



## Trial Evaluation and Expectations

The Trial will last only one day and the attorneys are limited to the information provided in the jury will return their verdict the next day (by a majority decision)

Trial Written Responsibilities:

### **Jury/Judge/Bailiff:**

Will weigh the evidence and type a three-four page paper after the trial to collect the evidence and explain their guilty or innocent stance using the evidence presented during the trial and logic. The jury is also responsible for turning in detailed notes (the judge and bailiff will be allowed to look at the notes of an assigned "court reporter.")

### **Attorneys**

Will turn in their notes, questions, and organizational papers from the trial. This is due at the completion of the trial.

### **Witnesses/Accused**

The characters will type notes on their character and his/her viewpoint and significance in the trial. These notes are **due on the first trial day.**

**GRADING:** This will account for a significant portion of your project/participation grade and will be broken down as follows:

#### **Witnesses**

Dress for Trial	10%
Behaving as the historical Character would have on the stand	10%
Knowledge of your character on the stand	30%
Written Preparation	50%

#### **Judges/Bailiff**

Appropriate Attire	05%
Notes taken/Trial Behavior	35%
Final Paper	60%

#### **Lawyers**

Appropriate Attire for Trial	10%
Preparation for trial/notes etc.	30%
Trial Effectiveness of Questions/Cross examination	60%

### The Background:

The objective of this trial is to determine whether FDR and the United States could have undertaken greater efforts to prevent the Holocaust. Certainly there is no way one could argue that FDR and the United States are responsible for the deaths of the Jews, but many historians claim that American inaction and apathy towards the Holocaust were preventable. FDR is chosen as the person on trial because he represented the actions of the American government and the American action.

The items below are only a very small portion of the evidence that historians have cited as proof of America's lack of concern for Europe's Jews (though the counters dispute these findings). These items represent a cross-sampling of events that stained America's character.

The defense of FDR must include the fact that America was largely anti-Semitic (Jewish), as was Europe. Since this fact extended to the American Congress, FDR feared that any actions undertaken to save the Jews might incur the anger of powerful politicians. Since FDR needed these politicians' support to pass crucial war-time legislation, he was largely willing to ignore the plight of the Jews. FDR felt it was more important to concentrate on winning the war than to squander precious resources on saving the Jews.

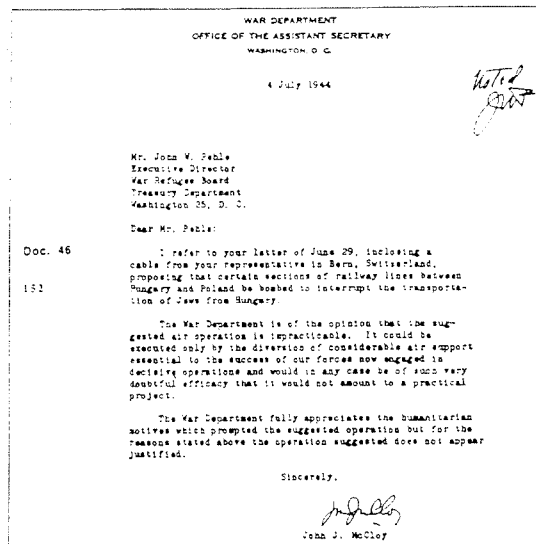
While FDR's policies may have been justified by winning the war, there is no ignoring the fact that the United States did little or nothing to help the Jews. When the citizens of war-torn nations needed aid (such as Greece and Yugoslavia), the United States was ready to help at a moment's notice. Whether America's inaction was ever intentional is impossible to know, but at least we can have fun speculating!!!

I'll leave you with this quote to ponder. The following was written in the diary of Josef Goebbels, Nazi Germany's Propaganda Minister: "The question of the Jewish persecution in Europe is being given top new priority by the English and the Americans. At bottom however, I believe both the English and the Americans are happy that we are exterminating the Jewish riff raff".

### Item #1

Established in 1944, the War Refugee Board's goal was to "develop positive, new American programs to aid the victims of Nazism..." Its secretary, John Pehle, asked Roosevelt to bomb the rail lines leading to Auschwitz. The request for Allied bombing of the rail lines ended up on the desk of John McCloy, assistant secretary of the War Department (nowadays known as the Defense Department).

His answer to the request was a definite no. He wrote,



Pehle refused to give up. The following week, he forwarded another request to McCloy, this time suggesting that the concentration camps themselves should be bombed, so that "in the resultant confusion some of the unfortunate people might be able to escape and hide." Though a large number of Jewish prisoners would inevitably be killed in such an operation, any action was better than none for a people who it seems clear the Germans could not reconstruct them for some time."

Once again, McCloy delivered a negative response, arguing that the camps were "beyond the maximum range" of Allied dive-bombers and fighter planes stationed in Great Britain, France, and Italy. "The positive solution to this problem," he insisted "is the earliest defeat of the Axis."

