Nuremburg Trial

I did not feel very free speaking before this large audience last Thursday and therefore a number of points — some general, some of Jewish character, but always of Jewish implication — were omitted. I must still omit the theme of Jewish witness until after I shall have seen Chaim Weizmann.

Here are a few minor matters which nevertheless constitute points of value in our case.

Justice Jackson's contribution to the cause of bringing the war criminals to justice is tremendous. The Four Power Agreement was signed only as a result of pressure by him. There were many difficulties which arose in the producing of the indictment. The others wanted to concentrate on war crimes only, in the technical sense. Jackson opposed this most strenuously. Finally, the three powers met in London without Jackson, signed the Agreement which was then rushed to Berlin where he signed it too. All this created a certain estrangement between him and the other members of the Four-Power presentation. The same attitude of lack of friendliness is perceptible within the American group. The resignation of Donovan is one of the symptoms of this mood. It should be recalled that in the United Nations War Crimes Commission the thinking on unorthodox lines was done mostly by Hoover and de Beer, but it was Jackson who adopted their revolutionary theories first on behalf of the USA and later on behalf of the Big Four. This trial is identified in the minds of all with Jackson. Should he be "debunked," this
precedent may be abandoned for future trials.

No legal brief was so far submitted by prosecution. A short document on the legal aspects of crimes against humanity was submitted by us to Major Walsh and an extensive study on this subject on behalf of our Legal Committee is now under preparation.

In London I had contacts with the keymen of both the British and American delegations. It was very good luck that we had such first-hand information on the progress of the work, given most discreetly, so that I was not aware of all developments.

Nobody will worry about crimes against humanity if we do not do so. The Jewish case is being submitted in many ways: two pages (out of 60) of Jackson’s statements are devoted to it; there is the brief on the Jewish case; there is the “presentation” to the various parts of the American Prosecution concerned with treatment of civilian population, looting, etc., also touch upon the Jewish case. And the Russians and the French will also include some of the aspects of the Jewish case in their respective presentations.

We wanted the Prosecution to make the point of the collective responsibility approach to the Jewish case; it is not a question of the magnitude of the extermination figures, but the fact of the annihilation of a particular category of the human species.

In his presentation, Major Walsh included the following points (which I hope were retained):

1. The Nazi crime created a mentality of a civilization at its apogee, which has disappeared; it is not so many individuals who were annihilated, but an entire people. The world is impoverished as a result of this crime.
2. Permanent of the Nazi influence throughout the world for decades to come as a consequence of this crime.
3. The Nazi crime and all its component parts were hand-made — there are definite people who are responsible for it, the crime being perpetrated by
criminals and by criminal organizations (this was the "sensation").

Jews active at Nuremberg: We are witnessing the end of Jewish influence in the world. As in San Francisco in the survey we made of Jewish representation among officials, the same proportion was apparent in Nuremberg. Of the judges, only one substitute is a Jew, the Frenchman Robert Pelce. He was a "neutral" Jew until 1939, who allegedly changed during the Nazi and Italian regimes (information by Joseph Fischer of the FBI). He is very concerned about Jewish problems now, and his presence in the International Military Tribunal may be of importance, and a source of moral satisfaction for us.

(Contrary to the stipulations of the Four-Power Agreement, it is a court of 8 members, not 5. The alternates are there, too, participating in all executive discussions, for the purpose of continuity. In taking decisions, of course, there are only four votes.)

The British situation is in one way better, and in one way worse. There is not only on the bench who is a "friend," but the War Crimes Executive which is the presenting body of the British government, consists not only of Shemaroff and Pyke, the Prosecutors, but also of representatives of the Army, Navy, Foreign Office, and of Professor Langer's. They are in great and his authority undisputed both among the British and the American group.

In the American group, there is no "speaking" Jew to present any part of the prosecution. But the Jews are dominant in the fields of translation, analysis and information departments. Although most of them are neutral, having no special interest in the Jewish case, some of them do have.

The Russians have completely isolated themselves from the rest. They have their own houses and cars, they eat alone at meals, and have nothing to do socially with the others. Col. Rosenbluth who has some contact with my Section Four, informed us that the Russians have decided to bring in some material emanating from the Nazis in addition to their own material of the Extraordinary Commission on War Crimes.
In the prosecution, the French have no Jews, although there may be some on lower levels of work.

An important handicap in the whole affair is the point system. The most important men working on the case suddenly leave for home and discharge, and are either not replaced -- leaving a vacuum -- or are replaced by incompetent substitutes.

