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American Military Tribunal No. III A

NUERNBERG

Case 10

in the case against
Alfred KRUPP et alii.

CLOSING - BRIEF

of the defense
pertaining to

AUSCHWITZ.

Submitted by
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AUSCHWITZ.

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1. Preliminary remarks.

In its efforts to incriminate the defendants particularly with regard to the use of inmates of Auschwitz concentration camp for KRUPP's production, the prosecution goes on the assumption that KRUPP availed itself of the possibility of using concentration camp inmates in its production process when there was no urgent necessity for such a course.

In this connection it overlooks completely on the one hand the pressure exerted by the State for the fulfilment of certain production programs and on the other hand the direction of labor utilization which was necessitated by these programs also administered by State agencies. I refer to the specific explanations of these questions in connection with the general defense and should like to supplement them with the following.

The examination of the witness SCHIEFER who, according to his own statements of 27 May 1948, as the Chief of the Armaments Delivery Office in the Reich Ministry SPEER, from spring 1942 to October 1944

"personally urged very strongly that concentration camp inmates be employed by the industrialists"

and who

"recommended the utilization of concentration camp inmates at least in the branch of industry for which he was responsible"

(German page 10255, English 9987) and who, on the strength of his position, is the person best authorized to make a statement on this question, - this examination has proved that there was not only an interest in

"utilizing concentration camp inmates in the economic system upon the recommendation of the Armaments Ministry"

(German page 10256, English 9988), but that the Armaments Ministry itself ordered the utilization of concentration camp inmates (German page 10263, English 9993).

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The examination also proved that an explicit Fuehrer directive had been issued pertaining to the regulation of the utilization of concentration camp inmates in the armaments industry as early as the spring of 1942 (SCHIEBER examination, German page 10253, English 9984), and that no branch of the industry could oppose the orders of the Armaments Ministry insofar as the utilization of concentration camp inmates was concerned (German page 10254, English 9985). The prosecution itself fully confirmed -- certainly unintentionally -- the statements of SCHIEBER by submitting exhibit No. 1575, NO 2468 rebuttal book 3, page 23, and thus itself proved that the utilization of concentration camp inmates was a measure ordered by the State. That document contains a record of a conference in the office of Hauptdienstleiter SAUR of Reich Ministry SPEER on 16 March 1943, which conference was attended, in addition to SAUR and SCHIEBER, only by officials of the Ministry and officers of the Wehrmacht and SS, but by no representatives of the industry. It was stated explicitly that:

"In accordance with a discussion in the Fuehrer Headquarters, concentration camps are to be utilized to a higher degree for armament production".

The subsequent contents of that document further prove that among the concentration camps which could be considered for the utilization of inmates the Auschwitz camp is also mentioned. This proves in principle that the fact of the utilization of inmates had to be recognized as such by the industry, that the question of the "how" and "where" had also been determined exactly and at the most the question of "who" was still to be decided. This is to be remembered when KRUPP's connection with the Auschwitz concentration camp is dealt with below.

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II. The production project of automatic flak.

As far as can be seen from its hardly substantiated evidence, the prosecution obviously goes on the assumption that in the summer of 1942 the firm KRUPP is said to have shown a very outspoken capitalistic interest in obtaining permission for the serial production of a 3.7 cm. automatic flak gun which had been developed by KRUPP, or at least parts thereof, in a workshop inside the Auschwitz concentration camp. In this respect it is, however, in the unfortunate position of being able to submit as its earliest document merely a letter in which Director TIX the chairman of the Hauptausschuss Waffen attached to the Reich Minister for Arms and Ammunition on 23 July 1942 orders the firm KRUPP to report to him the requirements for tools and machines for the production of 3.7 cm. replacement parts in the Auschwitz concentration camp (exh. 1177, NIK 8171, Book 42, German page 55, English 23). It is incomprehensible how the prosecution considers itself in a position to derive the conclusion-- particularly from this document -- that KRUPP was originally responsible for the transfer of this production. It is not even able to prove this, because the documents submitted by the defense prove that the initiative of charging KRUPP with the production of the said gun part in Auschwitz clearly came from the competent offices of the German "Waffenamt" (Ordinance Office). This military authority knew that KRUPP had for a number of years been engaged in the

