The Eichmann Trial
The Eichmann Trial

EUROPEAN JEWRY BEFORE AND AFTER HITLER

by Salo W. Baron

As a historian, not an eyewitness or a jurist, I shall concern myself with the historical situation of the Jewish people before, during, and after the Nazi onslaught—the greatest catastrophe in Jewish history, which has known many catastrophes.

A historian dealing with more or less contemporary problems confronts two major difficulties. The first is that historical perspective usually can be attained only after the passage of time. The second is that much relevant material is hidden away in archives and private collections, which are usually not open for inspection until several decades have passed. In this instance, however, the difficulties have been reduced. The world has been moving so fast since the end of World War II, and the situation of 1961 so little resembles that of the 1930's, that one may consider the events of a quarter of a century ago as belonging almost to a bygone historic era, which the scholarly investigator can view with a modicum of detachment. In fact, a new generation has been growing up which "knew not Hitler." For its part, the older generation is often eager to forget the nightmare of the Nazi era. Hence that period has receded in the consciousness of man as if it had occurred long ago.

This article is based on a memorandum that Professor Baron prepared for himself when he was invited to testify at the Eichmann trial, in April 1961, on the Jewish communities destroyed by the Nazis. The Appendix contains an extract from the official transcript of his testimony. Dr. Baron is Professor of Jewish History, Literature, and Institutions on the Miller Foundation at Columbia University. He has written A Social and Religious History of the Jews and other works.
Furthermore, the amount of evidence available is quite extraordinary. The capture of many German archives by the Allied armies has opened up an enormous amount of information, of a kind not usually accessible until the passage of several decades. Many protagonists in the drama, moreover, have been extraordinarily articulate. Diaries, memoirs, and biographical records are so numerous that huge bibliographies would have to be compiled merely to list them. With respect to the Jewish tragedy alone, the more significant publications are abundant enough for Jacob Robinson and the late Philip Friedman to have initiated a lengthy series of specialized bibliographical guides, some of which are yet to appear. It is possible, therefore, to attempt within this brief compass a concise evaluation of the broad transformations in the life of European Jewry brought about by the twelve years of the Nazi regime, first in Germany and later in the other German-occupied areas.

EUROPEAN JEWRY IN THE 1930's

The general impression created by the Jewish people in Europe just before the Nazi era was one of extraordinary resourcefulness and vitality in the midst of a great world crisis and an equally severe crisis in Jewish life. The period between the First and Second World Wars in Europe generally resembled a prolonged armistice rather than genuine peace. The breakup of the established order; the rise of new states; the spread of Communist propaganda and the various Fascist and statist experiments in government; inflation, followed in 1929 by the Great Depression; the accelerating drive toward autarchy; the closing of frontiers to free migration; and, not least, the accompanying extremist doctrines in scholarship, letters, and the arts—all helped to keep Europe in a state of permanent tension. In Jewish life, the collapse of the oppressive Tsarist empire, the international guarantees for both equality of rights and minority rights in most of the newly arisen states, and the Palestine Mandate had inspired hopes that contrasted sharply with the reality of ill-treatment in most of the territories of mass Jewish settlement, from the Baltic to the Aegean.

Such far-reaching transformations called for great ingenuity and a pioneering spirit. With courage and perseverance the Jewish people tried to adjust to the new situation not merely passively, but independently and creatively. Accustomed through the long history of their dispersion to such creative readjustments, they were able to develop during the interwar period certain new forms of communal and cultural living which
fructified Jewish life throughout the world, contributed significantly to human civilization, and held out great promise for the future. All this was cut short by the Nazi attack, unprecedented in scope, geographic extension, and murderous intensity.

**Demographic Changes**

Some of the challenges and creative readjustments of the interwar period arose out of the increasing urbanization, even metropolitanization, of the Jewish people. The Jews had long been urban. In Eastern Europe, especially, the *shtetl*, the small town, often had a Jewish majority. Subsequently many of these small-town Jews moved into the bigger cities of their own countries—like many Christians—and others emigrated to the rapidly growing European centers of London, Paris, and Berlin. Still others went overseas, particularly to New York, Chicago, and Buenos Aires.

By the early 1930's the metropolitanization of the Jewish people had progressed so far that fully a quarter lived in cities with more than a million population and another quarter in cities with 100,000 to 1,000,000 inhabitants. Some 12 per cent of all world Jewry lived in New York alone, their overwhelming majority having arrived from Eastern Europe in the preceding half century. This transformation was equally pronounced within the Soviet Union, where the two capitals of Moscow and Leningrad, lying outside the former Pale of Settlement, opened their gates to the Jews after the revolution. In 20 years their Jewish populations increased from 2,000 and 3,000, respectively, to 400,000 and 250,000. Warsaw and Budapest had also become cities with populations exceeding a million, with almost 600,000 Jews between them. It was in the great cities of Europe and America that the major decisions were made about the economic and political destinies of the world's leading nations and that most of the artistic, literary, and scientific movements originated. The Jews played their part.

Metropolitanization had its negative consequences, especially a sharp drop in population growth. Sociologists of the interwar period observed that these great concentrations of humanity as a rule did not reproduce themselves naturally but had to replenish themselves from the constant stream of immigrants from their own and other countries. Some historical studies have shown that even earlier, between 1550 and 1750, several German cities had averaged only 80 to 90 births for every 100 deaths. The other factors in the declining birth rate among the Western nations—the emancipation of women, the growing predilection for com-
forts, increasingly effective methods of birth control, and the like—had the stronger impact on the Jewish masses as so much larger a proportion of their population lived in the great cities. In Germany, where we have relatively reliable population statistics, it was shown that between 1911 and 1924 Jewish mortality had exceeded natality by 18,252 in Prussia alone, whereas the general Prussian population had had a surplus of births of 3,019,000. Between 1925 and 1928 Prussian Jewry lost 5,100 through such natural causes, while the general population grew by 1,180,000. These conditions were further aggravated by the growing number of mixed marriages, with their doubly negative effect upon Jewish population growth—their generally small fertility, and the fact that most children of such marriages were raised in the Christian faith. By 1930 the sociologist Ernst Kahn had calculated that if German Jews were to preserve their existing numbers, their families would have to average seven children, a wholly utopian expectation. To a lesser extent these factors operated also in other western lands and began affecting even the mass concentrations of Jews in Eastern Europe. The first Soviet census, in 1926, revealed that the previously extremely fertile Russian Jews now had one of the lowest birth rates of the major Soviet nationalities.

All this was in sharp contrast to the evolution of the Jewish people in the previous two or three centuries. Although this was the period of the greatest expansion of the European population, the Jewish people had expanded even more rapidly than its neighbors. From the mid-19th century to 1930 the ratio of Jews to the total European population had increased from approximately 1.5 per cent to 2 per cent. At the same time, European Jewry had sent out disproportionately numerous emigrants to other continents, particularly the Americas. For this growth a decisive factor was the much lower mortality of Jewish children, particularly in the great reservoir of Jewish life from the Baltic to the Aegean. For one example, it was found that in 1929 and 1930 child mortality among the Catholics of the city of Vilna amounted to 243 per 1,000 births during the first year and to 370 during the first five years of life, while among the Jews of Vilna the corresponding figures were 106 and 198. Even during the interwar period the Jewish population of the world, and particularly of East-Central Europe, was still increasing rapidly. According to the estimates of the statistician Jacob Lestschinsky, the average annual increase of world Jewry during the 1920's was 140,000. It declined to 120,000 in the 1930's, a decade of crisis, hardship, and imminent peril.
This was a time when there was such a general drop in the growth of all western nations that sociologists freely predicted that, within a few decades, the West European and North American peoples would actually begin to decline in numbers. Had not France already had a stationary population for several decades?

Those predictions have not come true; indeed, there has been a "population explosion" all over the world, and France herself has grown substantially. It stands to reason, therefore, that the Jewish people, too, which, in the face of tremendous adversities, had been able to grow in numbers for many generations, would likewise have been able to resume its upward progression. (In Israel, for example, the Jews have continued to grow in numbers.) As in earlier centuries, the Jews maintained their high standards of family life, which succeeded in overcoming even some of the corroding influences of modern civilization. Now that the very metropolises of Europe have resumed their biological growth, Jews would the more fully have shared in the reversal of the interwar downward trend, as urban living had become almost second nature to most of them. In short, one of the most ancient of peoples has revealed throughout the modern period an extraordinarily youthful resilience and recuperative power. These would have led to a substantial increase in its numbers, had it not been for the Nazi catastrophe.

It was between the Atlantic and Moscow that the overwhelming majority of the approximately 9,800,000 European Jews were concentrated in the mid-1930's. Among the most important countries of Jewish settlement were Poland, which, together with Danzig, had a Jewish population of approximately 3,040,000 in 1931; the Soviet Union, which by 1932 was likewise reaching a total of some 3,000,000 Jews; Germany, whose 1933 census showing 499,682 Jews had to be increased by the 3,117 in the Saar in 1935; Austria, with 191,480 in 1934; Hungary, with 444,567 in 1930; Rumania, with 728,115 in 1930; Czechoslovakia, with 356,830 in 1930; France, with 320,000 in 1939; Holland, with 156,817 in 1933, and Lithuania, which as early as 1923 had counted 155,125 Jews. There were several other countries whose Jewish populations, though each less than 100,000, played a considerable role in the economy and culture. Because of the slight divergence in the dates here given, these figures are not absolutely comparable; nevertheless, because of the restricted migration at that time, they give a fairly adequate picture.

The emigration of Jews overseas, which had played such a tremendous role in the preceding decades, had dwindled to a minimum during the early 1930's as a result of the legislative enactments and administrative
practices in the United States and elsewhere. Nevertheless, those overseas communities could still be considered to all intents and purposes as demographic extensions of East-Central European Jewry. Less than a generation had passed since one of the most astounding mass migrations of modern times. In only 24 years, from 1890 to 1914, 30 per cent of all European Jewry had moved to other continents. The impressive biological, communal, and cultural expansion of the Jews of the Tsarist empire, Austria-Hungary, Rumania, and Germany established the great new Jewish centers of population in the United States, Canada, Argentina, and South Africa, and laid the foundations for the Palestinian and Israeli Yishuv. At the same time, the European communities succeeded in maintaining and even increasing their population, in absolute figures. Despite the restrictions upon migration in the interwar period, the intimate relationships between the European mother communities and these overseas offshoots resulted in a basic religious, cultural, and communal unity. A study of the Jewish landsmanshaften in New York, published in 1938, revealed no fewer than 3,000 such organizations, each of which still maintained, wherever possible, close ties with its mother community. Some of these American organizations actually had a larger membership than the entire Jewish population which had remained behind.

**Economic Trends**

The rapid dislocations within European Jewry, combined with economic transformations throughout the world, had tremendous effects on the economic status and pursuits of the Jews. In the preceding decades modern capitalism had become established in Eastern Europe, and many old patterns of occupational life underwent severe, often painful, readjustments. These changes were accelerated by the Bolshevik Revolution, which directly affected about three million Jews, most of whom were at an early stage of the capitalist evolution. Various ideologies, socialist as well as middle-class, had long demanded a thoroughgoing reordering of the Jewish occupational structure, thus intensifying the challenge from within and without. Once again it was a testimony to the basic vitality and creativity of European Jews in the interwar period that, instead of passively submitting to these enormous pressures, they took an active part in rethinking and reshaping their economic realities.

Of course, capitalism itself was under sharp attack, with Jewish intellectuals among its sharpest critics. Yet no reasonable student of history ventured to deny its tremendous accomplishments in transforming west-
ern civilization from feudal backwardness into modern abundance. The
creative role of European Jewry in this transformation, first in Western,
then in Central, and finally in Eastern Europe, was universally acknowl-
ledged by friend and foe alike even in the 1930's. To be sure, the evalua-
tion of that role was subject to bias, both pro- and anti-capitalist, pro-
and anti-Jewish. But the fact that, upon being allowed to emerge from
behind the medieval ghetto walls, Jews had contributed greatly to the
new forms of mass production, mass distribution, international exchange,
and finance could not be denied by any but the most obscurantist Jew-
baiters.

Intrigued by the observation that Spain and Portugal, the leading
economic powers in the late Middle Ages, had declined, while Holland,
England, and France put themselves in the economic vanguard, as early
as the 18th century many analysts attributed those changes in part to
the expulsion of the Jews from the Iberian peninsula and their readmis-
sion to the other West European countries. In the 20th century Werner
Sombart, the leading German student of the rise of modern capitalism—
not particularly friendly to the Jews or to capitalism—exclaimed with
his usual abandon: "Israel passes over Europe like the sun: at its coming
new life bursts forth; at its going all falls into decay." Discarding such
exaggerations, one may understand why 17th-century Amsterdam, rap-
Idly growing by the admission of Jewish refugees from the Iberian
peninsula and war-torn Germany and Poland, so greatly helped Holland
to become the great center of international trade and the leading money
market in the western world. To displace this "New Jerusalem," London
made strenuous efforts to attract Jewish capitalists. As early as 1697,
when the entire Jewish status in England was under debate, some 10
per cent of the seats on the Stock Exchange were reserved for Jewish
brokers. From that time on Jewish bankers, businessmen, and their
professional advisers played a significant part in all western capitalist
countries.

In the great era of railroad building in the 19th and early 20th cen-
turies, Jewish bankers like the Péreires and Bischofsheims in France
and Belgium, the Rothschilds in Austria, and the Poliakoffs in Russia
were highly instrumental in spreading the network of transportation so
essential to production and distribution. Even in far-off America it was
an emigrant from Frankfort, Jacob Schiff, under whose leadership the
banking firm of Kuhn, Loeb and Company helped between 1881 and
1920 to launch loans exceeding a billion dollars for the Pennsylvania
Railroad, still the largest American railway system. While less active in
the heavy industries producing coal, oil, and iron, Jewish businessmen played a part in developing the Baku, Galician, and Rumanian oil fields, the coal and iron works in the Moravian basin, and the like. But their main interest was in such time-honored industries as gold and silver smithery, the production and cutting of diamonds, and particularly the lighter industries of textiles, clothing, and food processing, and eventually modern mass communications.

Perhaps the most basic transformation was the entry of Jews into the professions, from which they had long been barred by medieval legislation. While medicine was practised with distinction by many Jews in all periods, the legal profession was opened to them only with the modern emancipatory movements. The number of Jewish lawyers and doctors increased so greatly that in many East European cities they were the majority in their professions. So many Jewish students sought admission to schools of higher learning that Tsarist Russia enforced a *numerus clausus* on their admission. Interwar Poland did the same, reducing the percentage of Jews attending universities and colleges from 24.6 in 1921–22 to 16.9 twelve years later. Nevertheless, even in 1933 the ratio of Jews in universities and professional schools was still the highest in the Polish population. At one time both Czechoslovakia and Fascist Italy deliberately attracted Jewish students from Poland and Rumania. Swiss, French, Belgian, and other universities also received East European Jewish students—besides, of course, native Jews. In Italy a study published in 1931 showed that a quarter of all Jewish men 20 years old and over had studied or were studying at schools of higher learning.

Although there was a world-wide expansion of the professions, and Jews were by no means alone in seeking entry, in such times of distress as the depression of the 1930’s Jewish “domination” of this or that profession became a ready target for antisemitic attack. The fact that Jews were something like 13 per cent of all Prussian attorneys—not of the judiciary—while only 1 per cent of the population, could be used to good advantage by agitators appealing to the “superfluous generation” of German students and intellectuals. It did not matter that the presence of a large body of Jews in the professions was the result of free choice, not conspiracy, and that they made a significant contribution to the general welfare.

Many Jews, affected by their enemies’ deprecation, believed that the “lopsided” concentration of Jews in trade, the professions, and light industry was unhealthy, both for themselves and for society as a whole.
The trend throughout the world was that of an accelerating transfer of population from the country to the city and from agriculture and manual labor to white-collar occupations. Going against that trend, the Jews made strenuous efforts to return to the soil and to enter industry. At a time when millions of farmers were knocking at the gates of cities and factories, Jews—aided and encouraged by some governments, including that of the hostile Nicholas I in Russia—undertook major efforts at colonization on land. In the Soviet Union such efforts were fairly successful. Within a decade after the revolution the Jewish farming population included 33,357 families, or some 165,000 persons, living in special Jewish colonies, besides 32,800 families in other regions. In the aggregate, the Jewish farmers amounted to some 10 per cent of Russian Jewry, already rivaling in size the steadily declining merchant group. In Carpatho-Ruthenia nearly 28 per cent of the Jews were farmers. Equally noteworthy achievements were registered by Jews from Eastern Europe in the United States, in Argentina, and most far-reaching in Palestine before and after the rise of the State of Israel, where the saga of the halutzim has filled some of the most memorable pages in 20th-century history.

Jews also entered the modern industrial working class in large numbers. There had always been many Jewish artisans. Despite immemorial guild restrictions, the Jews of Poland, Lithuania, and neighboring countries were able to maintain a large artisan class, which sometimes reached one-third of their population. But industrialization was the doom of handicrafts, converting most artisans into factory workers. Jewish communal leaders often tried to channel Jewish craftsmen into industrial labor, as well as to ease the passage. They were particularly successful in the countries of immigration, such as the United States, England, and France, where the new arrivals had to make a fresh start and where most could find employment only in factories. In the older countries, on the other hand, Jewish workers and would-be workers often were discriminated against by other workers. Wherever there were enough Jewish workers, they preferred to organize labor unions of their own. They cooperated with the other unions, although they often suffered the hostility both of their fellow workers and of the state authorities. (An incident during the May Day celebration of 1923 in Lodz was characteristic: the Polish, German, and Jewish workers marched separately and, when the latter were attacked by the police, the two other groups looked on passively.) At the same time, many Jewish intellectuals became active
as organizers of general labor unions and as spokesmen for socialist ideologies. Thus, from the so-called people of bankers and traders, frequently denounced by such socialist thinkers as Karl Marx or Charles Fourier, whose disciple Alphonse Toussenel circulated in the 1840's a typical antisemitic tirade against "the Jews, kings of our period," there emerged labor leaders and socialists, such as Ferdinand Lassalle, Eduard Bernstein, Leon Trotsky, and, in the United States, Samuel Gompers, an immigrant from Europe.

It was not then generally foreseen that technological progress would so speedily shrink the relative and even the absolute size of manual labor and swell the service industries and white-collar classes. A study conducted under the auspices of President Hoover in the United States in the 1920's had shown the continued decline, decade after decade, of manual labor in the United States. Today 9 per cent of the American population grows enough not only to supply the needs of the American people, and to help feed millions throughout the world, but also to create the enormous agricultural surpluses which have been plaguing successive American administrations for decades. In the early 1930's the 10 per cent of Jews who were farmers in the Soviet Union constituted but a small fraction of Russia's huge peasantry; since then, more and more of the farmers of Russia, the Ukraine, and other Soviet republics have become workers, technicians, and engineers. In Germany, too, between 1907 and 1925 the number of manual workers had declined 4 per cent, while that of white-collar employees increased 50 per cent. (In fact, it was by appealing to the white-collar workers, long neglected by socialist theorists, that Fascism in Italy and Nazism in Germany made their greatest strides.) Not surprisingly, therefore, the conversion of Jewish craftsmen into factory workers or of Jewish city dwellers into farmers was not fully successful. But even the partial success was impressive evidence of a people facing the challenges of a new age with courage and vigor.

