

## Robert Kempner

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An advisor to the Ministry of the Interior in the Weimar Republic and a brilliant lawyer, as an opponent of Hitler and as a Jew he lost his job and his citizenship. In 1935, with his second wife he decided to emigrate to Italy (this is hardly ever remembered). But even the good days in Italy came to an end: imprisoned and «robbed by Hitler as well as by Mussolini», in 1939 he found a post at the University of Pennsylvania thanks to former colleagues of his mother, an internationally renowned bacteriologist. He was among the few grantees of the Emergency Committee in Aid for Displaced Foreign Scholars, but only after an initial refusal, which he promptly challenged.

A controversial, at times disturbing figure, he was a prosecuting attorney for the United States at the Nuremberg war crimes trial.

### A jurist, a son of scientists

He was born in Freiburg, Germany, on 17 October 1899, the son of Walter K. Kempner (Glogau, Silesia, Prussia, today Poland, 17 June 1869 - Berlin 29 February 1920) and Lydia Rabinowitsch-Kempner (Kaunas, Russian Empire, later Lithuania, 22 August 1871 - Berlin 3 August 1935)<sup>1</sup>. His parents had married in April 1898 and held prestigious roles in the scientific field, being respectively a doctor and a bacteriologist. His mother was a key figure for the women scientists movement in Germany, as one of the first generation of women who managed to reconcile career and family; she was also a university teacher for some years<sup>2</sup>. Walter and Lydia named their eldest son Robert in honour of the doctor Robert Koch, with whom they had both

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<sup>1</sup>This information is taken from *Famous People Throughout History*, under name, available online at <<https://www.myheritage.it>> (accessed 15 April 2022).

<sup>2</sup>Annette B. Vogt, *Lydia Rabinowitsch-Kempner*, in *Jewish Women's Archive, Shalvi/Hyman Encyclopedia of Jewish Women*, available online at <<https://jwa.org>> (accessed 15 April 2022).

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worked for a time<sup>3</sup>. After him were born Nadja (Nadeschda) in 1901 and Walter in 1903<sup>4</sup>. Robert spent his youth in comfort, immersed in his studies and in close contact with his parents' professional engagements. In June 1917 he enlisted voluntarily under the German Empire during the First World War, thus anticipating the compulsory call-up that occurred a few months later; he arrived on the western front on 25 October 1918. The state awarded him an Iron Cross for his service<sup>5</sup>. He was a student at the Schiller Gymnasium in the Berlin district of Lichterfelde, then studied law and political science at the universities of Berlin, Breslau (now Wrocław in Poland), and Freiburg<sup>6</sup>. Between 1920 and 1921 he worked for the «Weltbühne», an important weekly on politics, art and economics, an embodiment of the Weimar democratic left<sup>7</sup>. In 1922, at the age of twenty-three, he married Helene Wehringer;<sup>8</sup> Lucian was born in Berlin on 6 July 1923<sup>9</sup>. During the 1920s he successfully embarked on a career as a lawyer, finding employment in the

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<sup>3</sup> Robert M.W. Kempner, *Ankläger einer Epoche. Lebenserinnerungen*, Frankfurt a.M.-Berlin, Ullstein, 1983, pp. 11, 19, cited by Robert K. Wittman, David Kinney, *The Devil's Diary: Alfred Rosenberg and the Stolen Secrets of the Third Reich*, New York, HarperCollins, 2016, p. 93.

<sup>4</sup> See: *Nadeschda Kempner* (Berlin 25 April 1901 - Berlin 2 October 1932), in *Deutsche Biographie*, available online at <<https://www.deutsche-biographie.de>> (accessed 15 April 2022); Richard Adler, *Robert Koch and American Bacteriology*, Jefferson (NC), McFarland & Company, 2016, p. 212; Philip Klemmer, Clarence E. Grim, Friedrich C. Luft, *Who and What Drove Walter Kempner? The Rice Diet Revisited*, «Hypertension», 64, 2014, pp. 684-688, available online at <<https://www.ahajournals.org>> (accessed 15 April 2022).

<sup>5</sup> R.M.W. Kempner, *Ankläger einer Epoche*, cit., pp. 22-26, cited by R.K. Wittman, D. Kinney, *The Devil's Diary*, cit., p. 94.

<sup>6</sup> BLO, MS, SPSL, b. 267, f. 10, «Kempner Robert», CV, undated, but 1938. NYPL, MAD, ECADFS, I.A. Grantees, b. 18, ff. 7-8, «Kempner, Robert Max Wasilii 1938-1944», brief CV and brief collection of academic comments, 1941. See also Eric Pace, *Robert Kempner, 93, a Prosecutor at Nuremberg*, «The New York Times», 17 August 1993, section B, p. 6, available online at <<http://www.nytimes.com>> (accessed 15 April 2022).

<sup>7</sup> Werner Röder, Herbert A. Strauss, *Biographisches Handbuch der deutschsprachigen Emigration nach 1933-1945*, Band 1, *Politik, Wirtschaft, Öffentliches Leben*, München, Saur, 1980, p. 360. On the «Weltbühne» cf. at least Alexander Gallus, *Heimat Weltbühne. Eine Intellektuellengeschichte im 20. Jahrhundert*, Göttingen, Wallstein, 2012.

<sup>8</sup> The date of the wedding is shown in documentary research edited by Brigitte Schellmann, *Kempner, Robert Maximilian Wassilij*, commissioned by Parkfriedhof Lichterfelde of Berlin, the family burial place, 30 October 2003, available online at <<https://web.archive.org>> (accessed 15 April 2022).

<sup>9</sup> This information is taken from *United States, Social Security Death Index*, under name, and from *Jewish Holocaust Memorials and Jewish Residents of Germany 1939-1945*, available online at <<https://www.myheritage.it>> (accessed by login 15 April 2022).

renowned law firm of Erich Frey in Potsdamer Platz (Frey would emigrate to Paris in 1933 and to Chile in 1939)<sup>10</sup>. Robert also participated in the investigation of Adolf Hitler and Wilhelm Frick following the Munich Putsch<sup>11</sup>. In 1926 he was appointed assistant to the State Prosecutor in Berlin. From the same year he lectured regularly to the Social Policy Seminar at the capital's «Deutsche Hochschule für Politik», addressing issues relating to private law, labour law, and the discipline of evidence in criminal procedure. He also lectured on constitutional law, administrative law, criminal law and criminal procedure. The director Hans Simons stated in 1932 that Kempner:

[...] has become one of the most popular and esteemed teachers. [...] What I admire most are his mastery of the subjects, the breadth of his expositions – a great advantage from a pedagogical viewpoint – the liveliness and wit of his lectures, which used to enthral even the less willing listener. I can highly recommend *Regierungsrat* Kempner for any such assignment<sup>12</sup>.

In 1927 he had been appointed a fixed-term judge at the Berlin Municipal Court. Between 1928 and 1933 he held first the position of *Regierungsrat* (second secretary), then that of *Oberregierungsrat* (first secretary) at the Ministry of the Interior in the socialist government of the Land of Prussia, dealing with police law, complaints against the police, intelligence and political policing<sup>13</sup>. Carl Severing, Minister of the Interior in Prussia (1920-26; 1930-32) and in the Weimar Republic (1928-1930),<sup>14</sup> recalled in 1938 that Kempner had quickly become «one of the busiest and most active department heads of the Police department. [...] If I may say so, you did this

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<sup>10</sup> Bundesarchiv, Koblenz, Nachlässe 1470, *Kempner, Robert, Bestandsbeschreibung*, available online at <<https://www.bundesarchiv.de>> (accessed by login 15 April 2022). On the Jewish lawyer and playwright Erich Maximilian Frey (Breslau 6 October 1882 - Santiago, Chile, 30 March 1964), see the autobiography *Ich beantrage Freispruch. Aus den Erinnerungen des Strafverteidigers Erich Frey*, Berlin, Elsengold, 2019 (1st ed. 1959).

