

VON HOFMANNSTAHL, E. (DR.)

000727

In reply please  
refer to: 137

FEB 18 1944

Dear Dr. Hofmannsthal:

Thank you for your letter of February  
12, 1944, enclosing copies of two articles which  
you have written dealing with refugee problems.

Very truly yours,

(Signed) J. W. Pehle

J. W. Pehle  
Acting Executive Director

Dr. E. V. Hofmannsthal,  
Interamerican & Central  
European Law Offices,  
University of Maryland,  
College Park, Maryland.

*E. V. H.* RBHutchinson 2-16-44

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1937-38 Expert of Central European and  
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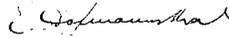
War Refugee Board  
Washington D.C.

Gentlemen:

I have been informed of your invitation for suggestions.

May I submit to you two of the various articles I have written  
on subjects connected with your activities. If the material and the  
observations which I had the opportunity to collect in Europe and in  
South America, can be of any use to you, I will be glad to put them  
at your disposal.

Sincerely yours



E. v. Hofmannsthal

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E. v. HOFMANNSTHAL

*Attention,  
Legislators!*

*Fifty Billions Spurned*

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#### ABOUT THE AUTHOR

DR. EMILIO VON HOFMANNSTHAL is an international lawyer and economist known on four continents which he frequently visited. He is now a Chilean citizen, one of the few lawyers elected as Adhering Members of the *Académie Diplomatique Internationale*, and maintains offices for the practice of international law in the United States, England and Argentina. He has made a special study of the legal and economic aspects of immigration. His articles and opinions published on this subject (*La Prensa* of Buenos Aires: "*Valor economico de la inmigracion*"; "International Protection of Axis Victims and Revindication of their Property Rights", New York University, with Dr. R. Berger; in "*La Inflacion Monetaria and Medios de contrarrestarla*" (American Institute for Social and Economic Research, Buenos Aires, 1942) and "*Pais sin muros*" (ibidem 1943) have gained for him world-wide recognition as an authority on this subject. His "*Draft of a Restoration Law for Axis and Axis-occupied Countries*", with the collaboration of J. CHALAT, and translated by F. R. COUDERT, will be published soon.

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## ATTENTION, LEGISLATORS! 50 BILLIONS SPURNED. INTERNATIONAL JUSTICE FOR REFUGEES

BY

DR. EMILIO VON HOFMANNSTHAL

W

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ALL RIGHTS RESERVED

*To my American friend*

SAM WACHTELL

*suddenly deceased*

*who fought for and suffered with  
every one of those many who  
could not live in the land of the slaves  
and could not leave it for the lands of the free.*

University of Maryland  
December 1943.

E. v. HOFMANNSTHAL.

MANUFACTURED IN THE UNITED STATES OF AMERICA  
BY ERNST WILLARD, NEW YORK, N. Y.

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## INTRODUCTION

Even though, for the moment, international law is relegated to a fiction, it is important that it now be emphasized as a reality, for it must be the basis of a re-organized world in which the denial of the absoluteness of sovereignty to determine the interpretation of legal rights will be a main objective.

The refugees furnish an outstanding test case. Not only in the matter of their confiscated tangible property, whose complications are so great that justice may never be achieved, but also in the matter of the intangible values in relation to their persons.

Law grows out of moral judgments. Sovereign states have used their limitations to deny the application of the moral imperative to refugees in accordance with their narrow and perverted prejudices.

The worth of a personality is immeasurable, but, as Dr. von Hofmannsthal has shown, the refugees' value in cost of production and capacity for contribution can be estimated in concrete terms. I would set the figure higher than he does. All this is a free gift to the country to which the refugee comes, but in spite of this he is often ignored or rejected.

Since law aims at conserving values even against momentary attitudes, self-interest demands a return and an enlargement of the application of the principles of international law both in behalf of human justice and for the promotion of self-interest.

To a lawyer, delay in the immediacy of justice may create impatience; to a sociologist, the direction in which the social process is moving may give satisfaction. The lawyer's attitude is one of the forces giving direction to the social process.

HERBERT A. MILLER,

*Professor of Sociology, Black Mountain College, Black Mountain, N. C.*

The restitution of confiscated property in Axis and Axis occupied countries is not a problem of emigration, a question of concern to refugees alone — but it is a question of justice and of international law.

To allow the robbers and their successors to retain their loot, would merely encourage further robbery. It would mean protecting the plunderers against those whom they had despoiled — in spite of their defeat. The perpetrators of atrocities must be punished<sup>1)</sup>, not only because punishment is their due, but as a deterrent to future atrocities and robberies. Those who have profited by robbery must restore their ill-gotten gains, in order that belief in justice may be re-established in the world.

To dissipate a popular error it is necessary to emphasize that this is much more a question of international justice, than a demand made for the sake of refugees or Jews. Not even the amount of the robbery makes it a Jewish

<sup>1)</sup> The Governments in Exile: Czechoslovakia, Belgium, Free France, Greece, the Netherlands, Poland, Luxemburg, and Yugoslavia signed on January 13, 1942 in London a resolution: They

"1. Affirm that acts of violence thus perpetrated against civilian populations are at variance with accepted ideas concerning acts of war and political offenses as these are understood by civilized nations;

"2. Take note of the declaration made in this respect on October 25, 1941, by the President of the U. S. A. and the British Prime Minister;

"3. Place amongst their principal war aims punishment through the channel of organized justice of those guilty and responsible for these crimes, whether they have ordered them, perpetrated them or in any way participated in them;

"4. Determine in the spirit of international solidarity to see to it that (a) those guilty and responsible, whatever their nationality, are sought for, handed over to justice and judged; (b) that sentences pronounced are carried out."

LONDON, April 16, 1942.—The Polish underground has called on all Poles to keep records of the names of Germans responsible for crimes against Polish citizens, to make note of details involved and to list all witnesses.

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question. Of the 130 billion dollars<sup>2)</sup> stolen by the end of 1942 only 18 are so-called — to use this stupid expression — “non-aryan” property, and perhaps two-thirds of it are Jewish property. The Nazi propaganda has succeeded in creating the belief that its action is taken only against a group which does not enjoy international sympathy.

The victorious powers will have a direct interest in the reconstruction and consolidation of Europe and, for this, the re-introduction of proper legal principles will be essential. It is also a matter of economic importance for the Americas, in fact for all countries that have received refugees. A large proportion of these immigrants will be wealthy again once their property has been restored to them; it is commonly thought that an immigrant is welcome only in proportion to his wealth. Such economic misconception<sup>3)</sup> form the shoal on which many a projected immigration has

<sup>2)</sup> After an estimate based on substantial material collected by the author it amounts until the end of 1942 to 135 billion dollars, namely:

Germany: own population .....	11
foreign investments .....	5
Austria .....	4
Czechoslovakia .....	7
Slovakia .....	1
Balkan States .....	6
Poland .....	13
Baltic States .....	0.5
Russia .....	6
Western Countries (Norway to France):	
Occupation costs .....	16.25
Visible loot .....	20.3
Invisible loot .....	20
Italy .....	1
Neutral countries .....	10.25
	122.2
Exploitation of foreign workers .....	13.5
	135.7

<sup>3)</sup> Hofmannsthal in *La Prensa* of Buenos Aires of September 11, 1941: “El valor económico de la inmigración” (“The economic value of immigration”), see note 17.

come to grief. But this much is true, that wealth of the immigrant has a certain advantage for the country that receives him; so that the question, of whether a number of its inhabitants are likely to have their foreign property returned to them, is of considerable importance to the land of their adoption. Compared to this, the question of their nationality sinks into insignificance, since the credit balance of a country takes no account of the passports of its residents.