McCloy's argument that the targets were beyond the reach of Allied bombers was not true. In fact, long-range American bombers stationed in Italy had flown over Auschwitz several times that spring in search of German petrochemical plants which were close by. Jan Karski and Elie Wiesel (both Jewish leaders who survived Auschwitz) were later given a chance to see some of the aerial reconnaissance photos that were taken on those flights. "It was the saddest thing," Karski recalled. "With a magnifying glass we could actually read the names and numbers of the Hungarian Jews standing in line waiting to be gassed. Yet McCloy claimed the target was "too far away."

## **Item #2**

In mid-1943 a high-ranking Swiss official, Gerhart Riegner, sent a top-secret, confidential report to America. His report was based on information from top-ranking Nazi officials' whom Riegner had befriended. This report revealed the contents of a plan that had been discussed in Hitler's headquarters; his revelations became known as the Riegner Report.

The Report cited Nazi plans to deport all Jews in German-occupied countries to concentration camps, where they would be "at one blow exterminated in order to resolve, once and for all the Jewish question in Europe." In the space of twelve months over three million Jews had been murdered.

Jewish leaders immediately pressed Roosevelt to help. In a meeting with American Jewish leaders he stated, "we shall do all in our power to be of service to your people in this tragic moment."

But "all in his power" was not very much. In early November, Roosevelt had requested a new bill to ease the movement of people into and out of the United States. It was hoped that this would aid the immigration of Jews into the United States. Once this was made clear to Congress, though, powerful conservative and anti-Jewish forces in Congress smashed the bill. "The ugly truth," Newsweek observed, "is that anti-Semitism [Jewish] was a definite factor in the bitter opposition to the President's request."

If Roosevelt was able to push New Deal legislation, the Lend-Lease Act, and a federal income tax bill through Congress, why was he unable to overcome opposition to such a minor piece of legislation?

## **Item #3**

Before the outbreak of the war, Jewish refugees attempted to flee out of Germany; unfortunately most nations, including the United States, would not accept them. The sad saga of the St. Louis typifies this problem. The ship, with 930 Jewish refugees, was turned away by all European nations. Finally it arrived in the harbor of Miami hoping for refuge. Despite being anchored for weeks outside of Miami and close enough to see the lights, negotiators were unable to convince the American government to provide sanctuary. A telegram to FDR from a committee of passengers received no reply. The St. Louis was forced to sail back to Europe, where many of its passengers eventually died in concentration camps.

## **Item #4**

Despite being sympathetic towards the plight of the European Jews, Roosevelt had to cope with strong anti-Semitic (Jewish) sentiments at home. In public opinion polls during the late 1930's and early 1940's, the majority of Americans were unwilling to assist the Jews in practical ways, especially if it meant allowing more Jewish immigration into the U.S. In answer to a question posed in 1938, "what kinds of people do you object to?" Jews were mentioned by 55% of the respondents; the next-highest category, at 27% were "noisy, cheap, boisterous and loud people," followed by "uncultured, unrefined, dumb people" at 14% and then all other types. The following years, another Roper poll found that 53% of the Americans asked believed Jews were different from everyone else and that these differences should lead to restrictions in business and social life.

## **Item #5**

In the early part of the war Jews sought to emigrate from Europe to the United States, but the United States wanted no part of them. When a Portuguese freighter, the Quanza docked in New York in 1940, it was filled with hundreds of Jewish refugees escaping the Nazi terror. Despite the immediate threat to their lives, American immigration official refused to allow them to land because none of the Jews had American visas. "Impossible," said the officials, "no one can step onto American soil without the proper papers." Assistant Secretary of State, Breckinridge Long, said that he "thought it was a violation of the law [to allow the Jews to land] . . . that I would not be party to it, that I would not give my consent, that I would have no responsibility for it."

Only when Eleanor Roosevelt stepped in were the Jews allowed to land. "Mrs. Roosevelt saved my life," one passenger remarked.

## **Item #6**

In 1941 a letter from a Jewish doctor in a concentration camp somehow made it to Eleanor Roosevelt in the White House. The letter described the usual horrors and atrocities of the camp and asked for assistance. At the end of the letter, the doctor pleaded for help. "For us here there exists only one solution, the quick emigration from Europe. All our appeals in that respect have been in vain so far. If the United States continues to work so slowly the number of dead here is going to increase in a most deplorable manner."

When Eleanor sent the material to her husband, she attached a personal note of her own. "FDR, Can't something be done?" There is no evidence that Roosevelt ever replied to Eleanor's note. "The President's overriding concern was the war," Eleanor's friend Justine Polier explained, "and he probably didn't like to be urged as much as he was in regard to refugees."

Eleanor's failure to force her husband to admit more refugees remained, her son Jimmy later said, "her deepest regret at the end of her life."