<sup>11</sup> *Reversal of Fortune: Robert Kempner*, in United States Holocaust Memorial Museum (USHMM), *Holocaust Encyclopedia*, available online in <<https://encyclopedia.ushmm.org>> (accessed 15 April 2022).

<sup>12</sup> BLO, MS, SPSL, b. 267, f. 10, «Kempner Robert», statement by Hans Simons, 12 February 1932.

<sup>13</sup> *Ibid.*, CV, undated but 1938.

<sup>14</sup> The Editors of Encyclopaedia Britannica, *Carl Severing*, in *Encyclopaedia Britannica*, available online at <<https://www.britannica.com>> (accessed 15 April 2022).

with precision and accuracy. You thus acquired the reputation of being an expert in police law»<sup>15</sup>. Between 1 January 1925 and 31 December 1934 he collaborated with the Ullstein newspapers «BZ am Mittag», «Berliner Morgenpost» and «Vossische Zeitung», dealing with law, administration, economics, finance, and local affairs. For this activity he travelled abroad, especially to the Balkans<sup>16</sup>.

### Against Hitler

As senior adviser to the Interior Ministry, in 1930 he «recommended the immediate indictment of Hitler for attempted high treason and the disbanding of the Nazi shock troops»<sup>17</sup>. With his colleagues he prepared careful documentation, which went unheeded, on the Nazis' activities, to prove that it was a criminal and terrorist organization<sup>18</sup>. The danger represented by the rising Nazi movement had forced him to reflect on the possibility of emigrating. In 1932, his marriage to Helene ended, with heavy mutual accusations in court. He was awarded custody of his son Lucian, and he sent him to Landschulheim Florenz in Italy. This was a boarding school, founded in Florence in October 1933 by Werner Peiser (a social democrat Robert Kempner had met in Berlin) and by Moritz Goldstein, and based in Villa Elena, below Fiesole. The direction and teaching of the Institute were entrusted to Jewish refugee professors from Germany and most of the students belonged to the German bourgeoisie, not exclusively Jewish<sup>19</sup>.

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<sup>15</sup> BLO, MS, SPSL, b. 267, f. 10, «Kempner Robert», letter from Carl Severing to R. Kempner, 4 September 1938.

<sup>16</sup> Ibid., statement by Ullstein Ltd., 15 February 1935.

<sup>17</sup> Ibid., a copy of the page with a biographical profile of Kempner, Robert M(aximilian) W(asilii), *Current Biography*, 1943. See also *Reversal of Fortune*, cit.

<sup>18</sup> Claudio Pozzoli, *Così condannammo i nazisti. Intervista con Robert Kempner, accusatore al processo di Norimberga, che oggi compie 90 anni*, «La Stampa», 17 October 1989, p. 1, available online at <<http://www.archiviolaStampa.it>> (accessed 15 April 2022). See also Laura Fermi, *Illustrious Immigrants. The Intellectual Migration from Europe, 1930-41*, Chicago, University of Chicago Press, 1971, p. 320.

<sup>19</sup> These details are taken from Patrizia Guarnieri, *Moritz Goldstein*, and from Valentina Piattelli, «Israel» e il sionismo in Toscana negli anni Trenta, in Enzo Collotti (ed.), *Razza e fascismo. La persecuzione contro gli ebrei in Toscana (1938-1943)*, vol. 1, Saggi, Rome, Carocci, 1999, p. 92.

Kempner decided to stay close to his own mother Lydia, who was in a poor state of health and unable to escape, all the more so as in 1932 his sister had died of tuberculosis like their father: Nadeschda was 31 years old and had completed a doctorate in German literature from the University of Heidelberg<sup>20</sup>. On 1 January 1934 Robert received notice of his dismissal, following the application of the Gesetz zur Wiederherstellung des Berufsbeamtentums [Law for the restoration of the civil service] of 7 April 1933<sup>21</sup>. His friendship with Rudolf Diels (they often met in the ministry cafeteria), director of the Gestapo from 1933 to 1934,<sup>22</sup> had allowed him to learn of a list of people about to be arrested. Before the Reichstag fire on 27 February 1933, and the subsequent indiscriminate wave of arrests, he managed to warn some friends, who thus escaped<sup>23</sup>. He also collected some influential reference letters, which he was to need later. In particular, Eric Klausener, «Ministerialdirektor, Chef der Polizeiabteilung des Innenministeriums», declared that Kempner's work as «chief legal advisor to the police» was truly valuable<sup>24</sup>. Bill Drews (born Wilhelm Arnold Drews), president of the Preußisches Oberverwaltungsgericht [the Prussian Higher Administrative Court], attested that «his books and articles are held in high regard and no objection can be raised from a national point of view»<sup>25</sup>. In 1934 Kempner, together with the Jewish judge Ernst Aschner, founded a company that dealt with the transfer of money of emigrants from Nazism, as he would note in his CV drawn up in 1938, when he himself was about to

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<sup>20</sup> See *Nadeschda Kempner*, cit.

<sup>21</sup> In *Robert Max Wasilii Kempner* in *Encyclopaedia Judaica*, available online in *Jewish Virtual Library* <<https://www.jewishvirtuallibrary.org>> (accessed 15 April 2022), the dismissal is dated February 1933; here the date noted in 1938 by Kempner himself in the London questionnaire is used instead, cfr. BLO, MS, SPSL, b. 267, f. 10, «Kempner Robert», «Confidential information».

<sup>22</sup> *Rudolf Diels* in *Encyclopaedia Judaica*, available online in *Jewish Virtual Library* <<https://www.jewishvirtuallibrary.org>> (accessed 15 April 2022).

<sup>23</sup> Christiane Kohl, *The Witness House. Nazis and Holocaust Survivors Sharing a Villa During the Nuremberg Trials*, New York, Other Press, 2010 (electronic edition), pp. 96-98.

<sup>24</sup> NYPL, MAD, ECADFS, I.A. Grantees, b. 18, ff. 7-8, «Kempner, Robert Max Wasilii 1938-1944», a brief curriculum vitae and brief collection of academic comments, 1941.

<sup>25</sup> BLO, MS, SPSL, b. 267, f. 10, «Kempner Robert», statement by Bill Drews, 1 December 1933.

emigrate to the United States<sup>26</sup>. His company also offered assistance services to Jews in bureaucratic and fiscal matters to escape from Germany; many turned to it and this allowed him to accumulate a large sum of money<sup>27</sup>. On 25 May 1935, he married Ruth Lydia Hahn, 31 years old, a social worker of the Lutheran faith, who after the marriage took the name of Benedicta Maria Kempner<sup>28</sup>.

That same year, the Interior Minister Wilhelm Frick revoked his German citizenship because of his Jewish origins. He was arrested and held for two months in the Columbia-Haus concentration camp in Berlin on charges of releasing information on German rearmament<sup>29</sup>. He was released thanks to the intercession of the aforementioned Rudolf Diels, at that stage Regierungspräsident [head of the administrative district] in Cologne, who Ruth immediately contacted<sup>30</sup>.

