

PROSKAUER, JOSEPH M.

IN PEACE
AND DIGNITY

TESTIMONY
of the
AMERICAN JEWISH COMMITTEE
for the rehabilitation of Jews in
Europe and the Palestine question
as presented by
JUDGE JOSEPH M. PROSKAUER
President
before the
ANGLO-AMERICAN COMMITTEE
OF INQUIRY ON PALESTINE

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Contents:

- 1***
Statement of *Joseph M. Proskauer*
before Anglo-American Committee
of Inquiry on Palestine ***page 3***

- 2***
Interrogation by members of the
Committee of Inquiry ***page 28***

- 3***
Proposals of the American Jewish
Committee as submitted in a memo-
randum to the Committee of Inquiry
. ***page 58***

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IN PEACE AND DIGNITY

Statement of Judge Joseph M. Proskauer before Anglo-American Committee of Inquiry on Palestine

Mr. Proskauer: Gentlemen of the committee, I speak for the American Jewish Committee. The American Jewish Committee was created two score years ago. Its declared objective is to protect the rights of the Jews anywhere in the world. And I emphasize to the committee that its objective is to protect rights and not to procure privileges, and we ask no special privilege. The rights we ask are only those which are inherent in humanity and the personality of every person created in God's image. I have never known our objective to be better stated than in the phrase of Secretary Hull when he said that this world had to be recreated as a place where Jews, as all others, could live in peace and in honor.

Our objective here today is to aid you by testimony and such advice as we feel we may give you to make yourself a potent factor in the realization of this ideal.

In contemplating the task which this committee has assumed, it has occurred to me that perhaps it would be helpful for me to stress the timing of those things which you are called upon to do. As I see this picture, there are three timing stages, which call for very different kinds of approach from this Committee.

The first is the immediate approach. I shall discuss that first.

When the house is burning down, you don't stop to argue what kind of house you want to put in its place. There *is* a house burning down. It will be my endeavor to make a cold, dispassionate, and unemotional statement of fact here and an argument appealing to light rather than to heat as the source of its power. But no one can forget that there remain in Germany and Austria today the scattered remnants of a people who were once upstanding, loyal citizens of their countries and who were stricken down not in the thousands but in the millions. There has been no such holocaust since our forefathers wept by the waters of Babylon, and, I may add, not even then. This was the greatest exhibition of tyranny and brutality that I am able to find in my constant reading

of the history of the world. And there remains in Germany and Austria the wreckage of that group — 100,000 souls.

How are they living? I have with me in this room a member of the staff of my Committee, who has just come back from Germany, and we have a staff that has been inspecting the situation in every country on the continent. I don't want to try to wring people's heart-strings. I am not criticizing the administration of the camps or finding fault with those set in authority over there who have been unable, perhaps, and certainly who have not remedied to the full the awful conditions that there persist. But I say to you that the evidence which we have is that these hundred thousand people are living under conditions to which we would not wish to subject our pet animals. They are in crowded quarters, in concentration camps; they have nothing to engage themselves. They go to get their one hot meal a day: a bowl of soup, potatoes and, occasionally, three grams of meat or fish, then in the evening to get some bread and cheese, as I am informed, which is their evening meal and their breakfast for the following morning. And they were people of substance in the old world. They are people of sensibility. They are people, if I may be so bold to suggest it, like you and me, gentlemen of the Committee.

And your immediate task, as I see it, is not to wait

while you are determining what shall happen in Palestine in the ultimate; not to stand by until you complete the investigation of other, more obscure and difficult questions that will present themselves to you, but to do the thing that we were never able to get done during the war — grasp the metal and take these human beings immediately out of the misery in which they find themselves.

Now, how are you going to do that? That, I am sure, is the question that occurs to many of you as I speak. We haven't time to wait on this immediate phase of the problem until you conduct negotiations as to whether these poor people can go into Australia or Canada or the United States or Great Britain. I submit that it is a prime fact that the only place those people can go immediately is to Palestine, where they will receive welcome, where there is already created the basis of a life in which they can make themselves an integral part, and where they are assured of that fraternity and that welcome which to them today would be like water to one dying of thirst in the desert.

I had the distinguished honor of presenting to Lord Halifax personally this paper, a memorandum on the 1939 White Paper, and I am appealing to you as I did to him immediately to modify that White Paper. I am not one of those who speak in this connection of "perfidious Albion." I am rather one of

those who recognize that under the British Mandate 600,000 Jews have now been made welcome in Palestine. I am one of those who remember that Great Britain was the first great nation in Europe to remove the civil disabilities of the Jews, that it was the land where Macaulay made his speech on the removal of Jewish disabilities, which, to my mind, is the greatest defense of human liberties that ever fell from the lips of man. I think of Great Britain as the land which has made British Jews bone of its bone and flesh of its flesh. And it is to that Great Britain that I am appealing.

I have handed this memorandum on the White Paper to the secretary as one of the documents that I wish to have the Committee consider.

What is the Palestine to which we ask that these people be allowed to return? Let's take that not in the testimony of Jewish witnesses; let's take it in the testimony of Malcolm MacDonald, the then Secretary for the Colonies:

"The result of their return has indeed been something of a miracle. There are places where they have turned the desert into spacious orange groves. Where there was a bare seashore, they made a city. They have advanced the frontier of settlement into waste and plague-ridden spaces. Wherever they bought up land, they made it produce its fruits

more abundantly and they have started in Palestine a score of thriving industries.”

I am speaking to you as the head of an organization *not* identified with the Zionist movement. I am much more deeply interested, in fact, in accomplishing the salvation of human lives than I am in controversy over ideologies, and I shall indulge in no ideological controversies in what I have to say. But I do say to you gentlemen — and again I am appealing to the British members of this committee — here is a land prepared to receive these people. How can Great Britain, with its traditions, irrespective of mandate, irrespective of the Balfour Declaration, if you please, say that we won't let these hundred thousand human souls go into Palestine?

Now, if I add to that what the Mandate and the Balfour Declaration have to say, this is the picture I get. What does the Mandate say? No discrimination of any kind shall be made between the inhabitants of Palestine on the ground of race, language, or religion, and, more important, no person shall be excluded from Palestine on the ground of religious belief.

Those are plain words. That was the obligation Great Britain assumed when it took the Mandate.

What did the Mandates Commission of the League of Nations say about the 1939 White Paper? It

unanimously decided that the policy of the White Paper was not in accordance with the interpretation which had been placed upon the Palestinian Mandate by the Commission.

So I have the two-fold bases of appeal on this immediate problem. The humanitarian one, one that flows from my deep respect for the Anglo-Saxon traditions, and the specific one which comes from the obligation which Great Britain assumed when it took the Mandate and made the Balfour Declaration.

Now, what stops Great Britain from immediately permitting this handful of Jews, this mere hundred thousand to go into Palestine? And I interpolate at this point that I am now talking about saving men and women and children who are threatened with death and something worse than death. The cynic will say, “Well, what great nation was ever stopped by its pledges from doing or refraining from doing those things on which it believes the national existence and safety depends?” Great Britain has an Arab problem. I know that Great Britain has an Arab problem, but it isn't inherent in this part of the picture.

There are today roughly speaking 1,200,000 Arabs in Palestine and roughly 600,000 Jews. What has any Arab to fear from the immediate immigration into Palestine of these 100,000 Jews? It makes practically no difference in the numerical relationship

between the two peoples in Palestine. You have heard testimony already I know from reading the record, that shows beyond peradventure of a doubt that the infiltration of Jews into Palestine has been of an inestimable benefit to the Arabs themselves. And when I speak of immigration, gentlemen, of course there goes with it the right to own land. *Not as all of the problem but as part of it, I emphasize that one of the great vices in that White Paper was not that it forbade immigration into Palestine or land acquisition; it forbade Jewish immigration and land acquisition. That, gentlemen, is inadmissible.*

But I am more concerned, again, with the immediacy of this problem, than I am with that kind of ideological discussion of the White Paper. I believe I have made a case for the abolition of the White Paper for good and all but whether I have or not, speaking in Judge Hutcheson's language, I want a dissolution of the temporary injunction. That is the crying necessity to which I advert. It is the immediate problem.

