

FOR RELEASE ON DELIVERY

*Pg 10 line 3
insert "not"
7 him instead of her*

ADDRESS

by

ROBERT H. JACKSON
Associate Justice, Supreme Court of the United States

at

THE UNITED JEWISH APPEAL

The Waldorf-Astoria,
New York City.

Tues.
~~Friday~~, April 15, 1947.

I should like to repay your hospitality and generous compliments not only with words of appreciation but with words also of cheer and reassurance. I am deeply grateful for your expressions of approval of the conduct of the Nurnberg case, especially valued because you followed with more than casual interest the events which that trial dealt with.

The Nurnberg trial laid bare to the world's view the basic evils that afflict our time. Unhappily, it did not end these evils. The Nurnberg lesson has been written. But has it been learned? Americans have expressed great concern as to whether the German people have learned its lessons. But I am even more concerned about whether the American people have learned its lessons. The reason for my concern is that so many Americans seem to be giving only a secondary place to the whole group of problems that exist in Germany which were and are the key to world peace and which were so vividly portrayed in the Nurnberg trial.

A cardinal error which lulls Americans into complacency is the assumption that defeat has cleansed the German mind so that it will turn from Nazi ways, embrace democracy and become tolerant and peace-loving. If this happens at all, it will take much more than military defeat to induce it. Indeed, one of the

lessons of Nurnberg was that defeat, humiliation and frustration make ideal soil to grow extreme nationalistic movements. It was because the Nazis focussed these resentments on the Jews as scapegoats that anti-semitism was carried to such savage extremes. Clearly, defeat is no guarantee of reformation.

National Socialism was not an alien movement imposed on Germany; its roots were deep in the social and intellectual tradition of Germany. The cult of subordination of individual to the state, of glorification of the conqueror, of mystical attitude to their race, of anti-semitism, of virility and of discipline were all part of the philosophical currency of this generation of Germans and was not a creation of the Nazi opportunists. This underlying tradition and culture hardened the German mind and heart and offered a favorable political background for Nazi action. To the extent that the crimes disclosed at Nurnberg are logical products of Germanic culture rather than merely of Nazi perversion, we must look for them to survive the collapse of the Hitler regime. We must expect a continuity of fundamental Germanic attitudes, and any shaping of their political institutions that does not take into account the political force generated by this philosophy will fail to achieve the objects for which we fought.

Also, the belief that Germany cannot again rise to power is a tragic miscalculation. / Conditions that are easily overlooked because they are so elemental, demonstrate the possibility of resurgence of German power. / No people is possessed of a stronger will to survive and to dominate than the Germans. / None excel and few equal them in thrift, industry, discipline and perseverance. / By necessity, by conviction and by habit, these people work hard, work long hours, are intolerant of drones, take rare holidays, indulge few luxuries (in which class they count many of our comforts), and they know how to make a little of anything go a long way.

It is true that war has depleted their manpower. / But the Germans were always a prolific people and the Hitler teaching was to breed -- breed in wedlock, breed out of it, breed early, and breed on into old age. / In no Western country have I seen so many children in proportion to population. / Fifteen to twenty years from now this new generation will be on. / A little time will largely cure the shortage of men and restore the balance between sexes, at ages that most matter. / It is true that there is undernourishment among them; but it is even worse and of longer standing among many of the neighbors with whom they compete. / The short of the matter is that in a generation, Hitler's

dual policy of multiplying Germans and of biologically weakening or exterminating their rivals will reach its consummation.

Germany remains, and long will remain, what it has been for years -- our Number One international problem. As the dominant power which demanded and received unconditional surrender we have shouldered in the eyes of the world a responsibility for the problems which have their source in Germany, and our prestige is at stake in the way we handle them. These are great problems in magnitude and fatefulness in the future of America. I am emphasizing these difficulties tonight because it seems to me that once the surrender took place there was almost a panic to get everybody home and to leave our responsibilities there to work themselves out as best they would, while we turn our attention to other things. Our occupation duties need the support of a sustained public interest, of adequate funds and, most of all, of sufficient men and women of a caliber that will keep the respect and confidence of Europe.

This is our Number One opportunity to concentrate American influence at a point where it can be decisive and far-reaching. These German problems are more than German; upon wise settlements will depend the whole relation and attitude of Western and Central Europe toward the United States and all that

we stand for. And so it seems to me that whatever other foreign issues we may neglect or delay, it is vital that Germany's future, and with it our own future relation to Western Europe, be decided even if we are unable to get agreement of all our late allies on a program. We must not allow American attention to be diverted from this primary item of unfinished business which is the key to so many other problems.