### «The good times in Italy»

His mother Lydia died in August 1935. At this point, after considering various possibilities, Robert decided to join his son in Florence, believing that in Italy «there was still no Jewish question». As a precaution, he traveled separately from Ruth: going by plane to Venice, he arrived by train in Florence,<sup>31</sup> where he was reunited with Lucian at Landschulheim Florenz. He became a teacher at the boarding school, where teaching staff received free room and board, as well as «a bit of money for small expenses»<sup>32</sup>. In 1936 Kempner replaced

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<sup>26</sup> Ibid., CV, undated but 1938.

<sup>27</sup> USHMM, *Kempner Papers*, bb. 41 and 95, «Emigration and Transfer to Palestine and Other Countries», and correspondence on Kempner's legal work from 1933 to 1935, cited by R.K. Wittman, D. Kinney, *The Devil's Diary*, cit., pp. 138-139.

<sup>28</sup> *Benedicta Maria Kempner* (Geislingen 8 July 1904 - Stockholm 4 May 1982) in *Landesbibliographie Baden-Württemberg*, available online at <<https://www.statistik-bw.de>> (accessed 15 April 2022).

<sup>29</sup> BLO, MS, SPSL, b. 267, f. 10, «Kempner Robert», *Current Biography*, cit. See also *Reversal of Fortune*, cit.

<sup>30</sup> C. Kohl, *The Witness House*, cit., pp. 99-100.

<sup>31</sup> R.M.W. Kempner, *Ankläger einer Epoche*, cit., p. 141, cited by R.K. Wittman, D. Kinney, *The Devil's Diary*, cit., p. 162.

<sup>32</sup> Klaus Voigt, *Il rifugio precario. Gli esuli in Italia dal 1933 al 1945*, vol. 1, Florence, La Nuova

Moritz Goldstein as director of the institute, in a new location in Villa Pazzi, near the Arcetri observatory, still in Florence. The younger students received a general education, the rest were prepared for the classical or scientific high school diploma, with the requirement to pass the final exam at a high school in Florence. The mathematician Wolfgang R. Wasow also taught here for a certain period; he then moved to Alto Adige following disagreements with Kempner, and subsequently emigrated to the United States<sup>33</sup>. In 1937 his son Lucian, who was 14, spent a few days with his mother in a mountain resort; unbeknown to Robert, she brought Lucian back to Germany and started a series of legal battles for custody<sup>34</sup>. In May 1938, Hitler's visit to Italy led to close coordination between the Italian police and the Gestapo for the arrest of citizens residing in Rome, Florence, and Naples considered «dangerous» or «suspicious», in lists drawn up as early as January. This vast operation led to the arrest of the directors, numerous teachers, and even many students in Florence, mainly for the purpose of discrediting the school in the eyes of the Italian authorities and stripping it of the support it still enjoyed. The arrests were carried out at dawn: officers showed up at the door of the house and invited people to follow them, but often gave them time to settle personal matters, as happened with Kempner, who was able to go to the bank to make a payment: «The good times in Italy were over». Ruth was also arrested, and both were detained pending Hitler's return to Germany. They were released from prison on 16 May 1938<sup>35</sup>. The situation worsened with the promulgation

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Italia, 1993, p. 178 (orig. ed. *Zuflucht auf Widerruf. Exil in Italien, 1933-1945*, Stuttgart, Klett-Cotta, 1989), and Bundesarchiv, Koblenz, *Nachlässe 1470, Kempner, Robert, Biographische Notiz*, available online at <<https://www.bundesarchiv.de>> (accessed 15 April 2022).

<sup>33</sup> Klaus Voigt, *La memorialistica dei profughi ebrei in Italia dopo il 1933. Uno sguardo d'insieme*, in Giovanna Santoro, Maria Antonietta Santoro, Maria Sechi, *L'ombra lunga dell'esilio. Ebraismo e memoria*, Florence, Giuntina, 2002, p. 168.

<sup>34</sup> USHMM, *Kempner Papers*, b. 71, R. Kempner to Helene Kempner, 20 November 1937, and Lucian Kempner's application to the company commandant, 29 September 1945, quoted by R.K. Wittman, D. Kinney, *The Devil's Diary*, cit., p. 172.

<sup>35</sup> K. Voigt, *Il rifugio precario*, cit., pp. 124-132, 137, 178, 215. Kempner's evidence regarding his arrest was collected in Giorgio Martinat, *Uno degli accusatori del processo di Norimberga ci parla della SS Peiper, lo sterminatore di Boves*, «La Stampa», 5 October 1965, available online at <<http://www.archiviolaStampa.it>> (accessed 15 April 2022).

of the fascist racial laws. The RDL n. 1381, issued on 7 September 1938, forbade foreigners of Jewish race to establish permanent residence in the kingdom; furthermore, «Jewish foreigners [present] in the Kingdom [...] and who began their stay there after 1 January 1919» had to leave within six months from the publication date of the decree<sup>36</sup>.

### **Escape to France, seeking help**

For some years, Landschulheim Florenz used to move in the summer to a seaside resort, because Villa Pazzi was occupied by the owner, a wealthy English banker. The school found accommodation first in Forte dei Marmi, then from 1937 in a hotel in Bordighera on the Ligurian coast. Here, on 9 September 1938, an official from the prefecture appeared, who demanded that Werner Peiser, the director, sign a declaration admitting that he had run the school on principles contrary to the regime. Fear of imminent arrest led Kempner and Peiser to hastily cross the border to reach Nice: with them were Ruth, some of the teachers and a dozen students in good standing with visas. Some parents who had sent their children to Landschulheim Florenz accused Kempner of abandoning them. Robert justified himself by maintaining that the situation had quickly come to a head and that he had tried to do everything possible for the students; the question was never fully clarified, however<sup>37</sup>.

Kempner began looking for a new home, taking advantage of his contacts and those his mother had cultivated during her time in Philadelphia. This intense activity is documented in the correspondence exchanged with various organizations and personalities in America and in England.

From Nice he sent his CV to the Society for the Protection of Science and Learning in London: he filled out their questionnaire in German, stating that he also knew French, English and Italian, was a Protestant, and was willing to

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<sup>36</sup> Follow this link to [Leggi fascistissime and the racial laws](#).

<sup>37</sup> K. Voigt, *Il rifugio precario*, cit., pp. 210-216.



go almost everywhere except Russia<sup>38</sup>. A his references he enclosed a printed copy of those issued to him by Hans Simons in 1932, by Bill Drews in 1933, by the publisher Ullstein in 1935, by Carl Severing in 1938, also indicating other possible referees: Wilhelm Abegg, from 1926 Staatssekretär at the Prussian Ministry of the Interior, who in 1933 escaped to Zurich; Cora Berliner, a lecturer and economist; [?] Hahn, possibly a relative of his wife, Lieutenant-General in Berlin; Hans Herrmann, a former adviser to the Prussian Ministry of Justice, who emigrated to Como; Carolus Mennicke, a German educationalist who had also emigrated and was a teacher in Amersfort (Netherlands); Fr Lazër Shantoja, an Albanian priest residing in La Motte (Switzerland)<sup>39</sup>. Esther Simpson, the SPSL secretary, informed him that «the activities of this Society are limited to the assistance of scholars removed from university teaching or research positions. I very much doubt that we will be able to find a suitable position for you»<sup>40</sup>. She advised him to contact other bodies: the Notgemeinschaft Deutscher Wissenschaftler im Ausland in London, the Germany Emergency Committee in London and the Comité international pour le placement des intellectuels réfugiés in Geneva<sup>41</sup>.

