bekleidungsamt of the Air Forces Reich Office in Paris; the Organization Otto; the Desoiacout Paris. This is an abbreviation, I can't explain what it stands for; the quartermaster general, the medical pool, the Central Power of the Army, and then there is an abbreviation E.V.K., I don't know what it stands for; then the Army Ordnance Office. There is a similar division for Belgium and Holland, with slight changes.

Q Then you have seen the organizations, for instance, in France -- these organizations which were authorized to register goods. Were these purchased goods or captured goods?

A They were purchased goods.

Q The booty goods and purchased goods which were registered by Roges as a result of orders were distributed to various German firms? Is that correct?

A It would be better perhaps to read you this part, so that there will be no mistake, because I, myself, did not witness these things in detail.

Q Keep it as brief as possible.

A I will try. This decree has an appendix. "The Liquidation of Unsettled Stocks". Participating in it, the Military Commander, who advises and steers the stocks yet unsettled. For this purpose he establishes a supervising office. This supervising office is responsible to the special Plenipotentiary of Goering. The Supervising Office checks the price structure, in agreement with the Military Commander and the accompanying Reich Offices. The Supervisory offices are assisted by the special experts of the Reich.

Q What special experts?

A These are experts which worked in the individual fields such as leather, textiles, and so forth.

Q Are they people from industry?

A Yes.

Q Can you tell us how the distribution of goods was made in Germany?

A At the direction of the competent offices who were authorized to receive goods -- Reichs office for Iron or Textile or Coal, whatever they were, Roges paid these organizations the sums advanced for them, and brought these stocks to certain depots in Germany. There they were kept at the disposal of the Reichs Offices, which on the

instructions of the Central Planning Board, started distribution of these goods. As a result of this shipping and delivery order, Roges then charged the German office for these goods, in principle, the domestic German prices was used. Since the goods, compared to German goods, were perhaps 8 to 10% more expensive, Roges was authorized by the Reichs Finance Ministry to get an additional fund as a result of which these more expensive prices could be made up.

Q Did these representatives of the various firms appear in the various depots -- the captured stocks and purchased goods depots -- and inspect the captured goods, and did they inspect the booty goods?

A I can't answer this question. It is not revealed from the documents given to me. I was not an employee of the Roges.

Q At any rate, from these captured goods depots and purchased goods depots, goods were sent to the German firms?

A Yes.

Q And the firms knew that the goods were distributed through Roges, or that Roges took a part in the distribution of the goods?

A They paid Roges, and they knew it.

Q Then they knew that the Roges participated somewhere in the distribution of these goods?

A Yes.

Q Was the general character of Roges known in Germany, or known among German industrialists?

A It is hard to answer this question by saying yes, and it is equally hard to say no. It may have been known that Roges was a Reich owned company who purchased in captured territories.

Q Did you see in invoice sent to a German firm by the Roges?

A In the files given to me in Berlin I have seen a sample. Whether it is an invoice or not I don't know. It is a sample purchasing agreement for an Italian business. The seller -- no, it is something else.

This only discloses that some Italian firm bought through ROGES. The copy was received by the ordering party.

Q. Does this copy clearly reveal that the goods were from ROGES?

A. Yes.

Q. Do you know the names of a few firms which received goods? Do you know the names of any firms who during the war received captured or purchased goods through the ROGES?

A. To judge from the numbers of books kept, there must have been hundreds and thousands of firms.

Q. Did you speak with any of the -- did you have anything to do with any official of the Krupp firm in Berlin?

A. Yes, but not in my capacity as advisory council member of ROGES, but I had some other business there.

Q. Do you know whether Krupp received any goods through ROGES?

A. Yes.

Q. How do you know that Krupp received goods of ROGES?

A. From the data given to me by the ROGES in Berlin at the instruction of Hurnberg.

Q. Were these data which were from the period when ROGES was still exercising its activity?

A. Yes.

Q. And with the aid of these documents you saw that Krupp received several categories of goods from the captured goods and the so-called purchased goods?

A. I remember that scrap invoices were among them. From all those which the ROGES reported to me as sold to Krupp, they amounted to about fifteen million Reichsmarks. I don't know -- the breakdown of the purchases. May I ask you to ask the bookkeeper of ROGES who knows that from his own knowledge.

A. The accountant who is in position to give detailed information

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on the breakdown will appear before the Commission. His name is Karl Sanders. Do you remember the total amount of fifteen million Reichsmarks?

A. Yes.

Q. But you don't know what the breakdown was?

A. No.

Q. You know that there was a division of captured goods and purchased goods?

A. Yes.

Q. Do you know whether these fifteen million Reichsmarks amounted to the whole of the goods delivered -- shipped to Krupp, or whether it was only that part which could be found out on the basis of the documents still in existence?

