

The Elmag Plant located at Mulhouse

For more than one hundred and twenty-five years a French company known as S.A.C.M. (Alsacian Corporation for Mechanical Construction) had its principal place of business at Mulhouse, Alsace. The company owned eight plants, four of which were located in France, outside of Alsace, but the principal works of the four located in Alsace were at Mulhouse. At the outbreak of the war the principal product of the Mulhouse plant was textile machinery, and a portion of the plant was devoted to the manufacture of combustion engines, machine tools and machinery for the fuel industry.

Upon the German occupation of Alsace in June 1940, a "Chief of Civilian Administration" was appointed by the Germans, and German law was introduced. A German administrator was appointed to take charge of the S.A.C.M. properties which we shall refer to hereinafter as ELMAG, an abbreviation of the German translation of the name of the firm, namely, Elsaessische Maschinenfabrik A.G. The reason for this seizure seems to have been that the majority of the stock of the company was owned by Frenchmen, living outside of Alsace. The company was referred to as "an Alsatian enterprise in which enemy interests predominate". The action was protested by the president and those of the directors who had remained with the company after the occupation.

In August 1940 when the German administrator took over the plant, Elmag still used about one-half of the working hours for producing textile machinery but this figure rapidly decreased later in favor of direct and indirect production for the German Armed Forces.

As a result of damaging air raids on the Gusstahlfabrik-Essen plant in March 1943 it was decided to move the Krupp-Krawa factory (automotive works) to the Elmag plant. On 27 March 1943, a meeting for that purpose was held in the Reich Armament Ministry in Berlin, there being present the defendants Janssen and Eberhardt as well as other Krupp officials, representatives of the Armament Ministry, of the German Civil Administration for Alsace, and of Elmag.

Minutes of the meeting were recorded by defendant Eberhardt and distributed to defendants Krupp, Mueller, and Pfirsch.

Strenuous opposition was raised by the administrators for Alsace and the Elmag representatives to taking over the plants by the Krupp firm, but transfer of the automotive factory from Essen to the Elmag plant had been decided upon and nothing could be done to alter the decision. The Krupp representatives obtained a statement by the Armament Ministry, to the effect that "The entire plant at Mulhouse, Masmuenster and Jungholz will be for the credit and debit of Krupp..." It was also determined that "the construction of signals and of machine tools will be abandoned by Elmag; the construction of textile machinery is to be continued for the time being."

At a conference of Krupp officials in April 1943 attended, among others, by the defendants Krupp, Eberhardt and Janssen it was decided to set up a new firm to operate the plant under lease from the old Elmag company. Under the terms of the lease signed for the Krupp firm by defendant Eberhardt the management of the three plants in Mulhouse, Masmuenster and Jungholz was turned over to the Krupp firm for the duration of the war. The machinery and fixed installations were to remain the property of Elmag. Raw materials usable by the Krupp firm were to be inventoried and paid for. The Krupp firm was authorized to make such changes and modifications in the plants as were deemed necessary for operation. When the terms of this contract were learned by the administrator of the old Elmag company he complained to the Armaments Ministry that Elmag for which he was speaking as administrator "considers itself raped by the form of plant management contract chosen by the Krupp, A.G."

The new firm of Elmag G.M.B.H. which was 90% Krupp owned was issued a permit to operate in Alsace, 27 April 1943. The civil administrator of Alsace notified the administrator of Elmag of the ceding of the plant to the Krupp firm, effective 1 May 1943.

The program of war production initiated by the German administrators was greatly increased when the Krupp firm took over the plant. In addition to this heavy armament program the production of military tractors by Krupp Krawa was added. Extensive preparations were made for the production of 8.8 anti-aircraft guns. Productions not strictly in the armament field were geared to the war production requirements of Germany. Definite instructions called for continuous full production of military tractor parts and full utilization of local labor for this purpose. To carry out this task additional machinery was requisitioned by special searching missions.

That the Krupp firm desired ultimately to permanently acquire the Elmag plant there can be little doubt. In the minutes prepared by the defendant Eberhardt of the Berlin meeting, 27 March 1943, and distributed to defendants Krupp, Mueller and Janssen, there appears the following comment "As regards Ministerial Rat Sauer's suggestion for Krupp's purchasing Elmag, this can be handled in negotiations; this must not, however, hold up the relocation." Eberhardt made the following notation of portions of a telephone conversation between himself and the civil administrator for Alsace on 6 April 1943; "I replied in the affirmative to the question whether the new company would come forward as a buyer if the works to be taken over and now in operation, would be sold."

Whatever the ultimate intention of the Krupp firm towards Elmag might have been, the turn in the fortunes of war forced the Krupp firm to evacuate the Elmag plants because of the advance of the Allied armies. In view of this situation, the exploitation of the Elmag plants was substituted by outright physical looting.

