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DAILY REPORT

EVIDENCE: Dr. Siemers completed the presentation of Weiss Document Book III, introducing Weiss Exhibits 66 through 85. These included documents as to employment of PW's by other states (Russia) and German regulations forbidding kindness to PW's. Thereafter, Walter Tengelmann, chairman of the Vorstand of Flick's Essener Steinkohle company took the stand as a defense witness and continued on direct examination for the rest of the day. He described the Essener set up and its relations to Flick, and jobs in the mining industry which he denied were extraordinarily heavy or unsafe. He then attempted to explain a number of documents submitted by the Prosecution, including official reports by government agencies severely criticizing conditions in Ruhr coal mines including those owned by I.G. Farben and Krupp as well as Flick.

LAW AND PROCEDURE:

1) Law as to Russian PW's. The Prosecution objected to introduction of affidavits as to treatment by Russia of German PW's, arguing that the provisions of the Hague and Geneva Conventions had been conclusively determined by the IMT to represent the general international law as of 1939. The Defense contention is that since the international law between Germany and Russia is based on custom it is a factual matter as to which proof should be permitted. The court indicated that the IMT conclusion was either binding or at least a statement which is prima facia correct. It permitted the introduction of the affidavits but without comment and subject to motion to strike after further consideration by the court. This follows previous rulings by the tribunal on the same subject.

2) The court inquired as to the length of detention of the witness Tengelmann. Mr. Lyon explained the facts with respect to the British custody of the prisoner and the consequent impossibility of releasing him after the Prosecution had interrogated him.

3) Use of Newspapers as evidence. The Defense attempted unsuccessfully to introduce German newspaper reports of alleged ill-treatment of German PW's by Russia. Dr. Siemers pointed out that newspaper articles had been admitted in the Farben case over his objection. The tribunal stated that perhaps it would consult with the Farben tribunal. In fact it appears that newspaper articles have been introduced by the Prosecution in the Farben case not as proof of the facts stated (as Dr. Siemers attempted to do) but as evidence that persons had reason to know or suspect the existence of facts.

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