
Book Reviews

Justice served, at last

by Katherine Notley

Defending "Ivan the Terrible": The Conspiracy to Convict John Demjanjuk

by Yoram Sheftel

Regnery Publishing, Washington, D.C., 1996
445 pages, hardbound, \$27.50

There are two major facets of this book, written by John Demjanjuk's Israeli defense attorney: First, and most prominent in Sheftel's book itself, is the corruption within the Israeli justice system that led it to conduct a show-trial with the sole purpose of convicting Demjanjuk as the Nazi war criminal "Ivan the Terrible." Second, but more important, is that the book reveals the depravity deep within the U.S. Justice Department permanent bureaucracy, in which a U.S. citizen, known to be innocent, was accused of being Ivan the Terrible, stripped of his citizenship and extradited to Israel to stand trial, on the only charges for which Israel invokes the death penalty: Nazi crimes of genocide.

EIR has consistently exposed this Justice Department permanent bureaucracy, since it was given a sort of formal existence with the creation of the "Nazi-hunting" agency, the Office of Special Investigations (OSI), going back to its beginnings in 1978. As later described by Lyndon LaRouche, during Independent Hearings to Investigate the Misconduct of the U.S. Department of Justice over Aug. 31-Sept. 1, 1995 (at which Sheftel presented rivetting testimony on the Demjanjuk case), this permanent bureaucracy acted as a mobile political hit-squad, beyond any law-enforcement mission of the department or particular political appointees, to take out of action or neutralize opponents of the hit-squad's employers. It was, of course, this permanent bureaucracy, in lockstep with the OSI's collaborators in the Anti-Defamation League of B'nai B'rith, that was tasked to take LaRouche "out of action" by jailing him.

The OSI's geopolitical mission

In the case of the OSI, it was established under the patronage of Henry Kissinger in the late 1970s, as part of his geopolitical "condominium" with the Soviet regime. Under the arrangements between the OSI and the Soviet Procurator

General's office, evidence targetting U.S. citizens from eastern Europe as Nazi war criminals, could be accepted into U.S. courts, undisputed. The brazenness with which the OSI collaborated with the KGB—as in the cases of Tschermir Soobzokov and Karl Linnas—were beginning to tarnish its "Nazi-hunting" image: In the former, the OSI shopped out KGB-manufactured evidence to the *New York Times*, which pilloried Soobzokov, who was able to prove his innocence in a suit against the *Times*. Notwithstanding, Soobzokov was subjected to Jewish Defense League demonstrations outside his Paterson, New Jersey home, and shortly thereafter was killed when a pipe-bomb exploded on his front porch. Linnas was accused by the Soviets of committing war crimes in his homeland, Estonia. Nonetheless, the OSI had him deported to the Soviet Union, in spite of the fact that the United States had never recognized Soviet rule over the Baltic states (a.k.a. "the captive nations"). Linnas, who had consistently claimed his innocence, conveniently died in a Soviet prison, before trial.¹

Hence, the OSI turned to Israel, a U.S. ally, offering it a "really big Nazi" to try, in the effort to bolster the OSI's flagging credibility: With the usual contribution of forged documents from the Soviet KGB, the OSI sought to have retired Cleveland auto worker John Demjanjuk denaturalized and deported to Israel to stand trial as "Ivan the Terrible." This "Ivan the Terrible" was a Ukrainian who relished his job running the diesel motor that pumped gas into the gas chambers at Treblinka, where some 870,000 Jews died.

Yoram Sheftel's odyssey

This is the terrain onto which Yoram Sheftel, an Israeli criminal defense attorney, stepped, when he offered to Demjanjuk's American defense team to be his Israeli attorney. He did not know at the time, how profoundly the trial of John Demjanjuk for the crimes of "Ivan the Terrible" was, as he writes in the preface to the American edition, "first and foremost, an American story, a story of a travesty of justice on an almost unprecedented scale."