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development of automatic flak weapons (2397, Mue.No.21, Book 3, page 1 and exh. 2398, Mue.No. 22, book 3, page 3). The fact that KRUPP itself was considering the plan for a production workshop for automatic weapons during the first war years, which plan it later abandoned, is proved by another document (Exh.2399, Mue.No.23, book 3, page 5). As early as the day after Director TIX sent his above-mentioned letter to KRUPP (24 July 1942), the Waffenamt officers responsible for the production of automatic weapons urged a representative of KRUPP that

"the matter should be taken up immediately" (Exh.2400, Mue.No.24, book 3, page 6), and only one week later the responsible officers of the Waffenamt and the SS in the presence of several KRUPP representatives decided on behalf of the Waffenamt

"finally in favor of Auschwitz".

It is interesting in this connection that the selection of Auschwitz as the location of a production plant was justified, not by considerations concerning the possibility of the utilization of concentration camp inmates, which matter only the Ministry, together with the Wehrmacht, would have been authorized to decide, but merely by considerations of a military nature and with respect to technical problems of transportation. (Exh.2401, Mue.No. 25, Book 3, page 8).

The defense evidence, according to which the decision in favor of Auschwitz was completely outside KRUPP's sphere of influence, is very obviously confirmed by a document which again was submitted by the prosecution itself (Exh.1514, NIK 15392, Rebuttal Book 2b, page 80). This concerns a letter from the

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POHL, Chief of the Economic Main Office, to HIMMLER personally, dated 16 December 1942, in which he informs him of a conference on the preceding day between SPEER, SCHIEBER, SAUR, himself and other representatives of the Ministry and the SS, and in which in connection with concentration camps, he mentions, among the

"greatest armament tasks",

also the 3.7. cm. flak production in Auschwitz. This proves clearly that the Armaments Ministry planned and issued orders in collaboration with the leading SS offices and that industry simply had to carry out the orders. If this fact needed further confirmation, it could easily be found in SCHIEBER's examination before the Tribunal on 27 May 1948, in the course of which he replied with a flat "no" to the direct question of the prosecutor (German page 10275, English 10007):

"The enterprise in question was started by KRUPP, was it not?"

To complete the trio of originators of authoritative force, the former representative of the Army Ordinance Office, LEYERS, confirmed in his cross-examination of 4 June 1948 (German page 11513, English 11263) by the prosecution before the commission the statements in his affidavit (Exh. 2397, Mue. No. 21, book 3, page 1) by replying to the question:

Q.: "You were familiar, were you not, Witness, with the desire of the KRUPP firm to obtain a contract or order from the Army for the manufacture of spare parts for automatic weapons?"

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as follows:

"I believe that I can make statements on this whole subject to this extent: that I personally am of the opinion that the Krupp firm never approached me applying for an order, but, on the contrary, I was always obliged to go to the Krupp firm myself to get them to accept an order."

If the Board of Directors of the Krupp firm finally saw itself forced, in view of the pressure clearly proved above to have been exerted, to authorize credits for the establishment of the production workshop at Auschwitz (Exh. 1178, NI 2868, document book 42, German page 57, English 25) - this should not be interpreted in any way as incriminating, but merely as exemplifying the logical consequence of the existing state of force. But criminal consequences could not possibly be construed in this case, if only for the reason that the prosecution itself cannot deny that this project was not even realized in practice. It has been ascertained that the project did not progress beyond the stage of planning, not even preparatory measures were taken and not one single inmate of the concentration camp Auschwitz was utilized for it at the time.

III. The Krupp fuse workshop in Auschwitz.

1.) The evacuation plan.