Viewed from a historical perspective, the enormous economic difficulties confronting the Jews in the interwar period appear to have been the temporary accompaniment of a profound historical transformation. In the long run the Jewish vocational distribution, so different then, merely foreshadowed the major trends of our technological era. The sharp contrast in occupation between the Jews and their neighbors has been gradually disappearing, not so much because the Jews have changed as because the Western world has become increasingly "Jewish" in its economic structure.
Emancipation

Jewish Emancipation is usually considered to date back to the American and French Revolutions. That is only partially true. Emancipatory trends are both older and newer than those dramatic 18th-century events. I have long believed that Jewish political and legal emancipation cannot be fully understood apart from economic and cultural emancipation, whose contours had already been decisively shaped a century or two before the revolutionary era. On the other hand, it required protracted struggles throughout the 19th and early 20th centuries before legal equality was promulgated on paper in most other European lands. What is more, the constant migratory movements, Jewish interdependence, and external hostility meant that emancipation in one country remained incomplete if Jews were not emancipated in other countries as well. A mere 50 years ago nearly half of world Jewry resided in Tsarist Russia, whose policies were sharply discriminatory. If we add the Jewish populations of Rumania, the Ottoman empire (where the Young Turk revolution of 1909 had only begun to transform the deeply-rooted medieval Islamic institutions), North Africa, the Yemen, and similar countries, we find that two-thirds of world Jewry then lacked even the prerequisites of formal equality. In the very countries of Emancipation, such as the United States and France, where equality had formally reigned supreme for more than a century, shortly before the First World War most Jews were recent immigrants from Russia, Rumania, and the Ottoman empire, who had not changed overnight by moving from a country of inequality to one of Emancipation. It was, therefore, only after the Russian revolutions of 1917 and the peace treaties of 1919 with Poland, Rumania, the Baltic states, and others that the Jewish people seemed to emerge for the first time into an era of freedom and equality. At least on paper, Jews were guaranteed equal treatment in all the constitutions of the newly arisen or enlarged states in Europe and the Near East, and a genuine emancipation on a world-wide scale seemed to be a realistic expectation.

Jewish leaders, realizing that a minority needed additional safeguards for the maintenance of its identity, were concerned also with the supplementation of equality by minority rights. It was a major Jewish achievement that the peace conference of 1919 promulgated for the first time the principle of minority rights as an instrument of internal peace in some multinational states—an idea whose merit has not been canceled by the neglect or violations arising out of the sharp nationalist conflicts of the interwar period. Though the Jews were specifically mentioned
only in the treaties with Poland and Turkey, the new international safeguarders were intended to benefit the Jewries of all the new or newly enlarged countries from the Baltic to the Aegean. Czechoslovakia and Esthonia most fully lived up to those guarantees. The other countries, particularly Poland and Rumania, from the outset sabotaged not only minority rights—whose international safeguarding they considered, with some justification, as an invidious infringement of their sovereignty—but also the very equality of their Jewish citizens. None the less, the Jews persisted in their struggle for genuine equality and minority rights in those countries as well. Looking back at the progress made during the preceding century, Jewish leadership must have felt justified in expecting victory of the egalitarian principle.

It is now three years since I had the honor to address an audience at the Hebrew University in Jerusalem on “Newer Approaches to Jewish Emancipation.” In that lecture, subsequently published in UNESCO’s *Diogène* (in French) and *Diogenes* (in English), I tried to make clear that Jewish emancipation was an even greater necessity for the modern state than it was for the Jews, and that even if Jewry had been unanimous in rejecting it—there were indeed some Jewish circles which preferred the accustomed ways of life of the ghetto to the new forms of integration into the western nations—the modern state would have had to force its Jewish subjects to accept equality. In fact, however, a growing majority of Jews not only accepted Emancipation but was prepared to fight hard for it, on general principles as well as on utilitarian grounds.

At the beginning of this century, in the dark era of the Kishinev pogroms and Pobedonostsev’s reactionary regime, it nevertheless appeared to most observers in Russia and abroad that the universal acceptance of Jewish equality was only a matter of time. Count Vladimir Nicholaevich Lamsdorf, Russia’s minister of foreign affairs, was desperate when he tried to persuade the Tsar that the revolution of 1905 had been directed by the forces of world Jewry, led by the Alliance Israelite Universelle, “which possesses gigantic pecuniary means, disposes of an enormous membership, and is supported by Masonic lodges of every description.” On the basis of this obvious canard the minister suggested to Nicholas II a confidential exchange of views with William II of Germany and the Pope in order to organize united action against this alleged foe of both Christianity and the monarchical order. Notions of that kind also animated the authors of the *Protocols of the Elders of Zion*, which after the First World War attained a sinister notoriety and influence. But the progress of Emancipation seemed irresistible. Every
liberal, whether a Jew or not, firmly believed that the progress of civilization would almost automatically overcome the vestiges of medieval obscurantism and establish Jewish equality everywhere.

In this respect the developments in Germany represented a decisive turn. In general, Germany served throughout the 19th and early 20th centuries as a sort of public forum for a discussion of "the Jewish question." Unfortunately, antisemitism had representatives among the German social and intellectual elite, from Jakob Friedrich Fries and Christian Friedrich Rühls in 1816 to Richard Wagner, Heinrich Treitschke, Paul de Lagarde, and Houston Stewart Chamberlain at the end of the century. Their respectability was a cover for the hoodlum kind of Jew-baiting which spread among the masses. However, so long as the movement remained limited to literary outpourings and, at worst, led to the formation of small parliamentary minorities, it could still be shrugged off as an echo of past ages which might slightly retard, but never wholly impede, the invincible march toward progress and equality. As the Nazi movement gradually achieved political power, however, its program of revoking Emancipation not only became a serious menace to German Jewry as such, but also set a far-reaching example for all anti-emancipatory forces throughout the world.

Jews tried to meet the challenge as best as they could, but from the outset they could do relatively little to combat it. Antisemitism has long been recognized as being essentially a disease of Gentile nations, generated by a disequilibrium of social forces wholly beyond the control of the Jewish communities. Only a strong resistance by the non-Jewish body politic could effectively eliminate it. In a few cases, when society at large recognized the dangers inherent in the spread of this virulent infection, it did take the necessary measures. Edouard Drumont's *La France juive*, whose appearance in some hundred French editions and many translations shortly after its publication in 1886 attested to its enormous popularity, and the ensuing Dreyfus case speedily taught such progressive Frenchmen as Emile Zola and Georges Clemenceau that their own future and that of the Third Republic were at stake. They succeeded, therefore, in rallying progressive France around their standard and staving off the attack. Nothing of the sort happened in Germany, where the liberal and socialist forces were deeply divided and where the Communist party actually collaborated with the Nazis in the overthrow of the Weimar Republic. But Jews did much to warn their neighbors of the menace of antisemitism to the Christians themselves. It was they who marshalled the evidence to demonstrate the falsehoods of the antisemitic
accusations—a hopeless task, indeed, since falsehoods can always readily be replaced by other falsehoods, whereas the truth can only be one and the same. Many liberals, Jews and non-Jews, failed to realize the demonic strength of the irrational forces which were about to set Europe on fire.

Some German Jews, ably assisted by East European Jewish thinkers, now began to think seriously about the restoration of their people to its ancestral homeland as one answer to the problems of Jewish life in the dispersion. The Zionist movement became the most potent force in Jewish life during the interwar period. Its rise has sometimes been attributed by unfriendly observers to the Jews’ reaction to modern antisemitism and their despairing conviction that “the Jewish problem” could never be solved satisfactorily by emancipation. Undeniably, such a reaction was an important factor. At the same time, Zionism was also nurtured by the ancient yet vigorous messianic hope. With the secularization of modern life generally, this old religious expectation necessarily assumed among the Jews the guise of a secular national movement. The concentration of the Jewish masses in Eastern and Central Europe, their continued use of Yiddish, the persistence of their traditional folkways—all furnished a realistic background for a national revival that was bound to come, whether or not there was hostility on the outside. It was, indeed, shortly before and after the First World War that almost all the shades of Zionist ideology received their more or less definitive formulations in Eastern and Central Europe and led to the formation of the various Zionist parties still dominating the public life of Israel today.

Jewish political thinking was also expressed in other movements. In Simon Dubnow’s and Hayyim Zhitlowsky’s diaspora nationalism an effort was made to establish Jewish national minority rights on a permanent basis within the countries of the dispersion. That expectation may have been foredoomed from its very beginning, but it came to a definite end only with the Nazi New Order. Ultimately, Dubnow himself fell victim to the Nazi conquerors of Riga, joining the millions of other victims of the great holocaust.

Among the socialist responses, that of the Russian Jewish Bund was particularly significant, since in 1897 it led to the formation of the first Jewish socialist party, whose influence on Russian socialism generally may be deduced from the fact that in 1905 it had 30,000 members, and the great Russian party had 50,000. So strong, indeed, were the national and Zionist feelings of Russian Jewry that, although before the First World War Lenin had repeatedly tried to deny the existence of a sepa-
rate Jewish nationality, upon coming to power he speedily included the Jews among the national minorities whose cultural self-determination was to be safeguarded by the new Soviet regime. Nor were there lacking even in Eastern Europe intellectual spokesmen for Jewish assimilation. While some of them simply sought to escape the oppressive conditions of minority existence, others tried on more idealistic grounds to find new creative responses to the challenge of Emancipation, whether already achieved or yet to be attained.

Jews were not concerned with internal Jewish politics only. In Eastern and Western Europe there were many outstanding Jews in the general political life. In Léon Blum’s premiership France fought her last, losing battle for national unity in the face of the German menace. Luigi Luzzatti had thrice been Italian prime minister, and his administrations belong to the happiest periods of Italy before the First World War. In Germany, where ever since the 1840’s Jewish leaders participated in almost all significant political movements—Julius Friedrich Stahl, a Jew converted to Christianity, was often considered the chief intellectual leader of the Conservative party itself, which long fought Jewish Emancipation—the greatest statesman of the interwar era, Walther Rathenau, fell victim to Nazi terrorists.

In fact, all the services rendered by the Jews to the German cause, both nationally and internationally, failed to silence the reiterated accusation of lack of Jewish patriotism. To answer the antisemitic attacks, the German Jewish war veterans succeeded in listing by name no fewer than 10,623 Jewish soldiers who had given their lives for Germany during the First World War. There must have been more than 1,000 other victims who were not so listed, either because they came from territories subsequently lost to Germany by the peace treaties or because they could not be identified as Jews. Clearly, their ratio to the Jewish population far exceeded the total German ratio of the war-dead. In sum, in Germany, as in all the other countries of Emancipation, where the Jews were treated as equal citizens, they did their share—and more. What Sir Stuart Samuel had said in his report about the Polish Jews, after the First World War, had a melancholy application to many other countries as well: “The Jewish soldiers in Poland do their duty to their country in the certainty that their country will not do its duty by them.”

Community Life

Emancipation and equality made great communal adjustment necessary. From ancient times the Jewish community had enjoyed much
self-determination, not only in strictly religious matters but also in education, social welfare, and the administration of justice. Under Emancipation some of these prerogatives, originally supported by the European states themselves, had to be curtailed. The Jewish judiciary, in particular, lost much of its authority over the Jews in civil and criminal law, retaining jurisdiction mainly in religious and family affairs. Nevertheless, in Eastern and Central Europe many Jews continued, voluntarily, to submit their civil litigations to rabbinic courts, judging on the basis of Jewish law. Even in the 20th century legal problems were intensively studied by thousands of students of rabbinics both for theoretical reasons and for their practical application. Education, too, had to be shared now with the general school systems maintained by states and municipalities. However, as we shall see, the Jewish communities often maintained a ramified school system of their own, in supplementation to, or in substitution for, the public schools of the country. In social welfare, which until the modern development of the welfare state had always borne a predominantly denominational character, the Jewish communities strove, often with signal success, to take care of their own poor.

The Jewish communities revealed a remarkable adaptability to changing conditions. In France the reorganization of all Jewish communal life through the so-called consistorial system of the Napoleonic age was successfully maintained, with the necessary modifications, under the Napoleonic dictatorship, the Restoration, the Second Empire, and the Third Republic, despite the intimate relationships between the Jewish communal structure and the changing governmental controls. (Through most of that period the government actually defrayed a major part of the salaries of rabbis and other religious functionaries.) This structure was maintained on a voluntary basis after the separation of state and church in 1906. In the absence of governmental intervention, Jewish creativeness, especially during the interwar period, expressed itself in the formation of many new congregations, charitable associations, and cultural groupings, spontaneously organized by diverse immigrant groups. This rich and multicolored Jewish communal organization maintained a host of institutions serving the various needs of French Jewry and of Jews beyond the borders. On the other hand, Italian Jewry, which during the liberal era of united Italy from 1871 to the rise of the Fascist regime had experienced a certain degeneration and disorganization of communities rich in traditions hundreds of years old—if not, as in Rome, two thousand years old—succeeded in regaining some unity and central guidance in the interwar period. In 1929 Benito Mussolini and the pope
concluded the Lateran treaty, whereby the Catholic church was reestablished as Italy's dominant religion; in 1931 Jews secured from the dictator a new communal law reorganizing the Jewish communal life of the entire country under the leadership of a centralized Unione. Whether in Italy or in France, such central organization did not interfere with the autonomous workings of the individual communal groups, including the numerous voluntary associations. The balance reflected the age-old compromise between centralized controls and local self-government, in force ever since the Babylonian Exile and the Graeco-Roman dispersion. The same unity within diversity was achieved also in Belgium, where the consistorial system along French lines had persisted throughout the interwar period, and in Holland, where since 1816 the Ashkenazi and Sephardi communities had central organizations in their "church associations." In particular, Amsterdam, that famous center of Jewish learning, had had a proliferation of Jewish voluntary associations as early as the 18th century. A characteristic will of an Amsterdam Jewish philanthropist, in the early years of the 19th century, provided bequests for over 200 charitable and educational societies.

Even more vigorous was Jewish community life in Germany and in the successor states of the Hapsburg empire. Although Prussia's community law of 1876 permitted the Jews to leave their community "for religious scruples," thus enabling some ultra-Orthodox Jews to form their independent congregations and others to leave the Jewish community altogether without joining another faith, the vast majority of Jews adhered to the traditional community, which was endowed by public law with the right of taxation for the support of its varied activities. In 1922 the Prussian communities organized a Landesverband to give these communal efforts a central direction, without interfering with the autonomy of the local groups. Similar Landesverbände were established in Bavaria and other states, while Baden and Württemberg had had such centralized guidance since the beginning of the 19th century. In the Austro-Hungarian empire, on the other hand, the diversity of its Jewries prevented the establishment of centralized authority, but the law of 1891 renewed, on a modern basis, the old public-law recognition of Jewish communal autonomy and taxing powers. Here, too, many secularized Jews had a choice of leaving the community without converting to another faith, but, in contrast to Prussia, they had to declare publicly their secession on the ground that they were konfessionslos (professing no religion). In fact, the number of such professedly irreligious Jews was rather limited, the majority respecting the authority of their elected leaders in
religious and cultural affairs. In interwar Austria the numerical preponderance of Viennese Jewry was so pronounced (in 1934, 176,000 of the 191,480 Austrian Jews lived in the capital) that the Viennese rabbis and lay leaders had de facto leadership over all Austrian Jewry, without formal authority. In Hungary, where 46 per cent of the Jewish population resided in Budapest, the struggle between Reform and Orthodoxy had led in the 19th century to a separation between Orthodox and liberal communities. A group of united or so-called status quo communities bridged the gap, and gained formal recognition from the Hungarian government in 1929. From 1928 on, rabbis of both the Orthodox and liberal wings sat in the upper chamber of the Hungarian parliament as representatives of the Jewish community. Czechoslovakia had a more diversified structure, with Bohemia, Moravia, and Silesia largely following the Austrian pattern, while Slovakia and Carpatho-Ruthenia, besides maintaining the communal structure inherited from prewar Hungary, differed from the others in mores, speech, and intensity of Orthodoxy. This diversity stimulated rather than hindered Jewish creativeness.

That creativeness was richest in interwar Poland and Lithuania. In Poland, although the government of the new republic effectively sabotaged some of the minority safeguards of the 1919 peace treaty, the Jewish communities before and after the community law of 1931 enjoyed a great measure of autonomy. Of course, there were important organizational differences between the provinces formerly under Austrian or Prussian domination and those formerly under Russian rule. In the former, Emancipation had been achieved decades before the First World War, and the Jewish community had a more circumscribed status. In the latter, to be sure, the Tsar had abolished the Kahal in 1844, but a partly voluntary communal structure was quite vigorous. The size of the Jewish population and the fact that in most Polish cities the Jews were a substantial minority, if not an outright majority, made communal autonomy doubly meaningful. Its extension into many secular cultural domains was often imposed by the will of the Jewish population against considerable governmental resistance. In fact, Orthodoxy, forming only one of many parties, was not even in control of most communities. Despite full governmental support for Orthodoxy, which also found expression in the community law of 1931, the electorate often preferred leadership from the more secular Zionist and socialist parties. In the elections of 1936 many communal boards actually included members of the Socialist Bund as the largest party. Communal elections were taken with the utmost seriousness, being regarded as not less important than the parlia-
mentary elections, in which a strong Jewish representation carried on
the constant uphill struggle for Jewish rights. In Lithuania, where the
assimilatory pressures of the relatively young nationalism were far less
intense, Jewish communal self-government was even more extensive.
Of the 19,500 Jews in the Lithuanian school population in 1930, 16,000
were in all-Jewish schools. Lithuania also had for some time a special
ministry of Jewish affairs. To a lesser extent that was true of Latvia
and Esthonia as well.

