

MACHINES TAKEN FROM ALS-THOM FACTORY

The German Naval High Command instituted a new submarine building program in the early part of 1941 which was participated in by a Krupp subsidiary, Krupp Stahlbau in Rheinhausen. The plant manager of the Steel and Bridge Construction Department of Stahlbau was sent to France to find bending roll machines of greater dimensions than were available at the Krupp plants in order to fulfill its part in the submarine building program. This Krupp representative accompanied by a naval officer of the Armament Inspectorate of the Navy High Command proceeded to the Alsthom Plant in Belfort where they located two bending machines suitable for Krupp needs. Immediately they placed a "seized" sign upon the machines. The director of the Alsthom firm objected to the confiscation on the ground that the machines were the only ones on which the construction of boiler drums and high pressure tubes was based and that they were essential for this purpose. The machines were heavy machines, one weighing 380 tons and the other about 50 to 60 tons. Neither had been used for military purposes. Moreover, machines of this type, old or new, were not available on the market and could not be produced in less than 18 months at the minimum. Krupp Stahlbau, however, possessed a bending press which they could have used in case of urgent need. Dr. Goerens, now deceased but at that time a member of the Krupp Vorstand, was advised when the procuring of the machine became urgent and he approved of the acquisition after an estimate of the approximate price was given him.

The objections raised to the seizure were of no avail and shortly thereafter the machines were dismantled by Krupp workmen and carried off to Germany. They were installed at the Krupp Stahlbau plant and were used in the submarine building program until the end of the war.

That the Krupp firm intended to permanently acquire these machines there can be little doubt. Repeated attempts were made by the Krupp

firm to obtain title to the machines. It offered to pay Alsthom 108,700 RM for the machines, a price fixed by a German official evaluation which included deductions for repair costs, transportation and installation charges from data furnished by the Krupp firm. When its efforts to purchase the machines failed, the Krupp firm enlisted the aid of the Navy High Command which advised that it could not order Alsthom to accept the price offered by the Krupp firm and that the matter could be settled only by negotiation. However the Military Intendant for France advised Alsthom that compensation was a matter for the German Army, that the Krupp firm should not be expected to handle the matter, and that the only basis for settlement was the price already fixed. From that time forward the firm's efforts to obtain title were directed through the Military authorities so that the Krupp firm would not appear as a party to the negotiations.

The Director of Alsthom not only objected to the seizure and removal of the machines but repeatedly demanded that the machines be returned. He testified that a decree or order of the French collaborationist government was to the effect that if the owner of a confiscated machine refused to negotiate with the German authorities, then, after a certain period, the owner lost all claim to indemnification. In consequence of this order the Director of Alsthom continued to bargain with the Krupp firm and the German authorities as the correspondence reveals; but he pursued delaying tactics which in the end, and only because of the unsuccessful termination of the war for Germany, proved successful.

The Krupp firm was specifically advised of at least some of the illegal aspects of the seizure of these machines. On 21 July 1943, a file memorandum by a Krupp employee stated:

"1. According to information given by attorney-at-law Schuermann, the whole confiscation was carried out at the time in contravention to the rules of the Hague Convention for Land Warfare. This in itself, allows only seizure for the purpose of use, but not seizure with the intention of actual transfer of property. ...

"2. I have asked Herr Sieber, once more to make representations at the Intendantur, asking them to interpose their authority and to settle the matter, as the sending of files back and forth would not lead to anything. Herr Sieber is of the same opinion and wanted once more to approach the Intendantur at the Military Commander's in this matter.

"3. Furthermore, I asked Herr Borchers, to contact Herr Geneuss, once more for the same purpose and to point out to him that the guarantee by the Army agency (Wehrmachtsdienststelle) exists now as before, so that it would be interested in seeing the matter settled as soon as possible."

The attorney Kurt Schuermann was a member of the Krupp Legal Department and was associated with Dr. Ballas and Dr. Joeden in that Department until the end of the war. The Legal Department was directly subordinate to the Vorstand.

The Military Commandant in France renewed his efforts to force Alsthom to accept the price offered and threatened that unless such offer were accepted, payment by the German Reich would be refused. An increased offer of 190,000 RM was made after this threat failed but it too was refused.

Krupp Stahlbau wrote to their liaison office in Paris as follows:

"The Intendant of the Military Commander has certain scruples about forcing the French to accept a compensation which would, for German conditions be acceptable. Step by step he had gradually advanced the compensation offer to RM 190,000,---.

"We, on our part, are extremely interested in acquiring the machine finally at the estimated value of RM 190,000. But we decline direct negotiations and dealings with Als-Thom, as we are of the opinion that the machine was confiscated by the German Ruestungsinspektion (Armament Inspection) and thus it devolves upon the German authorities to arrange the settlement with the French and that we, thereupon, shall then entire into clearing negotiations with the German authorities."

Upon the allied occupation of Germany the machines were found at the Krupp Stahlbau factory and identified by members of a French commission and thereafter they were returned to the Alsthom plant at Belfort.

Until December 1943 all disbursements for capital investments by subsidiary companies and the parent firm exceeding 5,000 RM had to bear the approval of the three members of the Vorstand who at that time were

defendants Krupp, Loeser and the deceased Goerens. For investments over 10,000 RM the approval of Gustav Krupp was necessary in addition to that of the three members. After December 1943, capital investments of more than 5,000 RM had to have approval of defendants Janssen, Houdremont, Mueller, and the deceased Fritz Mueller who was also a member of the Vorstand. If the amount exceeded 10,000 RM the approval of defendant Alfried Krupp was also necessary.

The minutes of the Vorstand meeting for 4 September 1940 shows the approval of an appropriation of 186,000 RM for the purchase of a machine for the Friedrich-Alfried-Huette firm at Rheinhausen. Whether this appropriation was intended for the machines confiscated at the Als-Thom plant in the early part of 1941 does not appear. It is apparent to us however from the credible evidence that the matter received the attention of the Vorstand at various times from the acquisition of the machine in 1941 until the liberation of Paris in June 1944, and that defendants Krupp, Loeser, Houdremont, Mueller and Janssen are responsible for this confiscation and detention of these machines.

We conclude from the credible evidence that the removal and detention of these machines was a clear violation of Article 46 of the Hague Regulations.