The prosecution sees a new impetus to Krupp's alleged attempts to exploit the labor in the Auschwitz concentration camp under all circumstances by the capitalist interests of the firm in the fact that - according to the prosecution's description - influential representatives of the firm's directorate resolved in the conference of 8 March 1943

to transfer to Auschwitz the fuse workshop, which had been bombed out a few days before. In this connection it refers to the excerpts from a record of a conference at Essen on the said date (Exh. 1161, NIK 11571, book 42, German page 72, English 36), in which it is stated that

"the production of 3.5 cm flick spare parts is apparently no longer necessary and that a factory hall of 14,000 sq.m., without cranes, will soon be available."

This hall was to be "planned" as a substitute for the bombed-out fuse workshop in Essen.

The prosecution states that since, in its opinion, no documentary proof could be found with respect to negotiations with the "Wehrmacht" or ministerial offices which had previously dealt with this topic, a clear initiative on the part of Krupp was thus established. In this respect it overlooks completely the factual connections which led to this resolution. As the defense proved by document Exhibit 2404, Mus.No.28, book 3, page 15, there was a very strong interest to begin with by the individual "Wehrmacht" agencies to maintain the fuse production at the Krupp works. In that document the Army Ordinance Office demands, after an obviously not particularly effective aerial attack on the Krupp works, which attack, however, had resulted in a temporary stoppage of work, as early as January 1943:

"Please make the greatest efforts to secure under all circumstances the maintenance of production of the A.Z. 23 Pr. which has precedence before all other fuses. All efforts must be made in order to maintain the production goal of 100,000 A.Z. 23. monthly. Please keep us informed on the steps taken by you".

From this follows clearly the great interest of the Wehrmacht in the maintenance of fuse production. Krupp, of course, was well aware of this interest, and it is plausible that the firm, under the then existing conditions of authoritative force, had to endeavor to take this interest into account.

This is all the more true in view of the fact that even on 8 March 1943, that is, three days after the final destruction of the fuse workshop, a very urgent teletype was sent to Krupp by the competent office of the Army Ordnance Office, upon Krupp's report on the loss of production (KOTTGEN examination on 11 June 1948, German page 12552, English 12219) by way of Krupp's Berlin branch, in which letter exact information with respect to the damage is requested and which also announces the visit of representatives of the Wehrmacht for the purpose of exact examination (Exh. 2504, Mue.No.30, Book 3, page 18).

Furthermore, witness KOTTGEN testified clearly (German page 12543-44, English 2211) to the effect that Krupp received another letter on 8 March from the special committee of the Speer Ministry which was responsible for the production of automatic weapons, which letter stated that the originally planned production of spare parts for the automatic flak needed no longer to be pursued by Krupp, an incident for which the only possible explanation of the term used by the prosecution (Exhibit 1181, NIK 11571, book 42, German page 72, English 36), applies:

"the production of 3.7 cm. spare parts is apparently no longer necessary".

Is it surprising under the circumstances, that the Krupp directorate, in view of the coincidence of these events in one day,

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which was also the day on which they passed the resolution with respect to the measures to be taken due to bomb damage, and in view of the persistent pressure of the State and the military towards the objective of their fulfilling their production quotas, necessarily took into consideration as an alternative solution the vacated hall in Auschwitz? It must be borne in mind in this connection that this consideration, of course, did not constitute a resolution, but at the most a suggestion to the State and Wehrmacht offices interested in this matter.

Also document Exhibit 1576, NI 3705, Rebuttal Book 3, page 30, submitted in evidence by the prosecution in the rebuttal, does not constitute a refutation. It offers nothing new. It only explains the preliminary negotiations of 8 March at Krupp and a Krupp employee is ordered

"to submit the project to the Office", which again confirms clearly that it was not up to Krupp, but that it must have been up to "the Office" to make a decision. The document Exhibit 1182, NIK 4722, book 42, German page 73, English page 37, submitted in evidence to the Tribunal, proves that the Krupp employees KOETTGEN and HOELKESKAMP participated on 12 March 1943 in a conference in Berlin with officers of the Waffenamt and the SS as well as the director of Special Committee M 3, Director WIELAN, who was responsible for fuse production, at which conference the final decision for the transfer of Krupp's fuse production to Auschwitz was made. The wording of a note of a Wehrmacht representative with respect to this conference proves clearly that the Wehrmacht was the responsible authority.