For instance, for the economic position of Bolivia or Costa Rica it may be of importance that a number of their refugee inhabitants might obtain restitution of property abroad, which would have the same effect on the economic position of these States as if Bolivian or Costa Rican citizens had become possessed of foreign property. The sums involved might have a very favorable influence on the economic position of such countries. In a world in which the economic forces could work freely again they would not only be creditors of the countries in which the restituted property lay, but their credit with other countries would be improved also.

All civilized countries are equally interested in justice. But the less wealthy countries of the Americas are also especially interested in the economic aspects of this problem, because of the effect such restitution of property would have on their national wealth, particularly when immigration has been considerable. Good deeds are profitable, even for States, and even when the profit is slow in materializing. One of the surest causes of the fall of the totalitarian States lies in their having given so much attention to the organization of wickedness.

In order to understand this community of interest of the immigrants and their new countries better it may be permissible to say a word or two about *Immigration* to dispel some of the commonest misconceptions.

To see this matter correctly we must free our minds from the influence of such cheap assumptions as, that immigration has been permitted as a matter of philanthropy, or that immigrants are a burden to the countries that receive them. In truth they have a *claim*, and constitute an *asset*.

A claim? Yes, a fourfold claim: *legal, political, human and economic*.

To the *legal* claim there are several sides: all civilized countries, including the Germany of those days, signed the Brussel Convention<sup>4)</sup>, to the effect that a *slave* has right of asylum in any of the countries that were signatories of this treaty. A slave has the right to go aboard any American ship in order to regain his freedom. No slave can be prevented from fleeing from slavery to French or British territory. None may be turned back because his passport is not in order or because he has no visa. He cannot be asked for proof of ability to support himself. Protection for him, his wife and children is decreed beyond the wildest hopes of an ordinary immigrant<sup>5)</sup>. Nowhere is it decreed that in order to have this right of asylum he must have a black,

4) *Brussels Acts of 1890*.—Under this agreement each of the Contracting Powers has the duty to protect a slave who succeeded to escape to the territory of this Power, and—a matter of self-evidence—"never to hand him over to the state, the slavery of which he escaped. . . Each of the Contracting Powers . . . shall have the duty . . . of procuring for them (the slaves) means of subsistence, and in particular of providing for the education and support of abandoned children." (Art. XVIII). "They (the slaves) shall be entitled to their protection and assistance for the purpose of obtaining means of subsistence" (Art. LXIII). "On receiving notice of an act of Slave Trade or of illegal detention . . . the said offices or authorities shall exercise all necessary diligence to insure the liberation of the slaves and the punishment of the offenders." (Art. LXXXVII/2). "The Signatory Powers shall encourage the foundation in their possessions of establishment of refuge for women and of education for liberated children" (Art. LXXXVIII). "Freed slaves shall always be able to resort to the Office to be protected in the enjoyment of their liberty" (Art. LXXXIX). This treaty was signed on behalf of Germany by a certain William Goehring!—and renewed at Geneva on September 25, 1926, signed by U. S. in 1929.—*Académie de Droit Internationale* tome III, page 562 §§5, 1933: "The defense of liberty consists in the battle against slavery."

brown or yellow skin. It was never doubted that slaves of Caucasian race, in Asia, could always avail themselves of this right. But when in 1938 I pleaded in London on behalf of so-called "unlawful" immigrants that the legal position of the group which was being discriminated against—largely, but not exclusively Jews—was, under the Nazis, in no way different from slavery of the worst kind and that the provisions of the Brussels Convention were applicable, my plea was regarded as a piece of legal witticism<sup>6)</sup>.

What one might call the "inflation of human rights", has now gone so far in Europe that it has become a commonplace that many millions there are suffering from a slavery worse than anything which existed before. There are slave markets<sup>7)</sup>, in no way better than those of Africa

5) Note 4, Art. XVIII, LXII.

Compare: NEW YORK, May 4, 1942.—Felix Pinner, former financial editor of the *Berliner Tageblatt*, and one of Germany's leading writers on economics, committed suicide with his wife in the gas-filled kitchen of their apartment here. Dr. Pinner was 62 years old, and his wife 56. The Pinner's, according to notes they left, took their lives because they had liquidated most of their assets. The couple had a son, Stephen H. Pinner, a private in the Army in the State of Washington, and a foster son, Guenther Drucker, a private in California. Dr. Pinner came to this country in 1937.

6) Juridical definition of a slave: "One over whose life, liberty and property another has unlimited control" . . . "such a power has no foundation in natural law, and hence the Justinian code declared it *contra naturam esse* (contrary to the laws of nature)". Vide Lord Mansfield in the Negro Case 1771, "independent from color". Re the position of a Government which condones slavery vide Ruiz Moreno (1940) 105.

7) a) April 3, 1941.—Poles conscripted for forced labor by the Nazis are being sold in auctions reminiscent of the slave traffic of former days. At Graz, Klagenfurt, Wolfberg and other cities of Austria throngs of these workers are brought before representatives of the German Labor Office and farmers and carefully examined before being given away to the highest bidders. A successful bidder must make a symbolic payment of 15 marks for each transaction. This special sum is contributed to the Soldiers' Benevolent Fund or the Winter Relief Fund.

b) *Jews for Sale*.—The traffic in Jews as slaves has increased in volume in Nazi occupied Poland to such extent, that the various Nazi Commissioners no longer are ashamed to advertise in the newspapers. In the *Litzmannstädter Zeitung*, the German paper of Lodz, is to be found the following advertisement of the local Nazi Commissioner: "I have at

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before the Congo Treaty or of America before the Abolition; in fact, the slave hunting of Central Africa was child's play compared to that of Europe in the last years. This is no figure of speech, since all the papers are full of accounts of how the Nazis treat the subjugated peoples and the Jews as slaves. But the deduction, that every one of these slaves has a right to flee to a free country and be freely received there, was not realized until such flight became no longer possible.

The second point is that almost all experts of International Law in the nineteenth century recognized the right of Emigration and Immigration<sup>8)</sup> and quite a number of American States have written this into their constitutions<sup>9)</sup>.

my disposal 250 trained Jewish tailors, furriers and hatters. I am ready to accept orders from the army or private enterprises." Other commissioners advertise, that they are sending their slaves to any part of the country where work can be found for them.

c) PM, August 31, 1941: "How Hitler has restored human slavery among the conquered peoples of all Europe."

8) Report of the Attorney General Jeremiah L. Black to the President of the U. S. A.: "The majority in authority and number of the writers on International Law are in agreement with Cicero who proclaimed the right to expatriation as the most solid foundation of human liberty, and with Bynkershock, who denies fervently that the territory of a state could be the jail of its population. . . . Here, in the United States, the thought to abandon this principle or this right cannot be sustained for one moment. Under this principle the country was populated. We owe it our existence as a nation. . . . Refuse it or restrict by only an atom the necessary power to sustain it, would be such a big perfidy that no American could do it without a sentiment of unsufferable shame."

*Right to Immigrate:* Ruiz Moreno 104, 108, Bluntschli, Fiore, Draft of Inst. of Int. Law 1897|262-701, Antokoletz II|587; "Admission of foreigners not immigrant cannot be prohibited unless for individual reasons". Religious faith is certainly no such reason, vide Oppenheim § 292, II B 1; Commission of the L. o. N. for Immigration, Conferences for Immigration and Emigration, Rome 1921 and 1924; I. Ruiz Moreno Jun. "The Right of Asylum", La Prensa, March 1, 1940.