### **Denied reports and a contract. In Pennsylvania**

Evidently contact was established with the National Coordinating Committee for Aid to Refugees and Emigrants Coming from Germany, which was based in New York. Cecilia Razovsky, who was its executive director, and very active in various organizations for Jewish refugees, especially in the National Council of Jewish Women,<sup>42</sup> on 21 December 1938 presented Kempner's case

<sup>38</sup> BLO, MS, SPSL, b. 267, f. 10, «Kempner Robert», the questionnaire «General information» is dated 14 November 1938.

<sup>39</sup> Ibid., CV, undated but 1938.

<sup>40</sup> BLO, MS, SPSL, b. 267, f. 10, «Kempner Robert», letter from Esther Simpson to R. Kempner, 14 December 1938.

<sup>41</sup> Ibid.

<sup>42</sup> On the character of this activist, also author of many publications, see at least Mary McCune, Cecilia Razovsky (1891-1968), in *The Shalvi/Hyman Encyclopedia of Jewish Women*, cit., and Bat Ami Zucker, *Cecilia Razovsky and the American Jewish Women's Rescue Operation in the Second World War*, London, Vallentine Mitchell, 2008.

to the secretary of the Emergency Committee in Aid of Displaced German Scholars. Their Manhattan offices were very close; from 165 W 46th Street she transmitted to Betty Drury, at 2 W 45th Street, a copy of the letter he had written to Mr Gillette, on 28 November 1938, for a job at the Institute of Criminology in Washington, and other documentation showing that the institute did indeed want to hire a German professor expert in criminology: «Apparently Mr. Kempner is one of the men on your list». Meanwhile Razovsky had also contacted friends of Kempner's mother, hoping they would be willing to help him<sup>43</sup>.

On 27 December 1938, the New York Emergency Committee was also indirectly contacted for Kempner by Mazyck P. Ravenel, editor of the *American Journal of Public Health* and professor of preventive medicine at the University of Missouri; Ravenel sought help from his colleague Farrand Livingston (1867-1939), a physician and anthropologist, knowing that he chaired a committee for refugees, namely the ECADFS:

[...] This young man is the son of Lydia Rabinowitsch, whom I think you met while she was in this country. She was at the Woman's Medical College in Philadelphia and briefly at the University's Laboratory of Hygiene. She married Walter Kempner, who was Karl Frankel's assistant in Halle in [n der] S [aale] when I was a student there. I met her very often at congresses in England, Germany and France, and I was very kindly received at her home in Berlin. I probably knew this young man when he was a child. [...] I have written to him that I will do my best for him and that I would consult you in my attempts to help him. If you can do something for him, I will be happy and I have no doubt that he is a competent and deserving young man<sup>44</sup>.

On 10 January 1939, Farrand Livingston replied to Ravenel: «I am sorry to say that there is not much I can do to support the young man you are writing about»<sup>45</sup>.

<sup>43</sup> NYPL, MAD, ECADFS, I.A. Grantees, b. 18, ff. 7-8, «Kempner, Robert Max Wasilii 1938-1944», letter from Cecilia Razovsky to Betty Drury, 21 December 1938, received 1 January 1939.

<sup>44</sup> Ibid., letter from Mazyck P. Ravenel to Farrand Livingston, 27 December 1938. Ravenel was a renowned bacteriologist, like Kempner's mother. At the University of Missouri from 1896, he had retired in 1931; an emeritus professor from 1936 he resumed teaching there in 1942. For the inventory of his papers, and a brief biographical note, see The State Historical Society of Missouri (SHSMO), *Columbia Manuscript Collections, Mazyck Porcher Ravenel Papers, 1884-1958*.

<sup>45</sup> NYPL, MAD, ECADFS, I.A. Grantees, b. 18, ff. 7-8, «Kempner, Robert Max Wasilii 1938-1944»,

Too many American universities were now asking the Emergency Committee for help in hiring displaced scholars for at least one or two years, until the same universities could guarantee scholars a permanent position. Farrand was pessimistic: «I fear that the young man in question may have many difficulties in finding a place in this country».

However, he assured him that he would forward the relevant information provided by Ravenel to the Emergency Committee<sup>46</sup>. In fact, the Kempner case was being evaluated by the EC during these days, as shown from the file in his name. On 13 January Miss Drury notified the Institute of Criminology in Washington that their application for a grant to three scholars, one of whom was Kempner, had not been accepted<sup>47</sup>. From Nice, he continued looking for a job in the United States. Also because in April 1939 his application for authorization to stay in France had been rejected<sup>48</sup>. On 25 August 1939, at Boulogne-sur-Mer he boarded the ship «Nieuw Amsterdam» with his wife Ruth: they were registered as coming from Nice, he a teacher aged 40, she a housewife aged 35<sup>49</sup>. They disembarked in New York on 1 September 1939, and stated that they were on their way to the University of Pennsylvania.

Evidently his mother's friends had been busy, so much so that he had a position as research assistant at the University's Institute of Local and State Government<sup>50</sup>. On 19 May 1940, Margot Lipstein (later Lipton), aged 25, from Frankfurt am Main, left France to reach «Friend Mr Robert Kempner», whose

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letter from F. Livingston to M.P. Ravenel, 10 January 1939.

<sup>46</sup> Ibid.

<sup>47</sup> Ibid., the correspondence on Kempner between the ECADFS and the Institute of Criminal Science in Washington (DC) includes a telegram of 11 November 1938, the letter to B. Drury of 9 January 1939 and her reply of 13 January 1939.

<sup>48</sup> USHMM, *Kempner Papers*, b. 26, «Refoulement», 19 April 1939, cited by Dirk Poppmann, *The Trials of Robert Kempner. From Stateless Immigrant to Prosecutor of the Foreign Office*, in Kim C. Priemel, Alexa Stiller (eds.), *Reassessing the Nuremberg Military Tribunals. Transitional Justice, Trial Narratives and Historiography*, New York, Berghahn Books, 2012, pp. 24-26.

<sup>49</sup> The Statue of Liberty - Ellis Island Foundation, *Passenger Search*, «Robert Kempner», «Ruth Kempner», available online at <<https://www.statueofliberty.org>> (accessed by login 15 April 2022).

<sup>50</sup> His situation is shown in a typed summary, probably for the second assessment of his application, March 1941, in NYPL, MAD, ECADFS, I.A. Grantees, b. 18, ff. 7-8, «Kempner, Robert Max Wasilii 1938-1944».

address she stated as 4317 Orange Avenue, Philadelphia<sup>51</sup>.

Margot had worked in Nice as his secretary and had had a child by him, André, born on 31 March 1939 and entrusted to a welfare institution in that city<sup>52</sup>.

### **Another rejection from the EC and Kempner's appeal**

The research assistant contract ended on 1 July 1940. Before it expired, on 18 April, he contacted the Emergency Commission of New York,<sup>53</sup> which, however, never granted grants to those directly involved, but to the institutions that then intended to hire them. It was therefore for the Institute of Philadelphia to ask for a loan in his favour from the Emergency Committee of New York, which on 3 July 1940 communicated a negative decision. «We deeply regret that your Committee was unable to extend the requested aid. At the moment I don't see any way to be able to hire Dr. Kempner over the next year», wrote Professor Stephen Sweeney, the director and founder of that study centre in Pennsylvania, to Betty Drury<sup>54</sup>. On 9 July 1940, Kempner himself wrote to Stephen Duggan, the new chairman of the Emergency Committee after the death of Farrand Livingston<sup>55</sup>. He reminded him that he had already written to him from Italy three years earlier (but this letter was not in the file, it was noted in pencil). Then «he never [would] have dreamed of having to ask for financial assistance. But things changed quickly. Twice in the concentration camp, robbed by Hitler as by Mussolini, it was too much».