Now, what is the picture as to the rest of Europe? There are 70,000 Jews still in Poland and 150,000 Jews in Russia who seem fated to be returned to Poland. They represent the factors in a problem which I refer to as the intermediate stage.

I read in the testimony of Dr. Stephen Wise that remarkable statement from a distinguished Polish

Jew that the Jews had been citizens of Poland for a thousand years and they wished to recreate their lives there.

What is it that creates the problem there? Recently I had a discussion in New York with the Foreign Minister of Poland, Mr. Rzymowski. I violate no confidence in repeating what he said, that his Government was not anti-Semitic, that they desire to give the Jews a chance to recreate their lives there, but that the infiltration of the Nazi doctrine into Poland had created an anti-Semitism which his Government had been powerless to overcome.

What should you do about that? Two things, I take it. You should make it possible for those of that group of 220,000 Jews who wish to go into Palestine to go there.

Judge Hutcheson: Where do you get the figure of 220,000?

Mr. Proskauer: Those are the 70,000, Judge, who are still in Poland and the estimated 150,000 Polish Jews in Russia who are slated to be returned to Poland.

I go further than that. I am asking, as part of the intermediate step, not the immediate one, that the Committee work in collaboration with the UNO.

I had the honor of serving at San Francisco as one of the 42 consultants to the American Delegation. My colleague and friend, Mr. Monsky, representing an-

other group, was there with me. We had a great and glorious enterprise there. That was the fight to insert into the Charter of the United Nations the provisions for human rights and the creation of a Commission to implement those rights.

Now, here again the cynic will say, "Why, you can get nowhere with that; look at the minority clauses in the treaties that followed the first World War." True, those clauses came to grief because they had no teeth in them and no sanction. And true, the new clauses will come to grief unless teeth are put into them and they are given sanctions. Your job and mine, gentlemen, as citizens of a world that lives under Hebraic-Christian civilization is to see to it that UNO now puts teeth into those provisions and a machinery for implementing them.

When we were arguing for those things, Judge Hutcheson, you may be interested or amused to know that a very distinguished international lawyer who was advising the State Department interrupted me to say that my concept of international law would make the old international lawyers turn in their graves, and my answer to him was, "What is the harm in that?" And there is no harm in it. We have come to a new concept of international law. *The day is gone when any nation under plea of sovereignty can either itself persecute any minority group of its own population or throw up its hands in helplessness and*

say, "We can't prevent our people from persecuting a group."

And I make the specific request of you that with respect to this Polish segment both in Poland and in Russia you do these two things: Let them go into Palestine if they want to go there. But if they want to stay in the country where their forebears have lived for a thousand years make it your business to see to it that the United Nations Organization hasten the day when again in Secretary Hull's words Jews may live there as everywhere else in peace and in honor.

If I may continue my geographical presentation for just a moment I would like to give you the information we get as to other countries of Europe. During the week I have had the privilege of talking to Mr. Renzo Levi, the head of the great Jewish organization in Italy. He states that there is no Jewish problem in Italy as such, that the Jews have received their rights back in the most part in Italy. The only reason why additional Jews cannot immigrate into Italy, he tells us, is that the economic situation is so bad that nobody can immigrate there.

Our reports from Holland and Belgium indicate that there is no immediate problem.

As to France we have had with us in the last week Captain Gamzon who was a distinguished member of the French Underground. When he came to us, in

his French uniform, the typical Frenchman, I realized that we Jews have demonstrated on the battlefield and in the armies of Great Britain and France and our own beloved country, and of every country of the world, that we know how to become, in my phrase, bone of the bone and flesh of the flesh of our own countries.

They have had a bad time in France. Curiously enough he reported that some of our weaker brethren were doing what we call "passing." They were trying to get outward conversion, some form of Christianity. But that related only to a weaker part. The great segment of them, he assured us, was upstanding, courageous and hopeful, and he believed that, while it was true they were passing through a difficult period in France, none the less they would come through and be able to recreate their shattered lives in the country to which they owe allegiance.

Now, that leaves us the most troublesome sector for my intermediate timing period with which you have to deal and that is roughly Rumania and Hungary and Bulgaria and that section of Eastern Europe. Our estimate is that there are 500,000 Jews there. They live under exceedingly bad conditions. And there again I wish to create through this Committee and yourselves, at least I wish to have this Committee of yours create, a situation where those inhabitants of those East European countries, who despair of the

recreation of their lives, may be permitted to go to other lands, and that includes Palestine.

What should you do as to the remainder of them? I am commending to your notice this document which I have filed with you. *And the first request we have to make, Judge Hutcheson, is that you ask the governments of various countries of potential immigration to receive substantial numbers of displaced persons and thus share in the responsibility for their resettlement.* That doesn't relate to the immediate period. There is no time for that. But with respect to the intermediate period we strongly urge that specific course of conduct on the Committee.

Secondly we urge the Committee to recommend to the governments of the countries of refuge to permit as many refugees and alien Jews as possible to stay and eventually acquire citizenship.

I have departed from my logical order for just a moment in reading that to you because that does not relate, of course, to these East European countries. There are groups of refugees in many countries. In Great Britain there are refugees. And what I ask for refugee Jews I ask for all kinds of refugees.

What a slight thing it is to ask these countries, particularly those in the Anglo-Saxon tradition, to let this handful of people stay there and make anew their lives.

Following my point, and I am coming back to the East European situation, we urge the Committee to study the situation in each of the East European countries so as to make a report in detail.

And our next request relates more directly to this East European situation. Some of these countries are enemy countries. We are about to negotiate treaties with them. I would ask this Committee to use its great, enormous and potent influence to see to it that in those peace treaties are put clauses with teeth in them that will protect not only the Jewish minorities but all the minority groups. That relates to all these East European countries and with the exception of my statement that they are enemy countries it also relates to an amazing situation in Turkey to which I wish to call your attention.

A few years ago the Turks devised a system of taxation known as the Varlik. Briefly stated, Moslems were appointed to assess the property of everybody and to levy a tax on it. They didn't even have such rights as we have in this country, Judge Hutcheson, when the income tax people get through with us, to go to the Circuit Court. After that tax was levied, it had to be paid. An investigation which we have made shows that it was levied in amounts usually of about 200 or 300 per cent of the entire worth of the taxpayer if he was a Greek, an Armenian, or a Jew. And my appeal here is for the Armenian just as much

as for the Jews. The penalty for not paying that tax of 200 or 300 per cent of all you were worth in the world was that what you had was confiscated and you were sent to a labor camp. And that has been happening. It has been abolished now. But the abolition is subsequent to the time when there wasn't any more juice in the lemon to squeeze out. It is all gone. And people have been wrecked there, Armenians as well as Jews.

And I ask you again with respect to that situation to take cognizance of it and to be in touch with the United Nations Organization to see to it that these human rights provisions which have been inserted in the Charter shall be made to function there.

What is the next thing we ask of you? *We ask the protection of the stateless by the United Nations Organization through the creation of something parallel with the old Nansen passport.* We have frightful situations of statelessness where a man doesn't know what country he belongs to any more. That is a mechanical detail, but one of very great importance.

Parallel with that, we ask what we have already received from our own Government, an assurance that we are going to get the facilitation of presently legalized immigration into America by the recreation of Consulates and the smoothing of the way for the granting of visas for immigration into America. We would ask our British friends to take similar action

for such immigration as is possible to come into Great Britain.

Then we ask that the UNRRA be directed or requested to take action in the feeding and support of people who may be resident in former enemy countries and who are now otherwise not eligible for UNRRA relief. There is a technical situation there which is disclosed in our brief that I think is preventing UNRRA from reaching the full climax of the good that it could do.

