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Order on the Application for Production of Documents

Military Tribunal VI

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CASE #6

FARBEN

Prosecution charges of Steiner
Documents

8 March 1948

AA

Having considered the Prosecution's Application, dated 26 February 1948, for the Production of documents, the Defendants' Answer thereto, the Prosecution's Reply, and the Supplemental Affidavit of Dr. Wolfgang Alt, presented on 6 March 1948, the Tribunal now announces its ruling on said application:

While the Prosecution's Application is very broad in its implications, the only specific charges contained therein, which are supported by any such showing of facts as merit the consideration of the Tribunal, relate exclusively to documentary material pertaining to Farben's Ludwigshafen Plant in the French Occupation zone. We find nothing in the record to indicate that there has been anything culpable or improper on the part of anyone in connection with the circumstances under which any documents were removed from Griesheim to Ludwigshafen or under which papers at Ludwigshafen were destroyed. It further appears that only a comparatively small number of documents are involved in this controversy and that these have since been deposited in the Office of the Secretary General or returned to the files at Ludwigshaven, where they are accessible to all parties concerned.

It does affirmatively appear, however, that Dr. Wolfgang Alt has for some time been acting in a dual capacity, namely, as an assistant counsel for a defendant in this case and as a technical advisor to the present management of the Ludwigshafen Plant. If the obligations thereby voluntarily assumed by Dr. Alt were not, in fact, incompatible, they did, at least, impose upon him the positive duty of circumspect conduct in respect to the handling of documentary material

that thereby came under his control. His conduct in intermingling such documents with his personal papers and concealing the former, at the plant or elsewhere, justifies a reprimand.

Nor can we permit this incident to pass without taking notice of what we regard as hasty and ill-conceived action on the part of the members of the prosecution staff here involved. If, when they discovered the facts--subsequently set forth in their Application, they had promptly come to this Tribunal for redress, instead of taking matters into their own hands by threatening potential witnesses with arrest and participating in an unwarranted violation of the privacy of the home of a member of the staff of Defense Counsel, they would have reflected greater credit upon themselves and the responsible positions they occupy.

If counsel for both sides will in the future carefully observe the rules pertaining to the production and handling of evidentiary documents and, at the same time, remember that as officers of the court they share responsibility with the members of this Tribunal for the orderly administration of justice, such unfortunate incidents as this will not again occur.

There is nothing in the record reflecting upon the honor or professional integrity of counsel for the defendants, generally, and they need not answer further.

The Application of the Prosecution is now dismissed.