



Hermann Goering (standing far left in dock), makes final plea before Nuremberg tribunal. Goering was one of 22 accused after the Second World War.

War crimes prosecution analysed in a historian's memoirs

Autopsy on Nuremberg trials

The Anatomy of the Nuremberg Trials: A Personal Memoir by Telford Taylor, 703 pp., Mississauga, Random House.

By Michael Finlayson
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IN, FROM the Kingdom of Memory, Elie Wiesel says of writing about the Holocaust: "Where was I to discover a fresh vocabulary, a primeval language? The language of night was not human; it was primitive, almost animal — hoarse shouting, screaming, muffled moaning, savage howling, the sounds of beating. . . . A brute strikes wildly, a body falls; an officer raises his arm and a whole community walks toward a common grave; a soldier shrugs his shoulders and a thousand families are torn apart, to be reunited only by death. Such was the language of the concentration camp."

Historian Telford Taylor was one of the prosecutors at the Nuremberg trials. While he cannot

equal the eloquence of Mr. Wiesel (and who can?), his dissection of the trial of the chief war criminals at the first Nuremberg trial is opportune and engaging. There is currently much talk abroad of trying Serbian leaders for, among other things, policies of systematic rape and murder combined with what is being euphemistically described as "ethnic cleansing". At least one precondition is conspicuously absent: total victory over the Serbs by allies with a common goal. Apart from that, it is well to be reminded of the technical, political and diplomatic difficulties associated with war crimes prosecutions and Professor Taylor's account impresses upon us how improbable it is that they will occur.

War crime debate

His memoir begins with a concise rendering of the evolution of the notion of war crimes. The debate among the victors in the Second World War about prosecuting war criminals, the

drafting of the charter, the selection of the members of the tribunal and the prosecutors are all painstakingly detailed. He analyses the cases for and against and the personalities of each accused (22 in all, including Goering, Streicher and Speer), the character and contributions of each justice and each lawyer and the fairness of the decisions and sentences. The discussion of the respective merits of the prosecution counsel brought to mind Irving Younger's retelling of John Wheeler-Bennett's description of the cross-examination of Goering.

Bennett said that the American prosecutor (Robert Jackson) was sometimes eloquent, but often got bogged down in details because he was not sufficiently prepared; the English prosecutor (Maxwell Fyfe) had no charisma but was very good at getting into a certain area, doing damage and getting out without being hurt; the French prosecutor was very charming and

totally ineffective and the Russian (Rudenko) engaged in a day-long quarrel with the witness with the apparent object of extracting from Goering the admission that indeed he was a fascist beast. On the whole, this is consistent with Prof. Taylor's assessment (though actually the French prosecutor did not cross-examine Goering).

JACKSON'S cross-examination of Goering was justly criticized at the time, and Jackson was much upset by this. But Taylor 'rightly' considers Jackson's contribution to have been monumental. The vision and energy he brought to the undertaking were phenomenal. And his opening and closing statements have come to be regarded as exemplars of the law as literature. At the end of his closing address, after a powerful analysis of the evidence, Jackson said:

"It is against this background that these defendants now ask this tribunal to say that they are not

guilty of planning, executing, or conspiring to commit this long list of crimes and wrongs. They stand before the record of this trial as blood-stained Gloucester stood by the body of his slain king. He begged of the widow, as they beg of you: 'Say I slew them not.' And the Queen replied, 'Then say they were not slain. But dead they are . . .'

If you were to say of these men that they are not guilty, it would be as true to say that there has been no war, there are no slain, there has been no crime."

Though Prof. Taylor's work does not have the narrative power of *The Nuremberg Trial*, by Ann and John Tusa, it is better than Justice at Nuremberg, by Robert E. Conot. If, like the late, great Professor Younger, you are a Nuremberg buff, it is a must read: Likewise, if you wonder about the impediments to punishing persons directing the commission of war crimes today in what once was Yugoslavia.

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