Should there be more trials following Nuremberg, new people will be mobilized. They are asking for volunteers to remain in the services of the I.N.T. for the trials to come. Here is our chance to bring in our people.

I was quite perturbed by Perlman's cable concerning the pamphlet suggested here to be submitted to the Court. To use this opportunity for voicing critical remarks or making impossible demands -- such as 'annul airing' -- could have been received only negatively, making a very unfavorable impression.

At the next meeting of the Office Committee I hope to be able to report on the problem of the Jewish witness.

The Office Committee instructs Dr. Rubinow, should he receive an invitation to go back to Nuremberg, to accept it.

Reparations

When I left, the Jewish Agency had already submitted its memorandum on Reparations to the British Government. Whether it was read by anybody I am not sure. Mr. David Valley certainly did not read it. I am not sure that the Americans read it, either. When Professor Angell was approached by Mr. Brener, he was under the impression that he had never seen it. Mr. Buney, President of the Reparations Conference, did not know about it.

This is one of the numerous proofs of the survival of disinterestedness in Jewish political affairs. When I met with the Jewish Agency group on reparations for the first time, I made no bones about telling them that the whole memorandum from beginning to end is an ignorant document, makes points
irrelevant to the case, omit essential points, betrays complete absence of any understanding of the situation. Interestingly enough, I had no difficulties in persuading them that it is a poor document. From there on, we worked on the assumption that the document had been submitted, but not read. Happily enough, this was true. The authors of the memorandum, Harry Sacher and Leo Istorik, both admitted their lack of expert knowledge, but there was nobody else to do it.

We lost one of our numerous battles once again, not because it was a bad document, but because it was a bad document. It is always the same struggle for the recognition necessary to call a Jew a Jew. Only in Nuremberg did we attain this end -- for dead Jews.

On the one hand, we had the memorandum of the Jewish Agency; on the other, there was the idea of the Jewish memorandum incorporated into the Millay memorandum. A new term to gloss was found for Jews: Stateless. The terms "re-emigration" and "rehabilitation" are actually used.

In London we had seen Sir David Wallace. Sacher made a very nice presentation of the case. Wallace himself does not feel "impartial" (he is a Jew). He recommended that it should be handed over to the Foreign Office -- which meant there would be no support forthcoming from Great Britain.

From there we went to the Conference in Paris, where I proceeded both on behalf of the World Jewish Congress and the Agency. Klassen proceeded to by a few days. There were Great Britain and America (having assets attributed to them by the American Conference) and the other 16 members with claims to their assets. Of course, no help was to be expected from the smaller states who would consider that the Jews are competitors with additional claims.

There were no contacts with the British group. Sir David Wallace refused to receive Istorik. The American group, typically informal, was most helpful; Istorik and Klassen and I had contacts with practically all members of the group. Abramowitz (expert on German economics) had dinner with us. Whatever we knew of the conference we knew as a result of our American contacts. Huriff was surprisingly cordial and volunteered some interesting information.
It was in Paris that, for the first time in our postwar activities, we were faced with serious competition and divergences among Jewish organizations. In San Francisco there was cooperation and harmony; in Paris there was a snarl. The divergences in Jewish political thought, however, found their way into the Preparatory Conference. The American Jewish Committee submitted a memorandum of its own: The Anglo-Jewish Association did too: The JDC also, at least orally.

The Palacky memorandum was completely diluted by the Conference of the Big Three. It still remained (at least in intent) a predominantly Jewish memorandum concerning Jewish needs for rehabilitation and resettlement. The revised version did not even mention the word "Jew". It discussed reparations as a problem of charity, the problem of the responsibility of the United Nations towards people who are not nationals of the United Nations but are victims of the Nazis, non-refugees (among whom the Jews are in the minority).

Contributions are to be used to relieve the immediate needs of these people—of a sort of second UNRRA and to be administered either by the Intergovernmental Committee or a special trust. "Rehabilitation," "resettlement" did not even appear. The sources of the "trust" are apparently gold and other precious things given by countries belonging to prisoners, among whom Jews will be in the majority.

The Americans gave in on practically all points.

Whatever individual or communal claims for Jewish restitution exist, they are not obviously prejudiced by this "trust". In a letter embodying our claims, written by Konen but approved by us, we asked specifically that this reservation be noted.