*Right to Emigrate:* Vide Pradier, Antokoletz II|571, Draft of the Inst. for Int. Law 1897|262-70. Polish Minister Strasburger, November 30, 1942: "Emigration is a right and not an obligation."

9) Chile Art. 15, Argentina Art. 14, 25. Bolivian decree of January 23, 1937: "for all foreigners persecuted for political reasons". In spite of it Bolivia refuses admission to the most persecuted group, the Jews, since 1939. Special rights for persons persecuted for political reasons, Treaty of Montevideo, August 4, 1939.

As far as International Law is concerned the only change since then is that the nations are physically nearer and ideologically further apart, and that international law is less respected. But that does not in the least alter the right of the persecuted to asylum.

According to International Law there is no such thing as illegal immigration of the victims of political persecution. It is not their immigration that is illegal, but the national laws that would forbid it. It is not difficult to make laws, but the question is whether they are valid according to international principles which alone can make it possible for peoples to live peaceably together<sup>10)</sup>. If the so-called "legitimate" execution of such precepts endangers the life, health or property of men, it is an offense against international law, as much as it would be an offense against a state constitution if a municipality were to make regulations contrary to the basic law of the land. Only it is much simpler to go to a state court and secure the repeal of a municipal regulation than it is to secure the alteration of national laws that go contrary to international principles.

*Political claim.* On every hand we hear the cry that this is not a war between States, so much as a conflict between civilization and barbarism. The refugees from Europe are literally the advance guards who have suffered the first onslaught of the common enemy<sup>11)</sup>, whose relatives

10) "International Law overrules National Law" is a recognized slogan (Kelsen, Lauterpacht, Blackstone, v. Ruiz Moreno I, 41, Kunz pp. 406, 407, Zitelmann p. 89) and expressly accepted by some constitutions (Germany — not to be confounded with Hitler's "Reich" — Austria, Estonia, Spain). — Borchard, "International Law — Municipal Law", Virginia Law Review, p. 137|1940, esp. p. 146. — "Draft Statute for the Establishment of a Legal Machinery . . ." of a group of Austrian Lawyers in London headed by Dr. Paul Abel, p. 25.

11) Cf. the excellent words of the *New York Times* of March 13, '42, p. 18|3, discussing the "Struma" case: "These refugees were soldiers, as we all are now, in the war against evil. They were comrades of the men on Bataan, of the men holding the line in Burma, of the men facing the

and friends have been done to death, who have been robbed and of whom only a few could rejoin the main army. That this main army — in Prague, Paris, London and Washington — did not pay attention to their cries of warning, or come to their help in time, does not in any way affect their rights. They were the first victims, they defended the first, but sacrificed positions.

The duller minds in all countries now comprehend that the war which broke out at the end of August 1939 between the armies of Europe and which involved America in December 1941, was really kindled in January 1933. It flared up in the butchery and robbery of unarmed people and was watched with unseeing eyes by those whom it most concerned. When a hundred years ago, Indian tribes fell upon farmers and massacred their women and children, men had more common sense. They did not shut the doors of the forts and the towns against the refugees, they did not stop to ask them whether they had saved their papers all in good order and whether they had brought enough money with them. They did not say, with regret, that otherwise they would have to send them back to the Indians! No, in those days they understood the warnings and rushed to the help of the fugitives. If they had not done so neither the United States nor Argentina as we know them today would have come into existence.

The advance guards do not lose anything of their rightful claim because the main forces did not understand or did not wish to understand that they were attacked. For this lack of understanding and these delays the advance guards had to pay dearly. In 1936 at the cost of only five minutes

Japanese in China. They were of the flesh and blood of the free peoples. Nothing that can have been gained by the failure to save them is of any value compared with the moral loss that their disaster brought about. Let us leave it to our enemies to be careless of human life—that is their philosophy. Our cause cannot survive without the simple, old-fashioned virtues of mutual helpfulness and compassion."

of warfare, and again in 1938 at the expense of one hour of warfare<sup>12)</sup>, the fire could have been extinguished. It was certainly not the fault of the advance guards that it was thought better to sacrifice their property and their blood in the illusory hope that this would satisfy the greed of the enemy for loot and murder. This does not affect their rightful claim to a) reception and b) compensation. They have a political claim to compensation for all the sacrifices they were forced to make for the common cause; those sacrifices which gave others the time to arm.

They have also a *human* claim. A human claim: one needs no stronger argument. Because little is said here about the greater part of their sacrifices, of their blood sacrifices, it does not mean that these are forgotten. One should *never* forget them! Not for a moment must one fail to remember that these people, no matter what their nationality or what their antecedents, have a claim not only to be tolerated, but to be honored and to be helped with active sympathy. Whether they are charming or not — misery and horrors do not help to make people any more pleasant — and whether, after all the persecutions, humiliations and tortures of the concentration camps, they showed the necessary tact or not, those who have struggled in the common cause have a right to be treated as comrades. Those who read with emotion about the cruelties of the slave hunters who overran defenseless villages should be unable to sleep when they follow the bestial, calculated cruelty which has submerged the civilized countries of Europe and the cultured lands of Asia.

Imagine what Austrians must have felt in 1937 and Czechoslovakians in 1938, when hunted men and women, who a few days before lived in quiet and well-being, crossed the frontiers with only their clothes on their back and beg-

<sup>12)</sup> 10 million dollars for U. S. A., roughly 20 millions for all the Allies.

ged for asylum! When people thought: "Is it not wise to be human since who knows if in a few weeks or a few months we shall not be in the same plight?" In Poland and Yugoslavia, in Holland and France, where refugees were hesitatingly and reluctantly received, it was for lack of this thought and not for lack of accommodation.

Hardly any country has realized its obligations to the refugees. It would have been acting up to its obligations only by opening the doors wide and granting the refugees all kinds of privilege, e.g. freedom from custom duties and taxes in regard to their salvaged property. They have had to sacrifice so much of their property that it makes any taxation seem ridiculous and unjust. It is customary that the victims of natural disasters and war losses should be granted such concessions. And it is quite immaterial whether such damages occurred out of or inside of the country, whether they were suffered by citizens or by foreigners. Just as, in regard to taxation, the foreigner can in general claim no privilege over the citizen, so a country that taxes the foreign profits of its residents also must take account of their foreign losses<sup>13)</sup>. Almost no country seems as yet to understand that wrong knows no frontiers, and that what happened in foreign countries to foreign citizens was damaging to it also. That and only that lack of interest in the world community has brought the nations into the situation where they now are.

The discrimination against these victims in their homeland seems to have travelled as quick as lightning into other countries too. Painful formalities blocked their way to the countries of freedom, formalities that their hunters were spared when *they* wished to travel. It was much harder for the hunted to get a visa to escape to safety, than for their pursuers to get a visa for espionage and propaganda, under

<sup>13)</sup> This is to a certain extent the position under U. S. A. tax laws.

the pedantic excuse that the spies and propagandists could be returned whence they came, but the refugees could not be got rid of so easily. If those refugees at last managed to cross the frontier — at best with a small residue of their property — unheard of proportions of this small remnant were squeezed out of them for permits of residence, subsistence guaranties, visa fees, cable charges and transport expenses. No country had the decency to provide such services gratis for those who had suffered for all and been robbed for all.

On the contrary they were the butt of every sort of official and private exploitation. No one hesitated to take away their last cent. And this, moreover, under barbaric threats of interning them or sending them back to their torturers who looked on sneeringly at this shameful hunt. This hunt on their money and their nerves in the "freedom" they were supposed to have reached, this hunt after blameless persecuted people, was really a product of the systematic campaign of murder that raged in the lands of savagery from which they had escaped. It was like a kind of political and moral infection. Millions of dollars were extorted from the refugees, their lives in the aggregate have been shortened by thousands of years, since no human being has the endurance to resist such a bombardment unaffected.