And lastly on this phase of what I have to say to you gentlemen, millions of dollars have been extorted from Jews individually and millions of dollars have been taken from Jewish communities as such, quasi-corporations, in Germany. When we speak of reparations, what is going to happen to those people who have the doubtful and terrible honor of being the chief victims of Nazi brigandage? Are they to be left completely high and dry without redress because they happen to have been German nationals before Hitler reduced Germany to the level of savagery?

And, therefore, we are asking you, as part of your function, to urge on the duly constituted authorities that there shall from these reparations be set aside fair percentages which may be turned over to properly appointed trustees under UNO for distribution to these despoiled people. They can get but a pittance back in comparison with what they have lost but that

pittance means life, means hope, means the possibility of creating a future existence.

And now we come to the ultimate picture. We have asked the immediate creation, probably under the UNO, of a trusteeship for Palestine. We believe that that is not a controversial matter. No matter what the ultimate determination may be as to the form of government in Palestine there must be an interregnum period and that interregnum period should be under the trusteeship system of the United Nations Organization, in our belief. A reason fundamental to our belief is this: *This is the business of the world and not the business of any one nation. When I say that believe me, gentlemen, I am not saying anything hostile to or invidious to Great Britain; a trustee must not only act disinterestedly, he must be disinterested, and in the administration temporarily of the affairs of this country, the country of the Holy Places of Jew and Moslem and of Christian, the country which represents the origin of all the religions that today pervade America and Europe, the administration of a trusteeship of that country should be free from the possibility of conflicting interests.*

No country should have placed upon it, and if I were the staunchest Briton I would say this, no country should have placed on it the terrible task of administering as a trustee a country whose administration involves considerations foreign to that trusteeship and

inherent in the political position of the country of trusteeship. That is why we ask that the trusteeship be international and under the administration of the United Nations Organization.

Now, what is that trusteeship for? Certainly it should be for the protection of the existing Jewish settlement in Palestine. Whether you belong to the Zionist organization or, like me, do not belong to it, all of us have poured in our support, financial and spiritual, to the upbuilding of the Jewish settlement in Palestine. We have done it in fair reliance on the Balfour Declaration and on the Mandate. And there must be no encroachment upon the safety of the Jewish community thus created, in the words of the Balfour Declaration, as a national homeland in Palestine.

Second, that trusteeship must protect the rights of Jewish immigration into Palestine. That is implicit in the Mandate. I correct that. That is explicit in the Mandate and in the Balfour Declaration. And in the language clearly used by Mr. Churchill back in 1922, when he was the Minister of the Colonies, even in that White Paper in which he drew the distinction between a Jewish homeland, a national homeland in Palestine, and a Jewish Palestine, even there he accentuated that the rights of the Jew to enter Palestine were sacrosanct.

You heard the testimony of Mr. Nathan here the other day. A number of us, both Zionists and non-

Zionists, supported and created the mission of Mr. Nathan because we had great confidence in him as an economist and a scholar and a skilled investigator, and while I have no art of my own which permits me to put the acid test to his conclusions, my knowledge of the man and of his record is such as to cause me to commend his findings to you as worthy of the most serious consideration.

And he speaks of an immigration of Jews into Palestine, as I remember the figures, somewhere between 1,000,000 and 1,500,000 Jews over a period—

Judge Hutcheson: Seven hundred thousand to a million two hundred thousand.

Mr. Proskauer: 700,000 to 1,200,000, over a period of ten years.

The Arabs aren't going to stand still in that period. Indeed, I understand that they are fruitful and multiply.

And even on Mr. Nathan's figures there is no great disparity to be created by having that trusteeship fulfill the pledges of the Mandate and the Balfour Declaration.

And, lastly, it should be the duty of that trusteeship to prepare this country for ultimate democratic self-government under a bill of rights that will protect and make equal every living human being in that land whether he be Arab or Jew.

Now, I am not voicing any Jewish heresy when I

say that in the discussions which have occurred here where one uses such phrases as "Jewish State," "Jewish Commonwealth," and in the controversies which have arisen over the use of those phrases, with all good will, I believe that sometimes we have been indulging in discussion on semantics. For what is the fact?

As I said, I am not a part of the Zionist organization. I have studied the pronouncements from time to time of many of their great leaders. I do not purport to say that these statements are the statements of the Zionist organization because I would not take on myself the responsibility of stating their position where they have stated it for themselves. But I would like to call your attention to a few of the things which have been said. I am going to put them chronologically to you.

In 1921 the Zionist Congress voted:

"Our determination to live with the Arab people on terms of concord and mutual respect, and together with them to make the common home a flourishing commonwealth, the upbuilding of which may assure to each of its people an undisturbed national development."

I go to 1929, when Professor Selig Brodetsky, now the head of the Jewish Board of Deputies in Great Britain, I believe, used these words:

"They (the Jews) wanted peace, but based upon

the right of immigration and the right of not being reduced to a minority. They stood for the principle of non-domination by Arabs of Jews or by Jews of Arabs, and they desired real fraternal cooperation between the two peoples."

I go to 1931. The Council for the Jewish Agency passed this resolution:

" * * * The Council instructs the Executive to continue its work for the establishment under the Mandate of harmonious relations between Jews and Arabs, based on the acceptance by both parties of the principle that neither is to dominate or to be dominated by the other."

I go to 1936, when the distinguished leader of the Zionist world, Zionist head of the Jewish Agency, Dr. Weizmann, in my judgment, although I have not always seen eye to eye with him, one of the greatest human beings it has been my privilege to meet, said:

"I do believe in a future cooperation of Jews and Arabs, whatever may be happening today; and I do believe that a time will come when both Jews and Arabs will understand that they can live as, for instance, the different races live in Switzerland — French and German — and they work together for a common end, for a common fatherland, which they call Switzerland. History tells us that Jews

and Arabs have worked for the upbuilding of a country in which each has a great part to play. There is one indispensable condition, and this applies equally to both sides—to Jews and Arabs—that neither should dominate and neither be dominated by the other, irrespective of their numbers.”

I go to 1937, when the Council for the Jewish Agency said:

“The General Council reiterates the Declaration of the seventeenth Zionist Congress—that the Zionist movement is willing to take the political, social and economic steps necessary to bring about a rapprochement between the Jews and Arabs of Palestine on the basis of the principle that, whatever be the numerical relationship between the two peoples, neither people shall dominate or be dominated by the other.”

And when we come to the resolutions that have been referred to that were passed recently by our National Legislature, it ends with these words:

“So that they may freely proceed with the upbuilding of Palestine as the Jewish national home and in association with all elements of the population establish Palestine as a democratic commonwealth in which all men regardless of race or creed shall have equal rights.”

A democratic commonwealth where all men irrespective of race or creed and irrespective of numbers shall have equal rights, that is an ideal to fill one's imagination. Don't let the cynics say that it can't be done.

I was reading the other day the biography of a very great Zionist, Henrietta Szold, an American woman of great culture and learning, who gave her life to Palestine. Toward the end of her life she wrote this letter—I am going to ask my British friends to bear with me for a moment in a criticism of them:

“We who have been close to the situation in Palestine can say that the British Administration has deliberately thwarted every effort made by the Jews to find a method of conciliation between Jews and Arabs. Here lies my attitude. We must have another five years . . . ‘—that was 1937—’ . . . of sympathetic trial to solve the Arab-Jewish problem. I believe there is a solution and if we cannot find it then I consider that Zionism has failed.”

Now, I do not desire to try that indictment against the British. Whether they have thwarted good relations between the Arabs and the Jews in the past is to me immaterial in the present. What is material to me in the present is that those good relationships which are necessary as the basis for the creation of such a state, should be fostered by this Committee.

I cannot forecast what the ultimate political form of Palestinian government will be. There will never be peace there, there will never be prosperity, there will never be good living if those two groups are in warring controversy with one another. There never will be peace no matter what the form of government is, unless there are good relations cultivated between men of good will in those camps.

