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FUND MEMORANDUM NO. 498

PRIVATE

August 15, 1952

Attached is a copy of a memorandum recently given to a Paris Fund representative by Dr. Osusky. The memorandum contains Dr. Osusky's observations on the recent meeting of the International Congress of Jurists which was held in West Berlin. It should be treated as an informal and unofficial document and is, of course, not meant for publication in as much as it represents the personal opinions of Dr. Osusky.

Of particular interest is the information concerning a Council of Exile Jurists which will be found on pages six and seven.

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International Congress of Jurists in West Berlin

From July 25 to August 1, 1952

Part 1. The case of Eastern Germany under Soviet rule.

Attendance The Congress was attended by 107 jurists from 43 states. It elected for its President: J.T. THORSON, President of the Canada State Court of Justice.

Working Committees The Congress divided into four working committees: on Labour Law, on Civil and Economic Law, on Public Law, and on Penal Law.

The task of the Committee was to examine 310 documents gathered by the Investigating Committee of Free Minded jurists in West Berlin, under the direction of Dr. Theo FRIEDENAU, and to question eye witnesses from the Soviet zone of East Germany, regarding the material contained in the 310 documents.

Task of Committees While exile jurists, from eight countries from Behind the Iron Curtain attended, and at divers occasions could furnish information regarding the conditions in their respective countries, the task of the four committees was not to examine and report on them to the Plenary Session of the Congress on July 30. The task of the Congress was limited to the study of the situation in the Soviet zone of East Germany.

The 310 documents have been gathered during the last two and a half years, and have been presented in their original German version in a volume entitled UNRECHT ALS SYSTEM (Injustice as a System).

The director of the Investigating Committee of Free Minded Jurists, Dr. Theo Friedenau, started the work two and a half years ago with one secretary and built it up into a remarkably efficient organization.

Resolutions On July 31, the Plenary Session of the Congress adopted the reports of its four working committees and Resolved: That the Congress is impressed by the authentic nature of the material gathered by the Investigating Committee of Free Minded Jurists (headed by Dr. Theo Friedenau) and the weight of the evidence and is of the opinion that generally accepted principles of law have been violated by the administration of the Soviet Zone as set forth in the reports of the working Committee.

1. That the Congress believes that violation of principle is the kind referred to in these reports is a matter of grave concern not only to Jurists but to all people throughout the world.

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2. That the Congress considers that its work should be continued and to that end a Standing Committee of the Congress should be appointed with the following powers:

a) To maintain contact between Dr. Friedenau's Investigating Committee of Free Jurists and the members of the Congress.

b) To receive such answers and other communications as may result from the action taken by the Congress.

c) To take further action as the Standing Committee may deem desirable to implement the objectives of the Congress.

3. That the Congress elect the following members of the Standing Committee: J.T. THORSON, Canada; P.T. FEDERSPIEL, Denmark; Sr. JOSE NABUJO, Brazil; H.B. TYABJI, Pakistan; Dr. H. ZELLWEGER, Switzerland; A.J.M. VAN DAL, Holland.

J.T. THORSON as Chairman, and  
A.J.M. VAN DAL as Secretary.

4. The Secretariat of the Standing Committee of the Congress be established at The Hague under the direction of its Secretary A.J.M. VAN DAL, NOORHINDE, 75, Dea HAAG, Holland.

5. That Dr. Theo Friedman be requested to keep the Standing Committee currently informed.

6. That a statement of the resolutions adopted by the Congress be sent to the Government of the Federal Republic of Germany (Bonn).

7. That a statement of the resolutions adopted by the Congress together with the copy of the publication INJUSTICE AS A SYSTEM be sent to the government of the German Democratic Republic and to the Occupation Authorities of the Soviet Zone of Germany.

8. That a statement of the resolutions adopted by the Congress together with a copy of the publication INJUSTICE AS A SYSTEM be sent to the General Secretary of the United Nations for their information and such action as may be appropriate.

9. That the Congress approves the work of the Investigating Committee of Free Minded Jurists in gathering the material presented to the Congress and hopes that it will continue its work in rendering aid to the victims of injustice in the Soviet Zone and stimulating faith that the rule of law will ultimately prevail and that freedom and justice will be restored.

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Explanations and Observations

Speaking broadly, four tendencies manifested themselves during the discussions.

Middle East and India

The Middle Eastern jurists and those of India wanted the Resolutions to cover all "injustices", not only those committed by the Soviets and the Government of the German Democratic Republic in Eastern Germany, but also those committed by the English and the French in Asia and Africa.