### **Item #7**

During the conference in Casablanca, Morocco, in 1943 with Winston Churchill and Josef Stalin, FDR commented on a plan to resettle Jews in newly liberated (from German control) areas. He remarked that there was a need to keep the number of Jewish professionals proportional to the Jewish population. This, he stated, would avoid the "understandable complaints which the Germans bore towards the Jews in Germany, namely, that while they represented a small part of the population, over 50% of the lawyers, doctors, school teachers, college professors, etc., in Germany were Jews."

In reality, Jews had composed 1 to 2% of Germany's population. They had occupied 23% of professional positions. In the extreme cases, lawyers and medical doctors, Jews made up 16.3% and 10.9% respectively. They had 2.6% of the professorships and 0.5% of the schoolteacher positions.<sup>1</sup>

### **Item #8**

Soon after the Second World War ended, Henry Morgenthau, Jr. would recall what he called "those terrible eighteen months" in Washington, when "the Nazis were planning to exterminate all the Jews of Europe." He went on to write, "officials dodged their grim responsibility, procrastinated when concrete rescue schemes were placed before them, and even suppressed information about atrocities." The terrible 18 months Morgenthau was referring to was the period between the summer of 1942, when the State Department first heard of Hitler's plan to murder Europe's Jews, and January of 1944 when President Roosevelt set up the War Refugee Board, and institution that ultimately saved as many as 200,000 Jewish lives. Although, as secretary of the treasury, Morgenthau had few official opportunities to deal with the rescue efforts, a series of events starting in mid-1943 meant that Morgenthau and his staff at the Treasury played a key role in Roosevelt's decision to set up an agency independent of the State Department that would be charged with rescuing Europe's Jews.

Morgenthau was one of the few Jews surrounding the President, and was perhaps the most concerned by the plight of Germany's Jews. He proposed that the United States acquire British and French Guiana and in return cancel whatever Britain and France still owed the United States owed loans from World War One. "It's no good," the President reportedly said, "It would take the Jews five to 50 years to overcome the fever." Nonetheless Morgenthau continued to bring new rescue plans to the President's attention.

In struggling against State Department obstructionism, the Treasury Department discovered that the State Department had one point actually instructed the U.S. legation in Bern to block more information about the Holocaust from reaching the U.S. Treasury Department staffers were so incensed by this callous indifference, they presented Morgenthau with a searing, 18-page critique of the Administration's failure to help the Jews of Europe. They entitled it "Report to the Secretary on the Acquiescence of This Government in the Murder of the Jews." The president responded immediately, issuing an executive order on January 22, 1944 that established the War Refugee Board (WRB).<sup>2</sup>

### **Item #9**

Rabbi Steven S. Wise, President of American Jewish Congress said as early as August 1942, that Nazis are murdering Jews in Russia and in Poland. It wasn't until December 17, 1942 that the U.S. government joined the other allied nations in the declaration entitled: "German Policy of Extermination of the Jewish Race", which stated that the responsible perpetrators should not escape retribution. Dr. Wise, who was one of the staunchest supporters of the Roosevelt administration summed up his experience of the Jewish dilemma "let history, in therefore, record for all time that were it not for the State Department and Foreign Office bungling and callousness, thousands of lives might have been saved and the Jewish catastrophe partially averted."<sup>3</sup>

### **Item #10**

The British government proposed to the U.S. State Department that the Allied countries hold a conference to discuss whether some of the refugees who had reached neutral countries could be evacuated to safe havens. But the Foreign Office had one fear: their plan to rescue Jews might be too successful. In a memo the Foreign Office pointed out there were some "complicated factors": "There is a possibility that the Germans or their satellites may change over from the policy of extermination to one of extrusion, and aim as they did before the war at embarrassing other countries by flooding them with alien immigrants."

<sup>1</sup>Accounts 1 thru 7 taken from a Roosevelt's Biography

<sup>2</sup>American Experience, "America and the Holocaust."

<sup>3</sup>Davey's Holocaust archives

The U.S. sat on the proposal for several weeks. It wasn't until Jewish leaders organized a mass demonstration in New York's Madison Square Garden that the State Department saw the public relations value of a conference to discuss how to help the Jews. Bermuda was chosen as a location most likely because wartime regulations restricting access to the island would keep the deliberations out of the public eye. When the Bermuda Conference finally wrapped up its 12 days of secret deliberations very little had been achieved.

### **Counter #1**

Professor William D. Rubinstein argues that "the bombing of Auschwitz, or any other camp in eastern Europe was, in fact, logistically impossible for Allied bombers before December 1943. Only from that time, with the capture of Foggia airbase in southern Italy, did it become logistically possible for the Allies to mount any air strike of any kind against Auschwitz, even if this had been proposed and adopted as Allied policy. Other proposals, such as to bomb the railroad tracks were also considered not feasible. There were too many routes to Auschwitz and lines could be repaired quickly.