And I am urging on this Committee that its duty, paramount almost to every other responsibility which you have assumed, is to create the machinery by which the extremists on both sides can stand aside and the men of good will on both sides can under your guidance, your tutelage, and your leadership, sit about a table and decide to create this ideal country, a country where Jews can live in *peace and dignity*, where Arabs will live with them as fellow citizens, where the democratic fundamental of society shall prevail, and where nobody dominates anybody else.

I emphasize above all other things that your Committee set its hand to that specific task. If you can achieve that result, gentlemen, you have done your share and more to bring about a world where all men, Jews and Christians and Arabs, can live in peace and honor, where there can be preserved in the country as the ardent feeling of some Jews want it to be, under free democratic conditions, imposing its will on no-

body, a cultural life, where the Hebrew University can flourish, where all the scientific organizations that have been created for Jewry can take root and flourish, where there can be recreated anew the dynamic formulation of those great fundamental principles which it has been the mission of Jewry to advocate through its long, its tortuous and its persecuted history.

What are they? To you British I will say that Matthew Arnold put it greatly when he said that the great contribution of the Jews to civilization had been the concept of a God of righteousness and the attributes of right conduct. That is what we want to flourish again in Palestine.

And so I raise my voice here not chauvinistically, not for any kind of state in which any group dominates any other group, but for a democratic nation where all men shall live in peace and in harmony, and where we Jews can revivify ourselves for the task of making our great contribution to the history of civilization on its long road from savagery to the realization that we are all human beings created in the image of an Almighty God.

II

Interrogation of Judge Proskauer by members of the Committee of Inquiry

Judge Hutcheson: I should like to ask you a question or two, Judge.

Mr. Proskauer: Yes, sir.

Judge Hutcheson: I would like to say that your approach is familiar and pleasant to me because it is the approach and the attitude of what I call judicial. It is practical. It is definite. In your paper you have many things that are well gotten together and things about which we have been troubled. There are one or two questions that I would like to ask you about some of the definite suggestions you have made.

You say that there are 100,000 Jews who should now go to Palestine. I would like to ask you how, in view of the information that we have, that a good many of the temporarily repatriated Jews into Poland

and other places are coming back again, how are we going to get in touch with the particular 100,000?

Mr. Proskauer: I am going to ask my associate, who just came back from there, if you will permit me, to answer that question. I am not avoiding the question and I know the answer but I think perhaps you would get it better if Mr. Neikrug would answer that.

The question is, Mr. Neikrug, in using the phrase 100,000, how do you make up that 100,000?

Mr. Neikrug: There were, as of December 1st, practically 70,000 Jews in American and British occupied zones of Germany and Austria. There were some 10,000 in the British zone, 2,000 in the French zone, and some 58,000 in the American zone. That period was in the very midst of the infiltration from Poland. At the time the figure estimated within Poland was some 70,000 to 80,000.

Mr. McDonald: What about the Russian zone in Germany?

Mr. Neikrug: We don't have any figures for the Russian zone. There are no figures available.

Judge Hutcheson: You say you have no figures on the Russian zone of occupation. You say there are 70,000 in Austria, Germany in the French, American and British zones. Where do we get the other 30,000?

Mr. Neikrug: The other 30,000 represent estimated

infiltrates during the winter from December 1st out of these 70,000 in Poland, as of December 1st.

Judge Hutcheson: All right. That answers that question.

Now, there are several questions that occur.

You said there was no Jewish problem in Italy except the economic situation. That involves the conclusion that the Committee would have no real function there.

Mr. Proskauer: I must qualify your repetition of my answer in that way, Judge. I said that we had the testimony of Mr. Renzo Levi, who is a distinguished Italian Jew, that that was the situation in Italy.

Judge Hutcheson: I see. Your organization has not verified that?

Mr. Proskauer: We have not verified it to the extent of guaranteeing it. We believe it to be true; and we think you should test the ultimate validity of it.

Judge Hutcheson: Now, the last thing that occurs to me is this, and it presents an inquiry that I want to phrase very carefully, and I want you to answer very carefully, as I do not want to be a catalytic agent to precipitating any confusion here.

Am I correct in saying that it is your opinion, and that of the group you represent, insistent as you are on opening Palestine for free immigration, it is not for the purpose that at the end we shall have what might be

called a Jewish state as opposed to a democratic state? You don't want an Arab state, you don't want a Jewish state, you want a democratic state to which Jews can freely come, and Arabs also?

Mr. Proskauer: I cannot answer your question categorically but I shall try to show that I am not evading the answer to it.

We have believed that no human being has a right to predict what is going to be necessary or happen 10, 15 or 25 years from now. It is obvious that any determination as to the ultimate form of government in Palestine must relate in its realization to a period many years ahead. I do not know what the conditions in Europe are going to be then. Possibly there might be Hitlerism running riot.

Judge Parker, the head of our Court of Appeals, once said in an opinion that testators ought not to try to run the world from heaven. And so we have suggested all throughout this period the postponement of an ultimate decision as long as it could be rationally and fairly postponed while we were doing those things which all people agree ought to be done presently.

Now, you use the phrase "Jewish state" in your question.

Judge Hutcheson: It has been used so often. Or "Jewish commonwealth".

Mr. Proskauer: Or Jewish commonwealth; the difference is immaterial.

I have never myself been able to avoid the confusion in the use of that phrase. I read you the definitions given by great Zionists of what they wanted, which was a state in which neither Arabs nor Jews should dominate the other. I know that there are members of the Zionist groups who do not agree with that and who believe in a more — I am seeking for a word that has no evil implication — a more essentially Jewish—

Judge Hutcheson: More definite?

Mr. Proskauer: More definitive. I won't say a theocracy but something approaching that.

I have given you what we regard as the ideal. It is my prayer that a necessity will not arise which will require a return to the identification of a state with a religion. It is my prayer and my hope that as this situation develops the real objective will be attained when you get full immigration into Palestine, full opportunity to build up that spiritual life which is, after all, the essence of the Jewish ethos, rather than a political ethos, and wherein an atmosphere of good will can be maintained under the democratic form of government which I have expressed as my ideal.

Judge Hutcheson: As one lawyer to another in construing a program, in determining a program, or construing a paper, of course, everything inside the paper must be read so as to make the paper as a whole speak. The same with a program. You are not opposed to a Jewish state, you are not opposed to an

Arab state, I suppose, but this is the result of what you are talking about: if immigration is permitted, if common growth of the two peoples is permitted, why try to label the resulting enterprise either Jewish or Arab by name, — is that your point?

Mr. Proskauer: Rather than answer categorically I would like to rephrase it without the implication that I have accepted as my position your restatement of it in any aspect.

I see no point in announcing a Jewish state today in a country where the Arabs outnumber the Jews almost two-to-one. I see every point in the creation of the kind of state that Dr. Weizmann described in this document of his I read.

If I seem to be very meticulous in my answer to you, Judge Hutcheson, it is because the use of these phrases has caused great conflict, great confusion, great hard feeling among groups of Jews themselves and I am trying studiously to avoid the slightest atmosphere of hostility or friction or controversy where it can fairly be avoided, as here I think it can.

Therefore, continuing my statement from that point of view, everybody, I would take it, would concede you can't have a theocratic or Jewish state today.

Mr. McDonald: Has anything such as that been suggested?

Mr. Proskauer: I think not. That is why I read what Dr. Weizmann has said, because I think the true

interpretation of the phrase "Jewish state", as they have used it, is not a theocratic state, and far from misrepresenting it my emphasis has been that I believe that the area of conflict between various groups of Jewry is very much narrower than it appears to be on the surface, because I agree with the intimation of Mr. McDonald's statement that there was no intention of using the phrase "Jewish state" to have a theocratic state.

Therefore, what does it come down to? We use the phrase "Jewish state" indiscriminately. If it is not a state identified with a religion or a theocratic state what it comes down to is a state where the Jews have a right to come in, where the issue is not whether Jews are to be a majority or a minority, but there to have a state where, as Dr. Weizmann put it, neither will dominate the other.