If, at last, they were able to board the longed-for ship for an exorbitant price<sup>14)</sup> — because being hunted and unprotected they had to accept any accommodation for any price — even then there was no end to their anxiety and their uncertainties. Shunned in every port as if they were plague infected<sup>15, 17)</sup>, watched like thieves instead of being extolled as martyrs, they never knew whether at their port of destination, the dearly bought visas would be found "valid" and whether they would be allowed to land<sup>16)</sup>.

<sup>14)</sup> Cf. the Navemar case.

Every principle of administrative law, of international law, of equity and of fairness was set aside in their case; no law of decency seemed to prevail in their favor. If an official triumphantly found that the consul, in the exercise of his functions, had issued a visa that was not exactly in order, they were treated like thieves, threatened with being returned, or even actually forced back into the conflagration. High ransoms sometimes had to be paid to prevent it<sup>17</sup>). And when they actually were forced back, as it sometimes occurred, it never seems to have occurred to the administration of any country at least to return the fees paid for the ostensibly valid visa; and even the countries that required prepayment of a whole year's taxes as a condition of immigration never thought of returning the amount to those unfortunate whose hopes had thus been shattered.

In many countries, where refugees were allowed to seek safety, they were treated as second class people to be kept

<sup>15</sup> LONDON, Dec. 21, 1942 (ONA).—1000 children stranded in Persia, may reach Palestine by sea; the government of Iraq persisted in its refusal to grant them passage through its territory. The British authorities are trying to provide shipping facilities for the children, who are suffering from lack of accommodations and proper clothing and food.

HAMILTON, Bermuda, April 20, 1943 (JTA).—The emigration of 4,000 Jewish children from Bulgaria for whom Palestine visas have already been secured and the removal of Polish refugees from Iran, may be among the results of the Bermuda Conference now in session here, it was indicated today by Richard K. Law, head of the British delegation, addressing a press conference. (It was not.)

<sup>16</sup> A complete ban on further immigration of refugees from Europe was decreed by Cuba on April 19, 1942. Under the order no person is to be admitted into Cuba if he was born in any of the Axis countries, or in the territories now occupied by the Axis powers. Visas already issued by the Cuban consulates to emigrants of this category are automatically invalidated. This will affect several hundred Jewish refugees who have secured Cuban visas in Europe and are now in Spain and Portugal waiting to sail.

HAVANA, September 9, 1942.—23 Jewish refugees, including women, were ordered detained today. Judge Arturo Hevia, who was in charge of the investigation, said the refugees obtained false documents in Europe and used them to enter Cuba illegally.

<sup>17</sup> See the cases mentioned in Clara Z. Hobson, "The Trespassers", page 356.

almost at as great a distance from the ruling classes as in the countries from which they had been driven. The wanton sport of every bureaucratic vagary, of every extreme of arbitrary ruling, subjected to numberless restrictions, hemmed in their professions, degraded by legal regulations, intimidated by worked-up popular feeling, suffering under the harsh treatment of cruel or merely stupid people, they were in many countries denied the opportunity they so earnestly desired to dedicate their vigor, their skill and their devotion to their new father-land. And if, in spite of all this, one of them did manage to render some special service, this "exception" was soon forgotten; while, on the other hand, if one of the many, for whom an honorable, self-supporting life was made so difficult, happened to take a false step, the whole group was blamed.

The story of atrocities, monstrous extortions and campaigns of betrayal against defenceless people, that were clothed in the humbug of legality, has still to be written. But not here. Here these things are only mentioned in order to underline the fact that the refugees have a claim against the world.

There were exceptions of course. A few countries acted better. One country would spare one reproach, another would omit another. Individuals, many individuals, and their organizations<sup>18</sup>), by superhuman efforts, tried to make good the errors which some governments committed. But,

<sup>18</sup> American Jews alone contributed far over 100 million dollars during the past ten years for the rescue of the victims of Nazi oppression (amongst it, the Joint Distribution Committee 40, the United Palestine Appeal 24, the National Refugee Service 11; until the end of 1942). Since 1933 the Joint made possible the emigration of 260,000 refugees from Europe to the Western Hemisphere and Palestine, including 125,000 to Latin American countries. The United Palestine Appeal arranged the emigration of 305,000 refugees to Palestine. The major portion of the 250,000 refugees of all creeds who entered U. S. A. since 1933 (amongst 580,000 immigrants) received assistance from the National Refugee Service.

Consider the wonderful attitude of the Catholic clergy toward Jewish refugees in Southern France.

taken by and large, it is one of the black marks against these sad times that even the civilized countries so little realized the sufferings of the victims of that barbarity which was at the same time their own enemy. This is one of the main causes of the situation in which the world has been involved; since there is an old historic law, the logical and psychological roots of which are easily discerned, that *the fate of every country is determined by the fate of its immigrants*.

Let this State first come forward which can say: "We take care of the rights of the foreigner whether a protecting State stands behind him or not and even if he is without nationality it makes no difference. We do not merely say this, we also do it!" Citizens backed up by the smallest State, with its almost fictitious authority and power of protection were never treated in that manner, were never hunted like wild animals. Therefore it should have become one of the first duties of the community of nations to fashion for those who have lost their home and their protection a really valid passport and an organized diplomatic protection<sup>19</sup>). One of the next duties is to arrange for the protection of these refugees and their representation before international courts, including their protection against their own present or former state, and for their protection against antiquated theories of International Law<sup>20</sup>).

<sup>19</sup>) Memorandum Hofmannsthal, 1938, to the High Commissioner for Refugees. Treaty of February 10, 1938.

On November 4, 1942, the Cuban Government proposed to all the governments in the Western Hemisphere that they adopt a uniform passport—similar to the Nansen passport—for use by refugees. At present refugees arriving from Europe are unable to travel between countries in the Americas because they do not possess the necessary documents. The Cuban suggestion would facilitate the movement of such refugees from one American country to another where they would be in a better position to earn a livelihood.

<sup>20</sup>) Hofmannsthal-Berger "International Protection of Axis Victims and Revindication of Their Property Rights", part C, and authorities quoted in notes 82 and 83.

The countries of the American continent and of the British Commonwealth are the last bulwark, that *must* not fail, that *must* stand fast, if civilization is not to perish. Both during the war and after it they have a duty and a debt to the refugees and to those freed slaves who will have survived the conflagration<sup>21</sup>).

If the countries open to immigration do not know how to make use of the assets<sup>22</sup>) the immigrant represents, that is not his fault, and not his loss alone<sup>23</sup>). It is at least as much the loss of these countries: and here lies the *economic* claim of the Immigrant.

Ten years ago the Latin-American countries outdid themselves in making tempting offers to the professional men to persuade them to leave their comfortable sphere of activity in Europe and take a chance across the sea. These offers were made in the belief that they constituted a good investment. It was not out of snobbery that these countries wished to attract skilled men, but because they felt they had a good use for them. But when these well equipped engines of thought, constructed at great expense, were offered gratis c.i.f. port of discharge, they were consistently rejected. The quality had not changed and the quantity was an advantage to these countries which are empty, painfully empty of men. Their need is not so much for children who will take twenty years to rear and educate, but for ready made workers. They do not specially require farmers,

<sup>21</sup>) WASHINGTON, April 13, 1943. — Senator Edwin C. Johnson, Colorado Democrat: "The refugee problem is one for which the United States assumed responsibility when we entered the war."