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<sup>51</sup> The Statue of Liberty - Ellis Island Foundation, Passenger Search, «Margot Lipstein», in <<https://www.statueofliberty.org>> (accessed by login 15 April 2022).

<sup>52</sup> The dates of birth and death for André Kempner (31 March 1939 - 21 September 1997) are attested by various American public documents, such as United States, *Social Security Death Index*, under name, available online at <<https://www.myheritage.it>> (accessed by login 15 April 2022). On the decision to leave the child, Margot Lipton's testimony in the case Lipton vs. Swansen, 23 June 1999, cited by R.K. Wittman, D. Kinney, *The Devil's Diary*, cit., pp. 26, 194, 360.

<sup>53</sup> NYPL, MAD, ECADFS, I.A. Grantees, b. 18, ff. 7-8, «Kempner, Robert Max Wasilii 1938-1944», his letter to the ECADFS, 18 April 1940.

<sup>54</sup> Ibid., letter from Stephen Sweeney to B. Drury, 16 July 1940. See the obituary of Stephen B. Sweeney, «The New York Times», 27 May 1986, section D, p. 18.

<sup>55</sup> Megan O'Shea, *Emergency Committee In Aid of Displaced Foreign Scholars Records 1927-1949*, 2007, p. VI, available online at <<https://www.nypl.org>> (accessed 15 April 2022).

Finding himself in this situation, he asked him for help, recalling his kind offer of advice «last September when we arrived from Europe and looked for her in New York»<sup>56</sup>. In a different spirit, he also wrote to Betty Drury, who on 12 July 1940 hastened to inform Stephen Duggan that Kempner contested the Committee's decision, questioning its motivation:

«He implied that it was unfair that we turned down the University of Pennsylvania application in his favour on the grounds that he was not a displaced professor or a Privatdozent. There were a number of scholars among our beneficiaries who had not been professors or Privatdozenten, he said. THIS IS TRUE», Drury stressed<sup>57</sup>.

The other problematic aspect concerned the prospect of hiring, whether stable or not, in the event of any financing. The University of Pennsylvania would have guaranteed Kempner safe employment for only one year; after which the definitive recruitment remained uncertain – contrary to what the EC was requesting – and would have depended on the development of the sector<sup>58</sup>. At this point, Duggan invited the other three members of the Emergency Committee to reconsider the case. L.C. Dunn, a professor in the Columbia Department of Zoology, was the only one to reassert that the rejection was justified. Bernard Flexner, who was a senior attorney, juvenile law expert, philanthropist and Zionist, believed the case should be reopened and proposed to vote for a grant not exceeding \$1,000, while Nelson Mead from CUNY noted that Kempner could reasonably be accepted but suggested that he approve a grant of no more than \$750 for him. Miss Drury did not fail to give her advice to the President: it would have been enough if he himself cast a vote equal to one of the three she had summarized and communicated this, in order to close the matter as soon as possible<sup>59</sup>.

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<sup>56</sup> NYPL, MAD, ECADFS, I.A. Grantees, b. 18, ff. 7-8, «Kempner, Robert Max Wasilii 1938-1944», letter from R. Kempner to Stephen Duggan, 9 July 1940, received 18 July 1940.

<sup>57</sup> Ibid., «Office Memorandum» from B. Drury to S. Duggan, dated 12 July 1940, sent 16 July 1940, received 22 July 1940. Original capitals.

<sup>58</sup> Ibid.

<sup>59</sup> Ibid., letter from B. Drury to S. Duggan, 30 July 1940.

Duggan sided with Flexner's proposal, and therefore – with Dunn's abstention – passed the grant approval to the Institute of Local and State Government of the University of Pennsylvania, as a partial contribution to Kempner's salary during the academic year. 1940-41<sup>60</sup>. Duggan immediately informed Stephen Sweeney, asserting that the granting of the grant did not disprove the previous assessment as it depended on unspecified evidence now found on «Dr Kempner scholarly status» (non-academic, however). The grant was less than what was requested, but with the additional \$900 already promised by the Institute (\$400 internal and \$500 from third parties), Kempner would receive \$1900. Should he leave the workplace early, the Emergency Committee could cancel or review the financial aid granted<sup>61</sup>.

The jurist thus had the post for the academic year 1940-1941 at the University of Pennsylvania. In November 1940 he wrote to Razovsky; not for himself, but to investigate how many refugees scholars there were in the USA. A difficult question, which they were unprepared to answer; the director of the National Committee in Aid to Refugees and Emigrants Coming from Germany turned it over to Betty Drury.

Perhaps there were fewer than 500. And fewer than 50 who had obtained a permanent position. So few? Miss Drury promised to investigate further<sup>62</sup>. The Philadelphia Oberlaender Trust had commissioned a survey of German refugee intellectuals who had received help from the trust and from other organizations. Founded by the textile industrialist Gustav Oberlaender to promote better understanding between Germans and Americans, it was later attacked for its relations with Nazism, until in September 1940 it took a clear stand and directed its activity in support of intellectuals fleeing Nazism; in fact Kempner himself, as shown in his file at the ECADFS, benefited in 1941

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<sup>60</sup> Ibid., note from R. O'Donnell to S. Duggan, 13 August 1940, and letter from S. Duggan to Bernard Flexner, 19 August 1940.

<sup>61</sup> Ibid., letter from S. Duggan to S. Sweeney, 19 August 1940.

<sup>62</sup> Ibid., reply from B. Drury, 18 November 1940.

and 1942 from grants from the Oberlander Trust<sup>63</sup>.

### «The doyen of anti-Nazi immigrants»

From time to time, at least once a year, Miss Drury had the opportunity to see their client again. Here is what she noted about his «personality: straight, sharp Nordic eyes, cool head. If he were not classified as a refugee, I would see him in the role of a NAZI»<sup>64</sup>. But when someone from the Strategic Services went to the Emergency Committee offices to borrow Kempner's file and asked her what she thought of that German, she did not tell him, as she recorded in her notes<sup>65</sup>. On the same day, 9 August 1943, she received a letter from Kempner, on letterhead paper with the address 112 Lansdowne Court, Lansdowne, a town a few miles from Philadelphia<sup>66</sup>. This was to update her on his own activities, which he declared himself satisfied with: he was working in a confidential capacity for the federal government, and also as an expert witness in espionage and anti-propaganda trials held in the USA, such as those for «George Sylvester Viereck, Paster E.B., Molzahn», whom the press was taking an interest in; he was also teaching foreign police administration at Fort Custer. If Miss Drury received requests to give special lectures on German, French or Italian law enforcement or policing, he declared himself not only available, but «the only one who has practical and didactic experience both there and in the United States»<sup>67</sup>.

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<sup>63</sup> Ibid. For the grant of the Oberlaender Trust in favour of Robert Kempner the first communication is dated 11 July 1941, the second June 1942. The study referred to is Donald Kent, *The Refugee Intellectual. The Americanization of the Immigrants of 1933-1941*, New York, Columbia University Press, 1953. See also Hanns Gramm, *The Oberlaender Trust, 1931-1953*, Philadelphia, Carl Schurz Memorial Foundation, 1956; on the very complicated history of the Oberlaender Trust and its founder, cf. also Gregory Kupsky, *Gustav Oberlander*, 2011 (latest update 2018), in *Immigrant Entrepreneurship* <<https://www.immigrantentrepreneurship.org>> (accessed 15 April 2022).