Dr. Aydelotte: Judge, do you think it is possible for the Jewish people in Palestine to avoid the evils which they associate with the term "minority status" even though they should not have an actual majority of people in Palestine? A great many people have said to us the Jewish people would like to get away from what is called a minority status. Now, is it possible to have a state in which all will be free and still it will be a matter of indifference or the situation won't change if the Jews have a majority or the absence of a majority of the actual people?

Mr. Proskauer: As nearly as I can understand your question, and I am not quite clear about it, I think the kind of minority status that was inherent in the old treaties has been perfectly worthless. And I think that the intermediate creation of this trusteeship is going to require negotiations. I don't know where the majority is going to be ten years from now.

But what you are really asking me to do is to pre-judge the determination which this trusteeship will make in the ultimate. My belief is that that trusteeship, decently administered, can work out a situation where if the Jews become a majority it will still be the kind of government where, as Dr. Weizmann said, all should have equal rights.

If, on the other hand, due to any of the unknowns that enter into this problem, the Jew should still after years of immigration into Palestine be a minority, I believe that under the wise guidance of this trusteeship a government similar to the Swiss form of government can be worked out where there will be safety to Arabs and safety to Jews.

Dr. Aydelotte: So that the Jewish national home can be a success properly managed under this trusteeship even though the Jews were not in the actual majority of people of Palestine?

Mr. Proskauer: That is my hope and prayer. *But I do not want by that answer to be understood as saying that I would advocate any form of restriction which*

would prevent the Jews in the normal course from being a majority.

Dr. Aydelotte: I quite understand.

Mr. Justice Singleton: Mr. Proskauer, I am afraid I must ask you a few questions.

First of all you divide the subject into three heads, the subject which we have to approach, and they are most useful heads.

One thing, as to the 100,000 of which you spoke, we have had evidence about those people already, and I am sure each one of us realizes the urgency of the problem which you put before us, and desire that so far as possible something be done and done quickly.

There is just this consideration. You said the only place they could go to immediately was Palestine. You said later that there was no time for arrangements to be made for them to go somewhere else. That is, that 100,000.

Mr. Proskauer: That is right.

Mr. Justice Singleton: Now, I remember something of 1914 when arrangements were made very quickly to receive large numbers of Belgians in a good many countries, when Belgium was overrun in August and September.

I can't quite see the impossibility of arrangements being made in other countries and I am not specifying any particular country for the reception of some.

Mr. Proskauer: Let me say this to you, sir. If you

can make it possible and your Committee can discharge its function that way and I am wrong in saying that it is impossible which is, after all, an opinion and not a fact, God be with you in that accomplishment. With one exception. I do not believe that the world can force these people to go where they do not want to go and where they would be strangers in a strange land.

Mr. Justice Singleton: There I am completely with you. I would not want to force anyone.

Mr. Proskauer: Therefore I say that where we know, as we do from the reports we have just received, that a large proportion of this hundred thousand have a burning desire to go to Palestine, where, as I said in my original remarks, they would find brothers, it is most urgent for you, I think, to help them go there, rather than to help them to go to some strange land.

Mr. Justice Singleton: I am not seeking to cast any doubt upon that. What I wanted to raise with you was a question as to the remarks which you made that there wasn't time. There have been some months passed already; if the arrangements were possible or desirable, I can't see why the civilized world couldn't do something if the people were ready and willing to go to those places.

Mr. Proskauer: I do not see why the civilized world shouldn't take them, but I do see a very grave doubt as to whether the civilized world with its present state

of civilization can be made to move so quickly as to absorb a substantial number of these people during their lifetime.

Now, the question between you and me turns really on the use of my phrase "impossible".

Mr. Justice Singleton: Yes, it does, really.

Mr. Proskauer: I advance that as an opinion. I believe it to be right. The evidence I have to sustain that belief is my long experience in the slowness with which governments act. If I happen to be wrong in that then you are even more skillful than I believe you to be, and I believe you to be exceedingly skillful.

Mr. Justice Singleton: You don't mean me personally; you mean the Committee, I take it.

Mr. Proskauer: I mean the whole Committee, of course. *And if you can actuate State Departments and Undersecretaries into speedier action, go and do it, that is your job, not mine, and put some of these people there if they are willing to go there. But if the poor devils who have already suffered the tortures of hell say, "We don't want to go to Canada or Australia or New Zealand, say, or some place else like that, where we don't know a soul; we don't want to go there, we want to go to Palestine where we have brothers and cousins and uncles and aunts," I am saying to you that it is your duty to help them go there.*

Mr. Justice Singleton: I appreciate it the way you put it now. I think it is clear now what you mean.

I come to a second point. Your committee published this book?*

Mr. Proskauer: Yes, sir.

Mr. Justice Singleton: I found that it was most useful matter from our point of view.

Early in the book, on page 1, in the recommendations, the second heading is "Abrogation of Racial Legislation".

(Reading)

"In the Rumanian, Bulgarian and Hungarian Armistice Agreements, the Governments of the United States of America, of the United Kingdom of Great Britain and North Ireland and of the Union of Soviet Socialist Republics have dealt with the abrogation of Nazi legislation and discrimination against the Jews in a way which the American Jewish Committee applauds as just.

"The pertinent clause from the most recent of these agreements, that with Hungary, signed on behalf of the aforementioned Governments by Marshall K. E. Voroshiloff reads as follows:

"The Government of Hungary will immediately release, regardless of citizenship and nationality, all persons held in confinement in connection with their activities in favor of the United Nations or because of their sympathies with the United Nations cause or for

* "To The Counsellors of Peace"

racial or religious reasons, and will repeal all discriminatory legislation and disabilities arising therefrom. The Government of Hungary will take all necessary measures to insure that all displaced persons and refugees within the limits of Hungarian territory, including Jews and stateless persons, are accorded at least the same measures of protection and security as its own nationals.' ”

That is a step to avoid as far as possible in the future any discrimination against Jews or any other race within those countries. That is a stage on the way.

Mr. Proskauer: Yes.

Mr. Justice Singleton: The real question is what can be done through the United Nations Organization in the long run.

Mr. Proskauer: That is right. This represents a fine start towards what should be stated in all treaties with defeated enemy countries.

Mr. Justice Singleton: I hadn't realized until I read this book, of that move. So far as you know there is none as yet?

Mr. Proskauer: No, but I shall be very glad to have our staff note this question and if I might write you a letter we shall tell you all we have to say about it.

Mr. Justice Singleton: I shall be most grateful for help on that. I will tell you what I have in mind, if I may. You mentioned later in your evidence that we ought to devise clauses to protect all minorities.

Mr. Proskauer: Yes.

Mr. Justice Singleton: It is a matter involving great difficulty, the drafting of clauses. I venture to put this to you because of your position in the law as well as your knowledge of all these matters. I should very much like it if you would, assuming you have the time, let us have some ideas on those clauses.

Mr. Proskauer: We will write you a short brief answering your question.

Mr. Justice Singleton: Thank you very much.

You dealt with the question of stateless people and I notice that is referred to on pages 89 to 99 in this book of yours.

Mr. Proskauer: Yes.

Mr. Justice Singleton: Now, under your third heading you suggested the trusteeship for Palestine under the United Nations Organization. Article 81 of the United Nations Charter deals with that possibility — “The administering authority may be one or more states or the organization itself.”

There is one consideration which I would like to bring to your mind upon the suggestion of the trusteeship. I am not criticizing. You may have a trusteeship of one state or of more states than one or of the organization. You referred a moment ago to the difficulty of getting a state to do anything. For “getting a move on,” in other words.

Mr. Proskauer: You are becoming Americanized.

Mr. Justice Singleton: I have seen a little of this country. This isn't the first time I have visited it.

But wouldn't that difficulty be the greater if you had a number of states?

Mr. Proskauer: My own preference would be to have the United Nations Organization as such take the trusteeship, for the very reason you suggest. Let me put the other consideration to you.

