

THE AMERICAN FORCES NETWORK
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SGT TED PIERZ

Good Evening. This is Sergeant Ted Pierz in the Palace of Justice, Nuremberg.

Last week, AFN Correspondent Harold Burson submitted a list of six questions to Mr. Justice Robert H. Jackson, the Chief United States Prosecutor at the Nuremberg War Crimes Trials. These questions are the questions GIs themselves have been asking ever since these proceedings began. To provide the answers, we have invited Mr. Justice Jackson to speak directly to the American Forces in the European Theater.

So, with this in mind, Mr. Justice Jackson, we of AFN would like for you to answer some of the important questions which are most often asked of us.

MR JUSTICE ROBERT H JACKSON

Of course, I will be glad to answer any questions that I can properly. So, Sergeant Pierz go ahead.

SGT PIERZ

Mr. Justice Jackson: Has the American presentation of its case been as objective and dispassionate as your opening statement indicated would be necessary if the trial was to be well regarded in the future?

MR: JUSTICE JACKSON

I think it has. We rejected all proposals to handle the case in a way that would be spectacular. The American case is founded on captured German documents and on the testimony of a very few important, well-informed witnesses. This has made a sober trial and to some extent a colorless one, but our case will stand the closest scrutiny by historians.

SGT PIERZ

American soldiers have been asking in all seriousness, "To what end Nuremberg?" Granted that this proceeding will establish a precedent in the field of international criminal law, won't it always be a case of the winner trying the loser in major wars -- even though the aggressor may well be the winner in future conflicts?

MR JUSTICE JACKSON

I should say that there is a measure of truth in this statement. No doubt if aggressors are also winners, there will be no one in a position to try them and they will, as we say, "get a way with it." But what should we conclude from that? Many murderers "get away with it" by never being caught, but that does not mean that we should refuse to prosecute those who are caught because others equally guilty may escape prosecution, or that we should repeal our laws against murder. Of course, the law we are applying condemns a war of aggression just as much if the aggressor wins as if he loses. Every time an example is given of the enforcement of this

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rule of law, it impresses the rule more deeply on the consciousness of rulers as well as of the public and thus strengthens it and fortifies the forces back of it. By enforcing the law against aggression now, we set up moral and legal barriers which the next would-be aggressor will have to take into account, and we set up standards for judging the conduct on any country whether it wins or loses. General awareness that aggressive war-making is criminal would make it harder to get neutrals to aid an aggressor and much easier for them to aid the victim. To throw this weight against aggression makes it less likely to succeed, and hence less likely to be attempted. Of course, the task of crystallizing world sentiment against aggression is a vast one, but it is certainly the next step in civilization's struggle to rid the world of its most destructive enemy --- war. We will not do this all at once -- but we are taking this next step at Nuremberg.

SGT PIERZ

GI's also, Mr. Justice Jackson, particularly in the Frankfurt area, have said that the Nuremberg trial is all right as far as it goes but they say "We think one of the basic causes of war is the German industrialist." We have had them point to the undamaged Farben building, now USFET headquarters, and say "That's what I mean." They do not understand why there are no trials for the Krupps and the officials of the Farben trust.

MR. JUSTICE JACKSON

I don't blame them for asking the question and I agree with what they say. The United States prosecutors proposed to indict Alfred Krupp

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as well as his father, Gustav Krupp. We proposed to include Alfred exactly as other defendants and that he should answer for his own conduct under the same conditions that other defendants do and in no sense that he should be judged for the sins of his father. The United States likewise proposed to include in this indictment a number of other industrialists. These proposals were rejected by all three other prosecutors. They believed that we could not handle a larger number of defendants in this trial and suggested a later trial for the industrialists. I believed we could handle a larger number, even if it took somewhat longer, and doubted whether we could go through a second trial, repeating much of the same evidence against a new group of defendants. I feared that failure to include them in this trial would mean they never would be tried. Time only will tell which was right. But I would emphasize that the disagreement among prosecutors was a difference in judgment as to procedure and that there has never been any disagreement among the prosecutors with the GI who points to the industrialist as one of the chief causes of the war.