Latin Countries and Behind the Iron Curtain

The jurists from the European Latin countries and those from South America and the jurists from countries Behind the Iron Curtain wanted the Congress to vote resolutions affirming:

1. That the power of the State must be clearly defined and limited, so that it should respect and protect human dignity; and that the organs of the State should be held responsible disciplinarily for their actions before impartial international courts for criminal and civil law.
2. The systematic violations of human rights concern the whole community of peoples and an International Court, within the United Nations, should be created to try the grave violations of the Human Rights as laid down in the Declaration of December 10, 1948.
3. That the general principles of law and justice enshrined by the Declaration of Human Rights be incorporated in all national constitutions and that their implementation be assured by national judiciaries and if they fail to do so, by an international jurisdiction.
4. That every attorney general, judge, lawyer or functionary, who consciously participated in the delivery or execution of judgments or arbitrary measures in conflict with the principles of a State based on law, be informed that he will be accountable for it.
5. That acting on an order by a superior, is no excuse in such a case.

Anglo-Saxons and Scandinavians

The jurists from Anglo-Saxon and Scandinavian countries defended the position that the task of the Congress was to establish facts for the purpose of ascertaining whether the generally accepted principles of law and justice have been violated and whether they establish a prima facie case of violation. They claimed that a final judgment could not be passed upon the cases because the other party (East German Government and occupying Soviet authorities) has not

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been heard. The opinion of the Anglo-Saxon jurists prevailed and the above proposed resolutions of the Latin and exile jurists from behind the Iron Curtain have been referred to the Standing Committee for further consideration.

Composition of the Standing Committee

In order to maintain, as much as possible, the character of impartiality of the Standing Committee, the view prevailed that no West German - being an interested party - should be a member of it. Neither should an American, French and Italian sit on it, because their countries are politically directly involved in the conflict with the East. Neither exile jurists from countries behind the Iron Curtain.

Part II. Exile Jurists from Behind the Iron Curtain

Attendance

Albania

HASAN DOSTI, former Minister of Justice, President of the Albanian National Committee (New York).

HUGI KOTTA, member of the Albanian National Committee (New York).

SELIM DANAMI, leading Albanian exile jurist (Athens).

Bulgaria

NIKOLA DOLAPCHIEV, former professor at the University of Sofia, representative of Peasant Party (England).

MADA DOLAPCHIEV (lawyer).

ASSEN SLAVOV, member of the Bulgarian National Committee (Rome).

Estonia

JOHANNES KLESNEN T, former Minister of Justice; President of the Estonian National Council (Stockholm).

HEINRICH MARK, Attorney; Secretary General of the Estonian National Committee (Stockholm).

PAUL POOM, former member of the Supreme Court (Stockholm).

Czechoslovakia

STEFAN OSUBKY, former professor of philosophy of law at Prague University, President of Central Committee of Council of Free Czechoslovakia; Vice-President of Central and Eastern European Commission of the European Movement (Washington).

JAROSLAV STRANSKY, former professor of Criminal Law at the Brno University; former Minister of Justice and Education (London).

G. VELTHUSKY, former Secretary of Trade Unions, publisher of Masses-Information (Paris).

JOSEPH MIKUS, former Charge d'Affaires of Slovakia in Madrid (Washington).

Latvia

JANIS BREIKSS, Attorney, Chairman of the Latvian Social Aid Committee (Stockholm).

M. GARSTE, former member of the Supreme Court; member of the Latvian Central Committee (Stockholm).

ATIS GRANTBAINS, former judge of the District Court of Riga (Newark).

Lithuania

JUCZAS SAKALAUSKAS, former diplomat, and legal adviser in Ministry for Foreign Affairs (Diepholz, Germany).

ANTHONY TRIMAKAS, former professor of National Economy (Brooklyn).

Poland

TITUS KOMARNICKI, former permanent Polish delegate to the League of Nations, specialist in International Law (London).

Rumania

MIRON BUTARIU, Attorney (New York).

L.J. CONSTANTINESCU, professor (Cambridge).

Importance of the movement

From the number and quality of attending jurists and from the quality of material presented to the Congress by Dr. Friedenau's organization, it was manifest that a vast and important international movement was being put into movement. As the task of the Congress, according to the established program, was limited to the Soviet zone of Eastern Germany, Dr. Oousky's preoccupation, from the first day, was

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how to bring the countries Behind the Iron Curtain into the frame work of the Congress.