Quite different were the conditions in the Soviet communities. On the
one hand, the Communist ideology proved in many ways hostile to all
traditional foundations of Jewish communal life: religion, the Hebraic
heritage, and the messianic-Zionist hope. Together with other religions,
Judaism was condemned as an opiate for the people and Jewish members
of the atheist societies actively sought to uproot all religious traditions
among Jews. Hebrew was denounced as the language of religion and the
bourgeoisie, while the Zionist movement was outlawed as a “tool of
British imperialism.” The leaders of the so-called Yevsektsia (the Jewish
section of the Commissariat for Nationalities) were particularly ardent
exponents of these antitraditionalist views. On the other hand, the recog-
nition of the Jews as one of the national minorities led to the raising
of Yiddish to the status of the national language of that minority. In
accordance with the nationality law of November 15, 1917, Jewish
soviet are organized in localities where Jews formed the majority and
Yiddish was used as an official language in judicial and administrative
proceedings, especially in the Ukraine and White Russia. In 1930 there
were 130 Ukrainian soviets using Yiddish as their main language, 23
such soviets in White Russia, and 14 in the Crimea. Farsighted ob-
servers, to be sure, even then realized the fragility of the Jewish commu-
nal structure, deprived of the age-old moorings of religion and Hebraism.
They also suspected that what Lenin had written in 1903 still represented
the true thinking of the Russian Communist party and that his conces-
sion in 1917 was only expediency. In his attack on the Bund, Lenin had
written in 1903 that the idea of a Jewish nationality

has an evidently reactionary character not only in the form advocated by
its consistent champions, the Zionists, but also in that of the Bundists, who
try to combine it with social democracy. This idea runs counter to the
interests of the Jewish proletariat inasmuch as it creates, directly and in-
directly, an attitude hostile to assimilation, a ghetto philosophy.

rights for nationalities were meant to be merely a temporary measure,
Moreover, Lenin and particularly Stalin made it clear that minority
ultimately leading to "fusing them into one common culture with one common tongue." However, the permissiveness of the 1920's and even the 1930's led to a powerful upsurge of Jewish communal and cultural creativity, which was exploited for propaganda abroad.

In Rumania no effort was made to honor the international treaties concerning the minority rights of Jews. The growth of Rumanian nationalism and antisemitism led to numerous interventions by the authorities in Jewish communal and particularly educational affairs, which might have adversely affected Jewish cultural self-determination. For this reason no sustained effort was made to unify the diverse communal structures in the various provinces. Old Rumania still carried on with a Jewish community formed before 1918, in the period of total discrimination and the treatment of the Jews as aliens. At the same time Bessarabia, the Bukovina, and Transylvania maintained the communal organizations inherited from the Russian, Austrian, and Hungarian dominations, respectively. All this impeded, but did not interrupt, the continued evolution of Jewish religious and cultural life in the country.

A similar diversity existed in Yugoslavia between the provinces taken over from Hungary and Austria and those included in the old kingdom of Serbia. Like neighboring Bulgaria and Greece, Serbia had inherited from the old Ottoman empire a strong Jewish communal structure based upon the *millet* system, which allowed a large amount of self-determination to all non-Muslim minorities. Most of the communities in these three Balkan countries were relatively small and of limited influence. The major exception was the community of Salonika, which carried on its immemorial traditions from ancient Thessalonika. Although the Jewish community of Salonika had lost much of its pre-First World War population, it still embraced nearly three-quarters of all Greek Jewry and lived an intensely Jewish life. Its economic stratification was illustrated by the presence of a large number of Jewish longshoremen, which caused the important harbor of the city to be idle on the Sabbath. The vigorous religious and cultural life of the community, inherited from the Turkish era, made itself felt not only within the confines of Greece but all over the *Sephardi* world.

It would take us too far afield to discuss the variegated functions of these communal groups in any detail. The communities and their subdivisions took care of the religious needs of their constituents. They maintained synagogues, large and small, to accommodate as few as ten and as many as thousands of adult male worshippers. Since traditionally Jewish law did not consider the synagogue building but rather the
congregation as essential, any ten Jews meeting almost anywhere, even in a cave or an open field, were able to worship as effectively as those assembled in a monumental edifice. This made it possible for even the smallest community or movement in Jewry, meeting if necessary in a private home, to perform religious services wholly on a par with those of the most elaborate synagogues. Of course, wherever possible communities lavished of their bounty on building and decorating magnificent structures, within the limitations of the anti-imagery injunctions of biblical law. But the beautiful baroque structure of Leghorn or the magnificent Sephardi synagogue in Amsterdam were no more cherished than the small Rashi Chapel of Worms, which, though not authentically going back to the times of the great 11th-century Bible commentator, was an important medieval monument of Jewish religious architecture. So was the Altneuschul in Prague, with its many memories of medieval Jewish life and with legends reaching back to pre-Christian antiquity. Similarly, the relatively small and inconspicuous wooden synagogues in certain Polish cities have long been recognized as genuine expressions of a peculiarly Polish Jewish architectural style, which added a significant chapter to the history of art. On the other hand, it was possible for the various hasidic groups, following their diverse leaders, to establish small conventicles of their own which, whether in their original East-Central European habitat or in their countries of immigration in Western Europe and the New World, readily developed into congregations of their own kind. But even this inherent diversity of rituals, rather than interfering with the basic unity of Jewish worship, merely kept the gate open to the creativity of poets, cantors, and preachers, which greatly enriched Jewish life.

From time immemorial these sacred structures stood under the protection of public law. Even in the pagan Roman empire any attack on a synagogue was considered as sacrilege. When, after the rise of Christianity to a dominant position in the Roman empire, some frenzied mobs tried to convert synagogues into churches, as a rule the emperors punished the evildoers, demanded restoration of the synagogues or, if it was too late, full compensation. One such incident led to the great controversy between Emperor Theodosius, himself rather unfriendly to the Jews, and St. Ambrose of Milan—one of the earliest recorded conflicts between state and church. Protection of Jewish houses of worship, indeed, was enjoined by canon and civil law and reiterated by popes, emperors, and kings throughout the Christian Middle Ages and early modern times. It was left to the Nazis during the Kristallnacht of No-
November 9–10, 1938, to stage a wholesale destruction of synagogues as part of a well-thought-out "spontaneous" reaction of the German people. Two days later the infamous Reinhardt Heydrich rejoiced that in that night 101 synagogues had been destroyed and 76 others severely damaged, to the eternal "glory" of the Nazi party.

Similar vandalism affected the other major religious institution, the cemetery. For reasons which are perhaps not too difficult to explain, sadists of all ages often vented their spleen on the graves of deceased "enemies." In their so-called constitutions in favor of Roman Jewry, the popes found it necessary generation after generation to repeat their injunction against the violation of Jewish tombs. Secular legislation often followed suit, although many malefactors still found it possible to wreak vengeance on dead Jews, if they could not injure the living. Not surprisingly, during the interwar period hoodlums often attacked Jewish cemeteries in Germany and other countries. The Jewish communities tried to stave off such attacks, repaired the damages, and generally kept their "houses of eternity" in good order. This communal function was all the more important in the 20th century, as many Jews who otherwise maintained few contacts with the Jewish community nevertheless sought their resting place in a Jewish burial ground. Incidentally, cemeteries could also serve as vehicles of social justice. Not only were the egalitarian forms of burial apt to level some class distinctions, but also cemetery administrations were often able to tax wealthy but uncharitable members above the average, thus somewhat equalizing the philanthropic and welfare burdens of their constituents.

Welfare activities were for the most part carried on by charitable associations acting under the supervision of the community at large. With the aid of philanthropically-minded individuals the community, directly or through its subdivisions, was able to establish a far-flung net of hospitals, orphanages, and homes for the aged; extend relief to the poor, in kind or money; take care of victims of fires and similar disasters; help the poor to educate their children or marry off their daughters, and create loan banks and otherwise help artisans and shopkeepers to embark upon new ventures or to weather a temporary emergency. Polish Jewry alone maintained 826 free-loan banks, with a capital of more than $2,000,000. The extent and ramifications of these activities were so great that hardly ever did a Jew die from actual starvation or lack of all medical care—though even in times of peace in the 20th century, famine and untreated disease still caused death in Europe. Jewish hospitals also helped to offset discrimination against Jewish physi-
cians in general hospitals. They often also served as centers of medical research, the fruits of which accrued to the benefit of the world at large. Even where the separation between Jews and Gentiles had been traditionally very stringent, these hospitals and other Jewish charitable institutions often helped Christians. On the whole, despite the growth of social consciousness and governmental welfare programs, the Jewish philanthropies still performed a major function in the interwar period and added another justification to the traditional claim of the Jewish people of being *rahamanim bene rahamanim*, merciful sons of merciful sires.

**Intellectual Life**

Among the most important communal activities was Jewish education. The Jewish people had an age-old insistence upon learning as a great virtue in itself and a vital fulfillment of man's mission on earth. With pride the Jews remembered that they were the first to introduce publicly supported schools for the entire male population from the age of six or seven. This great educational reform had been introduced in the first century, at a time when even the great Graeco-Roman civilization was offering instruction only to a select few. It thus anticipated the modern public school by 17 centuries. Ever since, Jews cultivated the teaching of the youth as a major obligation of both the family and the community, while insisting also upon adult education to the end of one's life.

True to these traditions, interwar European Jewry maintained an elaborate school system and also provided extensive opportunities for self-instruction and adult education. It is truly remarkable with what creative élan the Jews of the newly independent Poland threw themselves into the task of building a novel system of education, corresponding to the different ideologies represented within the Jewish community. The Polish government, which sufficiently respected other minority rights to subsidize an extensive network of Ukrainian and German schools, evaded its responsibilities toward the independent Jewish school system, but the Jewish community was ready to expend its own money and effort. A large majority of the Orthodox population sent their children to the thousands of traditional *hadarim*, which either provided full-time instruction or gave supplementary Jewish education to the children attending the Polish public schools. In the 1930's 18,000 Jewish youth attended *yeshivot*, some of which were secondary schools up to college level. Besides these traditional schools were two major school systems, with Yiddish and Hebrew as languages of instruction. The Central Yiddish
School Organization, the so-called CIShO, founded in 1921, drew its main support from the Bund and the Left Po'ale-Zion. Offering instruction in Yiddish, though using Polish for Polish history and geography, the CIShO schools had a secular curriculum with a predominantly socialist ideology. A statistical account for 1934–35, though incomplete, furnishes an idea of the size and extent of that system. The 86 schools listed gave instruction to 9,936 children, predominantly in the formerly Russian areas—45 of those schools, with 4,730 pupils, being concentrated in the two provinces of Bialystok and Vilna alone. On the other hand, the central organization of Hebrew schools, called *Tarbut*, offered modern Hebrew instruction permeated with the Zionist ideology. In 1938 it had 70 school buildings and maintained 75 nurseries, 104 elementary schools, and 9 high schools, with an enrolment of 42,241 pupils and a staff of 1,350 teachers. Here again, most of those schools were in the eastern provinces of Bialystok, Vilna, Novogrodek, and Volhynia. (Polish culture attracted many more Jews in the ethnically Polish area of the old Kingdom of Poland and in Galicia than in the ethnically mixed eastern provinces, where the majority was Byelorussian or Ukrainian.)

In all, it was estimated in 1934–37 that private Jewish schools had an enrolment of 81,895 in primary grades, 14,514 on the high-school level, and 7,821 in vocational institutions. Thus, while only 19.2 per cent of the Jewish primary-school population attended private Jewish schools, the rest going to public schools, the ratio rose to 50 per cent for high schools and 60 per cent for vocational schools. Some of the public schools maintained by the government, the so-called Sabbath schools, were set aside for Jewish children. These offered the regular public-school program but observed Saturday as the day of rest. There were also Jewish schools of higher learning, both of the yeshivah and the modern seminary types, particularly the rabbinical and teachers’ seminary in Warsaw. The Yiddish Scientific Institute—YIVO in Vilna, though also a training institution, was preeminently a research institute. At the same time, of course, Jews attended general universities and other schools of higher learning. Despite discouragement by the authorities and an often hostile reaction by fellow students, 5,682 Jewish students attended Polish universities in 1936–37, many other young Jewish men and women attending universities abroad. In short, interwar Poland reveals an intensity of Jewish educational effort which, in the absence of support by public taxation, was almost unparalleled in Europe’s educational history.

Even more intensive was Jewish education in Lithuania, where fewer than 12 per cent of Jewish students attended non-Jewish institutions
paralleled by Jewish schools. In 1938 there were 107 Jewish primary schools with 13,856 pupils and 14 Jewish high schools with about 3,000. Most of these Jewish schools, predominantly of the Tarbut type, received governmental subsidies. In neighboring Latvia, too, 85.5 per cent of Jewish schoolchildren attended Jewish schools in 1935–36, though the proportion was somewhat lower on the secondary-school level. As in other countries, the Jewish school system was divided between the Orthodox, Zionist, and Yiddishist groups, only the Orthodox being able to maintain two yeshivot giving instruction beyond high-school age.

It was in the Soviet Union, of course, that the secularization of the Jewish school was most pronounced. Among the tremendous adjustments enforced by the revolution was a complete transformation of the Jewish educational structure, the old hadarim, yeshivot, and Zionist schools being replaced by a Yiddish school system extending from the primary grades to scientific institutes and sectors at the universities. With the temporary aid of the government, Yiddish teachers, writers, and communal workers established schools in the Ukraine and White Russia which, within a decade, accommodated some 100,000 Jewish pupils. True, the Jewish content of these school programs was rather meager. After eliminating the Bible, Talmud, Hebrew literature, and most of Jewish history, all that remained was a bit of modern Yiddish literature and the history of a few decades. It made little difference whether the Communist Manifesto and Lenin's speeches were taught in Yiddish or in Russian. Like other schools of the totalitarian regime, these too were instruments for indoctrinating the youth. Nevertheless, an element of Jewish culture was retained which, under favorable conditions, might have developed a new approach to Jewish life, both in scholarship and in art. Unfortunately, here, as in Poland, the repercussions of the Nazi propaganda in the 1930's put an end to whatever auspicious beginnings had been made in the first 15 years after the Revolution.

Totally different was the development of Jewish schools in the older countries of Emancipation. In France, Belgium, and the Netherlands the large majority of Jewish schoolchildren attended general schools, both public and private. There were some special Jewish schools, serving immigrant families mostly. In 1939 France had 3 elementary Jewish day schools, 1 high school, 2 vocational boarding schools, 2 Talmud Torahs, 16 hadarim, and a number of part-time schools, some maintained by the Central Consistory. On a higher level there were some yeshivot, two teachers' seminaries, and the Ecole Rabbinique. The latter's antecedents went back to 1704, but it had been reorganized in
Metz in 1829 and again in Paris in 1859. Simultaneously the Alliance Israélite Universelle made a valiant effort to spread Jewish, together with French, education through many countries of the Near East and North Africa. In 1931 it maintained 27 schools in the Balkans alone, with a school population of over 10,000.

Germany, Austria, and Hungary offered more intensive Jewish education. Among the day schools in Germany the Jewish Free School in Berlin, the Philanthropin in Frankfort on the Main, and the Talmud Torah in Hamburg dated back to the late 18th or early 19th century. In 1926-27, despite continuous attrition, 96 Jewish day schools still operated in Prussia, 25 in Bavaria, and 3 in Württemberg. In 1931, in Germany, 8,000 pupils attended 149 Jewish elementary schools and 2,000 attended 12 Jewish high schools, the two school systems employing 600 teachers—despite the tremendous attraction of the general school, and more broadly of German culture, for almost two centuries. In Austria the Viennese Chajes Realgymnasium, founded in 1919, had an international reputation. Several high schools in Budapest likewise offered excellent training to Jewish boys and girls, one of them being attached to the Francis Joseph Central Rabbinical Seminary, founded in 1867. This institution and its sister schools in Breslau (1854), in Berlin (the Hochschule für die Wissenschaft des Judentums, 1870, and the Rabbinerseminar, 1873), and Vienna (Israelitisch-Theologische Lehranstalt, 1893) were leading centers of modern Jewish scholarship, the Wissenschaft des Judentums. Between the two wars they provided rabbis and teachers not only for the Central European schools but also for the rest of Europe and many countries overseas. There also were several excellent teachers' seminaries, including the Jüdisches Pädagogium in Vienna, whose alumni served in schools all over the world.

It goes without saying that Jews also participated actively both as teachers and as students in general education. Antisemites often denounced the alleged Jewish domination of the German schools of higher learning. According to an early Nazi writer, Rudolf Jung, there were 937 Jews among the 3,140 teachers in the German institutions of higher learning in 1914. This figure seems to be exaggerated, but there is no question that the ratio of Jews in the academic profession rose in the liberal Weimar Republic. In Austria, Czechoslovakia, and Hungary, too, the number of Jewish professors was constantly on the rise, despite sharp discrimination against them by most universities and state authorities. Ignaz Goldziher, perhaps the greatest western student of Islamic history and thought, was forced to earn his living as a secretary of the Jewish
community of Budapest because he was long refused an appointment to the university. After the First World War, to be sure, he had achieved a world-wide reputation and his presence on the faculty conferred much lustre on the University of Budapest. Where discrimination was almost wholly absent, as in interwar France and Italy, the ratio of Jewish professors was high.

Besides their schools, the Jewish communities often maintained major repositories for the cultural treasures accumulated over the centuries. Almost all well-organized Jewish communities had archives of their own, which were often many decades, and sometimes centuries, old. Among the most renowned Jewish archival collections were those of Rome, Mantua, Amsterdam, Frankfort, Berlin, Hamburg, and Vienna. To assure the preservation of documents of Jewish interest in Germany, particularly in smaller communities, the Gesamtarchiv der deutschen Juden, founded in Berlin in 1905, assembled them in its own building and regularly reported accessions in its Mitteilungen, of which six volumes appeared between 1909 and 1926. No such central organization operated in other countries, but YIVO in Vilna and other organizations made consistent efforts to keep alive the testimony of the Jewish past. Several Jewish communities and institutions also maintained splendid libraries and museums in which were housed significant collections of Hebraica and Judaica, including manuscripts and incunabula. Among the most renowned Jewish libraries were those of the five German, Austrian, and Hungarian seminaries, the Alliance in Paris, the Bibliotheca Montezinos in Amsterdam, the Tlomackie Street Library in Warsaw, the Straszun and YIVO libraries in Vilna, and several communal libraries in Russia, which were incorporated into major Soviet state libraries. Numerous private libraries likewise achieved great distinction, such as those of David Kaufmann, which ultimately found its way into the library of the Budapest Academy of Science, of Baron Günzburg, which was taken over by the Lenin Library in Moscow, and of David Simonsen, which became part of the National Library of Copenhagen. Many lesser communities maintained libraries of their own, some of a specialized character, like the Medem Farband’s Yiddish collection in Paris. In addition, almost every larger synagogue and academy of learning had a library, sometimes of considerable size and distinction. They had also often assembled over the generations precious Torah scrolls and their accoutrements together with other objects, exemplars of Jewish art. Special museums, too, existed in major communities like Berlin, Frankfort, and Vienna. For some of the older communities, like Worms, it was a matter
of pride to maintain a museum and archive which included such precious items as a two-volume Mahzor of 1272, imperial privileges dating from 1551 on, and many ceremonial objects of the 16th and 17th centuries. The Tentative List of Jewish Cultural Treasures in Axis-Occupied Countries, prepared under my direction by Dr. Hannah Arendt and associates and published by the Commission on European Jewish Cultural Reconstruction in New York in 1946, was able to list no fewer than 430 such institutions which had existed in the European countries before the Nazi occupation. Of course, there were also significant collections of Jewish books, documents, and art objects in general libraries, archives, and museums, many of which had come there from private Jewish collectors. No fewer than 274 important general repositories were likewise recorded in the Tentative List. Partly on the basis of that inventory, the Allied occupation forces in Germany were able to recover more than a million Jewish books of identifiable origin and nearly 500,000 volumes whose ownership could not be identified. Their distribution helped to enrich the cultural treasures of Israel and of many of the younger communities in the dispersion.