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The memorandum contains the note of authority characteristic of Wehrmacht offices:

"it is established, first the capacity of Auschwitz is to be restored", "Raumplanung is provided for", "machines are converted", "order pertaining to equipment will follow", "leading personnel will be provided by Krupp".

This is not contradicted by the phrase in the first part of the memorandum:

"Therefore the Krupp firm intends to rebuild in Auschwitz the fuse workshop at Essen which was destroyed on 5 March by bombs".

The statements of witness KOEPTGEN in connection with a detailed direct examination and cross-examination with particular reference to this point on 11 June 1948 (German page 12558, English page 12224-5) prove that Krupp's representatives at the most made a corresponding reference with respect to the production possibility existing in Auschwitz, but that they were otherwise rather passive participants in that conference.

Prosecutor:

Q: Didn't you know that a decision had already been made to start work in Auschwitz? Weren't you advised of it?

A: The decision had not been made. The decision was left with the Army Ordnance Office, and that decision was made on the 12th of March, in Berlin with the approval of SS and Special Committee M-3. Krupp had no decision in this matter.

and

Q. How do you know the decision had not yet been made to move to Auschwitz?

A. I noticed that during the meeting, because during the meeting the decision was made. It was very obvious that the decision was made then, and it was equally obvious that the decision had not been made before that."

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And German page 12562, English page 12230:

- Q: Before the meeting you had already decided to transfer the fuse production to Auschwitz, hadn't you?
- A: No, I have not decided on this. I couldn't do it. I had no power of issuing directives.
- Q: Yes, agreed, but nevertheless, KRUPP had decided before the meeting to transfer the fuse production to Auschwitz if they could secure the necessary permission, hadn't they?
- A: KRUPP did not decide. That is what I already have told you. The decision concerning that transfer could only be made by the Army Ordnance Office in agreement with the special committee and in this case the SS had to give their approval too, since the SS was the owner of the shop in question.
- Q: Yes, but unless you intended to transfer to Auschwitz there would be no point in asking the SS there, would there?
- A: I didn't invite the SS. That was done by Herr von WEDEL."

The fact that before the conference Auschwitz had not been definitely decided upon as the location of the production plant may be seen from the further examination of KOETTGEN (German page 12592, English 12256), according to which other places, including Kettwig, near Essen, were under consideration.

By means of a vain effort to prove KRUPP responsible for the decision, the prosecution attempted to find support for its efforts in mere externalizations. Thus it wanted to interpret inter alia the fact that the negotiations took place in the KRUPP building in Berlin as essential proof of the existence of KRUPP's initiative. Also this fact has been clarified by KOETTGEN's testimony (German page 12562, English 1223 and German 12590, English 12254/55) to the effect that this was an incident which was completely normal and which corresponded to the conditions at the time.

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KOETTGEN also confirms that not Krupp but the Army Ordnance Office called this conference (German page 12561, English 12227). KOETTGEN replied to the question

"Who issued the invitations to this conference?"
precisely:

"Lt. Col. von WEDDEL."

Furthermore the mere fact that the minutes of the meeting were compiled by a representative of the Ordnance Office indicates that it was the Ordnance Office which called the conference (German page 12590/91, English 2255).

The fact that also the SS was interested in the production can be concluded from prosecution exhibit 1548, NI 11567, Rebuttal Book 3, page 31, in connection with the testimony of witness REIFF of 10 June 1948 which testimony refers to that exhibit, (German page 12431, English 12105/6). The previous correspondence connected with the said document refers as follows to a letter of SS-Untersgruppe D in charge of concentration camps of 11 March 1943:

"Your letter D II/1 14/2 Ma./Hag. dated 11 March 1943"

To this question:

Q: "Now, then, can you answer my question. What does this note at the top: "Reference your letter D II/1/14/2 etc., dated 11 March 1943", now, what does that mean?"

Witness REIFF replied:

A: "I recall that at that time the SS repeatedly pressed us on why we had not taken up production in Auschwitz, and apparently the preceding letter from the SS which is here being answered refers to this pressing inquiry as to why the production was not in operation. We are stating in this letter that on orders from the Ordnance Office we are manufacturing fuses there."