Wherever problems of this nature are solved in conference, they are solved only provisionally until final solution is drafted in Washington. Our three main problems were:

1. Trust for "stateless"
2. Absentee property (bona vacante)
3. Jewish assets abroad appearing as "German" assets.

We were advised to take these problems up again in Washington with Col. Bernstein.
We must do two things immediately:

1. We must create an International Jewish Reconstruction Fund. Had we had it before Paris, it would have been a far more powerful weapon. In this, we should have the cooperation of the Agency, the American Jewish Conference, the British Board of Delegates, and perhaps the Vatican, if necessary.

2. Practical activities in individual countries on restitution.

There is nobody on whom we can rely among the other Jewish organizations. We must establish within the general framework of the World Jewish Congress a special department on Indemnification, not too large, staffed by competent people.

Although there should be cooperation on the Fund, the World Jewish Congress should consider it as its task. While we do not have any locus standi from the viewpoint of formal presentation, we do have it from the viewpoint of superior knowledge.

Dr. Feiler:

The purpose of the trust would obviously be to get the greater possible amount of money, if and when available, plus the obtaining and implementation of legal rights. It must be borne in mind that the complexity of the task, involving as it would the question of restitution in different countries under different conditions, would be difficult to handle by a joint trust the constituent members of which would have different aims to pursue.

With regard to reparations, we are committed to handle them on a purely international basis for reconstruction in Palestine.

If there is heirless property in a given country, say Greece, where that government will want to take the Jewish situation into consideration, to be used mostly inside the country, how is that property to be administered? Who is going to handle it? Is it to be given to the World Jewish Congress? If any country is prepared to devote some of its property to foreign
reconstruction, that sum of money would go to the International Reconstruction Fund. But this isn't very likely to happen. We must take into consideration all the complexities that exist in the various countries.

Dr. Rubinstein:

We should give first priority, in our indemnification work, to the questions of the restitution of communal property and that of heirless property.

It is the duty of the World Jewish Congress to see to it that the various Jewish central bodies obtain, at least for the benefit of the Jewish community in the country, the use of the heirless property. I see no country in Europe that will agree to decide by legislative measure to turn over heirless Jewish property for Jewish reconstruction purposes abroad. The task of the World Jewish Congress would be to approach the various governments to turn over the heirless property to the Jewish national community as a first step.

I can imagine a second move; let us say Belgium has established a special Jewish trust for the administration of heirless property. I can foresee that the Belgian Jewish Trust Fund should later make certain allocations for abroad, for instance, for the Jewish children from Belgium in Palestine.

The matter of reparations is to my mind much less urgent. The amounts involved are very small — a fraction of the amount America is raising for relief in Europe and in Palestine. To assure our recognition will involve a tremendous amount of work; the hope of success is slight. This cannot be our main concern.

I would not insist on this. We should concentrate on our work to see that in the various countries of Europe the Jews get as much as they can for their rehabilitation work in the country. I think that in this undertaking the Jewish Agency can be of little help.

Each government will be concerned with its relationship with Great Britain. If we ask from the beginning that heirless property be used for the building up of Palestine, we will arouse suspicions and create difficulties.
It is useless to continue the discussion in terms of the situation as it stood in November, 1944. It is now December 1945 and many of our illusions have disappeared. We know now what we can expect to achieve.

Recognition of the 'Jewish people' as such is unattainable.

Even this special trust that I have recommended will not be a Jewish Trust, but something of a Jewish 'Tract', in a general trust.

It is hard to distinguish between national and international problems.

This is no criterion.

What is the purpose of the Jewish Reconstruction Fund? It is not to give people a monopolistic fund to dispose of the 1/2 of the assets allegedly attributable to the 'stateless.' It is to have the united Jewish front at least represented by a single united Jewish fund.

The World Jewish Congress cannot allow itself the luxury of being absent from such a project.

You cannot foretell what an institution will turn out to be. How it will be a Jewish fraction within a non-Jewish organisation.

In practical Jewish politics, we know the stakes are not very great, but we must be on the spot, ready for whatever turns up.

The activities of this Fund won't be able to be divorced from the Department of Indemnification, which should be an autonomous institution of the World Jewish Congress.

If we should have to help the other organisations, that is inevitable, and happen constantly. We have committed ourselves to this cooperation.

But this Department is ours; we do not have to discuss it with the others.

In due course there will have to be some cooperation between the Department and the Trust Fund. We shall establish an autonomous Department of Indemnification of the World Jewish Congress to deal with problems of restitution and indemnification, on the grounds that we represent European Jewry.