<sup>64</sup> NYPL, MAD, ECADFS, I.A. Grantees, b. 18, ff. 7-8, «Kempner, Robert Max Wasilii 1938-1944», card with various annotations by B. Drury, this one dated July 1942.

<sup>65</sup> Ibid., card with various annotations by B. Drury, 9 August 1943.

<sup>66</sup> The two-storey house from the early twentieth century is easily visible online by typing the address.

<sup>67</sup> Ibid., letter from R. Kempner to B. Drury, 7 August 1943, received 9 August 1943.

He continued to be interested in European events, being entrusted with the responsibility of investigating war crimes committed by the Nazis<sup>68</sup>. In May 1941, Pennsylvania State College's *The Daily Collegian* interviewed him after the capture by the British of the Nazi Rudolf Hess<sup>69</sup>. At the WTEL radio station in Philadelphia he edited the first anti-Nazi programme for the German-speaking population who had emigrated to the United States. The show aired every week for fifteen minutes and featured some famous German refugees, including Otto Meyerhof, biochemist and Nobel Prize winner, Wilhelm Sollman, former Minister of the Interior of the Weimar Republic, Eric Stoetzner, former manager of the «*Frankfurter Zeitung*». The newspapers defined Kempner as «the doyen of anti-Nazi immigrants in Pennsylvania»<sup>70</sup>. In the spring of 1944 he informed Miss Drury that by the end of the year he would become a US citizen<sup>71</sup>.

### **Information for the SPSL: quite successful**

The Society for the Protection of Science and Learning also tried to keep its records up to date. Since 1938 Esther Simpson had had no longer had any contact with Kempner, and on 3 October 1944 she asked Hans Simons about him; a political scientist who had emigrated to New York in 1935, and had become a professor at the New School for Social Research, and from 1943 dean of the Graduate Faculty. The professor gave her Kempner's address and some information: he seemed well settled and «also quite successful» in his work at the University of Pennsylvania and in some Washington government

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<sup>68</sup> Imperial War Museum, *Interview with Robert Kempner. Content Description*, available online in <<https://www.iwm.org.uk>> (accessed 15 April 2022).

<sup>69</sup> *Kempner to Give Government Talk*, «*The Daily Collegian*», 139, 14 May 1941, p. 2, available online at <<https://panewsarchive.psu.edu>> (accessed 15 April 2022), and *Rudolf Hess to Give Inside Story on Nazis, Says Former Adviser*, «*The Daily Collegian*», 141, 15 May 1941, pp. 1, 4, available online at <<https://panewsarchive.psu.edu>> (accessed 15 April 2022).

<sup>70</sup> BLO, MS, SPSL, b. 267, f. 10, «Kempner Robert», *Current Biography*, cit., sent by Kempner himself to the SPSL.

<sup>71</sup> NYPL, MAD, ECADFS, I.A. Grantees, b. 18, ff. 7-8, «Kempner, Robert Max Wasilii 1938-1944», letter from R. Kempner to B. Drury, 9 March 1944.



agencies<sup>72</sup>. Kempner was collaborating with the «US Justice Department War Division» and with the «Office of Strategic Services» (OSS), the American secret services<sup>73</sup>. After 1943 he taught for the War Department at the University of Pennsylvania, the University of Wisconsin and the University of Michigan<sup>74</sup>.

Robert Kempner flew to Paris as a US citizen on 4 August 1945: he was in the service of the American government to investigate the crimes committed by the Nazis<sup>75</sup>. From November 1945 to October 1946 he was appointed a United States prosecutor and collaborated with the American chief prosecutor, Robert Jackson, in the Nuremberg trial, with the chief leaders of Nazi politics as defendants. In Berlin he sought out a former secretary of his who had been promoted during the war in the Reichssicherheitshauptamt [Central Security Office of the Reich], and she helped him recover important documents<sup>76</sup>. He managed to prosecute two of his former superiors, Göring and Frick, who were both sentenced to death,<sup>77</sup> and to present the minutes of the Wannsee Conference in court, in which the final solution of the Jewish question had been sanctioned<sup>78</sup>. The trip to Europe was an opportunity to meet his son Lucian, a survivor of the Nazi concentration camps where he had been interned, who had apparently tried several times to get in touch

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<sup>72</sup> BLO, MS, SPSL, b. 267, f. 10, «Kempner Robert», letter from E. Simpson to H. Simons, 3 October 1944, and reply to E. Simpson, 27 October 1944. The German political scientist Simons (1893-1972) who was to become president of the New School, was also well settled; see Patrick Gallen, *Histories of the New School, Hans Simons*, (with archival references) <<http://newschoolhistories.org>> (accessed 15 April 2022).

<sup>73</sup> Anne C. Schenderlein, *Germany on Their Minds. German Jewish Refugees in the United States and Their Relationships with Germany, 1938-1988*, New York, Berghahn Books, 2019, pp. 115-116.

<sup>74</sup> BLO, MS, SPSL, b. 267, f. 10, «Kempner Robert», letter from R. Kempner to Ilse Ursell, 28 July 1947.

<sup>75</sup> USHMM, *Kempner Papers*, b. 418, letter from R. Kempner, Dear Folks, 11 August 1945, quoted by R.K. Wittman, D. Kinney, *The Devil's Diary*, cit., p. 327.

<sup>76</sup> Wendy Lower, *Hitler's Furies: German Women in the Nazi Killing Fields*, Boston-New York, Houghton Mifflin Harcourt, 2003, p. 151.

<sup>77</sup> *Reversal of Fortune*, cit.

<sup>78</sup> *Nazi War Crimes: War Crimes Trials*, in *Encyclopaedia Judaica*, available online in *Jewish Virtual Library* <<https://www.jewishvirtuallibrary.org>> (accessed 15 April 2022) and *The «FinalSolution»: The Wannsee Conference*, ibid., <<https://www.jewishvirtuallibrary.org>> (accessed 15 April 2022).

with him, even making an appeal to the «Voice of America» radio station<sup>79</sup>. Robert helped him to get an American visa; Lucian boarded the ship «Marine Perch» in Bremen on 13 May 1946 and disembarked in New York on 23 May 1946: from there he reached his father's home<sup>80</sup>.

In May 1947, the new secretary of the London Society for the Protection of Science and Learning contacted him at the address in Pennsylvania. His reply is missing, but it must have been quite rude, judging by how Ilse Ursell replied: her 11 June note «clearly shows that you have forgotten everything about this Society.» She was requesting professional news not only from him, but from all those who had registered with the SPSL, «to judge the success of scholars from Europe in relocating to other parts of the world»<sup>81</sup>. At this point Kempner sent her the printed page of a biographical profile with photo, published in «Current Biography 1943», which thus covered his career up to 1943. In the body of the letter, on headed paper of the Office of Chief of Counsel for War Crimes, he added the address in Nuremberg where he was based, as well as additional biographical information:

Since 1943 I have worked as an expert advisor to the Attorney General of the United States and subsequently to the Secretary of War, particularly in the fields of governments and foreign law and foreign administrative techniques. During that time I have published various reports and brochures [cited in the text]. Since 1947 I have been Deputy Chief of the Counsel for War Crimes and responsible for proceedings against the former Minister of the Interior of the German Reich, the case against the Reich Chancellery, the NSDAP party chancellery and the case against the administration of the four-year plan. I hope this satisfies your request. I think the account is rather long and I hope it is comprehensive<sup>82</sup>.