One of the consequences, if not one of the purposes, of the disposition of Soviet Russia to drag out the settlement of the future of Germany is to impair confidence of European peoples in the ability of the United States to consummate in peace the objectives for which we furnished the decisive force in war. Delay and indecision may so strengthen anti-American influence in the other countries of Europe as to alienate their governments from us. Western and Central Europe, unlike America, are keenly aware of the possibility that Germany will regain ascendancy among the weakened peoples of Europe. They suspect, too, that the leopard has not changed its spots. They have lost confidence in their own strength to protect themselves against a return of the invader. They know what we at this distance are prone to forget -- that the Teuton was repelled this time by a narrower margin than it is pleasant to remember, and then only

with the aid of two great but distant allies, the United States and Russia. Western and Central Europe must depend on the vigilance of those two powers to keep Germany long in place. If one of them appears indifferent or impotent, they must shift their dependence to the other. Put bluntly, if Western and Central Europe conclude they cannot count on us, either singly or in cooperation with the United Nations, to protect them against a rebirth of German militarism, they certainly and logically will become satellites of the only other power big enough to protect them from it. The more uncertain these smaller countries are kept as to the manner in which we can or will discharge our commitments in Germany, the more reserved they must be about their commitments to our policy lest they prejudice relations with others on whom they may find themselves obliged to rely.

Another consequence of continued confusion is that Germany herself, with all of her military potential, may drift into the Communist group. Only very short-sighted persons can doubt that one of the keys to the future dominance of Europe is the political trends among the German people. Situated where the East and the West meet, German soil has often been the battleground between them. Germany has never been able quite to make up her mind in which direction her

interests were greater. / But a numerous, virile and intelligent people so strategically located can be a deciding factor in any rivalry between East and West.

Despite strong racial antagonism between the German and the Slavic peoples, it is apparent that Russia is again cultivating the German people, as once she made common cause with Hitler. / Throughout Germany a struggle goes on today for the political allegiance of Germans, the Soviet trying to win ^{them} ~~her~~ to communism, the West trying to win ^{them} ~~her~~ for democracy. / But for the Nazis to turn to democracy requires a drastic change in their whole pattern of individual thinking and collective behavior. / The path of least intellectual resistance is for the totalitarian Nazi to turn totalitarian Communist, as many have done. / This requires little, if any, change of philosophy; only a change of leaders. / Any person capable of accepting the Nazi regime can easily accept that of the Communists. / Both the National Socialist Party and the Communist Party in Germany were declared illegal by the courts of the Weimar Republic. / They were organized on the same lines with a pledge of unconditional obedience to the leader. / Neither, in power, will tolerate an opposition party; both maintain the secret political police; both run enforced labor camps and concentration camps; both arrest and imprison on suspicion. / In fact, in the chief things

which distinguish both systems from our own, they are identical. Hence, there is reason to forebode that the political drift in Germany will be toward communism rather than toward democracy, especially if that drift is more adroitly and vigorously encouraged than any tendency toward democracy.

Certainly nothing in the Nurnberg record encourages an expectation of voluntary political reformation in Germany which will make her a safe country for minorities or a peaceful neighbor. If there is any substantial sentiment in Germany for democracy (as we understand that term, I have missed evidence of it. In Germany there is not and for years has not been a strong middle class, the bulwark of liberalism and moderation. The possible alternative to acceptance of the National Socialist Party in the early 1930's was not liberal or democratic government. The real alternative was the Communist Party. Fear of Communism was exploited to build up the Nazi following, and fear of National Socialism was exploited to build up the Communist following. It was the technique of each extreme to make itself acceptable by pointing to the other extreme as the horrible but only alternative. To overthrow or subvert the Weimar Republic was the first object of each of them. This pincer movement, cutting from both sides into the forces that favored free and liberal government,

crushed the feeble Weimar Republic.

The policy of American and allied diplomacy in dealing with Germany is a delicate one. / If it leaves a hope of rebirth of the German military menace, it may drive Western Europe into the Soviet embrace; if it destroys hope of restoration of normal economic life for the German masses, it may drive them into the Soviet embrace. / Either blunder would invite expansion of Soviet influence in the most strategic area in the world, would deliver to the Soviet a large reservoir of the most technically competent and disciplined manpower and industrial resources of utmost importance. / These generalities are simply stated, but, like all foreign programs, they have endless complications in concrete application. /

The adherence of Western Europe to the Soviet Union would be a serious matter to us. / What we may gain from strengthening our position at the eastern end of the Mediterranean would be largely offset if a Communist triumph in Italy, France or Germany should put naval and air bases at its western end under Soviet influence and thus cut across our routes to the Near and Middle East.

The principal reason I think it is necessary that American foreign policy be concerned about the spread of Soviet influence is not because it is Russian, nor indeed because its philosophy is communistic, ^{but} ~~but~~ ^{not} it is for fear of immediate war. I do not believe that today the Russian people want more war, or that the German people want more war, any more than the American people want more war. Neither do I think any nation is in condition to renew warfare today. The German people certainly are not, and the Soviet Union was invaded and devastated in its most populous areas. But if the danger of war is not imminent, other dangers which are inherent in spreading totalitarianism are immediate.