Suppose we put the trusteeship under Great Britain, which now has the Mandate. Talking quite frankly with each other, there is great embarrassment to Great Britain, I believe, in the holding of that Mandate, of that trusteeship. It puts on Great Britain the sole responsibility of making decisions for which it may be held accountable by other nations. I won't name them for fear of saying something invidious. It is a terrible strain, I take it.

Mr. Justice Singleton: There is no doubt it is a great burden and I am not certain it is always realized. There may be the advantages to which you refer, I don't know, but it is a burden.

Mr. Proskauer: I am not going to debate the advantages with you.

Mr. Justice Singleton: I don't intend you to, but you rather led me on.

Mr. Proskauer: I didn't mean to lead you into temptation.

Mr. Justice Singleton: Better say no more about that. (Laughter)

Why not, if one nation is bad, or if any nation you could consider has interests there of one kind or another, why not two nations? Every nation, I suppose, is interested in some way in Palestine. If you had the whole lot of the United Nations Organization as administrating the trust, someone would always say someone else is interested, and they could pull it both ways, with the danger of no decision being arrived at.

Mr. Proskauer: Your point comes down to this, that nothing in God's world is perfect. Allow me to quote from the Charter, the part which tells who may be a trustee. A trustee

"... may be one or more states or the organization itself."

Why not the organization?

Mr. Justice Singleton: I am not saying one way or the other.

Mr. Proskauer: Neither am I. I am asking.

Mr. Justice Singleton: I should have thought you would know from your own experience that the witnesses are not to ask questions.

(Laughter)

Mr. Justice Singleton: But I don't mind being asked.

Mr. Proskauer: This is an exceptional case, where the witness has a right to ask, and for this reason:

You raise a question as to which is better, one nation, two nations, or the organization, and you raise a question that it is your responsibility to answer, not mine. I can only give you a view and such reasons as I have for that view.

My firm belief is that even taking into account your perfectly wise suggestion that two nations might be even slower than one, if that were possible, the advantage of not having one nation solely responsible would still outweigh that. But my firm belief is that when the UNO is as speedily organized as it appears now it is going to be, if the Organization itself took the trusteeship, the world itself would be responsible.

Mr. Justice Singleton: I hope you are right in that. Let me assure you I am looking at all these matters for information. I am seeking to find out which may be preferable if something of this kind has to be done.

Mr. Proskauer: I ought to say this. I was talking one day with a very distinguished Zionist leader, who is in this room, and I said to him, "If we go into this parley, what is your view as a Zionist leader, would you rather have Great Britain or an international trusteeship?" and he said, "I would rather have Great Britain because at least we got 600,000 Jews into Palestine under the British Mandate."

Despite that, I think that the considerations which led to the promulgation of the White Paper make it perfectly clear that Great Britain ought to be relieved

of that headache, and Palestine ought to be relieved of the dangers of that headache. That is my own personal view, and I am speaking not as a witness but as your lawyer.

Mr. Justice Singleton: I want to come to something further, if you will allow me, sir. To my mind it is of some importance.

You read a letter from someone who is now dead. You apologized for criticism of Great Britain, but the letter which you read may give the impression, and does indeed if it is taken in its full force, that British officials have at some time sought to stifle cooperation between Jew and Arab.

Let me make this clear for all time. I believe that if that could be shown in regard to any British official, then he is not worthy of the name of "British". That is my belief on the matter.

Mr. Proskauer: You will remember, sir, I said I was not going into that phase of it because I had not the slightest knowledge or information.

Mr. Justice Singleton: I am quite sure that if there were any such case brought to light, the individual wouldn't remain in British officialdom.

Mr. Proskauer: I think that is a very heartening assurance, sir.

Mr. Justice Singleton: Almost at the end of your book I found a passage — it is on page 77 — when

you were dealing with the question of partition. It is on page 75, the heading, "Partition".

Mr. Proskauer: Yes, sir.

Mr. Justice Singleton: Then going over to page 77 you will find this:

"In summary, the American Jewish Committee's objections to the partition plan were based on the ground that no solution of the Palestine problem is possible without peace between the two sections of the population."

That is the view today of the Jewish Committee?

Mr. Proskauer: Yes, sir. That view was stated by my predecessor president, Mr. Sol M. Stroock, who was a very distinguished lawyer in New York, who devised this principle which I announced today and which I have inherited from him.

It is our view that partition will get nobody anything. It is like dividing a sandwich into a great many microscopic portions, nobody gets enough to eat.

Mr. Justice Singleton: (Reading)

"* * * on the ground that no solution of the Palestine problem is possible without peace between the two sections of the population."

A good understanding is of absolute importance, that is your view?

Mr. Proskauer: Yes, sir.

Mr. Justice Singleton: And if I may be allowed to say so, it is mine, too.

Later you said in the course of your evidence there will never be peace if Jews and Arabs do not agree. Extremists on both sides should stand aside.

Mr. Proskauer: Yes.

Mr. Justice Singleton: I can't help thinking that if that could be arranged, the task of our committee would be easier.

Mr. Proskauer: I can't help thinking, sir, that that is the task of your committee.

Mr. Justice Singleton: To make the extremists stand aside?

Mr. Proskauer: No, to call together the men of good will on both sides. You have it in your power to decide whom you are going to call. You can investigate the constitution of the Arab groups and of the Jewish groups in Palestine, with all the authority that inheres in your great position; you can call conferences.

Mr. Justice Singleton: I don't know how you can during that time keep those you describe as extremists quiet.

Mr. Proskauer: I do not suggest that you keep them quiet. I said you could make them stand aside.

Mr. Justice Singleton: Where would you put them?

Mr. Proskauer: I wouldn't put them anywhere. I would let them go where they pleased so long as they didn't come in the conference room.

Mr. Justice Singleton: Now, sir, in answer to the Chairman you said that there was no point, it seemed to you, in announcing a Jewish state today. I gather that your view is that, in any event there must be a considerable period of years looking for conciliation before a state is created?

Mr. Proskauer: That is my view and, as I read, I think it is the view of very substantial people in the Zionist movement itself. I do not think that, in that respect, I am in antagonism at all with important Zionist leaders.

Mr. Justice Singleton: I wish above all that this Committee can succeed in doing something towards conciliation. I believe it is so important for the future peace of the world. I don't know that there is anything else I wish to ask you.

Mr. Proskauer: I am beginning to have a little sympathy for the witnesses I have cross-examined.

Mr. Justice Singleton: There is one other question that I want to put to you.

Who was it who said testators ought not to try to run the world from Heaven?

Mr. Proskauer: Judge Parker of our Court of Appeals in New York.

Mr. Justice Singleton: Much obliged to you. This is the first time that I have had an opportunity of asking questions of a witness who has sat in the appellate

division of the Supreme Court of New York, and I suppose it will be the last.

Mr. Proskauer: I hope not, sir.

Mr. Justice Singleton: But I should like, if I may, to thank you.

Mr. Crum: May I ask a question, Mr. Chairman?

Judge Hutcheson: Yes.

Mr. Crum: Judge Proskauer, as I understand your statement, in your opinion 100,000 persons should be admitted to Palestine almost at once?

Mr. Proskauer: Right; it is just that.

Mr. Crum: Had your committee considered frictions which existed in Palestine?

Mr. Proskauer: Yes, sir.

Mr. Crum: Whatever risks might be involved?

Mr. Proskauer: Yes.

Mr. Crum: Nevertheless, it is still your opinion?

Mr. Proskauer: Yes, sir. I think it is your first function to handle the Arab representatives in such a manner when you get in contact with them, and I assume you are going to do it between here and England, as to try to put to them the reasonableness of this proposal, that it doesn't change the numerical ratio materially, that it does them no possible harm, and that it is not tied up with the pre-judgment as to the ultimate.

Mr. Crum: Supposing they do not agree with that argument?

Mr. Proskauer: Well, then, it becomes a question of whether Great Britain is going to be dictated to by the Arabs or not in respect of the White Paper. I have enough confidence in Great Britain to believe they won't be so dictated to. I don't like to use that kind of language because it seems to go a little contrary to my peace-making spirit.