<sup>22</sup>) Norman Angell, "Refugees can be assets", *The Nation*, September 15, 1940, pp. 236 ss, esp. 237; *La Prensa*, Buenos Aires, September 18, 1941; Hofmannsthal, "*Valor económico de la Inmigración*". *New York Times* of March 9, 1943: "Using our refugees".

<sup>23</sup>) "The U. S. A. should follow the experiences of England and use the skills of "friendly" enemy aliens. England has solved this problem better." (Earl G. Harrison, recently nominated Commissioner of Immigration, to the University of Pennsylvania Law School Honor Society, June 1, 1942.)

since their agricultural production exceeds their needs. What they really want are more brain workers, merchants, organizers; those categories in which they are richer than they were ten years ago, but poorer in comparison to their increased needs.

The rearing of a useful citizen in Europe costs, on an average, \$2000; of one with university education about \$5000<sup>24</sup>). And he is worth that. That amount of money was regarded as a good investment, since it produced a fine income. Every country was ready to invest that amount, because it needed the product. But when, through a dispensation of Fate, hundred of thousands of these brain workers were offered, the door was shut, or only opened under the condition that these people should not produce that which they were best qualified to produce<sup>25</sup>).

Every hundred thousand full grown competent men or women, even with empty pockets, are worth at least half a billion dollars. Ten million immigrants<sup>26</sup>) constitute a value of at least fifty billion dollars. That, speaking conservatively, is their economic worth for every country that knows how to make use of them. Their worth is much larger for countries with enormous undeveloped resources which have excellent brains, but an insufficient supply for their tremendous task. Latin-American countries could very

<sup>24</sup>) For U. S. A. Prof. Herbert A. Miller estimates the rearing costs of an average citizen at \$8000, with university education at \$20,000, of a high class scientists at \$50,000.

<sup>25</sup>) With exception of U. S. A. and Argentina almost all countries keep an immigrant from using his capacities. Great Britain grants a permission to work rather liberally, if it sees no immediate danger of competition; Switzerland grants such a permission very seldom; Sweden does not allow aliens to establish businesses during the first three years of their residence, but made an exception for the Jewish refugees from Denmark, etc.

<sup>26</sup>) A study made for the International Labor Office by Prof. E. M. Kulischer and P. Waelbroeck estimates that more than 30 million men, women and children, including over 4 million Jews, have been torn from their native soil in Europe since the beginning of the war, and that another 10 millions have been compelled to leave their homes, though not their countries.

easily absorb hundred million new people and Canada and Alaska twenty-five million each. A rise of only ten per cent in the adult population would raise the worth of every investment, and of every establishment for production or consumption in the country, by much more than that percentage; they need the increase of the domestic consumption more than anything else. Anyone who reiterates the economic nonsense about immigrants increasing unemployment should forever be barred from any responsible post; since he is so shortsighted that he sees only the man whose work the immigrant takes and not — depending on his capacities of production and consumption — the 1½, 2, 10, or 100 men for whom he provides work<sup>27</sup>).

If the national wealth of Argentina with about thirteen million inhabitants can be estimated at 30 billion dollars and its income at 3 billion dollars, it would be at least 35 billions and 3.5 billions respectively with fifteen million

<sup>27</sup>) *Refugees in U. S. Have Not Taken Jobs of American Workers, Report Shows.* — Refugees who have come to this country since the Nazis rose to power in 1933 have not displaced American workers, but rather, through the exercise of their "transplanted skills", have been employing American citizens in new trades. ("Refugees at Work", Kings Crown Press of Columbia University.)

The report said the refugee influx represented an increase of 82,000 to the 33 million men labor force of the nation: A study of 828 refugee enterprises in New York disclosed that the competition involved was "negligible" and that actually each enterprise created jobs for 7 American workers.

Industries established in Great Britain by refugees will provide work for 100,000 British workers after the war. (*Spectator*, London, Apr. 16, '43.)

MEXICO CITY, August 17, 1943. — Political antipathies of Mexican Nationalists (Sinarchists) to foreigners have been buried in the realization that the refugees bring purchasing and productive power with them, creating new wealth for all. 750 Polish arrivals from Iran and Siberia, most of them women and children, are in an agricultural colony at Leon, and their presence there has meant a new source of purchasing power of about \$3,000 weekly, what is a great deal more in Mexican money. The town next to Leon, Silao, is now hungry for all those extra pesos, and its merchants have put out an *appeal for a similar refugee colony*. The Sinarchists are politically dominant in Silao, but the economic motive has won out over their prejudice against immigration.

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inhabitants<sup>27a</sup>). And let us not forget that Argentina is the most developed of Latin-American countries, and that in the other countries the comparative increase would be greater still; since the economic law is evident that the more empty and the younger a country, the more human settlement influences the growth of its national wealth. In fact it is this law that has made Canada, the United States, Argentina and South Africa rich and powerful, during the time before the restriction of immigration, when useful skills were not bottled up by regulations and bureaucratic sophistry.

If only the Latin-American countries had understood what they needed, they would have prayed, ten years ago: "Lord, send some plague that will drive people from Europe to us, especially the most capable and the best educated; the more the better. Send us—a Hitler over Europe!" These countries should have known from experience that men were worth more than goods, even if they came without goods. But, when the historic moment arrived, that offered them the best kind of men in abundance, they forgot all that. How little they understood how to read the lessons of history! How partially, hesitatingly and reluctantly, and even ungratefully, they accepted its gifts! They seem to have forgotten the lessons which their own constitutions teach. Free immigration and emigration, freedom to practise professions, equality before the law of foreigners and citizens, stand written into almost all of them.

What has a narrow-minded bureaucracy made of it? In one country anyone who wishes to employ a foreigner must employ four citizens as well, and pay them each the same salary he gives him. In another, one must be a citizen

<sup>27a</sup>) Compare Dr. J. A. Solari addressing the New School of Social Research on October 28, 1943.

to sweep the streets, because that is a State employment<sup>28</sup>). In a third a stranger cannot go abroad for two years after his arrival<sup>29</sup>). Into a fourth no Jews are allowed, not even as tourists, since the same consulate that recommends travel refuses the visas to Jews. A mining engineer, who would be invaluable in Peru, sells shoe-laces in the streets of Montevideo, since there are no mines there, and as for permission to go to Peru, well, he could more easily go to the moon! A doctor makes a living by addressing envelopes in Buenos Aires, while every year in South America hundreds of thousands die for lack of medical attention; not in the towns, where there are doctors in plenty but out in the country, where often, for hundreds of miles, no doctor is to be found at all.

When at long last the Pan-American Highway from Alaska to Chile is completed, it looks as if it would take more weeks to secure the visas for the journey than days to make the journey itself, and more dollars to pay for these visas than for the motor fuel to cross the countries concerned. The Pan-American idea is fine, but we are still a long way from its practical realization. These countries could be mutually benefitted by the adoption of a simple principle: that *anyone who has the right to residence in one American country can travel freely in all the other American countries*; because he can easily be sent back. How seldom such action is necessary! As a precaution against this imaginary necessity of sending a visitor back to his country, every country demands certificates of character, bank statements, health certificates (from specially

<sup>28</sup>) Also in U. S. A. engineers cannot be engaged unless they are citizens: in 8 states; architects in 6; certified public accountants in 16; liquor license cannot be issued in 26; plumbers in 4; barbers in 4; doctors in 42; embalmers in 12.