Almost a month later Ilse Ursell thanked him and congratulated him.

<sup>79</sup> USHMM, *Kempner Papers*, bb. 41 and 71, application by L. Kempner to the company commandant, 29 September 1943, and his letter to the Voice of America radio station, July 1945, quoted in R.K. Wittman, D. Kinney, *The Devil's Diary*, cit., pp. 344-345.

<sup>80</sup> Referring to Lucian and Ruth (believed to be his mother), *Refugee and Mother Reunited After Decade*, «Philadelphia Inquirer», 27 May 1946; *Kempner's Son, Victim of Nazis, Rejoins Mother*, «Philadelphia Record», 27 May 1946, quoted in R.K. Wittman, D. Kinney, *The Devil's Diary*, cit., p. 345. See also The Statue of Liberty - Ellis Island Foundation, *Passenger Search*, «Lucian Kempner», in <<https://www.statueofliberty.org>> (accessed by login 15 April 2022).

<sup>81</sup> BLO, MS, SPSL, b. 267, f. 10, «Kempner Robert», letters from I. Ursell to R. Kempner, 12 May 1947 and 7 July 1947.

<sup>82</sup> *Ibid.*, letter from R. Kempner to I. Ursell, 28 July 1947, and her reply, 22 August 1947.

## War Crimes Expert

Kempner continued his activity as chief prosecutor in the Nuremberg secondary trials until 1949. He brought charges against twenty-one members of the ministerial bureaucracy, but the sentences were not very severe, because of the changed international climate and the break-up of the anti-Nazi alliance<sup>83</sup>. During the trial, a bitter smear campaign was launched against him<sup>84</sup> and he became involved in controversies regarding the arrest, interrogation and release for lack of evidence of Carl Schmitt<sup>85</sup>. Over the years, Kempner told this story several times, often in a contradictory and not very transparent fashion<sup>86</sup>. In Nuremberg he began a decades-long collaboration with Jane Lester (born in Kane, Pennsylvania), «his nurse, driver and secretary»<sup>87</sup>. Maybe even his lover<sup>88</sup>. On 21 September 1949 he embarked at Bremerhaven (Germany) on the ship «Gen. Alexander M. Patch», together with Ruth, his 73-year-old mother-in-law Marie Luise Hahn, and Jane Lester, registered as a resident of Buffalo, New York. They landed in New York on 29 September 1949<sup>89</sup>. He brought with him an unspecified number of documents used during the trials<sup>90</sup>. From then on he travelled

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<sup>83</sup> Paolo Fonzi, *La Germania e il suo passato. Il «mito» del ministero degli Esteri durante il nazismo*, «Contemporanea», 15, 2, April-June 2012, p. 381.

<sup>84</sup> Volker Ullrich, *Hitler's Brown Diplomats*, «Bulletin of the German Historical Institute», 49, 2011, p. 106, available online at <<https://www.ghi-dc.org>> (accessed 15 April 2022).

<sup>85</sup> For further information on the Kempner-Schmitt case, see: Carl Schmitt, *Risposte a Norimberga*, edited by Helmut Quaritsch, Rome-Bari, Laterza, 2006; Céline Jouin, *Carl Schmitt à Nuremberg. Une théorie en accusation*, «Genèses», 74, 2009, pp. 46-73; Luigi Garofalo, *Carl Schmitt e la «Wissenschaft des römischen Rechts». Saggio su un cantore della scienza giuridica europea*, «Anuario da Faculdade de Dereito da Universidade de A Coruña», 11, 2007, pp. 299-323. The minutes of Kempner's interrogations of Schmitt during the Nuremberg trials were published in Angelo Bolaffi (ed.), *Carl Schmitt a Norimberga*, «Micromega», 3, 1987, pp. 177-190.

<sup>86</sup> Massimo Darchini, *Carl Schmitt a Norimberga. Darchini legge Schmitt*, «Storica», 9, 25-26, 2003, pp. 329-337. An argument confirmed in Helmut Quaritsch, in his introduction to C. Schmitt, *Risposte a Norimberga*, cit., pp. 5-6.

<sup>87</sup> Evidence of J. Lester in the case Lipton vs. Swansen, 31 January 2001, quoted by R.K. Wittman, D. Kinney, *The Devil's Diary*, cit., pp. 28-29.

<sup>88</sup> As maintained by R.K. Wittman, D. Kinney, *ibid.*, pp. 28-29.

<sup>89</sup> The Statue of Liberty - Ellis Island Foundation, *Passenger Search*, «Robert Kempner», «Ruth Kempner», «Marie Luise Hahn», «Jane Lester», in <<https://www.statueofliberty.org>> (accessed by login 15 April 2022).

<sup>90</sup> USHMM, *The Alfred Rosenberg Diary*, available online at <<https://collections.ushmm.org>> (accessed 15 April 2022).

between the United States and Germany<sup>91</sup>. As a lawyer, with a office in Frankfurt am Main, he represented Jewish clients in cases for the restitution of assets stolen by the Nazis<sup>92</sup>; his main residence was always in Lansdowne, where he lived with Lucian, Marie-Luise Hahn, Margot Lipton and Ruth, who was taking an interest in Nazi crimes against churches, priests and nuns throughout Europe<sup>93</sup>. André was adopted by the Kempners, and on 11 October 1951, at the age of twelve, he flew from Nice to join them in Philadelphia<sup>94</sup>. In 1954, Yad Vashem, the Israeli institution for the memory of the Shoah, entrusted him with the drafting of a volume on the extermination of European Jews: it was published first in German, then in Hebrew, only after the capture of Adolf Eichmann in 1960<sup>95</sup>. The text became a sort of memorandum in the 1961 trial against Eichmann himself, in which Kempner collaborated as an expert in the service of Israel.

### **Contacts in Italy: Biagi, Revelli and Costanzo**

In March 1961, returning to Munich after a stay in Jerusalem, he was interviewed by the journalist Enzo Biagi, special correspondent for the Turin newspaper «La Stampa», who described him as follows: «He is a sixty-year-old gentleman, tall and thin, with a penetrating gaze; he is wearing a coloured shirt and a ready-to-wear suit»<sup>96</sup>. In 1965 Kempner returned to Italy, invited

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<sup>91</sup> The Statue of Liberty - Ellis Island Foundation, *Passenger Search*, «Robert Kempner», «Ruth Kempner», «Jane Lester», in <<https://www.statueofliberty.org>> (accessed by login 15 April 2022) with dates currently up to 1956: in 1950 he reached New York on the «Columbus»; on 22 December 1951 on the «Talamanca»; on 17 May 1956 he was registered on the Cannes-New York route on the «Cristoforo Colombo» with Jane Lester; on 3 November 1956 he boarded first class with his wife Ruth at Le Havre on the «Liberté».

<sup>92</sup> *Reversal of Fortune*, cit.

<sup>93</sup> Gertrud Luckner, *Benedicta Maria Kempner - zum Gedenken (1904-1982)*, «Freiburger Rundbrief. Beiträge zur christlich-jüdischen Begegnung», 34, 129/132, 1982, pp. 32-33, available online at <<https://freidok.uni-freiburg.de>> (accessed 15 April 2022).