Sheftel became interested in the Demjanjuk case in 1986: From press reports alone, he became convinced that the Israeli court intended to conduct a show-trial (of course, ending in conviction and hanging), of this, the only other Nazi war crimes trial since that of Adolf Eichmann. His suspicions of the evidence against Demjanjuk centered on two features: the photo ID spread in which Treblinka survivor Elihu Rosenberg had identified Demjanjuk as Ivan the Terrible; and the famous "Travniki document," an SS identity card bearing the photo

1. Two other cases also had far-ranging strategic and international significance: those of German-American rocket scientist Arthur Rudolph and Austrian President Kurt Waldheim. *EIR* has extensively covered the Rudolph travesty. On the Waldheim case, Dr. Hans Koechler of the International Progress Organization testified before the Independent Hearings on the lying duplicity of the OSI.



John Demjanjuk shakes hands with his Israeli guards at the Supreme Court on July 29, 1993, the day he was acquitted, after a 16-year ordeal, including seven years in prison.

and signature of Ivan Demjanjuk, which had been discovered by the Soviets and kept by them, from both the U.S. and Israeli authorities.

The questionable court evidence aside, Sheftel was convinced that the Demjanjuk case would be a show-trial by the fact that the court had rented a theater in which to conduct the trial and that it was televised live. It hardly bespeaks the impartiality of the three-judge panel (there are no jury trials in Israel), whose interest would lie in having sent Ivan the Terrible to a deserving death. Only well into the trial itself, did Sheftel discover that the judges had also retained a news-clipping service, and perused the news coverage in chambers daily—the U.S. equivalent of having the jury reach a verdict based on TV news reports.

But Sheftel's central focus was to discredit the contradictory testimony surrounding the photo spread identification of Demjanjuk as Ivan the Terrible, and the Travniki document. It was these two key pieces of evidence that led Sheftel, via Poland and the Soviet Union, back to the doorstep of the Office of Special Investigations. In 1976, the OSI had sent the photo spread of eight men, six poor-quality photos of the same size, and two, very clear and much larger photos of John Demjanjuk and Fyodor Federenko (the latter deported to the Soviet Union and hanged in 1986), to Israeli authorities, with the request that they show the spread to survivors of the Sobibor concentration camp. None of the ten Israeli survivors could identify any of the men. Yet, Treblinka survivor Elihu Rosenberg tentatively identified the 1951 photo of Demjanjuk as Ivan the Terrible. In 1981, at Demjanjuk's denaturalization trial in Cleveland, Rosenberg made his identification positive.

But, in 1978, Rosenberg had failed to identify any of the same photos as Ukrainian guards from Treblinka.

The tale of the so-called Travniki document is even more fascinating. Travniki was an SS training camp for Ukrainians, many of whom openly joined the Nazis. Demjanjuk had not been at Travniki: He had been a prisoner of war who was recruited into a Ukrainian division under SS command to fight the Soviets—the well-known Vlasov's army.

Demjanjuk's photo and signature on the Travniki document were damning enough: The problem was, that, at the time that Ivan the Terrible was at Treblinka, the bearer of the Travniki document (presumably Ivan Demjanjuk) was some 60 miles away. Ultimately, as part of his defense, Sheftel brought in expert testimony proving the document to be a KGB forgery, that Demjanjuk's signature had been forged, and his photo affixed after the war.

As expected, Demjanjuk was convicted and sentenced to death in April 1988.

The Supreme Court appeal

The appellate process in Israel, in contrast to the United States, hears the facts of the case and can accept new evidence. All things being equal, Sheftel would have had to prove no more than that the lower court had blatantly ignored all the evidence toward "reasonable doubt," that John Demjanjuk was Ivan the Terrible. Sheftel knew that proving "reasonable doubt," would not be enough: He would have to find the real Ivan the Terrible. Ultimately he found that the trail led back to the United States, where the Office of Special Investigations not only had the proof that one Ivan Marchenko was the

sadistic gas chamber diesel motor operator, but that the OSI, in order to evade detection, had been throwing the incriminating files into a dumpster belonging to a McDonald's restaurant across the street from their offices!

