

Executions in Nuremberg (October 1946)

*John Q. Barrett**

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On Tuesday, October 1, 1946, the International Military Tribunal (IMT) at Nuremberg announced its criminal trial judgments on twenty-two individual defendants. It found nineteen defendants guilty of various crimes (conspiracy; aggressive war; war crimes; and crimes against humanity) and three not guilty. The IMT sentenced seven of the convicted men to terms of imprisonment and the other twelve to death by hanging.

Although Justice Robert H. Jackson, United States Chief of Counsel, was present in Courtroom 600 in Nuremberg's Palace of Justice for the announcement of those IMT judgments, his active work as chief prosecutor had already concluded. Jackson left Nuremberg for the U.S. that same day, arriving back in Washington late on October 2. On Monday, October 7, he was back on the bench as the new U.S. Supreme Court term began. Later that afternoon Jackson delivered his final report to President Truman at the White House and resigned as chief prosecutor.

In Allied-occupied former Germany during the next week, the Allied Control Council declined to mitigate any convicted criminal's sentence. On the evening of October 15, death-sentenced war criminal Hermann Goering, recognizing that his hanging was imminent, somehow used cyanide to commit suicide in his prison cell. Shortly after 1:00 a.m. on October 16, prison guards delivered the ten remaining condemned men to the custody of a U.S. Army team in a newly-constructed execution chamber. Before 3:00 a.m., each criminal was hanged and pronounced dead. (The final criminal who the IMT had convicted and sentenced to death, Martin Bormann, had been tried in absentia and was never found alive.)

* Professor of Law, St. John's University School of Law, New York City, and Elizabeth S. Lenna Fellow, Robert H. Jackson Center, Jamestown, New York (www.roberthjackson.org). An earlier version of this essay was posted to my Jackson Email List on October 19, 2011.

For an archive of selected Jackson List posts, many of which have document images attached, visit www.stjohns.edu/academics/graduate/law/faculty/profiles/Barrett/JacksonList.sju.

To subscribe to the Jackson List, which does not display recipient identities or distribute their email addresses, send a note to barrettj@stjohns.edu.

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By October 1946, Whitney R. Harris, formerly an important junior prosecutor on Justice Jackson's Nuremberg team, had moved to Berlin and begun working in the Office of Military Government for Germany (U.S.) (OMGUS).

On October 15, Harris flew from Berlin to Nuremberg to represent Jackson at the executions. Four days later, back in Berlin, Harris sent this report to his former boss:

Mr. Justice Robert H. Jackson
Supreme Court
Washington, D.C.

Dear Chief:

On Tuesday I flew to Nurnberg to be present at the final episode in the trial of the major war criminals. In spite of the efforts of General [Lucius D.] Clay to gain my admittance as a witness to the actual hangings, this proved impossible under a policy established by the Control Council which excluded members of prosecuting staffs from the execution chamber. However, familiarity with the scene and close contact with the newspaper men who were present was quite sufficient to enable me to report on the details.

The executions took place in the prison gymnasium which you will remember as the small building about seventy-five yards from the door leading into the cell block where the "Big Twenty-one" were imprisoned. The secret that this building, which had been the workroom for the defendants who processed the thousands of affidavits submitted for the [defense of the indicted] organizations and had been used for a basketball game only the Saturday preceding, was to be the execution hall was kept so well that only two security officers knew the fact on Tuesday afternoon.

The members of the four-man committee in charge of the executions were all generals, Roy V. Rickard for the

United States, Paton Walsh for Britain, Morel for France and Molkov for Russia. They handled the arrangements very efficiently, except, of course, for the Goering suicide which could scarcely be charged to their neglect. This remains at writing the great mystery of the executions.

At nine-thirty [on Tuesday night, October 15], the correspondents were permitted to inspect the cell block and observe the condemned. Jodl was writing a letter; Ribbentrop was in earnest conversation with a chaplain; Sauckel nervously paced the floor, and Goering simulated sleep, his hands outside of the blankets. At the forty-five, the guard noticed Goering twitching. He called for the corporal of the guard and they rushed into the cell. They saw Goering writhing in agony. When the doctor arrived the death rattle was in his throat. Goering had cheated the hangman. They found in the cell a small envelope marked H. Goering on the outside, inside of which were three notes, one addressed to Colonel Andrus [the prison commandant] from Goering, and the cartridge case in which the vial of potassium cyanide had been preserved. As yet, the contents of the notes have not been released for publication and how Goering got the poison remains unsolved. Goering's body was brought into the execution chamber so that it might be viewed by the committee and by the two representatives of the German people present, Dr. Wilhelm Hoegner, Minister President of Bavaria, and Dr. Jakob Meistner, General Prosecutor of the High Court at Nurnberg.

At eleven minutes past one o'clock in the morning of 16 October, the white-faced Joachim von Ribbentrop stepped through the door into the execution chamber and faced the gallows on which he and the others condemned to death by the Tribunal were to be hanged. Ribbentrop's hands were unmanacled and bound behind him with a leather thong. He walked to the foot of the thirteen stairs leading to the gallows platform. He was asked to state his name. Flanked by two guards and followed by the Chaplain, he slowly mounted the stairs. On the platform, he saw the hangman with the noose of thirteen coils and the hangman's assistant with the black hood. He stood on the trap and his feet were bound with a

webbed Army belt. He was asked to state any last words, and said: "God protect Germany. God have mercy on my soul. My last wish is that German unity be maintained, that understanding between East and West be realized and there be peace for the world". The trap was sprung and Ribbentrop died at 1:29.