A. The present business management of ROGES stated to me that they don't have any documents which exceed these date.

Q. In other words, this amount of fifteen million is the minimum -- the absolute minimum, at any rate, -- if there is a different amount it would have to be greater?

A. This might be assumed, but it is not probable.

Q. Can you not confirm to me that if documents on the basis of which one compiles a list are not complete, that the amount then obtained must be the minimum amounts, and that if the documents are complete there can only be an increase in the amount spent?

A. Well, I would like to answer your question this way. Minimum amount is correct, and it is not necessary to assume that the amounts are higher, because it is possible that the documents lost through bomb attacks might contain other invoices, but it isn't at all necessary that they would contain such invoices for purchases.

Q. That is what I mean. That is what I mean. I mean the minimum amount was fifteen million.

A. Yes.

INTERPRETER HORN: Your Honor, it is impossible for me to work. Your Honor, the attorney is not watching the lights and I can't possibly answer two voices at the same time. I can answer only one voice at one time.

JUDGE WILKINS: Watch the lights, will you, Mr. Mandellaub, and also you, Mr. Witness.

Q. You gave an affidavit, Witness, dated 15 May 1947, and a second affidavit given on the same day. I now present this affidavit which has our document No. NIK 12989?

A. May I interrupt you? 5th of May? You mean the 5th of December, apparently.

Q. Yes, the 5th of December. And the affidavit which has the NIK No. 12989, and I want to ask you whether you gave these affidavits?

A. As far as I can see from a glance at these documents, this is the affidavit which I made on the 5th of December 1947.

JUDGE WILKINS: Is that an exhibit?

Q. We are going to introduce this as Exhibit No. 809.

JUDGE WILKINS: 809, and NIK number again.

Q. This document No. NIK 12989 and document No. NIK 12988, as Exhibit No. 810.

JUDGE WILKINS: They will both be admitted as Exhibit Nos. 809 and 810.

Q. I have no further questions of the witness.

JUDGE WILKINS: Cross examination?

CROSS EXAMINATION

BY DR. POHLE:

Q. Witness, in the direct examination you spoke of having seen from the files that in various cases occupation money was used by the military commanders for the purchase of goods. Is that correct?

A. Yes.

Q. Where did you find that out?

A. First in Decrees of the Four Year Plan Office, and in the correspondence files of the ROGES.

Q. I understood you to say that you wanted to express that only in these cases this was the arrangement.

A. I didn't understand the question.

Q. I understood your answer to mean that the arrangement was that in some cases, but not in others?

A. May I repeat what I think I said just now. The arrangement was that the ROGES paid the amount in Reichmarks either en bloc as prescribed, or separately for each purchase after the receipt of a foreign currency permit in Berlin in the German Accounting Office, and paid in this amount, and the equivalent value was paid out in Paris in francs through the French Accounting Office.

Q. That was the normal arrangement?

A. Yes, sir, the normal arrangement.

Q. Then the accounting was done through the German-French clearing account?

A. Yes.

Q. This clearing through German-French customers and shippers was the normal arrangement during the whole war, wasn't it?

A. Yes.

Q. Is that correct.

A. Not immediately to the credit of the customer, but to the credit of ROGES.

Q. The ROGES was working in between?

A. Yes.

Q. And the cases in which the military commander advanced sums from occupation funds were the exceptional cases, weren't they?

A. It seems to be, but may I add, that I know nothing from my own experience, but only the military commander or his deputy could give us information about that. From the files I merely saw that

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amounts were paid, and this could be explained perhaps by saying that these were purchases for the troops themselves in the occupied countries.

JUDGE WILKINS: We will take our afternoon recess.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

THE WITNESS: I only wanted to make a short statement regarding this affidavit of the 5th of December 1947 regarding the so-called copper action or operations. I made this statement from memory at that time. Now, the data necessary were furnished to me shortly before the conclusion of this statement. It says: "The copper action started in the summer of 1942 - -"

PRESIDING JUDGE WILKINS: Which affidavit are you referring to?

MR. MANDELLAUB: Your Honor, it's exhibit 810.

PRESIDING JUDGE WILKINS: Thank you. All right you may proceed.

THE WITNESS: It should not be "summer 1942" In the summer of 1942, the copper action started in Germany and that is the reason for the confusion according to the Speer Ordinance of the 31st of May 1943 which I have in front of me, it reads, may I quote it now -- "In Germany the production of copper started the 1st of August 1942, in Belgium and Northern France and in the Netherlands it has started a couple of months ago. In pursuance of this Fuehrer order and at the special request of the fuehrer, I order in parenthesis, dismantling of copper of the change-over plans, the electric power plants in companies in the occupied French territory and in the Southern French territory orders as a most urgent armament problem." This is the end of my statement.