An astonishing number of Jewish periodicals appeared in Europe before the Nazi occupation. Even the small Jewish reading public in France had at its disposal 96 Jewish journals, including 2 Yiddish dailies and 6 French, 5 Yiddish, and 1 Russian weekly. The Netherlands had 21 Jewish periodicals, Austria 19, Hungary 21, Rumania 54, and Lithuania 15. Germany's 113 publications included 33 official Gemeindeblätter, issued by Jewish communities. Poland produced the astounding total of 30 Yiddish and 5 Polish dailies, besides 132 weeklies, 4 of them in Hebrew. There were also 224 fortnightlies, quarterlies, and the like. In all, the list of Jewish periodicals in Axis-occupied countries includes 854 items. Of course, some of these were merely ephemeral publications or otherwise little worthy of note. But some possessed great journalistic, scholarly, or literary value, and their influence extended far beyond the borders of their countries. Dailies like Hajnt and Nasz Przeglad in Warsaw and Chwila in Lwów, a weekly like Die jüdische Rundschau in Berlin, and literary and scholarly journals such as the Monatsschrift für Geschichte und Wissenschaft des Judentums, published in Breslau from 1851 to 1939, the Revue des études juives, established in 1881 in Paris, Magyar Zsidó Szemle in Budapest, YIVO Bleter and Ha-teku'fah in Poland, had international importance. So had some journals devoted largely to the history and culture of particular countries, such as the yearbook published by the Czechoslovak Jewish Historical Society, the
Zeitschrift für die Geschichte der Juden in Deutschland, the Rassegna mensile di Israel in Italy, and the Tsaytshrift in Minsk. Nor was there a lack of specialized journals for art, social welfare, crafts, and trades. Jewish journalism, starting with 17th-century Amsterdam and including such weeklies as the Allgemeine Zeitung des Judentums, which was founded in Berlin in 1837 and continued for nearly a century, was a potent expression of the various cultural, social, and political movements within European Jewry. Even Greece had two Ladino dailies and one Ladino yearbook, as well as a Greek monthly, all attesting to the renaissance of the Sephardi world in the Balkans and its creative response to the impact of westernization on the Near Eastern Jewries.

Even more significant, in many ways, was the constant stream of books and pamphlets in Hebrew, Yiddish, Ladino, and nearly all local languages, produced by Jews (and some non-Jews) and relating to Jewish subjects. In no other domain can one so readily see the vitality of the European Jewish communities before the Catastrophe. Even in the Soviet Union, where the revolution enforced a nearly total break with the past, Yiddish books on all sorts of political, historical, and scholarly subjects, as well as belles lettres, poured out of the government-owned presses. I vividly remember the pride with which the vice president of the White Russian Academy of Science announced to me in 1937 that his Academy was publishing a Yiddish scholarly book at an average rate of one a week.

When a short time thereafter I prepared a Bibliography of Jewish Social Studies, 1938–1939, I did not realize that those two years were to mark an end of the European epoch in Jewish history. I was able to list more than 5,000 publications of permanent interest during those two years. Unfortunately, too much space had to be assigned to antisemitic outpourings in Germany and elsewhere, as well as to a considerable number of apologias written in the defense of Jews and Judaism by both Jews and Christians. However, the overwhelming majority of the publications were devoted to the cultivation of traditional Jewish learning, modern Jewish scholarship, contemporary Jewish affairs, and critical analyses of Yiddish and Hebrew letters. I was amazed by the intensity which East and Central European Jewry gave to the production of “old-fashioned” responsa, homilies, ethical writings, and kabbalistic, hasidic, and other works of halakhah and aggadah. It is no exaggeration to say that Polish Jewry alone produced in those two years more works of this traditional kind of Jewish scholarship than in any decade of the 17th or 18th century, the heyday of rabbinic learning. Many of these multi-
volumed folio works had a sufficiently broad market to appear within a few years in third and fourth editions. Among them were works of outstanding scholarship, which, if written several hundred years earlier, would have earned for their authors distinguished places in the history of Jewish letters. As it was, they still appealed greatly to an enthusiastic following of millions of Jews not only in their home countries but also in Palestine, America, and elsewhere. Together with the educational work of the leading yeshivot in Lithuania, Poland, and Hungary, this literary output held out great promise for the continued flowering of rabbinic learning in Eastern and Central Europe and in its offshoots in other lands.

At the same time, European Jewry produced significant modern Hebrew and Yiddish literary studies and works in the various disciplines of the Wissenschaft des Judentums. Great poets, like Hayyim Nahman Bialik and Saul Tchernikhovsky in Hebrew, and David Pinski, Abraham Reisen, and Shalom Asch in Yiddish, may have been forced out of their native habitat; they had to transplant themselves at a mature age to Palestine, the United States, or other countries. But they had gifted disciples in both languages who carried on their work in Poland and the adjacent lands.

Apart from creative writing, much effort was devoted to the reconstruction of the Jewish past. Outstanding historians like Simon Dubnow, Majer Balaban, Ignaz Schipper, Philip Friedman, and Emanuel Ringelblum, writing predominantly in Russian and Polish but also in Yiddish and Hebrew, were joined by such western students of Jewish history as Eugen Täubler, Ismar Elbogen, Umberto Cassuto, Isaiah Sonne, and Ludwig Blau (a reasonably full list of names would occupy more space than can be allotted here), whose works originally appeared in German, Italian, or some other western language. The Berlin Academy's training of young scholars for the future was alone immensely productive. A few of its young research fellows, who subsequently became outstanding scholars, were Hanoch Albeck, Isaac Fritz Baer, Gershom Scholem, Selma Stern, and Leo Strauss. There were, of course, many other institutions of learning, particularly the seminaries, which gave their faculty members a chance to devote their lives to the scholarly investigation of Jewish life and letters in the past and the present. Apart from training a multitude of rabbis and teachers, the seminaries also gave them sufficient scholarly training for a career at a university or a Jewish school of higher learning. Taken as a whole, the preoccupation of European
Jewry with Jewish scholarship, arts, and letters exceeded in intensity that of any earlier modern generation.

All this did not keep Jews from contributing significantly to the science, literature, and art of the nations. Polish Jewry had been separated for centuries from Polish culture, yet Julian Tuwim and Antoni Slonimski belonged to the leading Polish poets of their generation. Jewish writers in Germany and Austria, such as Franz Kafka, Max Brod, Franz Werfel, Arthur Schnitzler, Richard Beer Hoffmann, Stefan and Arnold Zweig, and Jakob Wasserman achieved international reputations. Catulle Mendès, Henry Bernstein, and André Spire were some of the important Jewish authors in 20th-century France. Soviet Jewry produced in Isaac Babel and Boris Pasternak two of the leading Russian writers of our time. In music the names are too many to list, and it is enough to mention the great composers Arnold Schönberg, Darius Milhaud, and Ernest Bloch. Painters include Max Liebermann, Lesser Ury, Soutine, Modigliani, Kisling, and Chagall; sculptors, Henryk (Enrico) Glicenstein, and architects, Erich Mendelsohn and Julius Flegenheimer. What the generally anti-Jewish Novoye Vremya wrote in tsarist days about the painter Isaac Levitan could be applied as well to some Jewish artists in other lands: “This full-blooded Jew knew, as no other man, how to make us understand and love our plain and homely country scenes.”

Among scientists and scholars there are no greater names than those of Albert Einstein and Sigmund Freud. Distinguished philosophers included Hermann Cohen, Emile Durkheim, Lucien Lévy-Bruhl, Ernst Cassirer, and Martin Buber. Many East European Jews would have achieved an international reputation if they had lived and worked in the west. Certainly, Emile Meyerson would not have been the renowned philosopher that he was if he had remained in his native Lublin. Some of the great Jewish thinkers and scholars, to be sure, found their way to the baptismal font, but, for one example, Henri Bergson, the son of a Warsaw Jew who toward the end of his life felt the strong attraction of Catholic mysticism, refused to be converted because, as he expressed it in his will of 1937, he had “seen in preparation for so many years this formidable wave of antisemitism which will soon overthrow the world. I wanted to remain among those who tomorrow will be the persecuted ones.” While few of these thinkers immersed themselves in the Jewish tradition, Franz Rosenzweig, like Buber, not only drew much of his inspiration from Jewish sources, but also blazed new paths in Jewish philosophy and theology. To list the names of other eminent Jewish scientists and scholars, particularly in medicine and law, would require
too much space. Before Hitler's rise to power Austro-German Jewry alone furnished the majority of the 17 Jewish Nobel Prize winners in 1907–30.

A mere enumeration of names, however distinguished, cannot begin to convey the richness and variety of these extraordinary minds and personalities. One had to have the good fortune of being befriended, as I was, by the great poet Bialik to feel the impact of his genius, which expressed itself not only in a series of immortal poems, but also in an endless outpouring of words of wisdom in any private conversation, however casual. It is a pity that only toward the end of his life did some disciples make an effort to record some of these for posterity. One had to know Chaim Weizmann well before one could assess the extraordinary combination of shrewdness and humor, statesmanlike realism and prophetic vision, of the man whom David Lloyd George styled the new Nehemiah of the Jewish people. Only close acquaintance could resolve in one's mind the apparent paradox of Albert Einstein—supreme mathematical genius together with unworldliness and an almost childlike humanity. Nor should we forget the multitude of anonymous saints, heroic in charity and self-sacrifice. The interwar generation seems to have produced more than the legendary thirty-six nameless righteous men, whose undetected and redemptive presence is said to sustain the world.

Of course, the Jewish people also had its sinners and idiots, thieves and lunatics. But on balance, future historians are likely to call the first third of the 20th century the golden age of Askenazi Jewry in Europe, just as they will see in it the beginning of a modern Sephardi renaissance.

The notable achievements by Jews provoked envy and resentment among unfriendly non-Jews, while at times filling some Jews with excessive pride. The reason for the ability of Jews to make such contributions is not difficult to ascertain. To the historian, the explanation is to be sought in the long history of the Jewish people and its position in contemporary society. As a permanent minority for some two thousand years, Jews were forced to seek the kinds of openings that were available to newcomers. As a rule, wherever they settled they found the established positions occupied by members of the majority. Hence they were forced to look for new opportunities. When they found and used such opportunities, they were working for both their own benefit and that of society as a whole. I have long believed that much of Jewish history ought to be rewritten in terms of the pioneering services which the Jews were forced to render by the particular circumstances of their history. Moreover, the Jews have always cherished learning above all
other values. Even with respect to religious commandments, the ancient rabbis asserted that the study of Torah outweighed them all. Maimonides, the great philosopher, jurist, and physician, had advised the Jews to devote only three hours a day to earning a living, if at all possible, and at least nine hours more to the study of Jewish law. These counsels sank so deep into the mind of the people that most Jewish women through the ages dreamed of their sons becoming distinguished rabbis and scholars. With the modern secularization of life, those ambitions were directed to the arts and sciences. Finally, and ironically, the very antisemites who complained of Jewish over-representation in intellectual life, actually contributed to it. Precisely because discrimination against Jewish students, artists, and writers was so widely prevalent, they were forced to work doubly hard and often to do better than their neighbors if they wished to find a place in the sun. In short, it was no biological predisposition, but rather an unusual concatenation of historic circumstances which accounted for this extraordinary intellectual and artistic fecundity of 20th-century European Jewry.

UNDER THE NAZI HEEL

It was in recognition of the cultural importance of the Jews that the Nazis almost immediately after achieving power sought to combat them intellectually. Quite early they established a special Jewish-research division in their Reichsinstitut für Geschichte des neuen Deutschlands in Munich. This was followed by the Institut zur Erforschung der Judenfrage in Frankfort, the directorship of which was entrusted to the leading ideologist of the Nazi movement, Alfred Rosenberg. The Institut worked hard to assemble a library of Judaica and Hebraica which could be used for attacking the Jewish people and its religion. After confiscating many German and French collections, including the Rothschild archives and the library of the Alliance Israélite Universelle, the Frankfort institution brought together by 1941 some 350,000 volumes which could serve to support whatever distortions of the Jewish past were dictated by the Nazi ideology. Even the vulgar antisemite Julius Streicher, who needed no “scholarly” evidence for his pornographic attacks on the Jews, assembled a substantial collection of Hebraica, most of which is now in New York, on which he employed a number of so-called experts to find passages usable in his anti-Jewish propaganda. With the spread of the New Order, the Germans saw to it that similar institutes for the study of “the Jewish question” were also established in Paris,
where it was affiliated with the Department of Jewish Affairs, and in Lodz. The Institut für deutsche Ostarbeit, founded in Cracow in 1940, likewise concerned itself with Jewish matters, as did a special professorship in Jewish history and languages attached to the newly established University of Poznan in 1941. Under Nazi prompting, Italy made available in 1942 research facilities for the study of race and Jewish matters at the universities of Florence, Bologna, Milan, and Trieste.

Otherwise, anti-intellectualism dominated Nazi ideology and greatly contributed to the sudden decline of the great German universities and research organizations. Typical of the new approach was the exclamation of Rudolf Tomaschek, director of the Institute of Physics in Dresden: "Modern physics is an instrument of Jewry for the destruction of Nordic science." Anti-intellectualism served domestically to undermine opposition to the Nazi regime, and externally, especially later in connection with the conquered territories, to suppress the native intelligentsias and thus make the masses more amenable to Nazi despotism. With the Jews too, Nazism first sought to undermine their cultural strength. The platform originally adopted by the Nazi party in 1920, within a year after Adolf Hitler had assumed leadership, emphasized the denial of German citizenship to Jews. Yet when Hitler was appointed as chancellor of Germany on January 30, 1933, the Nazis took their time about the removal of the Jews' citizenship, starting with discrimination against Jewish civil servants, teachers, and lawyers. These early decrees of April 7, 1933, were followed two weeks later by the exclusion of Jewish physicians from panel practice and by a numerus clausus in German schools. Even the decrees of July 14 and 26, 1933, merely laid the basis for revoking the naturalization of East European Jews. It was not until the Nuremberg laws of September 15, 1935, that the German Jews, too, were deprived of their citizenship and made into mere subjects of the Reich. At the same time was enacted the law "for the protection of German blood and honor," which made of intermarriage and of extramarital sex relations between "Aryans" and "non-Aryans" a criminal offense.

This early Nazi legislation revealed the general procedures which Hitler and his associates were to use so successfully against Jews and other "enemies." Implicit in all the laws was the rationalization that the Nazis were only restoring the conditions of the pre-Emancipation era. It could be argued that just as medieval Jewry was segregated from the German people, enjoyed no political rights, and suffered from considerable disabilities, and yet managed to thrive culturally and religiously, so
would Nazi legislation only renew the same situation in modern conditions. All that the German government intended to do, the semi-official commentators said, was to bring about a state of affairs in which "it will henceforth and for all future times be impossible for the Jews to mix with the German people and to meddle in the political, economic, and cultural management of the Reich."

Even progressive people in and outside Germany were often deceived, and throughout the 1930's one frequently heard that the Nazis wished to turn the clock back to the "dark" Middle Ages. Such assertions maligned the Middle Ages, which tried to establish the reign of morality and order. The medieval system certainly had many shortcomings and was guilty of many injustices, particularly against the Jewish minority. But there is a fundamental difference between the medieval corporate society—consisting of a variety of corporate groups enjoying a diversity of rights and subjected to a gradation of duties, with the Jews being but one of many such corporate entities—and the Nazi legislation, which singled out one minority, of one per cent, and put it outside the frame of an otherwise uniform society. At least in theory, all Germans were equal citizens of the Reich; only "non-Aryans" were singled out as a separate caste enjoying no rights of citizenship. Writing in November 1935 in the Independent Journal of Columbia University, I warned that "a mere perusal of the basic privileges of medieval Jewry (enacted by Henry IV, Frederick I, Frederick II, etc.) and of the recent Nazi laws reveals the difference between a primarily positive and constructive and a purely negative type of legislation."

The unprecedented character of Nazi racial antisemitism could not be camouflaged by references to the Middle Ages. Anti-Jewish sentiments and deeds accompanied the Jewish people throughout the history of its dispersion, but few new arguments were added in modern times to the denunciations of Jews and Judaism by the antisemites of the Graeco-Roman world—though with the modern secularization of life and the widespread acceptance of the doctrine of liberty of conscience, accusations against the Jews shifted from religion to the secular spheres of economics and politics. But the great innovation of racial antisemitism was its biological basis. In previous ages it was possible for a Jew, as well as a heretic or a witch, to escape persecution by some act of penance; for a Jew, by conversion to Christianity. While thousands of Jews throughout the ages resisted that avenue of escape and often preferred a martyr's death, conversion remained open at least to the weaker or the less conscientious. Racial antisemitism, with its pseudoscientific
theories of racial purity, made of Jewish descent a matter of immutable nature, transcending the volition of any man or group of men.

Better concealed was the Nazi desire to uproot the Jewish religion. Although from the beginning Hitler and his followers heaped abuse upon many Jewish doctrines and rituals and even tried to revive the blood libel, they pretended that theirs was not a religious persecution. This pretense appeared necessary because both Hitler and Mussolini recognized that in a struggle with deep religious convictions the state could not win. As late as 1934 Mussolini wrote that the whole history of western civilization “from Diocletian to Bismarck teaches us that, whenever there is a conflict between the state and a religion, it is always the state that loses the battle.” In Mein Kampf Hitler also contended that “the political leader will always consider inviolable the religious teachings and institutions of his people.” On the other hand, he admitted that Nazism was not merely a political party, but also a conception of life (Weltanschauung) which could never compromise but of necessity had to proclaim its own infallibility. The professed avoidance of conflicts with religion, including Judaism, was therefore merely another ruse, which misled a great many observers. Pope Pius XI felt it necessary to state in his Christmas message to the College of Cardinals in 1937:

In Germany there is indeed a real religious persecution. It is said, and it has been said for some time past, that this is not true. We know, on the contrary, that there is a terrible persecution; only a few times previously has there been a persecution so terrible, so fearful, so grievous, and so lamentable in its far-reaching consequences.

While hundreds of Catholic priests and Protestant pastors were sent to concentration camps, the excuse always given was that they were being punished for some violation of the laws of exchange, moral turpitude, and the like. Secretly, however, the movement to establish a national German religion harking back to German paganism, or at least a specific German reformulation of Christianity with the elimination of the Old Testament and other Judaic elements, were semi-officially encouraged. The Reich Minister for Church Affairs declared, in that very year 1937: “There has now arisen a new authority as to what Christ and Christianity really is. This new authority is Adolf Hitler.”