<sup>94</sup> The Statue of Liberty - Ellis Island Foundation, *Passenger Search*, «André Kempner», in <<https://www.statueofliberty.org>> (accessed by login 15 April 2022).

<sup>95</sup> Roni Stauber, *Confronting the Jewish Response during the Holocaust: Yad Vashem - A Commemorative and a Research Institute in the 1950s*, «Modern Judaism», 20, 3, 2000, p. 278; Harris Whitney, *Eichmann und Komplizen by Robert M. W. Kempner*, «The American Journal of International Law», 57, 2, 1963, p. 474.

<sup>96</sup> Enzo Biagi, *Nella birreria di Monaco ove nacque il nazismo si è aperta una mostra delle attività di*

to Cuneo by the «Committee for the Peiper affair»; during the meeting he also spoke with the partisan commander Nuto Revelli. The group's aim was to succeed in sentencing in court Joachim Peiper, the commandant of the Nazi unit responsible for the massacre of civilians in Boves on 19 September 1943<sup>97</sup>. In 1967 Kempner was in Munich for the trials of those responsible for the deportation of thousands of Dutch Jews, and he represented both Otto Frank, Anne's father, and Edith Stein's family<sup>98</sup>. His activities in reporting Nazi crimes were not limited to the legal sphere,<sup>99</sup> but also resulted in a series of papers and publications. In a 1970 essay he described the operations to deport the Jewish population from Berlin towards the territories in the east, which began on 18 October 1941<sup>100</sup>. From the 1970s, Kempner settled in Europe, between Frankfurt am Main and Locarno. In 1975 a heart attack prevented him from travelling. Jane Lester was at his side, while Ruth Hahn and Margot Lipton continued to live in the United States and occasionally visited him. At this time he also received a visit from a group of neo-Nazis, who came to protest outside his office,<sup>101</sup> while he continued to urge the authorities to block the activities of the German far right<sup>102</sup>. In 1969-70 he was

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Eichmann, «La Stampa», 24 March 1961, p. 3, available online at <<http://www.archiviolaStampa.it>> (accessed 15 April 2022).

<sup>97</sup> G. Martinat, *Uno degli accusatori*, cit., p. 7.

<sup>98</sup> These details are drawn from Carol Ann Lee, *Hidden Life of Otto Frank*, London, Penguin Books, 2003, pp. 272, 290, and from «Davo cinque fiorini per ogni segnalazione di ebreo». *Processo ad Anna Frank*, «L'Unità», 1 February 1967, p. 12.

<sup>99</sup> For his judicial activities see in addition, *Etwā 10000 Naziverbrecher*, «Neues Deutschland», 2 July 1964, p. 2, and *Faschistische Verbrecher leben in BRD unbehelligt*, *ibid.*, 27 April 1978, p. 7, available online at <<https://www.nd-archiv.de>> (accessed by login 15 April 2022).

<sup>100</sup> This refers to Robert Kempner's essay, *Die Ermordung von 35.000 Berliner Juden. Der Judenmordprozess in Berlin schreibt Geschichte*, in Herbert Strauss, Kurt Grossmann, *Gegenwart im Rückblick. Festgabe für die Jüdische Gemeinde zu Berlin 25 Jahre nach dem Neubeginn*, Heidelberg, Stiehm, 1970, pp. 180-208. This information is taken from Filippo Ranghiero, *Una storia di potere e sopravvivenza: l'Ospedale ebraico di Iranische Straße*, «Studi germanici», 12, 2017, p. 90.

<sup>101</sup> Evidence of J. Lester in the Lipton vs. Swansen case, 31 January 2001, quoted in R.K. Wittman, D. Kinney, *The Devil's Diary*, cit., pp. 28-29. See, for example, the accusations published by the Nazi general Alfred Keller in the extreme right weekly «National-Zeitung». Information drawn from *Nazi general zeigt USA-Juristen an*, «Neues Deutschland», 16 June 1965, p. 6, available online at <<https://www.nd-archiv.de>> (accessed by login 15 April 2022).

<sup>102</sup> *USA-Ankläger von Nürnberg warnt vor dem Neofaschismus*, *ibid.*, 10 October 1965 p. 5, available online in <<https://www.nd-archiv.de>> (accessed by login 15 April 2022).

appointed honorary fellow at the Hebrew University in Jerusalem, in 1980 honorary professor at the Freie Universität of Berlin and in 1986 the University of Osnabrück awarded him an honorary degree<sup>103</sup>.

In 1982 his wife Ruth died in Stockholm, during a trip to Europe, after a short serious illness<sup>104</sup>. For several years he lived in Locarno, in Italian Switzerland, where he was interviewed by the popular Italian television host Maurizio Costanzo; the conversation was broadcast on Canale 5 on 8 December 1985, as part of the «Buona domenica»<sup>105</sup> programme.

### The preservation of his archives

He died on 15 August 1993 in Königstein im Taunus (Germany). He was buried in Berlin, at the Parkfriedhof Lichterfelde cemetery, together with his parents and his sister<sup>106</sup>.

A long obituary immediately appeared in the «New York Times». His role, his work and his life were remembered through exhibitions, books, initiatives and commemorations<sup>107</sup>.

His archives, in particular those preserved at the properties of Lansdowne and Frankfurt am Main, were the subject of controversy, and multiple attempts to acquire them gave rise to disputes between his children, his collaborators and other people, and resulted in finds of considerable documentary value, including materials acquired during the Nuremberg

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<sup>103</sup> *Dr. Kempner Honoured*, «AJR Journal», 35, 10, October 1980, p. 5, and Bundesarchiv, Koblenz, *Nachlässe 1470, Kempner, Robert* <<https://invenio.bundesarchiv.de>> (accessed by login 15 April 2022).

<sup>104</sup> G. Luckner, *Benedicta Maria Kempner*, cit., p. 32.

<sup>105</sup> *Kempner: intervista sul nazismo*, «L'Unità», 8 December 1985, p. 14. See further Peter Lorenzi, *Il giudice di Norimberga: «avrebbe meritato la condanna a morte»*, «La Repubblica», 21 August 1987, available online in <<https://ricerca.repubblica.it>> (accessed 15 April 2022).

<sup>106</sup> Cf. B. Schellmann, *Kempner, Robert Maximilian Wassilij*, cit.

<sup>107</sup> E. Pace, *Robert Kempner*, cit. See the project *Ewige Wachsamkeit ist der Preis der Freiheit*, including an exhibition about Kempner on the occasion of his 90th birthday, and the commemorations in Berlin and Osnabrück for the centenary of his birth: <<http://lernen-aus-dergeschichte.de>> (accessed 15 April 2022); Gerhard Niederstucke, Thomas Schneider, *Robert M.W. Kempner (17.10.1899-15.8.1993). Reden zum Kempner-Gedenken in Berlin und Osnabrück aus Anlaß seines 100. Geburtstages*, Osnabrück, Universitätsverlag Rasch, 2000.

trials.

The US archive of Robert and Ruth Kempner was officially donated by their son Lucian in 1999 to the United States Holocaust Memorial Museum in Washington. Among the materials recovered is the diary of Alfred Rosenberg, which the investigators found in the home of a resident in New York State<sup>108</sup>. The documents of the Kempner office in Frankfurt, however, are kept in the German Federal Archives in Koblenz.

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<sup>108</sup> Cf. USHMM, *The Alfred Rosenberg Diary*, cit. The discovery of the diary, an undertaking in which Robert Wittman participated, is described in R.K. Wittman, D. Kinney, *The Devil's Diary*, cit., pp. 45-57.

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