DR. POHLE: In order to remain with this copper action in France, it was ordered by the French Munitions Ministry Bichelonne, is that right?

A. The dismantling in France is based on an International agreement between the German Government and the French Government. The parties to this agreement were on the German side, Speer, the head of the delegation and at the same time in his capacity as inspector general for water and power and on the French side the French production minister Bichelonne. On the strength of these discussions a number of decrees were published in France. I don't know whether the details of these are of interest here.

Q. Is it correct that the French and other foreign firms received full compensation for the dismantled copper?

A. Yes, 1800 Reichs marks, that is the equivalent value of 1800 Reichs

marks per ton. Later, that I couldn't find in any documents; I can only tell from memory, 2200 marks per ton as I mentioned in my affidavit and then I don't know positively whether this was just promised or whether it was declared to be binding Germany, but after the end of the war, the exchange of iron cables for copper cables was to take place.

Q. The 1800/2000 marks was that the regular price for copper?

A. I cannot say that for sure. I can only remember that it was rather high priced. I believe it was the usual price at that time; it was higher than the normal market price.

Q. Apart from that compensation the firms received spare parts in other metals, is that correct?

A. They did not receive spare parts. Rather, through special squads the copper cables were dismantled and they were replaced immediately by other metals, originally steel and aluminum cables and later iron cables. They were fit for operation again.

Q. Where was the confiscated copper taken?

A. Copper was registered by so-called confidential agents or rather French firms which were licensed for that purpose which passed it on to the foundry in the neighborhood of Munich. There they were smelted and then the copper was furnished to the Reich office for metals and the Armament office received the compensation from that office.

Q. And the German firm, which needs copper, turned, as previously, to the Reich office for iron and metals or the Reich office for metals, in this case, which distributed the copper in some fashion?

A. Yes.

Q. Where the copper came from in detail, the firm couldn't see?

A. I don't know that.

Q. Mr. Witness, now two brief questions regarding Roges. Was there an outward difference between the so-called captured materials, booty material and the so-called purchased materials?

A. Booty was primarily scrap metal. There were parts from the National

aviation industry, sheet metal, etc. Whereas this purchased goods were
testiles, etc.

Q. Roges was a Government agency?

A. Yes.

Q. And the German firms bought from the Roges while paying the full
price?

A. Yes.

DR. POHLE: I have no further questions.

MR. MANDELLAUB: No further questions.

PRESIDING JUDGE WILKINS: All right, you may be excused.

(The witness was excused.)

PRESIDING JUDGE WILKINS: Do you have another witness?

MR. MANDELLAUB: Not for the moment.

"Mr. A.v. Bohlen just asked me which steps we had undertaken to secure trusteeships of enterprises of interest to us in case American property would be confiscated as a retaliation against the Americans.

I told him that you are slated to become a trustee for the NATIONAL-KRUPP REGISTRIERKASSEN G.m.b.H. (NATIONAL-KRUPP CASH REGISTER LTD) Analyst).

In my opinion; however, it is not sufficient if this is arranged with the company. There is rather required a consent from Government authorities probably from Ministerialdirektor Dr. Ernst.

Mr. A.v. Bohlen requests you to report to him briefly."

MR. MANDELLAUB: The prosecution offers now document book No. 27. May it please the Court, prosecution offers as exhibit No. 811, document NIK 13165 on page 1 of the English and 1 of the German. Document NIK 13165 is composed of an affidavit by Leo Broudes declaring under oath that he had taken out from the Krupp folder KA 26 the succeeding document or two documents dated June 19, 1941 and stamped with the name of Schroeder, directed to Dr. Bushmann and Herr Eberhardt and both dealing with Krupp's taking over American property in the form of a trusteeship

The first document taken out dated June 19, 1941 addressed to Dr. Buschmann signed Schroeder, Johannes Schroeder in which Schroeder writes:

"Mr. A.V. Bohlen just asked me which steps we had undertaken to secure..

PRESIDENT: May we suggest, Mr. Mandellaub, that it won't be necessary to read any of these documents, if you could just in a sentence, give us the import of it or point out the different parts of interest. We would save considerable time.

MR. MANDELLAUB: Yes, Your Honor.

The next document, also signed by Schroeder, refers to the same matter and is addressed to the defendant Eberhardt in which the name Loeser is mentioned and in addition new firms suitable for Krupp which are American property and therefore Krupp expects measures to be taken against these corporations soon and hopes that Krupp may become a trustee of these American Corporations.

PRESIDING JUDGE WILKINS: Mr. Mandellaub, is it explained in the evidence somewhere or will it be just what the nature of these trusteeships that are referred to are?

MR. MANDELLAUB: Your Honor, I think the question of trusteeships --

PRESIDENT: Of course it carries with it a broad implication itself, but I mean does it have particular reference to a particular situation?