Pervasive national enthusiasm, lying propaganda, and violent suppression of all opposing points of view combined to silence most opposition, even within the churches. A few courageous Catholic and Protestant clergymen protested the religious persecution and the glorification of pagan mythology. While the once great universities, labor unions, and
press speedily surrendered to the Nazis, the churches succeeded in retaining their identity and producing a number of men and women who bore witness to their faith. But these were exceptions to the rule; the majority of the faithful yielded abjectly to the ideology of their new masters. The persecution of the Jews, in particular, aroused little opposition by professing Christians—including Catholics, even after 1937, when the Pope issued the famous encyclical, *Mit brennender Sorge*, in which he sharply condemned German racialism. Genocide against the Jewish people could hardly be distinguished from the suppression of the Jewish religion, as Judaism is unthinkable without Jews. Yet it was many years before the German churches realized that the persecution of Jews and Judaism was only a prelude to the unlimited supremacy of the totalitarian state and party in spiritual matters too.

The Nazis' "mad attempt," to quote that papal encyclical, "of trying to confine within the boundaries of a single people, within the narrow blood stream of a single race, God, the Creator of the World, the King and Lawgiver of all peoples, before Whose greatness all peoples are as small as a drop in a bucket," necessarily led to unbridled terror. First came the boycott of April 1, 1933; then increasingly numerous riots by students and other unruly mobs against Jews, and still later the mass attack of the *Kristallnacht* of November 9–10, 1938. That wholesale destruction of synagogues and Jewish businesses was compounded by a fine of a billion marks imposed upon all Germany Jewry and by the dispatch of 20,000 leading Jews to concentration camps. Once again all could see, although many still refused to see, how different was Nazi antisemitism from medieval Jew-baiting.

Throughout the Middle Ages, not only the Muslim but also the Christian states usually tried to maintain public order. Emperors and princes, bishops and municipal authorities usually tried to stave off mob attack upon their Jewish subjects. Whenever a state ceased to tolerate Jews, it issued a decree of expulsion, thereby revoking the formal toleration of the Jewish faith in its domain. There is no evidence of any important medieval ruler engineering riots against his Jewish subjects. With the Nazis, however, nearly every attack on the Jews was planned in advance by the authorities, especially the SS, and executed by government and party officials. Of course, much room was still left to the individual initiative of official underlings, lesser party members, and the general public. Sadists of all kinds felt free to gratify their impulses at the expense of helpless Jewish victims. But the direction remained firmly in the hands of the authorities, even the generals of the army often being
powerless to stem excesses that actually interfered with the prosecution of the war. The *Kristallnacht* was a curtain raiser for the ever more bloodthirsty drive of the Nazis toward the "final solution of the Jewish question."

This is not the place to recount in detail the tragic history of the gradual evolution of the Nazi program from the expulsion of the Jews from Europe, after the confiscation of most of their property, to their ultimate murder. So long as world opinion still carried considerable weight, Achim Gercke, the race expert in the Reich Ministry of the Interior, well expressed the Nazi line: "In short, there can and shall be only one sort of governmental regulation—an orderly exit of the Jews, their emigration." All sorts of schemes were aired, including, after the conquest of France in 1940, the transplantation of millions of Jews to the distant island of Madagascar, then a French colony. Taking a clue from schemes discussed earlier in Poland, the Nazis thought, or pretended to think, that such a mass expulsion would help them establish, at least in Europe, a completely *judenrein* New Order.

During the 1930's genocide was not publicly discussed; it was at most whispered in the inner circle, with no written records left behind. A major deterrent against the public proclamation of such a program was the fact that antisemitism served as an excellent instrument of Nazi foreign policy in preparing for a war of conquest. By stimulating anti-Jewish feeling among Germany's neighbors—and such feelings were always latent in most of Western and quite overt in Eastern Europe—and by combining attacks on the Jews with attacks on Bolshevism through the myth of the Jewish responsibility for the Communist revolution, the Nazi propagandists succeeded in undermining the unity of nations that were themselves to be victims of Nazi aggression. Even in France, Germany's so-called hereditary enemy, important rightist factions arose which were prepared to compromise with the Third Reich. In 1938 the French writer Thierry Maulnier, justifying France's abject surrender in Munich, asserted that the parties of the right "had the impression that in case of war not only would the disaster be immense, not only was defeat and devastation of France possible, but also a German defeat would mean the crumbling of the authoritarian systems which constitute the main rampart against the Communist revolution, and perhaps the immediate Bolshevization of Europe." Those rightist movements were ready even to surrender French sovereignty in exchange for preserving class prerogatives. A humanitarian defense of Jewish victims of Nazi persecution, when combined with a sharp opposition to the Third Reich,
was often denounced by pro-fascist elements as a betrayal of French patriotism. Such was the irony of the situation even in Western Europe, at least until it was occupied by the Nazi armies and the population came face to face with the Nazi terror.

In Eastern Europe, on the other hand, little Nazi encouragement was required to spread the flames of anti-Jewish feeling and action. Poland, temporarily reassured in 1934 by a treaty of amity with Germany, could more freely indulge in anti-Jewish legislative and popular excesses. Even murders of Jews, which in the territories of ethnographic Poland had always been held to a relative minimum, now multiplied. It is estimated that during the 1930’s, riots, such as those of Kielce and Przytyk, and student disturbances at universities cost 500 Jews their lives. But these were mere skirmishes preliminary to the wholesale slaughter which was to follow. In Rumania and Hungary, too, such organizations as the Rumanian Iron Cross long agitated against the Jews. After the outbreak of the war it was quite an achievement for Premiers Ion Antonescu and Nicholas von Kallay to persuade the Germans that they, rather than the uncontrolled extremists, would be useful allies. But the rabid anti-Semites felt free to attack Jews, certain of the protection of the German overlords.

In general, the first two years of war saw the Germans much too preoccupied with conquest and with reorganizing the administration of the conquered territories to proceed to the ultimate stages of the “final solution.” There also were great differences between individual countries. While Austria, the Sudeten, and the western part of Poland were directly incorporated into the Third Reich, most of the other territories remained nominally independent. In Austria, immediately after the occupation by the German troops on March 12, 1938, Arthur Seyss-Inquart voluntarily surrendered Austrian independence. The country was reorganized as the Ostmark, and Jews were forced to emigrate more rapidly than in Germany itself. In fact, Austria was used as a model for the acceleration of the forced departure of Jews from the rest of the Reich—which, according to the law of November 21, 1938, following the Munich agreement of September 30, 1938, included also the Sudeten—and, after March 1939, from Czechoslovakia. Here Bohemia, Moravia, and Silesia were reorganized as a German “protectorate” on April 5, 1939, with Baron Constantin von Neurath as protector. Slovakia proclaimed itself an independent republic on July 21, 1939. In September 1941 von Neurath was succeeded as protector by the ruthless Heydrich, assassinated on June 4, 1942. This change in regime symbolized the end
of the transition that had begun with the occupation of Poland in September 1939. While the Polish provinces east of the San-Bug-Narev line were incorporated into the Soviet Union (September 17), western Poland was reorganized as a German "General-Gouvernement," except for the territories which before 1914 had belonged to Germany and which, together with Lodz and other areas, now reverted to German suzerainty (October 19, 1939).

Differences persisted also among the Scandinavian countries after their invasion in April 1940. Denmark, which had offered no resistance, was treated with greater moderation (toward the Jews too, temporarily) than Norway, despite the transfer of power in Norway on April 10, 1940, to the local Nazi Vidkun Quisling, whose party had received 2 per cent of the popular vote in the previous election. Then, in May, followed the speedy conquest of Holland, Belgium, Luxembourg, and France. Holland—whose Queen Wilhelmina was soon joined in England by the Norwegian King Haakon, both being leaders of their governments in exile—was governed with increasing ruthlessness by Seyss-Inquart, appointed to office on May 30, 1940. Luxembourg was ultimately incorporated directly into the Reich, on August 30, 1942. After the surrender of King Leopold to the Germans on May 28, 1940, Belgium retained a measure of independence, but it was none the less effectively ruled by General Alexander von Falkenhausen, who also administered the affairs of northern France. For a while, much of the rest of France was allowed to go on as a semi-independent country under the Vichy regime of Marshal Philippe Pétain and Pierre Laval. There was an obvious difference in the treatment of Jews between the two parts of France. Similarly, conditions differed between the parts of Yugoslavia and Greece which the German authorities administered directly after their conquest in April 1941 and those parts assigned to Italy or Bulgaria or, as in Croatia, run by a satellite regime. Direct Nazi rule was always worse.

Soon thereafter came the turn of Russian Jewry. In the campaign that began on June 22, 1941, the German armies had made such rapid progress that by July 17 the major Russian territories in the west, including those taken over by the Soviets from Poland in September 1939 as a result of the Stalin-Hitler pact a month earlier, could be handed over to Alfred Rosenberg as minister for those occupied territories. Under him operated a special Reichskommissariat Ostland, which embraced the Baltic states and the former northeastern provinces of Poland under Heinrich Lose, and another for the Ukraine, which included
Podolia and Volhynia and was entrusted to Erich Koch. These underlings outdid even the Nazi ideologist Rosenberg in savage maltreatment of the Slavic as well as Jewish populations.

Paradoxically, some Jews were saved by the fact that Italy (in May 1940), Bulgaria, Rumania, and Hungary (in April and June 1941) had joined Germany as allies, rather than opposing her as enemies. As allies they retained a measure of domestic autonomy, although in military affairs they increasingly became subordinate. It is true that upon joining the Axis, Mussolini reversed his earlier friendly attitude toward the Jews and adopted Hitler's racial policies—so much so, according to his son-in-law, Count Galeazzo Ciano, that in 1941 he expressed amazement that the Nazis had not yet abolished Christmas, which in his eyes commemorated "the birth of a Jew who gave the world debilitating and de-vitalizing theories, and who especially contrived to trick Italy through the disintegrating power of the popes." Yet Mussolini did not succeed in instilling racial antisemitism in the masses of the Italian people, nor were his officials either as terroristic or as efficient as their German counterparts. Consequently, the greatest sufferings of Italian Jewry came during the relatively short period of direct German domination after Mussolini's dismissal by the king on July 25, 1943, and even then large parts of the Italian population helped to save many Jews from the Nazis. Similarly, the Bulgarian people, following the lead of their government, helped stave off the most brutal Nazi attacks on the Jews. In Rumania, however, as in Poland and the Ukraine, much of the population was ready to collaborate in the murder of Jews. Only a certain lack of bureaucratic efficiency and a corruption even greater than the Gestapo's helped the Jews. In Hungary, finally, the Horthy regime tried to steer a middle course even during the war, and the murder of most Hungarian Jews came about only after the Germans occupied the country, on March 19, 1944. Although no longer inhibited from murdering Jews by a concern with public opinion outside the areas occupied by their armies, some Nazis spared Jewish lives for ransom, while others wanted the Reich to benefit from the employment of Jewish workers, particularly those with special skills.

In retrospect, many scholars have expressed amazement at the tremendous waste of manpower and human talents by the Nazi war machine at a time when the exigencies of the war required the utilization of every available resource. Yet the generals, who realized this source of weakness, readily yielded to Hitler's orders, at least so long as the armies were victorious. Only belatedly were conspiracies hatched to kill the
Führer and replace him by a more moderate leader. At the same time, the main authors of the “final solution” realized that many of their com-
patriots and allies would have recoiled if they had known the extent and manner of the genocide in which their nations were engaged. The Nazis therefore went about their work of destruction with as much secrecy as their terroristic methods would allow, used soft words for their most brutal deeds, destroyed many records, and exercised a rigorous censorship. That policy is well illustrated by Heinrich Himmler’s address to the SS generals in Poznan. Delivered on October 10, 1943, when it must have been clear even to them that the tide had turned against the Reich, the speech included a reference to a “very grave” matter: “Among ourselves it should be mentioned quite frankly, and yet we will never speak of it publicly . . . I mean . . . the extirpation of the Jewish race. . . . This is a page of glory in our history which has never been written and is never to be written.” Nevertheless, enough indications of what was going on reached the German people and even some Allied leaders. Only future historians will be in a position to explain the reasons for the relatively passive reaction of the majority of both the Germans and the other nations.

EFFECTS OF THE CATASTROPHE

Among the Jewish morituri there were not lacking voices questioning not only the justice of the nations but even the divine order which tolerated such evil. Job’s old challenge was now repeated, with many variations, by some of the most pious and dedicated souls. For one example, a hasidic leader, Kalonymus Kalmish Shapiro, once asked: “How can the universe remain standing and not turn into primordial chaos?” (There is a talmudic legend that when the Ten Martyrs were put to death, in the days of Hadrian, the angels asked whether that was the reward for devotion to Torah; whereupon a divine voice proclaimed that if anything like it happened again, the world would be turned into water.) The rabbi continued: “And now innocent children, pure as the angels, as well as great and holy men in Israel, are being killed and slaughtered only because they are Jews . . . and the world’s space is filled with their heart-rending shouts: ‘Save us, save us!’ They, too, cry, ‘Is this the reward for devotion to Torah?’ Yet the universe is not destroyed but remains intact, as if nothing happened.” None the less, the same rabbi, in the dark years of 1941 and 1942, continued Sabbath after Sabbath to preach to his ever-dwindling congregation, trying to
explain to it the hidden meaning of its suffering and consoling it with the inscrutability of the Lord's ways. He continued until he was carried away to the concentration camp where he was cremated in September 1943. Such acts of passive heroism were fully in accord with the age-old traditions of the Jewish people, which ever since the Maccabees ex-tolled religious martyrdom. Others preferred more active resistance. Many Jews in Poland, White Russia, and the Ukraine, as well as the West, joined the partisan units fighting the invaders. The uprising of the Warsaw Ghetto fighters will forever remain a glorious chapter in the Jewish resistance to barbarism and injustice. There were smaller uprisings in other communities as well. Even in the West, the relatively few Jews tried to carry on in the best way they could. A story was current in postwar Brussels that two Polish Jewish refugee brothers decided to use the period of the Nazi occupation to translate the Talmud into Yiddish. They divided their tasks so that one brother permanently remained in an attic working on the translation, while the other clandestinely ventured out into the open to earn a little food for them both. I still recall the strong impression it made on me when, soon after the war, the late Maurice Liber told me how he and his colleagues of the French Ecole Rabbinique had tried to keep Jewish learning alive, underground, during the occupation. As late as 1943 they were still awarding rabbinical degrees to pupils they had been training under the most arduous and dangerous conditions. All of this was a testimony to the Jewish spirit.

Nevertheless, for the first time in many centuries, a Jewish generation was growing up without Jewish or general elementary schooling, and the educational careers of young people of high-school and college age were interrupted, often permanently. For the few survivors, what they had lived through made readjustment extremely improbable. But the power of the spirit was so great that the heritage of the Nazi-enclosed ghettos remained to furnish new spiritual sustenance to the survivors and, beyond them, to Jews in other lands. The songs of the ghetto, a diary such as that left behind by Emanuel Ringelblum, and the living messages conveyed after the war by the outstanding theologian Leo Baeck, after his emergence from the concentration camp in Theresienstadt, all added a new and significant chapter to the spiritual history of their people.

However, the physical destruction of Jewish lives and property was overwhelming. According to the survey prepared by the Central Jewish Committee in Poland on August 15, 1945, there were altogether 73,955
Jews left in that country, including some 13,000 serving in the Polish army and 5,446 recorded in 10 camps in Germany and Austria. This tiny remnant of more than 3,300,000 Jews (in the somewhat larger area of prewar Poland) was distributed over 224 Polish localities, leaving the large majority of the former 2,000 communities devoid of any Jewish population. Germany and Austria likewise had lost the vast majority of their Jews; the small remnant of some 15,000 living in Germany outside the Displaced Persons' camps consisted largely of those who had escaped deportation and death because they had intermarried and had long lost contact with the Jewish community. The Nazi murder program had most severely affected the children. In Bohemia, Moravia, and Silesia, for instance, where, according to the census of 1930, there had lived 117,551 Jews, only 14,489 were registered in October 1945, including only 1,179 children under 15—an abnormally low ratio of 8.6 per cent. There was a low ratio of Jewish children even in countries like Rumania and Hungary, with their relatively large percentage of adult survivors. According to the Jewish health organization OSE, at the end of 1946 there were altogether 130,000 Jewish children in continental Europe outside the Soviet Union, although, like their elders, some children had been saved by escaping into the interior of the Soviet Union and had subsequently returned to their home countries.

It is difficult to be precise about the total Jewish losses in Europe, since the Germans wiped out not only the people but also the documents on which reasonably correct calculations might have been based. Most statistical estimates converge around a total of six million Jews killed, a figure cited at the trial of the major war criminals at Nuremberg. Gregory Frumkin, who for years edited the *Statistical Year Book of the League of Nations*, writes in his *Population Changes in Europe Since 1939* that the total figure of Jewish dead in all places that had been occupied by the Germans might easily be between six and seven million. The Anglo-American Committee of Inquiry on Palestine in 1946 estimated the loss of Jewish population in Europe between 1939 and 1946 at over 5,700,000. Consequently, the figure of six million that is usually cited is probably close to the actuality.

This enormous loss augured badly for the future of the Jewish community, even though the biological strength of European Jewry had not been entirely broken. The people’s regenerative power was shown by the relatively few survivors in the DP camps, whose birth rate was among the highest in Europe. But the children born in those exceptional conditions still are only adolescents today. Together with their elders,
they were sooner or later evacuated, for the most part to Israel, and they could not contribute to the reconstruction of the communities from which their parents had come and which they themselves had never seen.

The tragedy was greatest where Jewish communal and cultural life had flourished most—in Poland, Germany, and the bordering countries. Gone were the cultural treasures painfully accumulated over many centuries. The 3,000 kehillot with their age-old institutions had vanished, and their place was taken, at best, by some new tentative bodies, making valiant but often futile efforts to start afresh. The great schools of higher learning, the newspapers and magazines, the book publishers, and artistic centers had been stamped out, with no possibility of even a semblance of replacement. Even more than might be indicated by the enormous percentage of Jews who perished during the Catastrophe, their intellectual elite was so depleted that the few struggling remnants were deprived of their traditional rabbinic, literary, scholarly, and informed lay leaders.

The sharp decline is doubly pronounced when compared even with the fate of nations defeated in the war. Germany herself had suffered much retribution. At the time of its surrender many of its cities lay in ruins, certain regions were depopulated, and most of the others suffered from hunger and want. Japan had her Hiroshima and Nagasaki. Nevertheless, today, 16 years after the war, the population of divided Germany has increased substantially and that of Japan is about a third larger than twenty years ago. By contrast, world Jewry still numbers only some 12,000,000, as against the 16,500,000 or more living in 1939.

The extent of the decline becomes manifest when one realizes that, in the 22 years since 1939, the Jewish people should have increased by more than 2,500,000, if we assume a continuation of the average growth in the 1930's, namely, 120,000 per annum. If the Jews had participated in the general population growth of the 1940's and 1950's, the average might well have exceeded even the annual growth of the 1920's, 140,000. If that had been so, the world Jewish population now would have reached or exceeded 20,000,000. What is more, the Jewish communities in formerly Nazi-occupied Europe still are crippled, qualitatively even more than quantitatively. That great reservoir of Jewish population and of cultural and religious leadership has dried up, leaving the rest of Jewry, particularly the segments residing in Israel, the New World, and the British Commonwealth, bereaved.