Lesson and example to exile jurists from Behind the Iron Curtain

Some exile and many other jurists thought that an exile jurist from Behind the Iron Curtain should be elected to the Standing Committee of the Congress. In Goussky's view this solution would not have corresponded to the needs and interests of the countries Behind the Iron Curtain, because the Standing Committee had only the material regarding Eastern Germany to deal with. The real problem was how to gather material regarding countries Behind the Iron Curtain so that the next Congress should be able to deal with it in the same way it dealt, at the first Congress, with Eastern Germany.

Council of exile jurists

Therefore the immediate problem was how to bring together the exile jurists of 8 or 10 countries from Behind the Iron Curtain in order to gather the material, as Dr. Friedmann's organization has done for East Germany. After several conversations between Dr. Goussky and Dr. Friedmann, it was agreed to call a meeting of exile jurists from Behind the Iron Curtain and consult with them. Dr. Friedmann and Dr. Goussky agreed to call such a meeting on July 30 and to propose to them the acceptance of the principle of setting up a Council of Exile Free Minded Jurists with an aim of fighting most effectively against injustices committed in countries Behind the Iron Curtain. However, in order to avoid giving the impression that they set up a definite organization with definitely elected officers, they proposed only to adopt as principle the setting up of such a Council and prepare a meeting of the exile jurists in about three months to elect its permanent officers, establish the seat of its secretariat and adopt a method and a working program. This the meeting approved, and Dr. Goussky was charged to prepare the convocation of the constituent meeting, its program and method of work.

Dr. Goussky and Dr. Friedmann agreed that the jurists to be invited to the meeting would neither be invited through the organization of the political groups nor be their delegates. They should be individually approached.

They also agreed that the number to be invited should be 3 or 4 for the important countries, 2 for medium sized and 1 for small countries.

It was estimated that the meeting could be convoked for the end of October or the beginning of November. The place of the meetings was to be fixed later, but should be somewhere in Europe. In private conversations, Albanian, Bulgarian and Rumanian jurists suggested Rome because of the number of exiles who arrive in Italy or the allied zone of Trieste. Others suggested a place in Western Germany.



However, this will be decided later. The seat of the Secretariat will also be decided later. However, everything indicates that it should be at the Hague the seat of the Secretariat of the Standing Committee of the Congress.

Final Aim

The immediate aim of the Council will be to gather material relative to countries Behind the Iron Curtain, and to present it to the Second International Congress of jurists to meet next year. Dr. Cowsky hopes that the result of this Second Congress will be such that the Standing Committee of the First Congress and the Council of exile jurists will be able to propose the creation of an International Investigating Committee of jurists which would take charge of the whole matter.

Conclusion

General Interest

It is perfectly conceivable that the First International Congress of Jurists may have started a great international movement in which may participate men and women without difference of religious or political creeds or party affiliations - a crusade against injustice. Dr. Cowsky is fully aware that the reactions will vary according to countries. He expects the most favorable reaction in the United States, where legal principles and the principles of justice are still a living reality. In France, because of Nazi occupation, and in Italy, because of Fascism, the sense of legality has been somewhat dulled. This does not mean that in these countries, there are no jurists who would not possess a profound sense of justice and a keen legal conscience. In Great Britain, exhaustion from the war strain the stringent conditions of daily existence, the disillusionment brought about by the results of the war, and the frustration as regards the state of the Empire and the not very promising prospects of the future, makes the British less sensitive to injustice than they used to be. They have retreated into themselves so that they give an impression of indifference.

The smaller nations of Western Europe, Portugal, Belgium, Holland, Denmark, Norway, Sweden and Switzerland are still very keen on the rule of law and justice.

Interest for the exiles  
from Behind the Iron Curtain

The Congress represents an exceptional interest for the countries Behind the Iron Curtain. First, it brought them into the sphere of international activity. Secondly, it will furnish the peoples Behind the Iron Curtain a proof that their cause is gaining ground. Thirdly, it has furnished the exiles from Behind the Iron Curtain a long desired common ground on which they could unite their efforts irrespective of nationality, group and party affiliations. It is hoped that the Council will become an organization where the exiles will be able to work together, fight together and prepare a new Central and Eastern Europe.

Its activity may become the source of inspiration to the peoples behind the Iron Curtain not less faith, not to abandon themselves and have a vision of a better future.

Finally, it may become a school for the exiles on how to collaborate and practice genuine self-government, self-restraint and party and national inhibitions, without which a new Europe could not be created.

Paris, 5 August, 1962