MR. MANDELLAUB: Your Honor, I think at a later date when we shall come back to spoliation in document after 50, we shall have an opportunity with reference to the trusteeships in the East to clarify the Nazi concept of trusteeship.

PRESIDENT: That is what I had in mind. I am not sure I

comprehend the exact significance of the term as used in this particular connection.

MR. MANDELLAUB: Yes, Your Honor, I think the Nazi concept of the trusteeship is just a variable and flexible term that we will have to clarify that question at a later date.

THE PRESIDENT: Very well.

MR. MANDELLAUB: Prosecution now offers as exhibit No. 812, document No. NIK-13065 which is on page 4 of the English and page 4 of the German, consisting of an affidavit of William J. Steen, enumerating and certifying selected items from captured documents, meetings of the Vorstand of Fried Krupp from October 1st 1941, to June 30, 1944.

Prosecution offers as Exhibit 813, document NIK-6053. We shall not introduce the preceeding NIK-11563 and go right to NIK-6053 as Exhibit 813 on page 9 of the English and 11 of the German. This document is a confidential letter from Dr. Ballas to Kyllmann suggesting that Lekkers, a Dutchman, co-owner of the Wijklijn ship building concern with Nazi party member Erhardt be eliminated from the firm so that Krupp will be able to get control of Wijklijn with Erhardt's assistance.

We introduce this document to show with this particular item again the initiative which was taken by Krupp in certain instances to obtain through Nazi methods partnerships or influence in foreign corporations.

Prosecution offers as exhibit No. 814, document NIK-5997 which is on page 13 of the English and 17 of the German. We have referred to this document in our opening statement in which we pointed out the particular instances of having pressure put on Mr. Worthelboer in order to force him to sell his property, a shipyard, to the Krupp Corporation.

THE PRESIDENT: Now, just before you leave, that, who or what was K-n-o-b-l-o-c-h-?

MR. MANDELLAUB: Mr. Wortelboer was a Dutchman. Mr. Knobloch was a German representative in Holland of a German Bank called the N.V. Handels-

trust, Amsterdam which was connected with the Dresdner Bank and who was involved in all sorts of property dealings of the firm Krupp.

Prosecution now offers as Exhibit 815, document NIK-13041 on page 15 of the English and 18 of the German, a note for Herr Flick dated 26 June 1942 in which the undersigned, Kuettner, a man of confidence of Flick is writing to Herr Flick that it was Krupp which makes the greatest effort of expansion among all firms of the iron industry.

PRESIDING JUDGE WILKINS: There is nobody so far as that letter is concerned who has any part connection with Krupp, is there?

MR. MANDELLAUB: No, none of the undersigned or mentioned persons have any direct connection with Krupp; however, these persons were connected with the German firm Flick who were watching the tendencies of the Krupp firm and were reporting from their observations to their superiors as to Krupp's activities. We thought this might be a testimony as to the judgment of Krupp's expansion in the eyes of their competitors.

PRESIDING JUDGE WILKINS: Let me just follow you now. You maintain that there is some probative value in a document of this kind that is written by a member of the Flick concern to another member for us to consider regarding the defendants here on trial?

MR. MANDELLAUB: This document could show what German industrialists very close to the scene were observing of the Krupp Company during the war.

PRESIDING JUDGE WILKINS: We will take it for whatever probative value it may have, although I may say that I can't see what value we can attach to it.

MR. MANDELLAUB: Prosecution omits the following documents: NIK-12736, NIK-13108, NIK-13086 and NIK-12379 and offers as Exhibit No. 816, document NIK-9787 which is on page 25 of the English and 32 of the German.

A report by Fritz Mueller, not the Defendant Mueller, to Houdremont concerning Krupp activities in the field of raw materials during the business year of 1943 -- '42 -- '43, with reference to the list of mines which Krupp was exploiting at the time in occupied Norway, France, Serbia, Bulgaria which is part of Yugoslavia, and Greece.

The Prosecution now offers as Exhibit number 817 --

JUDGE DALY: Mr. Mandellaub, before you get onto that, may I ask a question. I asked before, one of the attorneys for the Prosecution, and I had forgotten about it in the meantime. I notice, referring to the Exhibit 816 on page 25, the right-hand side, it says "Secret 1". This is a top secret matter as defined in Article 88 of the Reich Criminal Code. Are you familiar with what the contents of Article 88 of the Reich Criminal Code is?

MR. MANDELLAUB: The Article 88 of the Reich Criminal Code provides for sentencing in case of the diffusing information on matters believed important for the security of the state, and this Article 88 refers to this document as being one of which would fall under an important matter, the abrogation of its contents would jeopardize the security of the state.