One's imagination is staggered if one considers what might have hap-
pened, if during the Franco-German War of 1871 a Hitler, rather than a Bismarck, had guided Germany. If that Hitler of seven decades earlier had succeeded in overrunning the same countries that were overrun between 1939 and 1945, and if he had had the same program of murdering the Jews from the Atlantic to the Russian Pale of Settlement, the genocide of the Jewish people would have been almost total. There would have been no Israel today, and the other present-day largest concentrations of the Jewish people—in the New World, the Soviet Union, and the British Commonwealth—would have consisted, at best, of small, struggling communities.

Through the disappearance of the Jewish communities the European continent has been deprived of an industrious and enterprising population that contributed significantly to economic and cultural progress. Moreover, the Nazis' genocide left behind a permanent precedent and menace for all mankind.

It is true that even in 1942 an Archbishop Jules Saliege of Toulouse dared to circulate a pastoral letter to his diocese which included the following touching statements:

Pray for France, our Lady. In our diocese scenes of horror have taken place in the camps of Noé and Récebédou. Jews are men. Jews are women. Not everything is permissible against them, against these men and women, against these fathers and mothers of families. They form part of the human race. They are our brethren like many others. A Christian cannot forget that. France, beloved Motherland, France who carries in the conscience of all her children the tradition of respect for the human person, chivalrous and generous France, I have no doubt you are not responsible for this terror.

Many other saintly and self-sacrificial Christians who saved Jewish neighbors in the face of extreme danger to themselves are mentioned in Philip Friedman's eloquent *My Brother's Keepers*. Unfortunately, however, men like those were vastly outnumbered, especially in Germany and Eastern Europe, by Jew-baiters, sadists, and careerists who gladly collaborated with the Nazi murder squads.

Only belatedly, after the war, was the conscience of mankind aroused by the Nazi murder camps. Men began to realize that such wholesale slaughter of the members of one people can serve as a ready precedent for the murder of any group disliked, for whatever reason, by another group in power. The Nazi doctrine of a Master Race remains a threat for all future times.

Yet, despite these warnings, all too numerous voices are still heard in
many countries against the anti-genocide convention proclaimed as a major principle of international law by the United Nations. The genocide committed by the Nazis on European Jewry has been readily forgotten by many non-Jews and even by some Jews who were not personally affected. It is time that the public, as well as its intellectual leaders, understand the danger to human life, to culture, to political decency, and to religion.

APPENDIX

(From the record of the trial of Adolf Eichmann, Jerusalem, April 24, 1961)

DEFENSE ATTORNEY (Robert Servatius): Professor, you have described the history of the Jewish people in the last 150 years and you have touched on the persecutions visited upon them since antiquity. Finally you said that the question has been raised of the reason for all this, for these persecutions, in return for all the good that the Jews did. As a professor of history, can you explain the causes of that negative attitude, which has existed for so many hundreds of years, and of that war against the Jewish people?

WITNESS (Salo W. Baron): Your Honors, many theories have been advanced about the origin and development of antisemitism. Usually the most conspicuous element has been hatred of the Jewish religion. Judaism was different from the other religions and the Jews were simply hated as infidels, heretics, men who did not believe in what the majority believed, whether that majority was Christian or Muslim or anything else. In the modern period, this changed somewhat as it was increasingly felt, especially as a result of the Thirty Years' War between Protestants and Catholics, that it was impossible to prolong a state of affairs in which a religious majority could impose its religion on the minority. Therefore, religious freedom became a basic principle, at least in the West—Europe, America, etc. In place of the old religious hatred there rose another kind of hatred of the Jews—what is sometimes called the dislike of the unlike. For this, various rationalizations were found, such as that the Jews had too much economic power, that they were usurers, that they tried to dominate intellectual life, and the like. In all this there is one common element: hatred arises only because of the difference between majority and minority. The purpose of the rationalization is to justify the hatred, somehow.

Sometimes the hatred was expressed in bloodshed, but in the modern age that had disappeared almost completely. Only in Eastern Europe were Jews still attacked physically—in the Ukraine, in White Russia. It
was possible to say that that phase was on the point of disappearing, that the difference between Jews and Christians, or believers in any other religion, would persist, that there might be conflict, but that it would not lead to bloodshed. So people believed. I may say as a historian that when small-scale pogroms broke out in Russia in 1881, the whole world was shocked; nothing like it had happened for a century and people thought that antisemitic bloodshed had died out. Yet all that was trivial in comparison with what happened in the 1940’s. What happened then has no precedent in Jewish history.

I can conclude by saying that although there has been immemorial antisemitism and opposition to the Jewish people, whether in the Greek world, or in the Persian world—witness the Book of Esther—or in the Christian and Muslim worlds of the Middle Ages, it is well to remember that there was practically no violence accompanied by bloodshed under the Persians or under the Greeks. There were minor outbreaks in the days of Philo of Alexandria. There were no pogroms under the Muslims.

PRESIDING JUDGE (Moses Landau): The question was, what are the motives for antisemitism?
A.: The answer is, dislike of the unlike. There was economic jealousy—people who did not like their competitors, in the crafts or in commerce. In addition, there were special reasons of every kind. But the basic difference—and this is what I want to emphasize—was that hatred of Jews does not necessarily cause bloodshed and violence, whereas in this case that tragic thing did happen.

DEFENSE ATTORNEY: Do you not think that nonrational factors, beyond human understanding, are responsible for the fate of the Jewish people?
A.: To some extent we enter here into the realm of theology and philosophy. That question is almost beyond human reason. I am a historian, and as such I must seek comprehensible reasons for any historical development. Nevertheless, it seems to me that it cannot be denied that religious difference alone is not enough to understand most of the hatred of the Jews. Even the Jewish saints and sages believed that the exile was basically beyond human understanding, that it was God’s punishment for the sins of the ancient Jews in their land. Theologically all that may be so, but it cannot absolve any man or group of men who deliberately, voluntarily, willfully make themselves the instrument for punishing the Jewish people.

Q.: Professor, I do not wish to raise a philosophical question but only a historical question, a question of philosophy of history. Hegel and Spengler, for instance, say that there is a spirit in history which drives forward through necessity, without the cooperation of human beings—Hegel calls it spirit, and Spengler calls it culture. Should we not see here a similar phenomenon, working through necessity, without being influenced by any particular person?
A.: Your Honors, here we enter into profound questions of philosophy of history. I am not a historical determinist. Hegel and Spengler may be
called idealistic determinists. Though they are sometimes right, I have never felt that their approach was correct. According to my opinion, history develops by reason of causes and changes within society, many of which are unpredictable. Accident is very important. Personality is very important. Together all these things create history. Of course, there are also basic movements and there is tradition. All these things develop simultaneously. History does not hop on one foot, but marches on a hundred feet. Each foot is part of the historical process. As far as our question is concerned, I am sure that even the determinists, those who believe that everything that happens in history happens necessarily—like Hegel, for example—would nevertheless agree with our sages that while everything may be determined in advance by God, or by other deterministic forces, nevertheless there is free will. That is to say, every individual must decide how he will act, and he is responsible for his deeds. Even the uncompromising religious predestinarianism of a Calvin cannot justify any man in sinning or committing a crime. If he commits a crime, he is accountable not only to God but also to man.

Q.: Whether man has free will is a religious question, but I would like to bring the discussion back to the historical school in jurisprudence [historische Rechtsschule]. Does that school not teach that political leaders often do not achieve what they wish, but the very opposite? For instance, an attempt was made to destroy the Jewish people and instead a flourishing state arose. What do you think of that doctrine?

A.: The consequence of what men do is not always what they intend. That is well known, and we see it every day. As for the historical school in jurisprudence, I have always been a disciple of Savigny and Einhorn and have believed that they were essentially right in saying that even historical jurisprudence is only the result of the forces of tradition, perhaps centuries old. I go farther. I myself once tried to show how greatly social forces influence the development of religion, and vice versa. My book, A Social and Religious History of the Jews, was based on a series of lectures called "Interrelations of the Social and Religious History of the Jews." I believe that society influences religion and religion influences society; and so it is with law. Without doubt, there are forces independent of men's will. But despite everything that has been said thus far, and however much we may admit that history sometimes acts in an autonomous fashion—i.e., that it does not act according to the will of men—nevertheless, in my opinion, every man and every group of men are responsible for what they do and cannot plead that they are only carrying out what history demands of them. Otherwise everyone would be able to interpret the demand of history in his own way, and there would be chaos.

Q.: You must certainly know that Hitler often relied on Providence, but nevertheless failed. If even a political leader could not do anything against the current of history, must we not regard what an ordinary man does as insignificant?
A.: That is not a historical but a legal question. As to how much an individual who is not a leader is also responsible in a historical sense, there is no doubt that sometimes unimportant people influence the course of history much more than their lowliness might suggest. There is also the kind of accident that I have mentioned. We do not know what the history of Europe would have been if on the day of the Battle of Waterloo Napoleon had not had a headache. There are accidents like that, chance occurrences in the lives of individuals, that have a great influence on history. But I do not see any relation between philosophy of history and the question of a man’s personal responsibility, whether he be a leader or a completely unimportant person. Personal responsibility for basic morality, for good or evil, has nothing whatever to do with historical questions, but with religious or moral questions in the mortal life of man, in society and in religion.

PRESIDING JUSTICE: That is clear, but I do not see why you call it a legal question.

A.: We were talking about whether there is a difference between a leader and an unimportant person. Is the unimportant person responsible?

PRESIDING JUSTICE: Perhaps we had better leave that to the jurists.

JUDGE BENJAMIN HA-LEVI: Perhaps Professor Baron can tell us something about the so-called Protocols of the Elders of Zion.

A.: The Protocols of the Elders of Zion, essentially, were compiled before the First World War. They were compiled from several sources, like Hermann Goedsche and Father Sergius Nilus in Russia. They were essentially part of an antisemitic movement in Russia, and it is perhaps worth mentioning that the Russian Tsar personally, out of his private fortune, spent money to support antisemitic propaganda at the beginning of this century. That became known after the tsarist archives were opened in 1917. The purpose of all this propaganda was to show that the Jews were trying to conquer the world and that they had a highly secret organization that met from time to time to plan that conquest. Only after World War I was this book translated into many languages and widely circulated, as a weapon to destroy the Jewish people. That was one of the most conspicuous examples of the use of a complete lie, a lie without a grain of truth in it, to advance the victory of antisemitism. A Columbia University scholar, John Shelton Curtiss, wrote a book, An Appraisal of the Protocols of Zion, published in 1942, which in my opinion is the best analysis of the history of that legend. The Protocols were used especially in Germany, where it was reprinted in several editions, and Alfred Rosenberg wrote a kind of commentary on it.

Q.: Since the Nazis insisted that the Protocols were authentic, I would like to know whether all serious historians—not only Jews, who are interested parties, but also all other historians—agree that it is a forgery and completely untrue.

A.: To the best of my knowledge, not one serious historian today will deny that the book is a forgery. Curtiss himself is not a Jew and he wrote his
book under the supervision of some of the greatest historians in America: Carlton J. Hayes, Allan Nevins (both later presidents of the American Historical Association), and others. He offered a final and conclusive proof that there is not the slightest grain of truth in all those forgeries.

Q.: You know that Hitler, in Mein Kampf, emphasized the importance of the Protocols. He says that the very fact of the Jewish denial proves the truth of the document.

A.: That can be said about many things.

Q.: In the Nazi period many believed it. It had an evil influence.

A.: It had an evil influence throughout the world. In the United States, Henry Ford himself published it in the Dearborn Independent. But when he was challenged, he admitted that he had made a mistake, that the Protocols were a forgery. In Germany, too, there were many who proved that it was a forgery, but those who did not wish to hear remained deaf.
THE PROCEEDINGS

Many of the facts recalled at the trial of Adolf Eichmann in Jerusalem, from April 11 to August 14, 1961, had been recorded at the Nuremberg trials soon after the end of World War II. But at Nuremberg the tragedy of European Jewry had a marginal part in the case for the prosecution, while in Jerusalem the murder of six million Jews constituted virtually the whole case. The facts which had appeared piecemeal in trials, histories, archives, and periodicals, usually accessible to the few, were welded together by tested legal procedure into a coherent whole to serve the generations to come, as Premier David Ben-Gurion of Israel wrote in the New York Times on December 18, 1960.

The main purpose of the trial was not merely to assess Eichmann’s culpability and pronounce punishment—that could have been done in far less than three months—but to unfold the whole horrifying tragedy from beginning to end.

THE TRIAL

The trial opened on April 11, 1961, before the Jerusalem district court. Because of the large number of spectators expected, the court sat in the new Bet ha-‘Am (People’s House), which had been fenced off, surrounded by armed guards, and equipped with elaborate security devices. Six minutes before the trial began, Eichmann, who was lodged in a secret cell in the basement of the building, entered the hall from a concealed door, flanked by two policemen. The prisoner’s dock was enclosed by bullet-proof glass to insure maximum security.

More than five hundred journalists had come from all over the world and formed the major part of the public in the auditorium. Thus the trial had the entire world for its audience. The trial was conducted by three judges, all refugees from Nazi Germany: Presiding Justice Moses Landau of the Israeli Supreme Court and Judges Benjamin Ha-levi of the Jerusalem district court and Isaac Raveh of the Tel-Aviv district court. Attorney General Gideon Hausner, assisted by Gabriel Bach and Jacob Baror, led the prosecution, with Jacob Robinson of New York as special assistant. The defense counsel was Robert Servatius of Cologne, assisted by Dieter Wechtenbruch of Munich.
The opening sessions of the trial were devoted to the reading of the 9,000-word, fifteen-count indictment (see pp. 120–131) and to a legal argument about Israel's jurisdiction. In the first eight counts Eichmann was charged with "crimes against the Jewish people", "crimes against humanity," and "war crimes." Counts 9 to 12 dealt with the deportation of Poles and Slovenes, the murder of Gypsies, and the capture and disappearance of a hundred children from Lidice, Czechoslovakia, held as hostages for the assassination of Reinhard Heydrich. Twelve of the fifteen charges against Eichmann carried the death penalty, although jurists in Israel were divided on whether that was mandatory.

The last three counts, for which capital punishment was not stipulated, dealt with Eichmann's membership in "hostile organizations"—the SS (Schutzstaffeln; elite guard), SA (Sturmabteilung; stormtroopers), and Gestapo.

Preliminary Legal Argument

Thereupon Servatius raised a series of objections, recapitulating in legal terms the discussions which had excited world public opinion ever since Eichmann's capture in May 1960. The defense questioned chiefly the court's jurisdiction and impartiality. As to the first point, Servatius maintained that even if an ex post facto law were valid, the Israeli law was not applicable in the case of Eichmann since a distinction should be made between the leaders of the Third Reich and Eichmann, who, not being a leader, should not be judged by the same standards. This was the principal line of defense throughout the trial. Eichmann was portrayed as merely a petty functionary who carried out orders from above. As to the second point, Servatius held that a Jewish court might prejudge the defendant because the Nazis' crimes were against all Jews. He added that even if the judges were perfectly impartial, the mere fact that a large part of world opinion suspected prejudice was sufficient reason to disqualify the court.

Lastly, Servatius dwelt on Eichmann's abduction and asked that Tzevi Tohar, who organized Eichmann's abduction, and Jacob Shim'oni, the pilot of the plane which brought Eichmann to Israel, be called as witnesses, so that he could prove that the abduction had been carried out by the state and not by a group of volunteers.

For his part, the prosecutor cited the UN Security Council resolution of June 23, 1960, after consideration of Argentina's complaint against Israel (AJYB, 1961 [Vol. 62], pp. 199–208), which referred to the
“universal condemnation of the persecution of the Jews under the Nazis” and expressed satisfaction that Eichmann was to be brought to justice.

As to the possible partiality of Jewish judges, Hausner pointed out that the defense did not challenge the validity of the Nuremberg trials, although similar doubts regarding the tribunal’s impartiality could be raised, and were. If such objections were upheld, he maintained, any judge of any court would be prevented from adjudging any act of espionage or treason, or, for that matter, any repulsive crime, because the court could not help being adversely disposed toward a guilty defendant. Justice would be done, and manifestly seen to be done, with a fair trial.

To prove that Eichmann’s abduction to Israel did not affect the jurisdiction of the Israeli court, Hausner made a long juridical discourse—too long, in the eyes of the journalists, who were looking for sensations. He cited many precedents from Great Britain, the United States, and Palestine under the Mandate to show that the manner in which a criminal had been detained and brought before his judges and the place of his capture had consistently been held to be of no concern to the court. He cited the international conventions in regard to pirates and slave traders, famous cases like that of Lord Haw-Haw in 1946, and the joint Argentine-Israeli communique of August 3, 1960, which implicitly recognized Israel’s right to try Eichmann.

On April 14 Servatius replied briefly. He argued that the laws against pirates and slave traders took account of the permanent danger which they represented. But Eichmann was no longer dangerous. He had merely carried out the orders of his state and, relieved since the war of his oath of allegiance to the Fuehrer, had always lived as a “peace-loving citizen.” The tribunal rejected the defense arguments.

THE PROSECUTION’S CASE

On April 17 and 18 Hausner unfolded the account of the Nazi campaign to extirpate the Jewish people and Eichmann’s responsibility for its execution. He declared:

I stand before you here, Judges of Israel, and I accuse Adolf Eichmann. I do not stand alone. With me at this moment are six million prosecutors who cannot stand up to point an accusing finger at the glass dock and cry out “J’accuse” at the man who sits there. For their ashes have been piled up in mounds at Auschwitz and in the fields of Treblinka, or spilled into the rivers of Poland, and their graves are scattered throughout the length and breadth of Europe. Their blood cries to heaven, but their voices cannot be heard. Thus it is my duty to speak for them. . . .
Continuing, he described the fate of European Jewry under the Nazis and called Eichmann a "new kind of killer, the kind that exercises his bloody craft behind a desk. . . . He was the one who planned, initiated, and organized this unprecedented crime, which led to the adoption of the concept of a crime unknown in the annals of human events even during the darkest ages—genocide." Eichmann's mission, "to which he devoted himself with enthusiasm and endless zeal," was the extirpation of the Jews. After a review of the defendant's career, the prosecution presented the various stages which led to the adoption of the "final solution, the physical liquidation of the Jews by expulsion or killing, and the pilage of their property." Then followed the story of spoliation and mass murder, carried out under Eichmann's direction in the various Nazi-occupied countries, with a detailed description of the murder camps.

Throughout the trial, Hausner faced the delicate problem of fulfilling the original intention of using the trial as an opportunity to impress the world with the enormity of the Jewish tragedy, while at the same time affording the defendant the guarantees of a fair trial due to any person accused of any crime. Through document after document, Hausner developed the picture of the Nazi conspiracy. Then, after evoking the atmosphere of the Third Reich in its first years, he went on to describe the defendant Eichmann. He told how this young mediocrity had rapidly risen to the rank of lieutenant colonel and then become the "specialist on the Jewish question" entrusted with the destruction of the Jews. He then returned to history and described the agony of the communities, country by country, and the operation of the death camps. In his peroration he evoked memories of an illustrious era which had been brought to an end by murder—the East European age in Jewish history.