The evacuation of the Krawa plant from Alsace was decided by Reich Minister Speer in early September 1944. The plant was hurriedly evacuated and re-established in Bavaria. The program for the acquisition of machinery was greatly accelerated. Machinery which was the property of the Elmag plant, including machinery which was in the

plant when it was seized by the German authorities, and machines acquired from other sources were evacuated along with Krupp's own machiner. Nine machines originally owned by the old SACM company were included. The anti-aircraft gun plant was moved to the Groeditz plant of Mitteldeutsche Stahlwerke. A total of 100 to 102 machines were shipped to this plant of which 31 were the property of the SACM company and 55 the property of Elmag A.G. In late September the anti-aircraft gun plant was moved to central Germany. Special equipment designed at Elmag was taken as well as regular machinery and tools belonging to the plant prior to the occupation. Additional machines would have been taken at the time of the evacuation except for the necessity of continued was production at Elmag itself. Even after evacuation of the Krawa plant the production of military tractor parts, which was given the same priority as the anti-aircraft gun program, was turned over to the machine shops remaining in Alsace. The Krupp officials of the Elmag plant left in such a hurry that they failed to pay 800,000 RM then owing to the workers.

In October 1944 a Krupp employee of Elmag inspected the Peugeot Works in Sochaux, France and the Alsthom plant at Belfort, looking for machinery and equipment that would be usable in Krupp's plants. His report, initialled by defendant Houdremont, is in part as follows:

"Major Wetzke promised me to have this car sequestrated if it would be required by Elmag. In general the subject of our discussion with Major Wetzke was that we have to come to an immediate decision regarding the machines and the PKW (automobile) aforementioned. Information by phone will be sufficient. Major Wetzke may be reached at any time from 8:00 in the morning to 7:00 in the evening. The settlement for the confiscated machines will be done over by the Ruestungskommando and by the purchasing office established for this purpose by the Reich. In order to carry out the transportation of the machines I propose the following:

"Senior foreman Lutténauer (father) and 2 workmen, expert in dismantling of machines, leave on Monday, accompanied by me, for Belfort, and Sochaux resp. Lodging for

these 3 men will be provided at Belfort. Connection to Sochaux is secured by military transportation facilities."

After the Krupp-Krawa plant had been transferred from Mulhouse to Bavaria
to Bavaria the company wrote to Elmag as follows:

"Your file note of 26 October and that of Herr Ziebell of 27 October show that a considerable number of 'Bottleneck' machines (Engpassmaschinen) and above all of tempering equipment was chosen at the Peugeot-works and transported to Muehlhausen. Above all the tempering equipment which Herr Ziebell picked out must be sent here as soon as possible by express freight. You probably know that we have no gas in Kulmbach and that we can only depend on electric power. It would be irresponsible if in the future we should continue to rely only on the help of the High Command of the Army while on the other hand equipment and installations are procured and set up in Muehlhausen which are not needed urgently. At your end the entire old Elmag tempering installation is intact and apart from that there are still three gas furnaces which for the time being can also remain there in the Krawa tempering installation. Please make a special effort to this effect.

"In addition we are lacking for the program 'Bottleneck' machines, such as interior grinding machines, key ways, grinding machines and thread milling machines. As far as these machines are also available at Peugeot please get them for Kulmbach. As Herr Hubert informs us a number of other installations such as Sicken machines, spot welding machines, rounding off machines, tube-bending machines, and above all 12 Demag pulleys were procured. The latter must be sent here on quickest way together with the fuel if possible.

"Further I ask you to please exactly determine and make a list of the screw taps, rapid change chucks, rapid screw heads, rapid screw wedges (Gewindeschnellbacken) hard metal sheets, etc., in short everything necessary for production, as far as it is at all possible to foresee requirements for the production in Kulmbach and Nuernberg and inasmuch as you need the same for Muehlhausen."

Defendants Janssen and Eberhardt attended the conference at Berlin when the decision was made to take over the plant.

Janssen was Eberhardt's superior during the greater portion of the period in question, having succeeded Loeser as head of the Finance Department. Eberhardt was in charge of the negotiations for taking over the plant and signed the contracts. Defendant Krupp participated in the discussions with Janssen and Eberhardt as to methods to be employed to acquire the plant. Defendants Mueller and Pfirsch were advised of these discussions. The correspondence regarding the acquisition was conducted by defendant Krupp and brought to the attention of Eberhardt and Mueller. Defendant Eberhardt participated in the removal of the machinery and the plant to Germany and defendants Krupp, Houdremont, Mueller and Janssen were kept informed concerning the evacuation of the machinery. Houdremont was informed concerning the acquisition of machines and equipment from other industrial firms in France for Elmag. Defendant Mueller participated in directing the production progress at Elmag. The management of the Elmag plant was responsible to the Krupp-Essen Vorstand which prior to April 1943 consisted of Defendants Krupp, Loeser, and Goerens; and thereafter of defendants Krupp, Houdremont, Mueller and Janssen and Fritz Mueller, now deceased.

From a careful study of the credible evidence we conclude there was no justification under the Hague Regulations for the seizure of the Elmag property and the removal of the machinery to Germany. This confiscation was based on the assumption of the incorporation of Alsace into the Reich and that property in Alsace owned by Frenchmen living outside of Alsace could be treated in such a manner as to totally disregard the obligations owed by a belligerent occupant. This attempted incorporation of Alsace into the German Reich was a nullity under International Law and consequently this interference with the rights of private property was a violation of Article 46 of the Hague Regulations.