<sup>29</sup>) Also U. S. A. distinguishes for the purpose of re-enter permits and border crossing cards between citizens of Latin-American countries whether they are born in these countries or in Europe.

appointed doctors exclusively), permits of residence, consular recommendations and goodness knows what besides; and all this, if you please, even for a mere visitor's visa! Every country demands something different, one requires one document, the next insists on another, each one competing with its neighbors in the multiplicity of its requirements.

If the countries do not understand the value of traffic and of immigration, must they also commit the further mistake of allowing the economic advantage that lies in the property of the immigrant, to escape them?

As the door was held shut, or only a little crack left open, one heard the apology: "We should like so much to help; our hearts bleed for you; how much we wish we could save you from all the bestial cruelty!" and then the excuse: "What a pity you have not some money, so that we could be sure you will not become a burden to us!" And with these empty phrases the immigrants and their friends are mulcted in landing dues, deposits, guarantees of subsistence, tax guarantees and goodness knows what besides!

Even if only a part of that foreign property can be returned to the immigrants, those countries that have received them ought to make every effort that this restitution is accomplished. It increases their national wealth, even when this property is abroad and must remain there. In a world of freed economies every property will benefit the country where the owner lives and will improve its financial and, indirectly, its commercial position. One of the best tests for the condition of a nation's intercourse with the rest of the world is the extent to which its foreign investments benefit the home country. Were not Holland, Belgium, Denmark and Switzerland richer because their residents (not their citizens!) had investments all over the world? When residents (whether tomorrow they will be citizens or not) of the American states could have their foreign investments returned, is there any reason why these

states should hesitate to put themselves in line with their interests? Ought they not to make every effort to obtain this restitution? Their interest will increase in having these immigrants, owners of the returned property, remain with them. That can only improve the whole position of the immigrants.

No consideration of International Law need detain a State because those who were plundered were not at the moment of the robbery as yet its citizens, nor even perhaps its residents<sup>30</sup>). There is in International Law argument enough to overcome this difficulty<sup>31</sup>). Exceptional situations call for exceptional treatment. If citizens are robbed by their own state, to the detriment of the rest of the world, we need not abide by the old rule that only their own state can represent them. This rule is based on the presumption, that every state protects its citizens, and does not persecute them. If a State fails to protect, but persecutes its citizens, it thereby forfeits the right to represent them and this right passes to that state in which the victim has found asylum!

International Law is alive and elastic, if you mean by it the rights of the peoples, and not just the rights of the governments. It has the ability to deal with new situations when it is not administered in a pedantic manner. The forest of International Law is formed by trees, not by petrified wood. International Law needs only the will behind it to make it effective.

The claims for the restitution of recoverable property is just and obvious and it is this demand that is formulated here. It is not directed merely against the bankrupt criminal, but against the receivers, too, that are in possession of the stolen property.

<sup>30</sup>) Vide Hofmannsthal-Berger supra, note 10, B, 3, A, d; Hofmannsthal, "Draft of a Restoration Law for Axis and Axis occupied countries"; 2 B of U. S. Treasury's circular No. 22 concerning TFR 500 introducing a new distinction: "becoming subject to the jurisdiction of a State."

<sup>31</sup>) Hofmannsthal-Berger supra, page 38.

The amount of these claims is only a modest part of the total of all claims. One thing, however, should be emphasized here in regard to the struggle of the various creditors: the claim of those who have been despoiled, against all the countries that have despoiled them should be none the less effective even if there is no national power behind them. When we think of what the struggle, the victory and the peace will have involved, it is obvious that in the new world which is to spring from all this vast effort we shall not be content with the old idea that only he who has might has right. Sacrifices must be rewarded. Who stood in the front rank when the enemy broke through, who first felt his uncontrolled fury and who made the first sacrifices should be given first place in the rank of the creditors. No stronger, better organized, more robust group should be allowed to displace them. That would be as bad taste as if the strong were to elbow aside blind and wounded veterans. The claim of the refugees and the freed slaves who were the first to be despoiled in the common cause, must be regarded as *sacred*.

The economic results may prove to be quite different from what they appear at first sight. *It will become an advantage for the freed countries of Europe if residents of the American countries have property in them.* Two things will be indispensable for the rebuilding of these countries: freedom of economic movement, and help from abroad. The more clearly this help will be based upon an immediate interest, the more available it will be. If the American countries can, through their residents, become the possessors of property in European countries, they will take a more direct interest in their reconstruction. They will become partners of these countries rather than simply business connections. They will then be more interested in the restoration and the maintenance of sound legal and economic conditions in these countries; in short, the community of nations will be inten-

sified. And this is necessary, in order to heal the fatal wounds of the European countries as quickly as possible.

The property of the refugees is composed of two groups: that which they could remove to a free country and that which they had to leave behind. Both must be held sacred by the legislation of other countries. Whatever attempts may be made, to apply private property to the healing of the scars of the war<sup>32</sup>), the property of the refugees

32) There must be drawn a clear distinction between the property of refugees and the property of Nazi agents or German companies which have become nothing else than departments of the Nazi Reich. — The measures of the American countries against Axis property, based on the Rio decisions of 1942, should observe carefully this distinction. But instead Brazil in its decree of March 13, 1942 included the property of refugees in the confiscation of 30 per cent imposed on German property as indemnity for a Brazilian boat sunk by Nazi submarines! To make Hitler's victims responsible for Hitler's crimes, is certainly one of the most mistaken acts, even more illogical than the so-called indemnity for the execution of Rath, which was a robbery condemned by the whole world.

XXXVII. *Conference of the American Society of International Law*, Washington, May 1st, 1943. Report pp. 73, 74:

*Dr. E. von Hofmannsthal.* — The basic rule of international law is that war is an act between and against nations, not against individuals. Therefore, property of the enemy government can be confiscated, private property of its citizens can not. Now everybody has understood that this is not a war between nations, but between civilizations or, rather, between civilization and the most beastly form of barbarism. Nationality or birth is no guidance at all on what side a man stands in this kind of war. Therefore, it would be absolutely unjust to confiscate, as e.g. Brazil has done, the property of Axis victims who may be Axis citizens, to make good for Axis crimes. Such action is as incongruous in the legal field as it would be in the military field if the American troops in Tunisia would fire on the Free French because there are other Frenchmen fighting with the Axis on other fronts. Fortunately there is an approach to the problem which is much more effective and just. *A Nazi, under Nazi legal concept, has no private property.* His property is the property of the State. Whoever understands the Nazi legal concepts which are expressed in their muddled and bombastic language, knows that a Nazi has to hand over his property, to his State and is only entitled to use it if, when and how his leaders allow it. In fact, Nazism does not tolerate private property. This man Hitler, whose words make law under their doctrine, himself said: "We go farther than the Communists. They confiscate property; we confiscate men and through them property."

That, gentlemen, leads to a solution of this question. Property of a Nazi, irrespective of his nationality, is no longer private property. It is property of the Reich. Therefore, it may be treated as such. Quite

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ought not to be touched. They have already sacrificed so much, they must not be asked for further sacrifices. Their claim must not be impeded by any general project however well intentioned, or must not be used for any other objective. Of course, the regained property will be subject to the changes of conceptions which may govern private property in one country or another. But that should be no argument to prevent its restoration. First of all the illegal changes have to be righted, the result then may be subjected to the later legal changes.