On April 19 the stage was set for the testimony which was to convict Eichmann. The two main elements in the Israeli case were eye-witness testimony to the extent of the Nazi terror and documentary and other tangible evidence explaining the actual events and linking Adolf Eichmann with the decisions and orders that brought death to the Jews. In all, 112 witnesses were called to testify and 15 high Nazi officials, still living in West Germany and Austria, gave testimony by deposition. Of the several thousand documents which had been painstakingly collected, only 1,600 were actually put into evidence.

A horrifying activity too vast for the human imagination was spelled out hour after hour, day after day, as the trial proceeded. Here, for the first time, the detailed story of the sufferings and tortures was given by those who had lived through them and had miraculously escaped death.
At the same time, there was placed into the record the full blueprint of
the systematic segregation of the Jews, the discriminatory measures taken
against them, their concentration in ghettos, their enslavement, and their
extirpation.

**Eichmann's Taped Statement**

The prosecution first introduced a statement by Eichmann on magnetic
tape. This three-hour-long deposition, which he had given to Israeli Po-
lice Captain Abner Less soon after his capture, was confused and con-
tradictory. Especially the remorseful Eichmann in it contrasted with the
composed quibbler at the trial itself.

There was, to begin with, this Eichmann, who spoke so freely and with
so much apparent remorse:

> Shall I start by speaking of France? Did it begin in France? How did it
begin in France? Was it in Holland? Did it begin there? Who gave the
first push? ... How did it happen in Rumania? ... When was the first
deportation? I cannot answer now. ...

> I am not under compulsion to testify, of course I know that. I have been
warned that anything I say may be used against me. ...

There was also the astounding revelation that Eichmann was a sensi-
tive man who could not stand the sight of blood. This is how he said he
felt the first time he received an order from his immediate superior, SS
General Heinrich Müller, to take part in a Judenaktion in Poland, so that
he could report back on those things which he himself had been directing
from afar:

> I couldn't look at it. All the time I was trying to avert my sight from
what was going on. ... The screaming and shrieking—I was too excited
to have a look at the van. ...

> I saw the most breath-taking sight I have ever seen in my life. The van
was making for an open pit. The doors were flung open and corpses were
cast out as if they were animals, beasts. They were hurled into the ditch.
... I entered my car ... for hours I sat. ... I knew I was washed up.

Returning to Berlin, he told Müller: “It's horrible. It's an indescribable
inferno. I can't stand any more. I can't stand it.”

There was also Eichmann's surprising description of the Wannsee con-
ference of January 1942, at which Reinhard Heydrich, chief of the
RSHA (Head Office for Reich Security), informed the leading function-
aries of the Third Reich on the methods to be used for the “final solution
of the Jewish problem.” This was the first eye-witness account of the
meeting which initiated the organized murder of millions. It was a very
dignified affair. One or two participants requested permission to speak. They were all senior officials. It was all friendly, polite, and nice. There was not much talk. Then brandy was served and that was the end of it. One reason for the conference, said Eichmann, was that Heydrich, notoriously vain, "wanted to emphasize that he had become supreme ruler of the Jews in the areas under his control."

For a moment one could imagine Eichmann humanized and contrite:

I know I may have to face the death sentence but I cannot claim mercy because I do not deserve it. Perhaps I should hang myself publicly so that all the antisemites in the world can have the terrible nature of their acts made clear to them. Perhaps I should write a book as a deterrent to all young people and others on earth not to act in this way. And then I shall have completed my duty in this world.

The tape-recorded interrogation furnished additional information of historical value. A few months after the invasion of the Soviet Union, for example, Heydrich told Eichmann for the first time of Hitler's decision to kill all the Jews:

He told me the Fuehrer had ordered the physical destruction of the Jews. He uttered this sentence as though he wanted to test the impact of his words. He did something which it was not his custom to do—a long pause. I still remember the first moment. I did not grasp his meaning because he chose his words so carefully. Later I understood and did not reply. I had nothing to say. As far as I was concerned I had nothing to reply to such words, to such a brutal solution. Of such a solution I had never thought.

Prosecution's Witnesses

The first to be called after the police witnesses was Salo W. Baron of Columbia University, who was to describe the background against which the destruction took place. Taking the stand on April 24, Professor Baron gave a survey of the destroyed Jewish communities of Europe and their history between the two World Wars (see p. 3). Then a remarkable exchange took place between the defense attorney and the witness (see p. 49), with Servatius implying that a sort of fatal destiny weighed upon the Jews which, as it were, used Eichmann for its purposes. If Eichmann were essentially an instrument of destiny, no real responsibility or guilt could be attributed to him. Professor Baron brought the discussion back to earth by pointing out that no law of predestination exempted men from individual responsibility for their acts, and that to "plead that they are only carrying out what history demands of them" would lead to chaos.

This testimony was followed by a long legal argument over the admis-
sibility of a deposition by Eichmann's adjutant, Dieter Wisliceny, hanged in Slovakia in 1947. He had drawn up a long memoir in his cell placing responsibility on Eichmann. The tribunal decided that this highly important testimony was admissible.

Then the testimony of several witnesses put on the record the senseless cruelties inflicted upon the Jews not only of Germany but also of Austria and Czechoslovakia, who came under Adolf Eichmann's jurisdiction after the Nazi occupations in 1938. The first to testify was an old man, Zindel Samuel Grynzspan, whose deportation from Germany to Poland in the autumn of 1938, together with 12,000 other Jews, led his son Hershel to shoot the German attaché Ernst vom Rath in Paris. That killing touched off a vast destruction of German Jewish property, whose climax came in the infamous Kristallnacht of November 9, 1938, when Nazi mobs, obeying orders from above, staged a large-scale pogrom, demolished about 600 synagogues throughout Germany and Austria, and looted and destroyed hundreds of shops.

**Deportations of German and Austrian Jews**

Describing his deportation, which took place before the beginning of the war, Grynzspan said:

> At the border they searched us for money. If anyone had more than ten marks, the rest of the money was taken away. They told us: “Ten marks. You did not bring more to Germany, so you cannot take more out.”

> . . . The SS men used whips to hurry us across fields to the [Polish] frontier line. Those who faltered were struck, blood spurted, bundles were grabbed from people's hands. It was the first time I had seen the barbaric behavior of Germans. They told us to run. I was struck and fell into a ditch.

Then he told how they were chased across the border, women first, so that the Polish frontier guards would be less likely to shoot. The Polish government was not enthusiastic about receiving thousands of Jews, even though they carried Polish passports. Finally, a Polish general decided to admit them. “They took us to a village of about 6,000,” Grynzspan continued, “and we were 12,000. . . . Rain was falling hard. There was no bread. People were fainting—some suffered heart attacks—and on all sides one saw old men and old women. Our suffering was great.”

This expulsion of 12,000 Polish Jews was the first of the measures taken by the Third Reich immediately after Munich to make Germany “judenrein,” without Jews. Eichmann was the coordinator of this policy.

The next witnesses were former officials of Jewish organizations in Germany and Austria who had had personal contact with Eichmann.
Their testimony was to prove that he had a decisive part in the annihilation of Europe’s Jews.

Benno Cohen, once president of the Zionist federation of Germany, described the impact of Nazism on the German Jewish community—the gradual elimination of Jews from economic, professional, and cultural life and the adoption of the Nuremberg Laws in 1935, which deprived Jews of their citizenship and legalized their persecution on racial grounds. Cohen recalled a meeting of Jewish leaders with Eichmann at Berlin Gestapo headquarters in March 1939, at which the accused used abusive and threatening language. At subsequent meetings, usually concerned with questions of Jewish emigration, Eichmann would fly into furious rages and use extremely ugly language when speaking to the Jewish leaders.

The next witness, Aaron Lindenstrauss, a leader of the Berlin Jewish community, described how he and other leaders had been summoned to Vienna after the Anschluss. Eichmann peremptorily demanded the departure of the Jews from Austria. He cursed the Jewish leaders, ordered them to speed up emigration, and warned them that if they could not find 1,000 visas a day “you know what your fate will be.” The president of the Berlin community, the late Heinrich Stahl, had tried to explain to the defendant that the Jews were eager to emigrate but that there were obstacles which slowed them down. Eichmann replied that that was no business of his, he was not interested in details, it was the Jews’ job to see that he received a thousand visas a day. The defense sought to turn this testimony to its advantage by arguing that the fierce energy shown by Eichmann at that time had had the benefical result of placing tens of thousands of Jews beyond the reach of the Third Reich.

The next witness, Moritz Fleischmann, once director of the Jewish Agency office in Vienna and sole survivor of six Jewish leaders consulted by Eichmann before the expulsion of the Jews from Austria, described other aspects of Eichmann’s personality from 1937 to 1939: an industrious Eichmann who had read the Jewish historian Adolf Boehm and memorized certain passages, a deceptive Eichmann pretending to have been born in the German colony of Sarona in Palestine and to have learned Hebrew there.

Franz Mayer, an active Zionist and community leader in Berlin, told of the “terrible transformation” of Eichmann’s character. He had known Eichmann in 1936 as a subordinate official in the department of Jewish affairs at Gestapo headquarters who showed interest in the Zionist movement and promised to halt interference with emigration to Palestine.
"From time to time, he even kept his promise," Mayer recalled. "I had the impression that he was taking note of our concern and was sincere." But when Mayer saw Eichmann in 1939 in the former Rothschild palace in Vienna, which had become the central office for Jewish emigration, he found that the mild-mannered petty bureaucrat had become a martinet "who regarded himself as master of life and death."

Deportation of Czechoslovakian Jews

Eichmann moved from Vienna to Prague after the Nazi occupation of Czechoslovakia in 1939 to take charge of the deportation of its Jews. Max Burger and Hugo Kratzky told of the time when 1,000 Slovak Jews were chosen in 1939 to establish a "homeland" for Jews on a barren plateau in Poland. Eichmann told those who were to be sent there: "Hitler promised you a new homeland. There are no houses here. If you build houses, you will have roofs over your heads. The water is contaminated with typhus. If you dig wells, you will have water to drink."

Of the thousand, 350 survived. Eichmann was considered by his superiors to have done his job so well that from Prague he was sent to Berlin to take charge of the expulsion of the Jews from the entire Reich.

The succeeding witnesses gave testimony about that phase of his activities. Their long depositions told of the cruelties and humiliations to which they were subjected or which they witnessed—arrests and raids, beating, internment in concentration camps, the return of the ashes of victims to relatives with a postage bill for ten marks.

Documents on anti-Jewish Actions

These witnesses were interrupted by the reading of long documents, some originating with Eichmann and some with Adolf Hitler, Josef Goebbels, Heinrich Himmler, and Reinhard Heydrich. The documents contained nothing new, since almost all of them had been made public fifteen years earlier in the course of the Nuremberg trials. But in the words of the prosecutor, it was necessary "to fit the proofs into one another." Still, there were occasional surprises. For example, the central part of Heydrich's speech at the Wannsee conference, at which he told the leading Nazi functionaries of the decision to destroy European Jewry, included these paragraphs:

Within the framework of the final solution, the Jews must be transported under appropriate guard and assigned to the appropriate work service. Able-bodied Jews, separated by sex, will be brought in work gangs to these territories to build roads. It goes without saying that a large part of them will be eliminated by natural decrease.
The final residue will have to be treated appropriately. This residue will represent a natural selection, which when freed must be viewed as capable of forming the nucleus for a reconstructed Jewry (see the experience of history).

The prosecution then showed that the phrases “nucleus for a reconstructed Jewry” and “experience of history” had appeared in *Eine Geschichte der Juden* (“A History of the Jews”), by Joseph Kastein, which Eichmann had advised his subordinates to read in December 1937. It must have been Eichmann who wrote Heydrich’s speech.

**Mass Killings**

In the first two days of May the trial no longer dealt with cruelties and humiliations, but with the mass killings by the German *Einsatzgruppen* (Gestapo and SS operational groups) in Eastern Europe when Eichmann was in Berlin. The prosecution sought to establish a connection between him and those murders.

The most gruesome testimony was given by Dr. Leon W. Wells (formerly Weljeecki), an American specialist in optics. With scientific precision he recalled his adolescence. He was sixteen when in 1941 the Nazis marched into his home town of Stoyanov near Lwow, Poland, and a year later he was taken to the Janowska concentration camp. He and 181 sick men were forced to dig their own graves. When they were ready, the prisoners had to undress and lie down in the graves two by two. After the first two had been shot, the next two had to sprinkle sand over the bodies and lie down on top of them to await their own turn. By mere accident, Wells was pulled out of line and ordered to return to the huts to bring back the body of a Jew who had just been killed. On the way back he managed to escape.

Later Wells was captured and returned to the camp, where he was forced to join a “death brigade”—prisoners whose task was to wipe out evidence of mass slaughter by the Nazis. It was their job to exhume thousands of bodies and cremate them on huge funeral pyres. The ashes were strewn to the winds after first being sifted for gold teeth and other valuables. The bones which resisted cremation were ground to dust. Over the empty graves greenery was planted as camouflage. “Not a bone, not a hank of hair was left as evidence,” Dr. Wells said. He recalled with horror that some of the bodies bore only slight wounds, their mouths and tongues showing that they had died of suffocation after being buried alive. As the end of the war approached, the Nazis, trying to hide their crimes, did not bother to bury the bodies first. He related how Jews, in groups of two dozen or more, were machine-gunned directly in front of
the funeral pyres and then thrown into the flames by death-brigade members equipped with hooks. The organization of the brigades showed German thoroughness. One group had charge of the ashes, another transported the bodies, a third cleaned up. The Brandmeister kept the fire going after pyramids of 2,000 corpses were piled up and put to the torch. The Zähler counted the bodies and checked names on a list to make sure that all who had been shot were burned. Sometimes, Wells remembered, the brigade had to search for hours if one body was missing to make sure that no evidence would be overlooked. His own disappearance from the camp, he said, provoked such a search.

The prosecutor then asked him why there was no resistance, since there were only a few guards for many Jews. Wells explained that there were never two thousand people at one time, only forty or fifty, and that not until their execution was another truckful brought in. Moreover, at first each of the prisoners still had family left and therefore had something to lose.

Hausner asked Wells how he had the courage to go on after he knew that his family was dead. Wells explained his reasons for trying to stay alive: "... one of us had to fight through to tell the world. ... None of us had any personal interest in living. We shielded each other, so the strongest could live to speak for the dead." He also said that a sort of journal he had been able to preserve allowed him to reconstruct the facts and dates precisely. The witness concluded by telling of an attempted rebellion of Sonderkommando 1005, which made it possible for him to escape. Wells' testimony was the longest and most precise of all that were given on those two terrible days, May 1 and 2.

As on previous occasions, the court again censured the prosecuting attorney for introducing repetitious background material. Servatius, too, observed that Wells had related events already described by witnesses and documents. Hausner retorted that Wells' testimony was relevant because Eichmann had been appointed by Heydrich to carry out the program of extirpation in the occupied territories. Through Wells' testimony about the murder of 500,000 Jews in Galicia, the prosecution was trying to establish Eichmann's responsibility. Moreover, Hausner maintained, even though none of the witnesses had ever seen Eichmann, the prosecution would prove that he could sit in Berlin and still be responsible for killing the Jews of Lwow, in conspiracy with others. The court upheld the prosecution and ruled that testimony was necessary to prove that such acts had been committed and that the accused was responsible for them.
Other witnesses—Mrs. Ada Lichtmann, Hersh Pachter, Jacob Gurfein, Noah Zabludovitch, Judge Moses Bejski, Dr. Joseph Buzhminski, Mrs. Esther Schilo—reported what had happened in Poland even before the creation of Auschwitz and the other death camps. Sometimes, as in Mrs. Schilo's testimony, reference was made to "good Germans," like those who saved the witness Zabludovitch or the Hebrew study group in the Lodz ghetto. But the general tenor of their accounts was one of oppression and horror, leaving the ever recurrent question unanswered: "Why did you not revolt?"

Bejski, a Tel-Aviv magistrate, was visibly staggered by the question. "It is difficult for someone who has not been there to understand," he said. "It was the third year of the war. Jews were desperate. There was also hope. People were doing forced labor. They seemed to need our labor. . . . It was terror. There we stood facing machine guns and we saw the boy being hanged." (That was the second mention of this incident. All the inmates of a Polish labor camp were forced to watch the hanging of a fifteen-year-old boy for having sung a Russian tune. The noose had snapped, and they had to watch while the boy was hanged again.) Bejski continued: "Assuming that 15,000 people could have succeeded with their bare hands in breaking out of camp, what then? Where could we have gone? We wore yellow-striped clothes and we had a four-centimeter swath shaved across the top of our heads." One of the strongest reasons for not escaping was the fear of reprisals against their fellow-Jews and their families.

If it was difficult for the witness to explain to himself the failure of nearly all the Jews in the camps and ghettos of Poland to revolt, it was even more difficult for the youth of Israel to understand. Young children sometimes asked their parents; "But what was our army doing then?"

**Resistance**

The epic of Jewish resistance in Poland was most dramatically told by Isaac and Tsiviah Lubetkin Zuckermann, two of the few survivors of the Warsaw ghetto. They were among a handful of young fighters who organized the rebellion, after nine-tenths of the ghetto population had been deported. The revolt, which broke out in April 1943 and lasted for forty days, has gone down in history as one of the few pitched battles that the Jews of Europe were able to wage against the Nazis. The witnesses first recalled how in 1940 the Germans forced all the Jews of the Warsaw area into a ghetto, enclosed by barbed wire, where they were degraded, tortured, and deprived of water, food, and medicine, and
where many died, and how, finally, the Jewish underground came into being and how the uprising was organized in April 1943.

It was strange to see these twenty Jewish men and women standing up against the great enemy, happy and spirited because we knew that while they would conquer us we would go down fighting. Many of you will not believe it, but when the Germans came up to our post and marched by and we threw those hand grenades and bombs and saw German blood flowing on the streets of Warsaw, there was rejoicing among us. It was wonderful, a miracle—those German heroes retreated, leaving their dead and wounded behind. We went out and gathered arms. Of course, the Germans came back. The fighting continued for days... We suffered more casualties and killed fewer Germans. It was clear to everyone that it was almost certain we could not remain alive. But we were fighting to avenge our brothers and it was easier to die.

The prosecution attempted to link Eichmann to the Warsaw revolt by introducing minutes of a 1942 meeting at which Eichmann had discussed "security measures" for the Warsaw ghetto. The feeling, however, was that the Zuckermanns' testimony had been introduced to offset the impression that millions of Jews had meekly submitted to torture and death. The court objected to the testimony on the ground that it was irrelevant to the prosecution's efforts to prove Eichmann's responsibility in the murder of six million Jews, and Justice Landau rebuked Hausner for permitting the witnesses to "digress."