In the same way, each of the remaining defendants to receive capital sentences approached the scaffold and met the fate of common criminals. All, except the wordy Nazi philosopher, Rosenberg, uttered final statements. Keitel spoke as a Prussian soldier: "I call on the Almighty to be considerate of the German people, provide tenderness and mercy. Over 2,000,000 German soldiers went to their death for their Fatherland before me. I now follow my sons. All for Germany". Gestapo Chief Kaltenbrunner declared apologetically: "I served the German people and my Fatherland with willing heart. I did my duty according to its laws. I am sorry that in her trying hour she was not led only by soldiers. I regret that crimes were committed in which I had no part. Good luck Germany". Frank said quietly: "I am thankful for the kind treatment which I received during this incarceration and I pray God to receive me mercifully". Frick spoke only the phrase, "Let live the eternal Germany". Streicher shouted "Heil Hitler!" as he climbed the stairs and followed with the words: "Now I go to God, Purim Festival 1946. And now to God. The Bolshevists will one day hang you. I am now by God my father". And his last words were, "Adele, my dear wife". Sauckel protested: "I die innocently. The verdict was wrong. God protect Germany and make Germany great again. Let Germany live and God protect my family". Jodl spoke in the manner of an officer addressing his troops: "I salute you my Germany". Seyss-Inquart climaxed the final statements when he said: "I hope that this execution is the last act of the tragedy of the second world war and that a lesson will be learned so that peace and understanding will be realized among the nations. I believe in Germany". Seyss-Inquart died at 2:57 less than two hours after von Ribbentrop had entered the execution chamber. It was over—the trial ended, evil requited, and as Dr. Hoegner said, "Justice done".

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I am now at work in Berlin in the Legal Division, Office of Military Government (U.S.), and my job is “Legal advice”, by which I am charged with answering any and all legal questions which may be referred by the Deputy Military Governor or departments of OMGUS. The Legal Division at present is primarily charged with the reinstatement of the legal basis for democratic government in the American Zone of Germany. The laws of the dictatorship have been repealed, but there remains the task of reenacting codes covering each branch of substantive law and reestablishing workable procedures. I hope this task will have been completed by next summer and that when I leave Germany the basis for a new democratic society will have been laid.

...

Faithfully yours,

/s/ Whitney¹

When Justice Jackson wrote back to Harris, privately, nearly a month later, Jackson expressed disapproval of aspects of the execution events and some of his standards of good judgment and propriety in the use of power:

November 18, 1946

Mr. Whitney R. Harris,
OMGUS, Legal Division
APO 742,
C/o Postmaster, New York City.

My dear Whitney:

I very much appreciated your report of the Nurnberg executions. Apparently the military crowd were a little vindictive. They were very sore, I understand, because those who were sent to take charge of the executions were not put in prominent [courtroom] places at the [IMT] rendering of the verdict. The impropriety of playing up the executioners

¹ Whitney R. Harris to Robert H. Jackson, Oct. 19, 1946 (original), in Robert H. Jackson Papers, Library of Congress, Manuscript Division, Washington, D.C. (RHJ LOC), Box 101, Folder 12. An image of this document is attached to this file, immediately following this text.

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before the judgment of guilt had been rendered or sentence imposed does not seem to occur to such mentalities, if that is what they can be called by courtesy.

The photographs [of the corpses of the hanged criminals and Goering] which were released in this country have produced an extremely bad impression and with very few exceptions there is criticism, even in the papers that published them, of the fact that they were released. All in all, I am rather glad that the military people shut us out and made it their own performance.

I am glad that you are comfortably situated in Berlin and are at the job of giving legal advice. You certainly are having a very interesting experience and you may decide to make foreign service a career.

I hope you will let us hear from you from time to time and tell us the low-down on what goes on. ...

Sincerely yours,

[/s/ Robert H. Jackson]²

² Robert H. Jackson to Whitney R. Harris, Nov. 18, 1946 (unsigned carbon copy), in RHJ LOC, Box 101, Folder 12. An image of this document is attached at the end of this file.

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U. S.)
Legal Division
APO 742

LD 000.5 (45)

19 October 1946

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Supreme Court
Washington, D. C.

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Mrs. Harris and I have a reasonably comfortable billet in Berlin, and with her here life is much happier. She joins me in sending sincere regards to you and to Elsie.

Faithfully yours,


WHITNEY R. HARRIS

November 18, 1946.

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OMGUS, Legal Division,
APO 742,
C/o Postmaster, New York City.

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I am glad that you are comfortably situated in Berlin and are at the job of giving legal advice. You certainly are having a very interesting experience and you may decide to make foreign service a career.

I hope you will let us hear from you from time to time and tell us the low-down on what goes on. I should like to be remembered to your wife and you know that all of our good wishes are with you wherever you are. I conveyed your regards to Elsie, but I think she will want to respond with a note of her own. Sometimes she is that way. I hope it will not be too long before we see you over here.

Sincerely yours,