SGT PIERZ

Our next question, Mr. Justice Jackson, is: will the prosecution take into consideration in its closing arguments "degree of guilt?" For example some have pointed out that Hess left Germany in 1941. Is he to be given any clemency for this action? It is also often mentioned that Schacht became less active as a Nazi participant in more recent years and finally was interned by the Germans. Must all defendants be given the same sentence?

MR JUSTICE JACKSON

No. Without reference to any individual defendant, I would say that the entire range of possible punishment is available in the discretion of the Tribunal. It is not obliged to mete out uniform penalties but is free to make the punishment fit the crime.

SGT PIERZ

Mr. Justice Jackson, a question which keeps coming up among soldiers is whether the prosecution does condemn military leaders generally or whether the charge here is a specific one based on extra-military activities. Will you clarify your attitude in this question?

MR JUSTICE JACKSON

I shall be glad to although I do not see how it is possible for any person to read my opening statement or who has followed the evidence in this case to misunderstand our position. We are not seeking to convict any man merely because he was a military leader. We are not trying soldiers because of their profession any more than we are trying the several defendants who happen to be lawyers for being lawyers. The fact is that we are accusing these military leaders of violating their own code of honor and of behaving in utterly unmilitary fashion as, for example, in executing grounded American airmen, in mistreating prisoners of war, in resorting to slave labor, and other specific crimes. We are also accusing them of inciting an illegal war of aggression. Our contention is not that being generals made them guilty of crime, but that being generals is no excuse for committing crimes.

SGT PIERZ

Are the mechanics of the trial as fair as you outlined in your opening address so that history can never say that the winners merely used the trial as an excuse to kill off the losers? For example, have the defendants the privilege of calling witnesses and can they actually get the witnesses they want. Since the victors hold most of the documents as a result of capture, do the defendants have sufficient access to these documents to select those which might be used in refutation of the documents entered by the prosecution?

MR JUSTICE JACKSON

Long before the trial started, the prosecutors began to safeguard this trial against the charge of unfairness in these respects. No defendant in the United States is provided so much free service. Each of these defendants has counsel of his own choice, and if he made no choice, counsel was appointed. They were free to have former Nazi Party members if they chose to do so. These lawyers are paid, transported, fed and housed in Nuremberg by the United States Army. Before the Tribunal met in Nuremberg, we established a Defendants Information Center in a large room in the Courthouse and placed in charge an officer, one enlisted man and one civilian, all of whom spoke German and all of whom had had legal experience. Defendants' counsel were given the use of it with office equipment, including 18 typewriters and hundreds of volumes of law books. They were also furnished free, all ordinary office supplies and two German speaking stenographers. The information center has been kept open throughout the day until 10 o'clock at night, including Sundays. Every day at this center, the counsel for defendants are furnished a list of documents to be used in Court by the prosecution the following day. They are also provided in advance with ten copies of our prosecution trial briefs, five bound copies of

MR JUSTICE JACKSON (CONT'D)

the document books that accompany the trial briefs, 25 extra copies in English of each document to be used, two photostatic copies of original German documents. In addition to this, they are furnished 25 copies in German, of the stenographic transcript of the entire court proceedings and five copies of it in English. Defense counsel are furnished, on request, any relevant evidentiary documents or books in possession of the prosecution at Nuremberg. Each counsel has filled a list of witnesses or documents not at Nuremberg which he desires. The Tribunal passes on whether they are reasonably necessary to the defense and, if so, it instructs the appropriate military authorities to locate and provide for the production of the witnesses or the documents sought. In some cases, it has been thought not necessary to bring the witnesses from other countries, but the defense are allowed to submit questions to be asked of them. The amount of service being given them is not because they deserve it. But in order that no one can claim to be a martyr in the future, we are taking every precaution to see that this trial is not discredited by any possible unfairness of the procedure toward the defendants.

SGT PIERZ

Thank you, Mr. Justice Jackson for your answers to our questions this evening. From them, I feel sure that American soldiers throughout the European Theater will have a much clearer picture of what is happening here in Nuremberg.

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This has been an exclusive interview with Mr. Justice Robert H. Jackson, on leave from the United States Supreme Court as the Chief American Prosecutor at the War Crimes Trials, Nuremberg.

This is Ted Pierz, returning you to the AFN-Newsroom, Frankfurt.