However, all the ideas expressed herein could be coordinated with the various plans advanced for the economic reconstruction of Europe<sup>33</sup>). If, for instance, Upton Sinclair<sup>34</sup>) proposes not to dissolve the Nazi created organization, but to use it for the reconstruction and reparation under the supervision of the Allied Powers — without here commenting to this proposition itself — even such a rather radical procedure could be coordinated with the stated demand for individual restitution. The French manufacturer for instance, whose equipment has been taken out of his premises and has been transported to Germany and made use of in a German factory, will again receive property rights on this equipment. If it should prove preferable, for reasons of national economy, to leave this equipment in the German

a number of questions may thus be solved; for instance, the legal effect of Black Lists on Nazi citizens of neutral countries. It will also be a healthy lesson for all the Nazis on both sides of the Atlantic, that they must face the consequences of their helping the Axis with words and acts . . ."

<sup>33</sup>) Memorandum of a group of Czechoslovak Lawyers in London, edited by Dr. George Weis, July 1943, II: "Restitution (of alienated property) is not in itself a privilege . . . it is merely the removal of changes in the distribution of property brought about by the acts of the occupying Power . . . Restitution cancels privileges, it does not create them. Nor will it create privileges in the future: property restored will be subject to all such limitations as future legislation may enact.

"Therefore restitution is not a denial of any plans concerning social and economic reconstruction."

<sup>34</sup>) *New York Times*, August 15, 1943.

factory and claim this factory as a whole for reparations, in such case the French manufacturer will receive shares of this factory covering the value of his equipment. His individual claims will thus be compensated in full.

Neither should this claim for restitution be changed into a doubtful fraction of a general claim. We have had experience in European countries of such proceedings after the last war, with large and costly administrative apparatus that perhaps produced for the owner of a property of say \$10,000, after years of waiting and want, a State bond worth say \$500, bearing interest at 4 per cent, redeemable some time or other, and not worth the effort expended to get it. In contrast to this, what we want now is a simple, sweeping procedure, with which the people who have been despoiled can get back again their property from its temporary possessor, leaving to him and his predecessors the problem of how they should settle up amongst themselves the tangle of transactions that intervened since the date of the original confiscation. There should be no false sentimentality in regard to so-called "bona fide" receivers of stolen property. Their "bona fides" consisted merely in the confidence, that the robber government would remain in power long enough to confirm them in their dishonest ownership, and they will find they have been deceived in this confidence. Only this attitude towards them will lend real efficacy to the protective measures of the free governments<sup>35</sup>).

<sup>35</sup>) Netherlands decree of May 24, 1940, Belgian decree-laws of Feb. 2, July 8, October 31, 1940; Luxemburg decree-laws of February 28, 1940 and February 5, 1941.

*Germans Fear Post-War Reprisals for Possessing Confiscated Jewish Property.*—ZURICH, June 11, 1943 (JTA).—Shaken in their belief that Germany could win the war, many persons in Germany and in Nazi-occupied countries who have moved into buildings confiscated from Jews are now seeking legal ways to move from them under all kinds of pretexts, apparently fearing post-war consequences. Not only are many Germans afraid that they will be compelled to return Jewish property after the war, but they also fear being identified as people who took advantage of the

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Where confiscated property is discoverable, it must be returned, on demand, to those from whom it was taken, or to their legal successors. The discovery of movable property, as far as it exists, is not so difficult as is usually believed; and a mechanism for this is provided in my Draft of a Restitution Law for Axis and Axis Occupied Countries.

The preparations must begin now, during the war. It is not too soon. One can learn from the thoroughness of the enemy that, while in pursuit of the main aims of the war, one must not forget other matters related to it. This preparation might begin by a thorough study of the problem, so that among the free jurists of all countries a conviction may develop what must be done, and how best to do it. Then, a warning must be given to all countries, including the neutral ones, like that which has already been issued concerning the war criminals, that in addition all the evil deeds in regards to property will be required. A warning, that all confiscated or simply robbed property must be given up and returned to the people from whom it was taken<sup>36</sup>). This will reduce the negotiability of such valuables, and thus contribute to cripple the enemies trade in them.

This single objective must be kept in mind that, without regard to the lapse of time or the course of events intervening, victims of the Axis are to be given back their

Nazi anti-Jewish measures in order to acquire confiscated Jewish belongings.

The reluctance on the part of the French to buy houses which formerly belonged to Jews is revealed in the Nazi-controlled Paris newspaper *Le Matin*. An article in this paper says that "buying Jewish real estate is an excellent operation which does not involve any risk."

<sup>36</sup>) There is also no difference, whether the confiscatory measures came from the occupying Nazi power directly or from its puppet government or a government acting under its pressure (Quisling government, Petain government), or by the Nazi government acting in Germany, Austria or Czechoslovakia or the Fascist government acting in Italy or Albania. The legal situation of the German population under Nazi occupation is the same than this of a people under foreign oppression.—Compare the Spanish law of January 30, 1940.

property as far as it is traceable, *independent of the citizenship or residence* of plaintiffs and defendants, and without regard to the country in which the robbery happened or to the present situation of the property. Such a general, sweeping and just international rule would be a blow of fresh air in the sticky rooms of intricate, senseless distinctions, and save thousands of tricky arguments which only work for thousands of tricky arguments which would only work for the dishonest defendants. It requires the working out of a few principles that must be internationally recognized, which all States without exception, the victorious ones, the freed and the neutral ones must be persuaded to accept, so that they can attain worldwide efficacy.

Whether the first victims of the unchained powers of terror were able to withdraw physically or not, whether they have become emigrants or freed slaves, the victorious powers must never forget what a debt of honor they owe them. These victims are not only creditors of the robber states, but of the whole civilized world which abandoned them<sup>37</sup>),

<sup>37</sup>) NEW YORK, July 23, 1943 (JTA).—It is potentially possible to transfer 50,000 Jews each month from the Balkan countries to Palestine or any other Mediterranean port in the Middle East without using ships of the United Nations. (Report of the Panel on Relief and Transportation of the Emergency Conference to Rescue the Jews of Europe.)

The panel on Religion of the conference called on American churches to act swiftly to save the Jewish people. "The churches must declare that they are not content with government statements of moral principles. These principles must be implemented by action, and swift action, so as to save the Jewish people in Nazi-dominated territory, in a constant race against death."

WASHINGTON, October 6, 1943.—Four of a delegation of 300 rabbis called at the White House and left a petition urging that Jewish refugees be admitted to the United Nations, neutral countries and Palestine and that a special intergovernmental agency be created to deal with the problem. Vice-President Wallace and a score of congressmen greeted the delegation on the capital steps. Bishop James Cannon, Jr., of the Methodist Church, called at a press conference for "something more than soft, sweet words," to help the persecuted Jews of Europe.

*Germany Prepared to Exchange Dutch Jews for Germans in Palestine.*—NEW YORK, October 11, 1943.—The Nazi Government is prepared to release a number of Dutch Jews with a view to their emigra-

made of them a vicarious sacrifice, left them to perish under tragic circumstances in all lands, to sink in all seas<sup>38</sup>).

These martyrs of the world conflagration should have not to give meek thanks for having been reluctantly received and provided with a modest or miserable<sup>3</sup>) subsistence. They are fully justified in pointing with pride to their physical and economic wounds, their murdered parents, the ruined lives of their brothers and to the losses and sacrifices they have suffered. They have a *claim* against humanity and humanity has a *debt* to them which even by the return of their lost possessions would be repaid only in its smallest part.

tion to Palestine on exchange of a corresponding number of Germans now interned in Palestine.

<sup>38</sup>) Forty refugees en route to England from Australian internment camps from which they were recently released, were drowned when the vessel on which they were travelling was sunk. — (*Daily Herald*, London, December 28, 1942.) See note 11.

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—HERB GRAFFIS, *Chicago Times*.