We cannot forget that police surveillance of minorities and their suppression or liquidation is still a matter of principle with all totalitarians just as it was a matter of principle with the Nazis. The communist concept of "democracy" is that the Communist Party is a people's party and, therefore, that it alone must dominate the government. This concept of "democracy" leaves the minority and the individual wholly at the mercy of the majority. This system of communist "democracy" cannot be reconciled with our own system of constitutional democracy, an essential element of which is the protection of minorities.

by constitutional limitations on the power of any majority.

We know that our own minority problems are not fully solved. But we know that persecutions and discriminations are not sanctioned as a matter of law but represent a departure from the fundamental principles of our Government. We recognize opposition to the existing government by political means as a civil right. Hermann Goering testified, "We tolerated no opposition unless it was a matter of no importance." To this end political parties other than the Nazi Party were outlawed. Criticism of the government by individuals or in the press or by radio was forbidden. To detect unrest and dissension, they used a secret political police. To punish and terrorize resistance, concentration camps were established. To enable imprisonment of political enemies without judicial inquiry, they used the device of "protective custody," which meant, as Goering frankly said, that persons were arrested not because of any crime they had committed but because of what it was suspected they might do if left at liberty. Those who were not considered safe for liberty were only fit for forced labor. This program ended in such savage crimes as to shock the world.

The Nurnberg principle is that these persecutions of minorities are crimes against humanity, and all four of the great nations joined in prosecuting them as such. We cannot look with indifference upon the expansion of absolute power over the lives and thoughts and political actions of people without departing from the principles of the founders of our own Government as well as abandoning what we stood for at Nurnberg. The moral position of the United States will not be very strong if five years after the war all we can say is, "We saved you from Nazi concentration camps, from Nazi slave labor, from Nazi tyranny" only to admit that others whom we helped to come in have reestablished the same infringements of freedom.

Moreover, peace itself is always endangered by such concentration of power. Speaking of the war against Russia which most Germans recognized but dared not declare to be a blunder, Goering testified that the German people were not asked; they were told. The irresponsibility of totalitarian government, its ability to use peoples as pawns in the ambitions of leaders makes it always and everywhere a menace to peace as well as a menace to the rights of man.

The end product of totalitarianism is portrayed in the plight of the "displaced persons" of Europe. No people are less responsible for their own misery and helplessness than they. The Nurnberg record tells the ghastly story of how they were torn from their homes and shipped like cattle to serve as slaves in agricultural and industrial production to feed the war machine; how they were overworked and underfed; and how it was deliberately calculated to be cheaper to work these people to death and replace them with new recruits than to nourish them adequately and avoid the turnover of death. The collapse of the Nazi masters left these people in the country penniless, landless and hopeless. They are hated aliens in the land where we now find them and they have become unwelcome aliens in the lands from which they were taken. And there they are, huddled into camps where they cannot stay permanently, with no means to go elsewhere and no place open to them if they had means to go. Adequate justice to these surviving people can never be done; but to keep them existing in suspense is a form of mental torture almost as harrowing as that which the Nazis inflicted.

I am sorry to have to say that I think the world never has been more

fear-ridden than it is today at the close of a war to give freedom from fear.
A large part of the earth's $\frac{2}{3}$ area is governed by people who fear to allow
free speech, free elections or free press. Foreign policies are almost entirely
made to meet fears; our public attitudes are shaped by fears. Within my life-
time one could go almost anywhere in Europe without a passport and discontented
people could pick up and leave and find welcome in other countries. Today we
have become a world of closed frontiers, a world fearful of the stranger and
hostile to the immigrant. Men can no longer move about the earth, even as
visitors, without facing innumerable inquiries, restrictions and harassments;
and people may no longer migrate freely and start life anew in other lands.
Human beings, no matter how ready to be self-supporting through their labor,
are nowhere wanted in the world. In fact, their willingness to support them-
selves through their own labor threatens competition which makes them unwelcome
in many lands. It was never so easy to travel and never so hard to find any
place where oppressed men may go. Fears and hatreds have tended to create a
closed and divided world.

On no one do these things weigh more heavily than on the Jewish people.

The record of their persecution, enslavement, murder and extermination is the blackest chapter in modern times. You know that anti-semitism did not surrender in Germany; it is still virulent and ready, when it dares, to pursue the remnants of Jewry left there. You know, too, that anti-semitism is not confined to the German side of the lines and that it afflicts those who live elsewhere in the world. I doubt if anywhere at any time a better protection for minorities has ever been found than in our constitutional Bill of Rights, whatever inadequacies it may have or however faulty its application. The immediate call, of course, is for material relief for those who have suffered or are suffering under the heel of totalitarianism. But no greater service can be performed for the future than that the United States stand uncompromisingly for regimes everywhere in the world which dare to allow freedoms of speech, of press, of assembly and of belief, which dare to ground their claims to rule on public approval and not on secret political police. That has been the underlying principle on which our national life is founded; that is the underlying principle which must guide our conduct of international affairs.

- - - -