A bombing raid on a death camp itself was, however, an entirely different matter: the central aim of any raid was to halt the extermination process (and, presumably, kill as many German and other guards as possible) without harming the camp's prisoners. To accomplish this aim, however, a degree of pinpoint accuracy was required which simply did not exist at the time. Because raids were often so inaccurate, the real possibility loomed, in any raid, of a worst case scenario which the Allies killed numerous Jewish prisoners while failing to halt the murders in any way: for example by bombing the prisoners barracks rather than on gas chambers. It was feared that Germany would use any deaths caused by Allied bombings on the camp as propaganda to showcase America as a ruthless and murderous nation. For this reason, Jewish Organizations such as the American Jewish Congress and the American Jewish Committee agreed with Pehle's (head of the U.S. Refugee Board—the organization specifically set up to deal with the plight of the Jews) rejection of bombing Auschwitz. In March 1944—after a marked degree of improvement in bombing accuracy during visual attacks—only 13 percent of bombs dropped in an average American Air Force bombing raid fell within 500 feet of their intended target, and only 34 percent within 1000 feet. Furthermore, there was a serious lack of intelligence necessary to plan and execute the bombing raid. Photo intelligence operatives were never trained to identify extermination camps (there was not a precedence for it) and were never asked to look for them because they were not considered strategic targets. Photo intelligence were also overloaded with work. Over 5 million pictures were taken during the war and thousands needed to be analyzed each week. Finally, no satisfactory photos of Auschwitz were ever developed during the war. Negatives existed but were not developed until 1978.<sup>4</sup>

### **Counter #2:**

Roosevelt's warning to those participating in the Holocaust:

IMMEDIATE RELEASE

March 24, 1944

#### STATEMENT BY THE PRESIDENT

The United Nations are fighting to make a world in which tyranny and aggression can not exist; a world based upon freedom, equality and justice; a world in which all persons regardless of race, color or creed may live in peace, honor and dignity.

In the meantime in most of Europe and in parts of Asia the systematic torture and murder of civilians — men, women and children — by the Nazis and the Japanese continue unabated. In areas subjugated by the aggressors innocent Poles, Czechs, Norwegians, Dutch, Danes, French, Greeks, Russians, Chinese, Filipinos — and many others — are being starved or frozen to death or murdered in cold blood in a campaign of savagery.

<sup>4</sup>William D. Rubinstein, "The Myth of the Rescue." (London: Routledge Press, 1997), 157-181.

The slaughters of Warsaw, Lidice, Kharkov and Nanking — the brutal torture and murder by the Japanese, not only of civilians but of our own gallant American soldiers and fliers — these are startling examples of what goes on day by day, year in and year out, wherever the Nazis and the Japs are in military control — free to follow their barbaric purpose.

In one of the blackest crimes of all history — begun by the Nazis in the day of peace and multiplied by them a hundred times in time of war — the wholesale systematic murder of the Jews of Europe goes on unabated every hour. As a result of the events of the last few days hundreds of thousands of Jews, who while living under persecution have at least found a haven from death in Hungary and the Balkans, are now threatened with annihilation as Hitler's forces descend more heavily upon these lands. That these innocent people, who have already survived a decade of Hitler's fury; should perish on the very eve of triumph over the barbarism which their persecution symbolizes, would be a major tragedy.

It is therefore fitting that we should again proclaim our determination that none who participate in these acts of savagery shall go unpunished. The United Nations have made it clear that they will pursue the guilty and deliver them up in order that Justice be done. That warning applies not only to the leaders but also to their functionaries and subordinates in Germany and in the satellite countries. All who knowingly take part in the deportation of Jews to their death in Poland or Norwegians and French to their death in Germany are equally guilty with the executioner. All who share the guilt shall share the punishment.

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Hitler is committing these crimes against humanity in the name of the German people. I ask every German and every man everywhere under Nazi domination to show the world by his action that in his heart he does not share these insane criminal desires. Let him hide these pursued victims, help them to get over their borders, and do what he can to save them from the Nazi hangman. I ask him also to keep watch, and to record the evidence that will one day be used to convict the guilty.

In the meantime, and until the victory that is now assured is won, the United States will persevere in its efforts to rescue the victims of brutality of the Nazis and the Japs. In so far as the necessity of military operations permit this Government will use all means at its command to aid the escape of all intended victims of the Nazi and Jap executioner — regardless of race or religion or color. We call upon the free peoples of Europe and Asia temporarily to open their frontiers to all victims of oppression. We shall find havens of refuge for them, and we shall find the means for their maintenance and support until the tyrant is driven from their homelands and they may return.

In the name of justice and humanity let all freedom loving people rally to this righteous undertaking.

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