# Valor Económico de la Inmigración

Por el doctor EMILIO DE HOFMANNSTHAL

(Especial para LA PRENSA)

Washington, 1941. En una de las más vastas salas de Washington, frente a una selecta concurrencia, se presentaron cinco de los conductores espirituales del mundo: el conde Sforza, un diplomático italiano de la vieja escuela; la princesa Sapicha, una americana casada con un diplomático polaco; Edgardo Mowrer, el famoso autor del libro "Alemania atraza la hora"; el doctor Frank Kingdom, presidente del comité para los refugiados; y Genevieve Tabouis, bajo la presidencia del ministro del interior, Harold Ickes, y a scuteiron brillantemente el problema de los refugiados. El asunto más importante para ellos — que contemplan este problema, no con el corazón, sino solamente con la cabeza — fue el valor económico de la inmigración.

Con ellos estuvo conteste el fiscal general, Jeremiah L. Black, citado por Mowrer, hace muchos años, en su informe dirigido al presidente de Estados Unidos sobre el derecho de expatriarse: "La mayoría, en autoridad y número, de los autores de derechos públicos de acuerdo con Cicerón, que proclama el derecho a la expatriación como el más sólido fundamento de la libertad humana, y con Erykterock, que niega fervientemente que el territorio de un estado pueda ser la cárcel de su pueblo... Aquí, en Estados Unidos, el pensamiento de abandonar ese principio o ese derecho, no puede ser sostenido por un momento. Bajo ese principio el país floreció. Le debemos nuestra existencia como nación... Rehúsalo o restringe en un átomo el poder necesario para sostenerlo, serás tan grande perfidia que ningún americano podría hacerlo sin un sentimiento de vergüenza intolerable".

Millones de refugiados han entrado en Estados Unidos desde las persecuciones de varios grupos de diferentes países de Europa. No solamente en número absoluto, sino también proporcionalmente a la población, la inmigración en Estados Unidos es más grande que en ningún otro país americano, a pesar de la mayor densidad de su población. Sin embargo, no ha creado desocupación. Por el contrario, ha ayudado a absorberla. Norman Angell, el gran economista inglés, tenía razón cuando en una introducción admirable de un libro valiente, ridiculizó este argumento tan difundido, porque es barato como el dinero falso; que la inmigración crea desocupación.

¿Cuál es el valor de un inmigrante? Más que el dinero que trae consigo, todo lo que tiene dentro de su piel: su fuerza física y la capacidad intelectual que un hombre o una mujer instruidos representan, equivalentes, al menos, a los costos de su creación. En todos los países, esta capacidad se paga mejor que la fuerza física, porque es más eficaz. Es también más costosa de crear. Requiere entre 30.000 y 50.000 pesos nutrir, educar e instruir a un hombre, hasta que se convierte en un médico, ingeniero, industrial o comerciante, equipado con todos los conocimientos para la labor complicada de nuestros tiempos. Todos los que pueden pagar esta suma no solamente por razones sociales, sino por motivos económicos, porque produce realta. Esta fábrica viva, con su costo de 30.000 pesos, produce más que cualquier capital equivalente. Por los servicios de un hombre así capacitado, se paga mucho más que los intereses y la amortización del capital invertido. Y para atraer esas fuerzas, se pagaba más en los países jóvenes que iniciaban su desarrollo económico, que en países saturados, porque los servicios eran en los primeros más productivos. Ya se ha olvidado cuánto se tenía que pagar a un ingeniero especialista para atraerlo a un país extranjero?

Ahora, súbitamente, se abre en Europa un remate de los hombres más valiosos. Fábricas espirituales de todos los costos y precios, desde 5.000 hasta cientos de miles de pesos, se ofrecen por nada. Hasta se pagan sus costos de trasporte.

Puede afirmarse, sin lugar a dudas, que mil refugiados con sus familias, aun sin ninguna fortuna, representan un capital trabajador de un valor superior a 20.000.000, que producirán por año mucho más de dos millones y serán consumidores de productos nacionales, por lo menos, por dos millones, ahorrando y contribuyendo a la formación de nuevo capital con el resto.

demanda según trabajando. Como se ofrecen tantas fábricas humanas, su precio y la disposición de los países para recibirlos, a medida que aumentaba su número. En cambio, si se hubieran ofrecido máquinas por nada, el puerto americano, habrían sido aceptadas con mucha mejor disposición. Para las máquinas humanas, la comprensión no es suficiente.

Es asombroso que países que durante siglos debieron su desarrollo a la inmigración, olvidaran todas sus experiencias y cerraran sus fronteras. Es la vieja observación: los peritos avallian los objetos según su valor intrínseco, su capacidad; el gran público los avallia según su valor externo, determinado exclusivamente por la oferta y la demanda. Así ocurre en las bolsas de comercio, así ocurre en la bolsa mundial. Por eso, los peritos ganan al fin, y el gran público frecuentemente pierde.

Naturalmente, no basta introducir esa maquinaria, es preciso usarla. Mientras más rápidamente esos hombres y mujeres encuentren ocupación adecuada a sus capacidades especiales, mejor será, no sólo para ellos, sino aun más para el país de su nueva residencia. Todo lo que no gastan, aumentando el consumo en países donde sobreabundan los productos agrícolas, muestra la superioridad de un gran territorio económico, en el cual cada uno puede dirigirse adonde quiera y donde encuentre ocupación adecuada. Si los países de América latina reconocieran el libre tránsito también para los inmigrantes, el ingeniero de minas no tendría que hacer de vendedor ambulante en las calles de Montevideo, pues podría ser de la más grande utilidad en una mina del Perú. Pero es que no puede entrar en el Perú.

No todos los países han procedido con la sabiduría de la Argentina al hacer distinción entre nacionales e inmigrantes para las posibilidades de trabajo. Interesa más al país que trabajar y contribuir a la economía mejor. Impedirlo es un crimen contra la salud del país; restringir lo lleo con una navaja. Es un gran error del Brasil reservar siempre más actividades para sus nacionales. Lo más importante para un país no es quien hace algo, sino quien lo hace mejor, según su capacidad. Los países latinoamericanos deben observar más de cerca el ejemplo de la Argentina y de los Estados Unidos. Lo mismo que las enfermedades en el mundo físico, los errores económicos, en el mundo espiritual, son contagiosos.

Solamente utilizándola se pueden extraer todas las ventajas posibles de la inmigración: es necesario asimilarla lo más pronto posible y convencer al pueblo de sus ventajas. Así, por un sabio sistema legal y social, se pueden obtener ventajas económicas. La hospitalidad era una característica de los países americanos y, al fin, como todas las virtudes, tiene su compensación.

Los Estados Unidos han atraído un gran número de tesoros materiales, artísticos y humanos del Viejo Mundo destruido. A pesar de todas las trabas aduaneras y consulares, una gran parte de esos tesoros, producido siglos de trabajo, ha entrado en ese país y lo ha fertilizado y enriquecido. Sus hombres de fortuna poseen muchas de las alhajas históricas y cuadros famosos; sus universidades tienen muchos de sus sabios; sus eggregaciones, muchos de los grandes peritos de Europa, más aun. Pero el enriquecimiento cultural y material es enorme y especialmente perceptible también en este país muy rico y vasto. En la emergencia actual se comprueba que esos inmigrantes son los más adictos y están listos para cualquier sacrificio. La gratitud es un vínculo más fuerte que el nacimiento casual.

Toda la historia muestra que el mejor negocio ha sido siempre la hospitalidad hacia los refugiados. La situación de los últimos años es una ocasión única para que los vastos países de la América del Sur obtengan una porción adecuada en el remate inesperado de los valores europeos, de los cuales los humanos no son los menores en comparación con los materiales. Han recibido

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