In the meantime, the appeal went through a series of lengthy delays, not least after Sheftel's co-counsel for the appeal, Dov Eitan, committed suicide, and Sheftel was nearly blinded when an assailant threw acid in his face as he was leaving Eitan's funeral. But as the delays piled up, more and more evidence came into the defense's hands, from authorities in Poland and the Soviet Union—then undergoing the upheavals that ended in the collapse of communism—proving that Ivan Marchenko was Ivan the Terrible. Back in the United States, Demjanjuk's family, sifting through the files the OSI had thrown into a McDonald's dumpster, found a reference to a telegram from the U.S. embassy in Moscow to the State Department, regarding testimony about Fyodor Federenko's activities at Treblinka. When the full cable came to light as a result of Freedom of Information Action (FOIA) requests by Rep. James Traficant (D-Ohio) to the State Department, it revealed that, in August 1978, the Office of Special Investigations had over 100 pages worth of testimony from Treblinka guards identifying Nikolai Shelaiev and Ivan Marchenko as the gas chamber operators.

One guard, Sergej Vasilenko, had identified "Marchenko Ivan, the operator of the motor of the gas chambers in Treblinka camp. The Jews in the work crews called him Ivan the Terrible. He was noted for his cruelty to the people, during the process of their extermination. He beat them with obvious enjoyment, with whatever came to his hand, however he wanted."

OSI's 'fraud on the court'

This is just a glimpse of the mountain of evidence that Sheftel presented to the Supreme Court, not only that his client was not Ivan the Terrible and that Ivan Marchenko was, but that the U.S. Justice Department had that proof in its possession *before* it had begun denaturalization proceedings against Demjanjuk, and in full knowledge that should Demjanjuk be extradited to Israel to stand trial, that he would receive the death sentence. The U.S. Sixth Circuit Court of Appeals, increasingly concerned that it had upheld the extradition and denaturalization of a man whom the prosecution knew to be innocent, appointed a Special Master, Judge Thomas Wiseman, whose judgment on June 28, 1993 read: "The statements of former Treblinka guards and laborers recently obtained from the Soviet Union constitute an harmonious chorus which inculpate a man named Ivan Marchenko as the Ivan who worked at the gas chambers, and thus exculpate Mr. Demjanjuk from those specific crimes," and that, from 1978 on, the Department of Justice possessed this evidence.

On July 29, 1993, the Israeli Supreme Court handed down its 400-page decision: "We acquit the appellant by reason of doubt of all the charges in the charge sheet, which involve his identification and his activity in the Treblinka extermination

camp, as the man known in the camp as a guard called Ivan the Terrible. . . . For the reasons set out in the judgment, we did not find it appropriate to convict the appellant of any other charge at this point in the matter."

Although the court had no other choice but to acquit, it had done so while rubberstamping not only the highly questionable identification procedures carried out in Israel, but also, more importantly, the open collusion between the OSI and the Israeli prosecution to knowingly convict and execute an innocent man. Demjanjuk, who had been in an Israeli prison for seven years, continued to sit on death row, while the prosecution fished desperately for an excuse to try him as another guard from another camp, bolting through the door left open by the Supreme Court acquittal. The impasse was only broken on Aug. 3, 1993, when the Sixth Circuit Court of Appeals in Ohio "decided to allow Demjanjuk to return to the United States, to take part personally in the inquiry into the legality of his extradition," wrote Sheftel. Still it was not until Sept. 22, 1993 that Demjanjuk would return home.

And despite the fact that the Sixth Circuit's Special Master, Judge Wiseman, had excoriated the OSI for withholding exculpatory documents from both the defense and the court itself, saying that "OSI attorneys acted with reckless disregard for the truth," and committed "fraud on the court," the permanent bureaucracy within the U.S. Department of Justice to this day, remains unrepentant, and unpunished.

DO YOU KNOW

- that the American Revolution was fought *against* British "free trade" economics?
- that Washington and Franklin championed Big Government?
- that the Founding Fathers promoted partnership between private industry and central government?

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