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Qu.: These negotiations with the SS, how long do you estimate or remember that they antedated this letter?

A.: About the middle of autumn 1942.

Qu.: Were these correspondences in writing or were they purely orally?

A.: Both in writing and orally."

This means that the SS during the time previous to the conference of 12 March 1943 had asked KRUPP repeatedly to utilize the hall in Auschwitz, so that KRUPP's purpose on 16 March 1943 mentioned in the above-quoted prosecution document must have had the purpose of, so to speak, pacifying the SS by referring to the conference of 12 March.

2.) Further development of the project.

The events now following do not matter so much, in view of the fact that they occurred after the fundamental decision by the interested offices of the Wehrmacht and Ministries had been made.

The fact is interesting that as early as the 19 March 1943 the Supreme Command of the Army gave special priority to the fuse production which was about to be commenced (Exhibit 2306, Doc.No.32, book 3, page 21), whereby KRUPP was forced to accelerate the preparations for the manufacture. Only one day before the same office had placed an order for the production of 100,000 AZ 1 (Exhibit 1183, NIK 10668, German page 75, English 39).

In connection with the discussion of the further events concerning Auschwitz, the prosecution attempted in vain to charge the KRUPP firm with responsibility for the deportation of 500 Jews from a fuse factory in Berlin to Auschwitz concentration camp.

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Even the very contents of the document exhibit 1184, NIK 6565, book 42, German page 79, English page 42, which was submitted for this purpose, proves that this attempt must have failed. According to a note by the Berlin representative of KRUPP pertaining to a conference on 16 March 1943 with an officer of the SS Main Economic and Administrative Office, the officer gave him

"The lists from Director WIELAN of Special Committee 113, of Jews employed by the firm Krone-Presswerk-Graetz (approx. 500 workers), who were to be transferred to Auschwitz for utilization in the planned fuse production".

As is evident from the further contents of the letter, the Jews had been

"removed from Berlin approximately two weeks ago and, according to the SS, are now mostly in the Auschwitz concentration camp".

On the basis of the contents of this note alone, it is certain that the Jews were sent from Berlin to Auschwitz around the 2 March 1943, that is, at a time when KRUPP's fuse plant at Essen, which was not bombed out until 5 March, was still operating fully, and therefore nobody could have thought of the utilization of the Jews for production purposes. Furthermore, the witnesses HOELKESKAMP on 17 February 1948 (transcript German page 4284, English 4207, German 4295, English 4217/18 and German 4304, English 4224/25) and KOETTGEN on 11 June 1948 (German pages 12564/65, English 12232/33) both stated that the existence of 500 Jews was not mentioned until the conference of 12 March 1943 and that it was mentioned by Director WIELAN, the owner of Krone-Presswerk-Graetz, and also the chairman of the Special Committee responsible for fuse production. Prior to that nobody at KRUPP's could have known anything about the existence of these Jews, so that the

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implication of the prosecution that that fact played any part in the discussion of the possibilities in Auschwitz, must be regarded as completely fictitious.

The prosecution furthermore feels compelled to incriminate the KRUPP firm on the basis of the existence of two drafts of contracts which, among other things, deal with the employment of inmates:

(Exh. 1191, NIK 4724, book 42, German p. 110, English 82 and Exh. 1192, NIK 4719, book 42, German p. 114, English 86).

Disregarding completely that fact that the contract contained in the first exhibit is a suggestion by the SS and thus cannot be used against KRUPP, KRUPP's counter-proposal in the second document is only the result of an endeavor absolutely customary in normal relations between business partners to record their mutual interests in the form of a contract. Furthermore, paragraph 1 of the contract states explicitly that the establishment of the fuse plant

"takes place by order of the OKW".

Paragraph 15 states that the working hours of the workers provided by the SS

"are regulated by the law",

and in paragraph 17 a reward system is suggested, etc., in other words, all these are only regulations which do not indicate anything incriminating.