JUDGE DALY: Well, I am afraid I didn't make myself clear. It says: "As defined in Article 88 of the Reich Criminal Code." Now, does that mean that somebody in Krupp's firm was authorized by the government to decide when a matter was such as to be protected by Article 88 of the Reich Criminal Code?

MR. MANDELLAUB: I don't think so, Your Honor. I think the Krupp firm like any other German firm was at this moment -- I think it was at the beginning of the war--was informed that reports, business reports, should be considered secret reports falling under Article 88 of the Reich Criminal Code. The Krupp firm, however, I think, did not decide on its own that this is a secret matter. I think at the beginning of the war, the German government issued a decree by which business reports of corporations were from now on being handled as secret, no longer published, and in general, handled as secret material is handled in

similar situations.

JUDGE DALY: Well, I take it as long as it is provided for in the Reich Criminal Code, there is some criminal penalty provided for some violation, and I was wondering who might be charged with the violation under that article in question and what they would do to be charged with it.

MR. THAYER: May it please the Tribunal, the Prosecution apologizes for not getting to the Tribunal earlier the copies of Section 88 which the Tribunal asked the Prosecution to provide several days ago. That is underway, we are preparing to submit to Your Honors Articles 88 and I believe 89 because there is some question whether or not they don't mean 89; but the articles provide that it is a criminal offense to transmit such information to enemy countries, and I think provides a prison term of various lengths depending on intent, perhaps 10 years; but we will provide Your Honors copies of the articles. There is the possibility as the counter intelligence officer, the Defendant von Buelow would have power within the firm of Krupp to have certain powers to determine that secret within the firm.

JUDGE DALY: Thank you, I didn't mean to suggest any criticism because it hadn't been given to me now, but I was reminded of it again because I see it here not.

MR. THAYER: I wish to apologize for not getting it sooner. It is in preparation.

JUDGE DALY: Thank you.

MR. MANDELLAUB: We just had Exhibit Number 817 -- 816, and now we are on Exhibit 817 which is an annual business report of the Alfried Huette for the business year 1942 and 1943, describing the activity of Krupp in the east and which involved the Defendant Dr. Korsch. It also gives the location of plants in the Ukraine. It is on page 33 of the English and page 41 of the German. It also lists various subsidiaries in Sofia, Warsaw, Zagreb, and Riga, and other cities.

The Prosecution offers as Exhibit Number 181 Document Number NIK-

7033 which you will find on page 39 of the English and 47 of the German. This is a secret telephone conversation between Reiff of Fried. Krupp and Dr. Herrmann of Friedrich Alfried Huette dealing with the transfer of railpoint construction, for the purpose of commencing construction of guns. Copies of the report were sent to Pfirsch, Erich Mueller, and Eberhardt. The document also gives reference to some spoliation activity in Luxembourg. I shall call the Court's attention shortly to this Luxembourg item.

"On October 7, 1942, Mr. Gruen..." this is on page 39 of the English and 47 of the German, "...Mr. Gruen of Mr. Desch's office, inspected the assembly halls in Steinforth in Luxembourg. Following this inspection he went to Essen on 8 October 1942 in the forenoon to look over railpoints construction.

"I had the opportunity for a brief talk with Mr. Gruen in the presence of Mr. Assel, Mr. Schumacher, and Mr. Eichhorn. Mr. Gruen confirmed that the Steinforth assembly hall was actually only fit for manufacture of crude products, and was therefore very suitable for the manufacture of railpoints."

And further down. "Today I rang up Dr. Hermann to find out whether Mr. Desch had arrived on a decision meanwhile.

"Dr. Hermann informed me that on Mr. Gruen's return,had to start on a trip immediately and is expected to return only by October 17, 1942."

PRESIDING JUDGE WILKINS: It will be admitted.

MR. MANDELLAUB: The Prosecution now omits Document Number NIK-11716, the Prosecution omits Document Number NIK-12696, the Prosecution offers as Exhibit Number 819 NIK-8906 which is on page 47 -- 8908, which is on page 47 of the English and 59 of the German, consisting of a secret teletype back and forth from Schnieders to Eberhardt, concerning the evacuation of technical equipment from Muelhausen to the Otto Wolf concern in Nuernberg. Among the individuals listed for distribution are Alfried Krupp, Janssen, Erich Mueller, Ihn, Eberhardt, and Houdremont.

the last whom initialed the teletype of Schnieder to Eberhardt. This matter will come up in detail again in our Document Book on the Elmag which we will introduce later.

The Prosecution omits Document Number NIK-11667, the Prosecution omits NIK-11718, the Prosecution omits NIK-11878, the Prosecution omits NIK-12738, the Prosecution omits NIK-12737, the Prosecution omits NIK-13272, and offer as Exhibit Number 820 Document Number NI-13324 which is on page 85 of the English and page 131 of the German which is an affidavit of Karl Sanders, the accountant of Roges, who will appear before the commissioner on this matter.