Mr. Crum: Do you have a time element in mind, Judge?

Mr. Proskauer: You mean whether it is a week or a month?

Mr. Crum: The time.

Mr. Proskauer: Just about as quickly as you can get them there. If you gentlemen, after this session is over, would informally talk to my associate here who has just come from those camps, you will get a picture of why I say "just about as quickly as you can act."

Major Manningham-Buller: Following up Mr. Crum's questions, I take it it is your view that if these 100,000 are admitted forthwith, the duty of Great Britain would be to provide British forces to maintain law and order?

Mr. Proskauer: Yes, I think the Mandatory has that duty.

Major Manningham-Buller: No matter what hostility there may be, that duty will remain?

Mr. Proskauer: I think the duty remains, but I am

not unmindful of what is implicit in your question, that if I am all wrong about the ability of Great Britain to persuade the Arabs or to at least get some reasonable compromise out of it, that it is a British headache — that I agree to. I can't answer questions as though I had the power of second-sight and was foretelling what was going to happen. My function, I believe, is most respectfully to suggest the things that I think are of immediate importance. The consequences of them this Committee has to weigh.

Major Manningham-Buller: I wanted to ask you. You said the trusteeship should be international for the protection of existing Jewish settlements. You meant, I take it, until there was a trusteeship by the Organization or by two or more states, Great Britain would have to carry on the burden of preserving law and order?

Mr. Proskauer: Yes, I think that is the mandatory duty.

Major Manningham-Buller: And the extent of that burden might or might not be increased by unlimited immigration?

Mr. Proskauer: Yes, it might or might not be increased by unlimited immigration, but there again I think you are forgetting my timing element. When I conceived the notion of suggesting that you divide your subject-matter chronologically, it was with just that in mind. If you come out today and announce that the

White Paper is forever lifted, I could conceive that you would have a very difficult immediate problem on your hands. If, on the other hand, you came out today and said to the Arabs, "Forget the future for a while, until we get a chance to talk it over, and acquiesce in our decision to let this 100,000 go into Palestine immediately, and then we will sit around the table and talk," then I think you have a very different situation. It is why I took the liberty of suggesting to the Committee that it use this chronological approach to this problem.

Major Manningham-Buller: You say the trusteeship must protect the right of Jewish immigrants into Palestine. Do you mean the right of immigration so long as there are any Jews outside of Palestine who want to get in, no ceiling on the number to go in?

Mr. Proskauer: Now, there again, you are talking of one of the subsequent phases of it.

Major Manningham-Buller: Yes, I am.

Mr. Proskauer: I believe that under the Mandate and the Balfour Declaration — to use the exact phrase, as I recall it, although I may vary a word or two — it is, "can go into Palestine as a right." Now, if you go into Palestine as a right, that doesn't mean that you are going in there only if the Arabs say you may go in. The Declaration also refers to the rights of other inhabitants and the condition of the country. I think, under a proper trusteeship, which would be utterly

fair and impartial, there would be no artificial restriction of Jewish immigration. There might be a slowing up of it due to economic conditions which were temporary or to other conditions which made a regulation of it from time to time necessary.

Major Manningham-Buller: That was really the point I was coming to. I was dealing with the long-term position for the moment. I am not trying to seek to get your interpretation of the Mandate or the Balfour Declaration but as to your view of what should be under this trusteeship. Would you include in that trusteeship, then, a power of limiting immigration depending upon the economic situation within the country?

Mr. Proskauer: I would like to read it to you in the formal words that my Committee adopted it:

"To safeguard the Jewish settlement and to guarantee adequate scope for the future growth and development of Palestine to the fullest extent of the economic absorptive capacity of the country."

That is the view we have taken. We think it is a fair view and one that is consistent with a reasonable interpretation of the Declaration and the Mandate.

Major Manningham-Buller: If the trusteeship were carried out by the United Nations Organization, would it be your view that there should be an international force in Palestine to maintain law and order?

Mr. Proskauer: I think they would have the obligation to maintain law and order, and if it required an international force to do it, it certainly ought to be there.

Mr. Phillips: Mr. Proskauer, assuming that the 100,000 can be transported, that means the rapid arrival in a small country of a large population, who would have no means of livelihood except that of relief for the time being. I was wondering, are the relief funds sufficient to care for a hundred thousand refugees?

Mr. Proskauer: Mr. Phillips, I can only give you this answer, which is not to be intended as a guarantee. I believe that the money can be raised to take care of these people. I have no doubt of it.

Judge Hutcheson: I would like to ask you one question, following what Major Manningham-Buller has asked you. I have had for a long time experience with immigration laws, holding court in a border district, up and down the Mexican border, and I know something about immigration laws. I have understood all the time in this talk about unrestricted immigration that no one has suggested that Palestine, under whatever government is running it, should not have some proper laws regulating immigration into it and putting limits and conditions on it, but that they should not be made to react against Jews as such. The laws should be drawn with reference to the welfare of the country

so that people can't come in unless they comply with the laws. You are not saying there should be no immigration laws there at all, are you?

Mr. Proskauer: No; I am not saying either, Judge Hutcheson, that there isn't a special right, and I am not now talking of a privilege, as to Jewish immigration in Palestine. That right arises from the Declaration, the Mandate, the various Treaties that followed it, which I am sure you will find have been fully briefed in the documents before you, and they provide in substance that Jews shall be allowed to enter Palestine and own lands as a matter of right, and not as a matter of sufferance.

Judge Hutcheson: Let me say this: There isn't any contention that Palestine, the state, whatever it is, trusteeship, shall not have the right to protect itself against a flood of immigration which it cannot handle, merely because there is a tremendous body of Jews that want to come in there?

Mr. Proskauer: No, not that. But there is a middle ground between that and what you first put to me, Judge Hutcheson.

Judge Hutcheson: I see.

Mr. Proskauer: And the distinction is exceedingly important. After Palestine becomes a sovereign nation I suppose it can make its own law.

Judge Hutcheson: Suppose it was going on a trusteeship and was trying to build the country up?

Mr. Proskauer: I am not trying to avoid that. Under the trusteeship surely Mandatory or Trustee would have the right to take into account the economic absorptive capacity of the country and those things which would make immigration a disaster to those already there.

Judge Hutcheson: That is my point.

Mr. Proskauer: But it would not have a right arbitrarily to reduce or forfeit Jewish immigration, and I am emphasizing in that connection the point that Jewish immigration into Palestine stands on a different legal and historic basis from general immigration into Palestine.

Judge Hutcheson: The reason I ask you that, the *New Palestine* comes to my desk all the time, and I read it, and have read something about some kind of an organization, maybe two or three, in Palestine that take the position that the right of a Jew to go into Palestine cannot be regulated by law, and anybody can come in anyway, so long as he is a Jew. That doesn't seem to be consistent with sovereignty.

Mr. Proskauer: Mr. Chairman, so far as the American-Jewish Committee is concerned, we oppose illegal conduct wherever it is committed and by whomever committed. Let me make that indubitably clear.

Judge Hutcheson: I see. There is no claim that the legal right to do an illegal thing exists, or that merely

because a person is a Jew he can go to Palestine. That isn't contended by you?

Mr. Proskauer: No, sir. Let me read it in this phrase from the document we submitted to you.

"No arbitrary limit should be set to the immigration of Jews or their right to buy land; the only criterion should be the economic absorptive capacity of Palestine. The fullest opportunity should be afforded to the Jewish settlers to develop the economic resources of the country."

I hope I have made it clear to you, sir, that in nothing I have said I give aid or comfort to any movement for breaking the law.

Judge Hutcheson: Well, if there are no other questions we will adjourn.

Thank you very much.

(Thereupon, at 5:10 o'clock p.m. an adjournment was taken until 10:00 o'clock a.m., Thursday, January 10, 1946.)