Furthermore the examination of REIFF on 8 June 1948 proved that this was only a draft of a contract which, in addition to that, was not given much importance by KRUPP. This is proved by the fact that not even the director of Division KM, normally responsible for such contracts, took part in this case, and did not even indicate that he had received information about it. (German page 12243, /44, English 11931).

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Furthermore, the prosecution attempted to prove by submitting document exh.1579, NIK 10672, rebuttal book 3, page 47, with reference to the therein contained Section b that KRUPP was greatly interested in the expansion of its production possibilities. It completely overlooked the fact that this letter was not sent by KRUPP to the Army Ordnance Office until August, 1943, that is several months after the commencement of the evacuation, and that this letter merely requests a retroactive issuance of a regular evacuation order which was necessary

" to deal with the bookkeeping formalities which arose in the course of this matter".

(REIFF examination, 10 June 1948, page 12434). It furthermore disregarded the fact that, as the defense had the opportunity to prove in the course of its presentation of evidence, KRUPP was, so to speak, forced by the SS to expand its plant by constructing a second hall in Auschwitz but that it bluntly refused to do so (Exh. 2407, Mue. 33, book 3, page 23 ff); this is an incident which also was confirmed fully by witness REIFF on 10 June 1948 (German page 12432, English 12106). Finally the prosecution hopes to prove with a letter from the Chief of the KRUPP firm to the representative of the Army Ordnance Office responsible for fuse production dated 7 September 1943, to the effect that KRUPP had done everything and had always attempted to fulfil its production quotas completely (Exh. 1205, NI 2965, book 42, German page 183, English 149). This is contradicted by the fact that especially in the case of Auschwitz the defense was able, by submitting the appropriate documents,

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Exh. 2408, Mue.No. 34, book 3, page 28,

" 2409, Mue.No. 35, book 3, page 30,

" 2410, Mue.No. 36, book 3, page 32

to demonstrate particularly clearly the tremendous pressure exerted by the ministerial offices in connection with the commencement of production.

At the same time it is proved that the tone of the above-mentioned letter was really dictated by the events described above.

3. The Utilization of Concentration Camp Inmates.

In this connection the prosecution submitted as incriminating documents statistical records, wage accounts, etc. of the office of Krupp's fuse workshop, without proving hereby more than that a certain number of concentration camp inmates were utilized in the fuse workshop, and this fact has not been denied. In this connection document exhibit No. 1195, NI 2788, German page 132, English page 104 is interesting, because it proves that as late as July 1943, that is, several months after it had been resolved to commence fuse production, approximately 200 inmates were utilized who, during the period 7 - 30 June 1943, performed 1916 work days. Even if one assumes that in the subsequent period the number of inmates increased somewhat, the fact remains that in the last respect only a few hundred were working for Krupp.

As far as the specific question of the treatment of the concentration camp inmates is concerned, the examination of the prosecution witnesses LUTAT and ORTMANN on 16 and 17 February and 25 February 1948 has shown that the members of the Krupp firm,

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insofar as they came into contact with the inmates, always endeavored to ease their hard lot to the best of their ability, and that they were not guilty of any excesses towards them. In this respect it must be remembered that Krupp's personnel did not have the right of direct supervision over concentration camp inmates, not even during working hours. This right, on the contrary, was exercised by the so-called Kapos (examination LUTAT on 17 February 1948, German 4188/89, English page 4122 and examination ORTMANN on 25 February 1948 German page 4758, English page 4667). Both witnesses state that all Krupp's workers and employees endeavored to supply the inmates with food and tobacco (LUTAT, German page 4187/88, English page 4121, ORTMANN, German page 4753/54, English page 4662). Furthermore, the two witnesses testify that cases of ill-treatment hardly ever occurred in Krupp's plant, especially not of such a severe nature as those committed by the SS or the Kapos. Witness LUTAT, however, mentions one individual case (German page 4183, English page 4121), but he states that he himself disapproved greatly of the behavior of the SS man and attempted to stop him, as far as he could do so without exposing himself to danger. Witness ORTMANN remembers a further case in which an inmate was beaten by an SS man for smoking (German page 4757, English page 4665), but he adds explicitly that this too was an individual case. The witness mentioned 400 as the maximum number of inmates utilized. In connection with all this it must be remembered that the personnel of the Krupp firm, as already mentioned, had no possibility whatsoever to exert an influence on the treatment of concentration camp inmates; its activity consisted ^{of issuing} by way of the Kapos instructions to the inmates with respect to the work to be performed.