The Prosecution omits NIK-13377, the Prosecution has already introduced NIK-12898 as Exhibit 809, and the following as NIK-12988 as Exhibit --

PRESIDING JUDGE WILKINS: What page is that on? Oh, yes.

MR. MANDELLAUB: These two documents, the first one 809 is on page 93 of the English and 138 of the German, and the second Exhibit 810 is on page 96 of the English and 140 of the German.

The Prosecution omits Document Number NIK-11345 as Exhibit number -- this document has been introduced already. I am informed that this Document NIK-11345 has been introduced in Document Book Number 8 as Exhibit Number 308. I wonder if this is a mistake because I can hardly see that.

PRESIDING JUDGE WILKINS: We can check it.

MR. MANDELLAUB: I will check it in just a moment, Your Honor.

PRESIDING JUDGE WILKINS: We can check it right now. Apparently the exhibit number that you referred to is not this NIK number, 348.

MR. MANDELLAUB: There might be a mistake of the NIK number.

PRESIDING JUDGE WILKINS: I thought you said Exhibit number 348?

MR. MANDELLAUB: It is Exhibit number 308.

PRESIDING JUDGE WILKINS: 308?

MR. MANDELLAUB: Yes.

PRESIDING JUDGE WILKINS: Yes, 11345, that is right.

MR. MANDELLAUB: 11345 then has been introduced in Document Book Number 8, as Exhibit Number 308. We omit Document Number NIK-9654 and offer as Exhibit Number 811 --

PRESIDING JUDGE WILKINS: 821.

MR. MANDELLAUB: 821, Your Honor, yes, thank you. 821, Document Number NIK-11664. This document, Your Honor, has already been introduced as I am informed in Document Book Number 11.

PRESIDING JUDGE WILKINS: What number?

MR. MANDELLAUB: With the Exhibit number 496, Your Honor.

PRESIDING JUDGE WILKINS: What book number?

MR. MANDELLAUB: Document Book Number 11.

The Prosecution omits NIK-11721 and the Prosecution omits NIK-6019, and offers as Exhibit 821 Document Number NIK-13025 which is on page 112 of the English and 162 of the German. This document is

stamped "strictly confidential", and -- the document is not marked "strictly confidential", but the attachment to it is stamped "strictly confidential" and sent to Alfried von Bohlen who initials it by hand and which was transmitted to him, I suppose, from the liaison office Iron Publication and Press and which reproduces in German, which we have then retranslated in German, an article by the "Financial News", a London paper, of July 15, in 1943, in which the intention of the Allies to charge and prosecute German war criminals, among them German war criminals, among them German industrialists and bankers who committed war crimes, is explained, and a definition given to a certain extent as to what acts may be charged as falling under the general description of a war crime, including those which are connected with spoliation in occupied territories. It says on page 113 of the English and 163 the following:

"The German bankers can make no appeal on the grounds that they were forced by their government to carry out these acquisitions. On the contrary there was considerable competition amongst the leading German banks for the acquisition of the first credit bank in Europe.

"The same may be said of German industrialists who have exerted influence on industrial enterprises in countries controlled by Germany. They also knew that these acquisitions were not made according to honest principles. Finally, those banker and industrialist leaders in the occupied territories should be named whose collaboration with Germany exceeded that imposed on them by a force majeure. They must also be called to account, not by an interallied court but by the courts of their own country." The last sentence refers to the collaborators in the occupied territories. This document, Your Honors, --

THE PRESIDENT: Go ahead.

MR. MANDELLAUB: With this document, Your Honor, we conclude Document Book Number 27.

THE PRESIDENT: Well, I wanted to make an inquiry about this last document. Where did this appear, was it a newspaper article? Did

I understand you to say --

MR. MANDELLAUB: Yes, this is a newspaper article which was found in the Defendant Alfried's personal file.

THE PRESIDENT: Yes, I understand that. At the top of the document, this stamp "secretariate of AB", how does that appear on the original? Is that a stamp that appears to have been put there after it was received at the Krupp offices?

MR. MANDELLAUB: Yes, Your Honor. This document had attached to it a covering note which was sent by the Verbindungsstelle fuer Eisen --

THE PRESIDENT: Sent by whom?

MR. MANDELLAUB: A German office called the Verbindungsstelle fuer Eisen.

THE PRESIDENT: What kind of office was that?

MR. MANDELLAUB: That was an office dealing with iron matters but distributing to men in the iron industry valuable information gathered from foreign sources. During the war the Germans were not allowed to read foreign newspapers indiscriminately, but the leading German industrialists, among them the Defendant Alfried von Bohlen, obtained through channels particularly important information such as this article which was of interest to them, while the Germans in Germany did not have any possibility to read it. So this office of the Verbindungsstelle fuer Eisen, the Liaison Office Iron, had a specific department dealing with "Schrifttum und Presse".