III

Proposals of the American Jewish Committee as submitted in a memorandum to the Committee of Inquiry

The Committee of Inquiry meets eight months after the defeat of the Hitler tyranny, at a time when the nations of the world are striving to achieve an order that will remove the threat of war and rebuild the shattered structure of civilization. The Nazi regime singled out the Jewish population in Europe for extermination even greater than what it imposed upon the rest of the European population. There were before the war some sixteen or seventeen million Jews throughout the world, and about nine or ten million in Europe. Official German documents adduced at the international trial of the war criminals show that six million European Jews were murdered by the Germans. Thus, about three of every five European Jews alive before the war have since been killed. This tragic fate of the European Jewish community should deepen the world's sense of responsibility to the survivors.

The surviving Jews of Europe outside of the Soviet Union can be divided into three categories: those in the Allied zones of occupation in Germany and Austria; those in Western Europe, and those in Eastern Europe.

1. In the zones of occupation the Jews are displaced and mainly stateless or non-repatriable. The large part of them are in camps and their physical and moral situation is entirely unsatisfactory. If their hopes for a new life are not to be blasted, opportunities for emigration must be provided immediately. Because he so clearly recognized this need, President Truman requested the British Govern-

ment to allow the immediate entry of the displaced Jews into Palestine. *We urge the Committee to recommend the acceptance of the President's request at once.*

2. The President has also more recently ordered the American authorities to facilitate the immigration of displaced persons into the United States. The Committee has been instructed to investigate opportunities for immigration in other parts of the world as well. The likelihood is that if such opportunities exist they will be found in the newly settled countries, especially of the Western Hemisphere. At the same time the Committee should not overlook the possibility that some countries in Western Europe, conscious of the need for an increased population and for labor to carry out the work of reconstruction, may find it to their profit to admit such immigrants. *The Committee should therefore ask the governments of the various countries of potential immigration to receive substantial numbers of displaced persons, and thus share in the world-wide responsibility for their resettlement.*

3. The Committee will find that although Eastern Europe presents by far the more pressing and more serious problem, Western Europe can nevertheless not be ignored. Many thousands of Jews in Western Europe are now dependent on charity. 60,000 of the 180,000 Jews left in France need relief, as do 10,000 of the 30,000 in Belgium, 6,500 of the 30,000 in Holland, and 30,000 of the 51,000 in Italy. There are, in addition, some 43,000 Jewish refugees in Switzerland and Sweden; these were generously admitted during the war, but only temporarily. In the other West European countries many Jews, too, are aliens or refugees. *We urge the Committee to recommend to the governments of the countries of refuge to permit as many refugee and alien Jews as possible to stay and eventually to acquire citizenship.*

4. In Eastern Europe, the situation is even more serious. Only about 165,000 of the surviving 765,000 Jews live where UNRRA may operate. The other 600,000 are in ex-enemy countries not eligible for UNRRA assistance.

All of Eastern Europe is suffering grievously. The ravages of war there were worse than everywhere else and the ferocity of the Nazis was more unbridled. There too, however, while the suffering of all is great, that of the Jews is greatest.

Their losses were the heaviest, their deportations most numerous, their expropriation more general. Virtually all the Jews of Eastern Europe still living have been dislocated. UNRRA and the American Jewish Joint Distribution Committee alone stand between many of them and starvation. Especially in Rumania and Hungary large numbers are aliens and prevented by law from seeking employment as well as from receiving public relief.

Long before Hitler the environment of much of Eastern Europe was poisoned by anti-Semitism and was receptive to the anti-Jewish teachings of Hitlerism. The transfer of the property and positions of Jews has created a class with a vested interest in discrimination against Jews. Jews who return to claim what was once theirs meet the opposition of those who are now in possession of their positions and property. This tension, aggravated by political strife, finds expression in the persecution of Jews. Even governments that declare their opposition to anti-Semitism are ineffective in checking anti-Semitic outbreaks.

a.) *We urge the Committee closely to investigate conditions in each of the several East European countries as they affect the Jews, with a view to detailed recommendations appropriate to each.*

b.) *We further urge the Committee to recommend that in countries with a tradition of anti-Semitism, the human rights provisions of the United Nations Charter should be greatly strengthened, and effective machinery established for the protection of the human rights and fundamental freedoms of all. In the peace treaties with former enemy countries, the Commission on Human Rights of the United Nations Organization should be given the special task of making sure that the democratic liberties to be guaranteed by the new constitutions will really be put into practice.*

c.) *The Committee should recommend the protection of the rights of the stateless by the United Nations Organization, and the institution of special travel and identity documents, generally similar to the Nansen passports established under the League of Nations. Such documents must be made available especially for purposes of migration.*

d.) *The Committee should recommend that UNRRA be directed to assist all victims of Nazism, even though they*

may be situated in former enemy countries not otherwise eligible for UNRRA assistance.

e.) *We further ask the Committee to recommend that a definite proportion of all reparations paid by Germany be set apart for partial compensation to stateless and non-repatriable Jews, and that their claims be represented by a United Nations agency to be established for this purpose. The stateless and non-repatriable persons should have the right to present their claims to this agency, just as those who are not stateless or displaced can present their claims to their governments.*

5. It will be found that many of the surviving Jews of Europe desire to emigrate to Palestine. The first and most obvious reasons for that choice is psychological. Surrounded as they have been for many years by murderous hatred, they will wish to go to a community that they know will welcome them warmly and help them eagerly.

Not only is it imperative for humanitarian reasons that those Jews who desire to go to Palestine be admitted into that country, but solemn international agreements have specifically guaranteed that Palestine is to be a country to which Jewish immigration should be facilitated. The Mandate for Palestine, entrusted to Great Britain by more than fifty nations and approved by the United States, posits the immigration of Jews into Palestine and their close settlement on the land as its major purpose. Hundreds of thousands of Jews immigrated into Palestine, and substantial investments were made, because of faith in the pledges of the Mandate. The devotion and labor of the Jewish settlers have produced in a remarkably short time a flourishing industry and agriculture, and impressive gains have been achieved for the entire population of Palestine in living standards, health and possibilities for future growth.

The 1939 White Paper of the British Government contravened the basic purposes of the Mandate in drastically limiting immigration and acquisition of land by Jews. Those limitations continue today. The vice in the White Paper is accentuated by the fact that it forbids not immigration and land ownership but Jewish immigration and land ownership. This we submit is inadmissible and, as Mr. Churchill has pointed out, inconsistent with the great Anglo-Saxon traditions of democratic equality.

The Balfour Declaration expressed approval of a Jewish National Home in Palestine. In securing this, there is no irreconcilable conflict between the interests of the Arabs and the Jews in Palestine, since the true interest of both lies in a prosperous democracy. The entire Near East cannot fail to benefit from the existence in Palestine of a thriving economy, and harmony between Arabs and Jews. There is urgent need for adequate machinery for the joint consideration and settlement by the Arabs and Jews themselves of problems arising between them. With good will on both sides and a firm attitude on the part of the United Nations, harmony can prevail.

a.) *We urge that the Committee recommend the recognition of the continuing validity of the principles of the Balfour Declaration and the Mandate. No arbitrary limit should be set to the immigration of Jews or their right to buy land the only criterion should be the economic absorptive capacity of Palestine. The fullest opportunity should be afforded to the Jewish settlers to develop the economic resources of the country.*

b.) *We urge the Committee to recommend the establishment of a United Nations Trusteeship over Palestine for the following purposes: (i) to safeguard the Jewish settlement in the Jewish immigration into Palestine; and (ii) to help that country prepare to become a self-governing, independent and democratic commonwealth that will safeguard the religious, political and civil liberties and rights of all persons and all elements of the Palestine population. Autonomy in the spheres of religion, culture, education and social institutions should be guaranteed to the various communities in Palestine.*

c.) *The Committee should recommend the creation of machinery for continuous collaboration between the Jews and Arabs in Palestine, with a view to making possible the attainment of a democratic and independent commonwealth with equal rights for all.*

We hope that the suggestions we have made will help the Committee to discharge its solemn responsibility for the saving of human life and the furtherance of justice and peace.

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