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In the course of the examination of the two mentioned witnesses it was established clearly that the inmates were engaged almost exclusively on assembly work, since the production never really started during the time when KRUPP was in Auschwitz (German page 4194, English 4126, German 5753, English 4661). The machines merely had one trial run, during which time altogether 50 fuses were produced, a "ridiculous number" (Lutat, German page 4196, English 4128). The testimony of both witnesses also states clearly that the work was not particularly difficult or strenuous. Furthermore, they state that KRUPP's personnel performed the same work in the same way as the inmates (Lutat German page 4191, English 4124, and German page 4193, English 4125, Ortman 4753, English 4662).

Since one may derive from the presentation of evidence by the prosecution the indirect accusation that KRUPP's personnel stationed in Auschwitz definitely must have gained knowledge of the events in connection with the mass extermination of Jews, so that one could assume that also the important offices of the firm administration in Essen should have been informed of those circumstances, I should like ^{to} deal with this here, in spite of the fact that it is obvious that these assertions cannot be proved. The witness LUTAT mentions a previous incident in which an inmate is said to have referred to a smoking chimney, saying that there was a crematorium there in which the bodies of inmates were burned (German 4184/85, English 4117). The witness ORTMANN states that occasionally the KRUPP personnel spoke among themselves in a careful manner about the rumors circulating with respect to the burning of dead concentration ^{camp} inmates in the crematorium (ORTMANN, German page 4760, English 4668/69).

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Again both witnesses state that they did not speak of these events until after they returned to Essen and then only in the innermost circle of their families, and after the war or after KRUPP left Auschwitz. (Latet German page 4186/87, 4120/21, ORTMANN German page 4760/61, English 4669/70).

The witness ORTMANN states clearly that during the time when he worked in Auschwitz he had not been able to believe the rumors about the extermination operations. He said that he did not pass on these rumors, if for no other reason than that he would have feared for himself had this been the case. If we have thus established that not even KRUPP's own personnel had serious suspicions with respect to the actual events in Auschwitz, if circulating rumors could only be discussed in the utmost privacy and were furthermore discarded as unbelievable, how could one assume seriously that those atrocities actually committed there had come to the ears of the firm's administration?

IV. Final remarks.

The Auschwitz problem was concluded as far as KRUPP was concerned in September 1943 when the firm Union took over the fuse production, utilizing a large proportion of KRUPP's equipment there (Exhibit 2411, Nuc. No.37, book 3, page 34). In other words, it had ended almost before it really started. It is necessary to take this fact above all into account and it weighs particularly heavily with respect to the assertion of the prosecution

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that KRUPP had dealt with the project only in order to satisfy its economic interests. If this really had been so, it would appear absolutely incomprehensible why, in the concluding negotiation with respect to the Auschwitz problem, in a conference of the Hauptausschuss Munition in the middle of September 1943, KRUPP's representatives made no effort whatsoever to retain the production workshop for the firm, which they could easily have done (Exhibit 2412, Doc. No. 38, book 3, page 36).

Thus it is clearly established that in the Auschwitz case

- 1.) the Krupp firm only bowed to the force of circumstances when it decided to take over production there,
- 2.) it took purely preparatory measures for that production,
- 3.) there is no question of ill-treatment by the Krupp firm of concentration camp inmates who had been utilized as a result of State pressure,
- 4.) KRUPP itself had no possibility of exerting any influence on the treatment of inmates.

CERTIFICATE OF TRANSLATION

1 July 1948

We, Peter V. POHLENZ, Civ.No. D-090317 and Kathleen J. STOUT, Civ. No. 20140, hereby certify that we are duly appointed translators for the German and English languages and that the above is a true and correct translation of the document.

Closing-Brief for the Defense pertaining to Auschwitz.

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