PRESIDING JUDGE WILKINS: Obviously this was a news article that appeared in one of the papers or magazines published by the allied governments.

MR. MANDELLAUB: Yes, Your Honor.

PRESIDING JUDGE WILKINS: I mean published by someone in those countries.

MR. MANDELLAUB: Yes, and the "Schrifttum und Presse", one of the offices of this Verbindungsstelle fuer Eisen, was in charge to transmit to certain German industrialists information which other

Germans could not obtain during that time. The liaison to that office was the Defendant von Buelow.

THE PRESIDENT: I didn't catch the last.

MR. MANDELLAUB: The liaison man of Krupp to that "Schrifttum und Presse" was the Defendant Buelow, and the Defendant Alfried obtained through that office here the newspaper article which the ordinary German could not read, and the newspaper article translated into German was found in the folder of Alfried von Bohlen, attached to it was a covering paper from which I just saw the nature and the origin of this newspaper article as it was translated and sent to the Defendant Alfried von Bohlen.

PRESIDING JUDGE WILKINS: Well, I assume your point on this is that in 1943 when the date appears on here that already the Defendant Krupp was informed about what the policy might be in allied governments in the event of a victory?

MR. MANDELLAUB: That was one of the points which I make in this respect. Also it indicates that at least the legal concepts, or some of the legal concepts according to which the allied powers were planning to prosecute the German war criminals was not entirely unknown to the defendant.

THE PRESIDENT: That bears on the general question of notice.

PRESIDING JUDGE WILKINS: And I suppose with special reference to spoliation?

MR. MANDELLAUB: Yes, Your Honor, but not necessarily.

THE PRESIDENT: Well, your idea about the notice is that upon the theory that it negatives any ex-post-facto application?

MR. MANDELLAUB: No, Your Honor, this has nothing to do with the theory of ex-post-facto. We just wanted to show in the absence of that, we would nevertheless not argue ex-post-facto.

THE PRESIDENT: I have difficulty in understanding you, Mr. Mandellaub. You just wanted to show what?

MR. MANDELLAUB: We did not want to bring this document a question

of ex-post-facto into the field. We just wanted to inform and show the Court that in German industrialist circles, number one, certain information which usually were not obtained in Germany by the ordinary Germans were handed around to those German industrialist; number two, that one of the informations obtained was the allied intention to prosecute war criminals under a specific charge; number three, that a certain definition of war crimes as they were planned to be prosecuted was given in this document and was known by the Defendant Alfried von Bohlen.

THE PRESIDENT: That is bringing home, I assume, that you contend actual notice of the alleged crimes as well as the constructive notice that they were supposed to have a general knowledge or a presumed knowledge of what constituted a crime?

MR. MANDELLAUB: Yes, Your Honor.

PRESIDING JUDGE WILKINS: Dr. Gollnick.

DR. GOLLNICK: I should like to draw the attention of the Court to an error contained in the index of Volume 27, which we have just gone through, as NIK 11345 of the Prosecution of page 142 of the German. In NIK 11345, the Prosecution has submitted a letter which it has already submitted as Exhibit 308 in Volume 8. This exhibit 11345 is a letter of the firm of Krupp Grusonwerk, to Pfirsch while in the index, on Page 7, the document book 27, it is called an affidavit of Alexander Kowalski. I can't find out now whether Exhibit 308 is identical with NIK 11345. At any rate, the content in the index does not conform to the content of the document itself. Perhaps the Prosecution would kindly help.

MR. HANDELLAUB: I was told that this document had been introduced in document book 8. I myself had doubts of that fact and was reassured that it was introduced because this document would not belong in document book No. 8, and I thought there must be a mistake. I think the mistake lies in the fact that the NIK number which was given to that document by error is the same NIK number as the one just mentioned.

PRESIDING JUDGE WILKINS: Well, you straighten that up between now and tomorrow morning, and then give us the true situation when we take up at 9:30.

MR. HANDELLAUB: At any rate, we do not want to introduce it again.

PRESIDING JUDGE WILKINS: Dr. Gollnick, he will advise us tomorrow morning at 9:30.

MR. THAYER: May it please the Tribunal, the Prosecution has now completed the first phase of its presentation of the spoliation documents, and there are still some witnesses remaining to be heard. At a later date, there will be some documents and in some instances presented to the Tribunal both documents and witnesses which combine what we regard as spoliation, aggressive war, and the use of slave labor, so that we are not completely through the spoliation, but we are prepared now,

except for those documents which knit together all three of the counts, to go on with Count III, the documents and the witnesses. And at the commencement, although I don't want to give page numbers in detail and we will of course refer to specific and numerous page numbers in our briefs I would like to call the attention of the Tribunal to the major section of the judgment of the International Military Tribunal concerning slave labor, and refer particularly to Pages 226 into 238, Pages 243 into 255. In our book 31 we shall include a few excerpts set out which we ask the Tribunal to take special notice of but inasmuch as the bluebooks and the judgment of the Tribunal in that form are available to the Tribunal, we feel that we would like to ask you to take judicial notice of the entire sections of the judgment concerning slave labor, and we shan't at this time give all of the other page numbers which refer to the specific defendants and the judgments against them. We shall do that in our briefs. I would like to ---

THE PRESIDENT: Let me make an inquiry there. I assume that your references to the IMT judgment concern the general so-called slave labor program of the Reich, but do not connect any of these defendants with it?

MR. THAYER: In a way, your Honor, in a way. Inasmuch as we believe and we have charged that the slave labor program and activities at Krupp were a part of a general slave labor program, we feel that it is impossible to differentiate completely the activities and the crimes, for example in Essen from the general program in which also these defendants took part through the Reichsvereinigung Eisen, the RVE, through the Central Planning Board, and through their many contacts and links with governmental agencies which were responsible for production and which therefore required labor, and their contacts with the agencies which procured labor.

THE PRESIDENT: Well, that is not quite what I had in mind. I understand the Prosecution's contention that the activities alleged to connect these defendants, or some of them, are confined to activities identified

solely with the Krupp firm, but that they were identified with other organizations which were of material significance, but you are asking now, I assume, that we take judicial knowledge of some particular fact found by the IMT which you regard as material to some issue in the case.

MR. THAYER: That is correct, your Honor. We ask that the Tribunal take judicial knowledge of the facts concerning the slave labor program as a whole, and the legal conclusions of the judgment of the Tribunal in respect to slavery in Germany as a general program, and which was not confined in the IMT judgment simply to the particular defendants in that case, but also was a finding in respect to certain facts operative in Germany, irrespective of the particular individuals concerned with them. Now, of course, it was a judgment against those particular defendants, but according to Ordinance No. 7, Article 10, just to read the last sentence of that paragraph, "Statements of the International Military Tribunal in the judgment in Case No. 1 constitute proof of the facts stated, in the absence of substantial new evidence to the contrary." This sort of question, your Honor, arises particularly in such connections as the number of voluntary workers, the proportion of voluntary and involuntary workers in Germany. The International Military Tribunal has ruled on that, that although Sawckel modified his figure, his figure of half a million was approximately correct, voluntary workers, and the rest involuntary. Now, we feel that it is unnecessary, in view of those facts stated in the IMT judgment in respect to a great many of the general facts into which these particular facts with which we are most concerned here fit in, and which cannot be wholly separated from the general picture, will not require additional proof here, except that we will occasionally offer documents in order to make some kind of connecting story, but we don't feel that it is incumbent upon us to prove the general picture.

JUDGE DALY: I understand what you call attention to is this, Mr. Thayer, that the IMT in their judgment set forth a general plan of slave labor in Germany, and you claim to connect these defendants with that gener

general plan, not by the IMT judgment, but by other evidence offered?

MR. THAYER: That is correct, your Honor, but inasmuch as we refer to a general plan, we feel that the IMT has pretty thoroughly set out what the general plan was, and we didn't go into detail with that except to show the connection of the defendants to it.

THE PRESIDENT: Well, Judge Daly has correctly indicated what I had in mind and that by the fact that these defendants, none of them, were parties to that judgment?

MR. THAYER: That is correct, your Honor.

THE PRESIDENT: If it were not for this Ordinance, they wouldn't be bound by that judgment?

MR. THAYER: That is correct, your Honor.

THE PRESIDENT: With respect to any fact?

MR. THAYER: That is correct. However, inasmuch as they took nearly a year to try the International Military Tribunal's case, we received so many thousands of documents, had so many hundreds of witnesses, that it was felt that certain facts could be regarded as accepted.

THE PRESIDENT: That is the theory on which the Ordinance proceeds, and that is the Ordinance under which we are operating here.

MR. THAYER: On the other hand, inasmuch as the defendants feel that they were not connected with these facts, they will, of course, be able to offer proof to show that did not connect with them. I think the Ordinance provides very specifically that it shall be binding on the Tribunals established, "shall not be questioned except insofar as participation therein or knowledge thereof by any particular person may be concerned," so it is incumbent upon the Prosecution to offer proof, and of course the defendants may offer counter proof in respect to that exception. Does that answer?

PRESIDING JUDGE WILKINS: It is about time to adjourn, Mr. Thayer. You can take it up in the morning.