The despair and sublime faith of an Orthodox Jew were expressed in the writings of the hasidic Rabbi Kalonymus Kalmish Shapiro, read on the same day:

Every Jew should be prepared, if it is demanded of him, to render his soul to God Almighty. If we do so, not because we have wronged the goyim, but simply because our murderers wish to destroy us body and soul, then our faith and our confidence in the Almighty will only be strengthened. . . . Things are extremely difficult, for our sufferings exceed our strength. Would that God had taken pity on us. But . . . when thousands of Jews are . . . burned alive simply because they are Jews, we who are still alive must try to face all these trials. We must know how to overcome our suffering and strengthen our faith in God. . . . The Jewish people have known suffering such as we experienced up to 1942. But never in the course of our history have our people known such strange forms of death as the criminals have imposed on us since 1942. The Bible does not speak of them. Only the Almighty can save us from the hands of these assassins. . . . These terrible pogroms are destroying Israel today, above all our little children and our babes in arms. What have we done, God, what have we done? It is a wonder that the world can survive all these sufferings, all these tears. . . . And now innocent children, pure as
the angels, as well as great and holy men in Israel, are being killed and slaughtered only because they are Jews. . . . Yet the universe is not destroyed but remains intact, as if nothing happened.

This terrible story of indifference by the Polish people, the Allied governments, the Vatican, and the International Red Cross was told many times in the course of the trial. The heroes of the ghetto uprisings had nothing to hope for except to die as free men. The same thoughts were expressed in the testimony of Rebekah Kupfer and Bathsheba Rufeisen of the Cracow ghetto, Frieda Mazia of the Sosnowice ghetto, and Abraham Krassick of the Bialystok ghetto. Undoubtedly similar stories could have been told of other ghetto uprisings, but there were no survivors.

There was also the inability of the Jewish masses to understand, their illusion that they could survive. Thus the poet Abba Kovner told how Isaac Wittenberg, the leader of the Jewish resistance in Vilna, was summoned by the Nazis to give himself up on pain of the immediate destruction of the ghetto, how the Jews themselves in their terror were ready to attack the resistance group, and how Wittenberg went out voluntarily and alone to a useless death. The same witness recalled the noble figure of a German army officer, Anton Schmidt, shot for having aided the Jewish resistance of Vilna. Schmidt had told him once: “There is a dog called Eichmann who is responsible for the extirpation of the Jews in the ghettos.”

Then there was the testimony of a simple Jewess of the Minsk region, Rebekah Yosselevska. Left for dead after her group had been shot, she remained buried for several hours under a heap of corpses. When she regained consciousness, she succeeded in forcing her way out to the air, and was taken in by a compassionate peasant.

Deportation of West European Jews

The fate of West European Jewry was the subject of the sessions from May 8 to 12, and was presented by Gabriel Bach. Captured archives greatly facilitated the prosecutor's task. Scores of documents signed by Eichmann or addressed to him established that he had carried out his functions with zeal and even with frenzy. The very special esprit de corps of his service, as well as his own power of decision, was illustrated by an incident in France. In July 1942 a deportation convoy intended for 1,000 Jews was canceled at the last moment because only 150 Jews had been arrested that day. Eichmann telephoned to Paris and severely reprimanded his deputy Heinz Roethke. According to the memorandum that the latter immediately wrote down, Eichmann said:
It was a question of prestige. He had had to negotiate a long time with the ministry of transport to get the rolling stock, and now a train had been canceled at the last moment. Nothing like this had ever happened to him before. It was most improper. He did not want to tell SS Obergruppenführer Müller, but he had to consider whether it was not necessary to drop France completely as a country of deportation.

The most heart-rending testimony on France was by Dr. Georges Wellers, who described the Kindertransporte (children's transports) from Drancy in 1942. Children, torn from their parents only a short time earlier, found themselves alone, hungry, wretched, with no one to turn to except a few warm-hearted women who worked in the camp. The camp was so filthy that most of the children were soon covered with sores, suffering from diarrhea, dirty, bedraggled, ragged. In August and September 1942 four thousand of the children, screaming and kicking with terror, were put into sealed box cars and taken to Eastern Europe. Eichmann had said: "The children's transport may roll." When Wellers arrived in Auschwitz in 1944 he did not find any of the children alive.

Josef Melkmann, of the Netherlands, Werner David Melchior, the son of the chief rabbi of Denmark, Mrs. Henrietta Samuel, widow of the wartime chief rabbi of Norway, and Huldah Campagnano, the sister of the chief rabbi of Florence, Italy, told of the fate of the Jews when their countries were occupied by the Nazi armies. Their testimony was less gruesome than that of the preceding witnesses since it dealt with arrests and deportations rather than murders. Also, the people of those West European countries were not indifferent or hostile, but helped as much as they could. When the first deportation of Jews was announced, the workers of Amsterdam went on strike. The Danes brought almost all the Jews in their country to Sweden. In France and Italy not only the resistance but almost all the people helped the Jews to escape the Nazi raids.

Mrs. Campagnano related how, after the arrest of her husband, brother, and sister-in-law, she had joined her mother-in-law in hiding in a convent in Florence. Only the mother superior knew that they were Jews. Eventually they felt it necessary to leave the convent because of the suspicion of two fascist women who had hidden there from the vengeance of the partisans. Then a Protestant minister, who had already placed a child of Mrs. Campagnano with a Protestant family, gave them refuge in a home for the aged whose inmates had been evacuated because of the air raids, where they remained until the liberation. She said also that her children and her brother's had been placed with five different families, from various strata of the population, whom they had not
known before. In her opinion, the help given to the Jews by the Italians was to be explained by hatred for the Germans, the activity of the partisans, and "the good heart of the Italians."

In his summation Hausner made a special point of gratefully commending the peoples of those countries.

_Testimony of Justice Musmanno_

The third week of the trial began with the testimony of two witnesses, each notable in his own way. The first was one of the American judges at the Nuremberg trials, Justice Michael A. Musmanno of the Pennsylvania Supreme Court. He had presided at the trial of the _Einsatzgruppen_ and had had long conversations with a number of Nazi leaders when investigating Hitler's death. Among them were Hermann Goering, Hans Frank, governor of occupied Poland, Foreign Minister Joachim von Ribbentrop, General Karl Kohler, the last Luftwaffe chief of staff, and Ernst Kaltenbrunner, the Reich security chief. They had been unanimous in placing on Eichmann responsibility for the "final solution of the Jewish problem." Musmanno thus struck directly at the defense's argument that Eichmann had merely followed orders from above and had no power of decision.

Under intense cross-examination by Servatius, Musmanno insisted that while his testimony was hearsay, it must be true because so many of the Nazis on trial for their lives named Eichmann as the main cog in the annihilation machinery, although the obvious scapegoat would have been General Heinrich Müller, chief of the Gestapo. Servatius suggested that the Nazi officials Musmanno had interviewed were merely trying to make a small official responsible for their crimes. On the basis of documents he then tried to prove that the decision to extirpate the Jews was reached at a much higher level than Eichmann's rank of lieutenant colonel. Musmanno, however, insisted: "Yes, but the instrumentality was Eichmann. It was Eichmann who decided in what order, in what countries the Jews were to die."

Musmanno quoted Goering as having said to him that Eichmann was "all-powerful in the extermination of the Jews" and that, as a consequence, von Ribbentrop "very much resented Eichmann's interference in his ministry of foreign affairs." Moreover, Walter Schellenberg, head of foreign intelligence in the Reich Security Office, had disclosed to him that an SS court in Berlin once tried to arraign Eichmann on a charge of "cruelty and corruption" in connection with his deportations of Jews, but that this attempt to jail Eichmann for "excesses" was frustrated
when Kaltenbrunner testified that Eichmann was “fulfilling a special mission for the Fuhrer.” As to the defense argument that Eichmann had no choice but to carry out orders, since disobedience would have been punished by death, Musmanno said he could give case histories of men who “refused to kill in cold blood” and were simply transferred to some other duty.

But Musmanno had some uncomfortable moments in court. He said that at a trial of 21 leaders of the Einsatzgruppen charged with murdering the Jews sent to the East, several of them mentioned Eichmann. Servatius then wanted to know why Musmanno, in his judgment on these men, had not mentioned Eichmann. Musmanno, ill at ease, replied that there was no necessity for doing so because Eichmann was not on trial. Similarly, when Justice Landau asked him whether he had mentioned Eichmann in his book on the Nuremberg Trials, Ten Days to Die, Musmanno replied that he had not because he was not interested in Eichmann at the time and because it was generally believed that Eichmann was dead.

Testimony of Dean Grüber of Berlin

Then came one of the most moving pieces of testimony of the trial, that of the Rev. Dr. Heinrich Grüber, dean of the Berlin Confessional church, who had worked closely with the Berlin Jewish community and represented the Jews in negotiations with the Nazis. Because of his efforts in behalf of the Jews he was later sent to the Sachsenhausen camp. His testimony was detailed, and he was cross-examined at length by Servatius and by each of the three judges. Again the Eichmann trial became the trial of Nazi Germany.

Grüber recalled that the Nazis used to time their anti-Jewish actions to coincide with Jewish holidays. Eichmann, whom he saw frequently when intervening on behalf of Jews, “gave the impression of being a block of ice, or a slab of marble, completely devoid of human feeling. I was not alone in this impression; he was a Landsknecht [a mercenary, a soldier without conscience].” Grüber never received an affirmative reply from Eichmann to any request. “We would either get a definite no or a noncommittal answer with an injunction to wait.” Eichmann never mentioned having to consult his superiors. “It was always ‘I order’, ‘I say this’, ‘I won’t permit this’, ‘I’, ‘I’, ‘I’, as if he were the central figure.”

Dean Grüber was arrested in December 1940. “My teeth were knocked out and I suffered a heart attack, but this was a fraction of what my Jewish friends suffered.” He recalled a cold night when drunken SS
men ordered the Jews out of their huts dressed only in nightshirts and forced them to roll in the snow. Some died of pneumonia as a result. He said that Sachsenhausen was “worse than Dante’s Inferno because in this particular hell no one could complain, no one could weep.” Human life meant nothing. Later Grüber was transferred to Dachau, where many of his friends were used as guinea pigs in medical experiments. They were infected with disease, given air-bubble injections, or put under a glass dome and subjected to air pressure.

On cross-examination Servatius asked Grüber whether, since he had found Eichmann so cold, he had ever spoken to him as a pastor, appealing to morality and Christian ethics. Grüber replied that he had felt that appeals to Eichmann’s conscience would be futile, since good examples had no effect on him. Indeed, Eichmann once asked Grüber why he bothered with the Jews, who would not be grateful anyway. The pastor replied that his Lord had bidden him to help them.

Upon further questioning by Servatius, Grüber said that two German officials helped him to save Jews by secretly informing him of impending deportation orders. One of them was vom Rath, the father of the man assassinated by Hershel Grynzspan in Paris. As for the second man, Grüber asked to be allowed to withhold his name. Judge Ha-levi wanted to know whether and why anyone in West Germany in 1961 would prefer not to have it known that he had shown mercy to Jews under the Nazis. Grüber’s answer was that such publicity would only bring “slander and threats” to the person involved. He himself had received a whole file of abusive letters after his intention to testify at the Eichmann trial had been made public in Germany.

At one point Servatius referred to Das Dritte Reich und seine Denker (“The Third Reich and Its Thinkers”), by Léon Poliakov and Josef Wulf, which showed that most German professors and scholars had felt that Hitler was “acting properly and correctly.” If it was possible to mislead such learned men, the defense counsel persisted, surely it was understandable why an ordinary man like Eichmann succumbed. Grüber’s reply was that academic status was no assurance of opposition to Hitlerism. On the contrary, it was in the homes of Berlin workers that he was able to hide hundreds of Jews. He quoted Rabbi Leo Baeck’s answer to a question upon arriving in the United States in 1948: “What would you do if you could go back to Germany today?” Rabbi Baeck said: “I would begin by thanking those who should be thanked. First I would thank the workers of Berlin and the pastors of the Confessional church, and then the peasants and farmers who helped the Jews at the risk of their lives.”
Griiber concluded his testimony by asking for permission to add a personal remark. Since he was the first German Christian to testify at the trial, he wanted his testimony not to be interpreted as an expression of an inner conflict, but rather of his desire that the trial should contribute to establishing more wholesome relations between Israel and Germany.

Deportations of East and Southeast European Jews

Thereafter, until the end of May, the prosecution presented documents and witnesses testifying to the persecution of the Jews in other parts of Eastern and Southeastern Europe. In Greece and Slovakia, Yugoslavia and Rumania, the pattern was always the same. As soon as the Third Reich was in effective control, Eichmann would send in his henchmen, or he himself would appear to deport the Jews to the death camps.

The virtually complete annihilation of the Jews of Salonika, Greece, was narrated by Isaac Nehama, one of the few survivors of a community of 75,000. The court was told that the Jews, having been herded together in ghettos and suffering from disease, had become living skeletons when Eichmann ordered their deportation to Auschwitz. An affidavit by Wisslicency, Eichmann's deputy in Greece, had affirmed that although the Greek Jews were ridden by spotted typhus and tuberculosis, Eichmann ordered their "immediate and complete resettlement." Nehama recalled some of the ruses used by the Nazis to lull Salonikan Jews into acquiescing to deportation without resistance. The Germans told them that they were going to Cracow to live in a Jewish state and that they could take along everything they wanted. So they took everything they could carry, to their doom.

On May 30 there was testimony about Hungary. Deportations began in the spring of 1944. They were directed by Eichmann personally from Budapest, where he had greater freedom of action than elsewhere. Among the witnesses to his brutality was Baron Phinehas von Freudiger, who then headed the Orthodox community in Budapest. Six hundred thousand Jews were dispatched to the murder camps, at the rate of 12,000 a day. The Jews, Freudiger said, first believed that they were being sent to labor camps, but the truth became known from a report received from two Slovakian Jews who had managed to escape from Auschwitz. The report was sent abroad and, as a result, King Gustav of Sweden and President Franklin D. Roosevelt demanded of Admiral Nicholas Horthy, the regent of Hungary, that he stop the deportations. On July 2, 1944, Budapest was bombed by the Allies, and on the next day Horthy ordered the deportations to cease. Eichmann, furious that
not all of the 800,000 Jews of Hungary had been deported, decided to send 1,500 more, in the Kistarcsa concentration camp, to the East. He detained the leaders of the Jewish community in his office to prevent any protest, and released them only when news reached his office that the 1,500 had arrived at Auschwitz.

Europa Plan

While the Hungarian deportations were taking place, Eichmann proposed an exchange of a million Jews for 10,000 winterized trucks to be used on the collapsing Russian front. This was the extraordinary affair known as the Europa Plan. Joel Brand, a member of the rescue committee of the Hungarian Jewish community during the Nazi occupation, testified that in May 1944 Eichmann told him to confer with leaders of the Jewish Agency for Palestine in Istanbul to set the plan in motion. Eichmann promised that upon Brand's return with an affirmative answer, he would blow up the installations at Auschwitz and send the first 100,000 Jews to any place designated by Brand. Brand flew to Istanbul, where he hoped to see Chaim Weizmann. However, in Turkey he was advised to proceed to the Syrian frontier, where he would meet Moshe Sharett, then political chairman of the Jewish Agency. Brand met with Sharett, but was arrested by British intelligence agents in Aleppo, Syria, and could not return to Budapest. For the British, the Europa Plan was a Nazi tactic to break up the Western alliance with Soviet Russia.

The prosecution presented unpublished documents from the files of the Jewish Agency as corroborating evidence. Their publication created some excitement in international diplomatic circles and produced a discussion in the British House of Commons on June 13, 1961. Prime Minister Harold Macmillan denied that the United Kingdom had remained indifferent to the fate of the Jews and promised to have all the documents published.

On May 30, 1961, indeed, it seemed for a few hours in Jerusalem that it was not Eichmann but the government of the United Kingdom that was on trial. In one of the documents submitted as evidence, Sharett summed up his discussion with British High Commissioner Harold MacMichael:

I said that Brand would not have left Turkey on his way to Syria had he not received this promise. The high commissioner replied sharply: "I know what you are going to say—that there was a breach of promise. The answer is simple. There is a war on."

Certainly an understandable response, but other Jewish Agency documents contained revelations which made this argument seem hypocritical.
A memorandum by Weizmann stated that early in 1944 the Jewish Agency proposed to the British authorities the infiltration of hundreds of Palestinian Jews into Hungary. Working in complete cooperation with the British army, they would have been able to aid the Allies militarily and help prevent the extirpation of the Jews. After the plans had been approved by the top British military authorities, the Foreign and Colonial Offices intervened and ordered the military authorities to abandon the plan. (This memorandum was prepared by President Weizmann when there was talk of calling him as a witness at the Nuremberg trial. Perhaps it was because of embarrassing revelations of this sort that he was finally not called to testify.)

Pleading "very great technical difficulties," the British Foreign Office refused to consider another proposal by the Jewish Agency for bombing Auschwitz and other death camps, which might have had a decisive effect. The court did not wish to pursue these delicate questions. But Judge Ha-levi, by two timely questions, indicated that opposition to the proposals could also have come from the Soviet Union.

On the next day the prosecution presented another series of documents to show that Eichmann had sought to sabotage plans for an exchange. They showed, as well, that he was more extreme than Hitler himself, who in certain special cases permitted exceptions. Thus in the case of the projected departure for Switzerland of a group of Hungarian Jews, including numerous active Zionists, the Nazi ambassador in Budapest wrote: "Eichmann is of the opinion that as far as he knows, his chief Himmler is not at all in agreement with the emigration of these Hungarian Jews. The Jews in question represent material of great biological value. A number of them are old Zionists whose entry into Palestine is highly undesirable."

From these deadly clouds of the Nazi Veterinärphilosophie,* the trial came down to the case of a Hungarian Jewish adolescent boy. Had Eichmann, in a Budapest villa in 1944, killed with his own hands a Jewish boy for having picked some cherries in his garden? Abraham Gordon testified that he had been present at this murder. Servatius observed that since seventeen years had elapsed since the incident, the witness could be mistaken about the identity of the person or the uniform.

Death Camps

During the first two weeks in June the prosecution exhibited before the tribunal a film of the death camps. For the purpose of destroying "in-

---

* Animal breeder's outlook.
ferior races,” the Nazis established a series of industrial murder complexes—Auschwitz, Sobibor, Maidanek, Treblinka, Belzec—where the victims were gassed and their bodies burned in giant crematories. That fate was not confined to the Jews alone but also befell hundreds of thousands of Poles, Russians, and Gypsies.

The construction and operation of these death machineries required a great deal of labor, and the Nazis separated the young and strong of every new convoy that arrived and used them as slave labor in factories built nearby. Some of these slaves were able to survive until the liberation, and it was they who testified at the trial. Each told of the horrors of his own experience, of tortures and suicides, of some desperate uprisings, and of some miraculous escapes. How were they able to survive? Dr. Aaron Bejlin, who had been a medical orderly at Auschwitz, told how his mother promised to pray that his life be saved—but on condition that he would then settle in Palestine.

This physician, in answer to a question, said that East European Jews were better able to undergo suffering, starvation, disease, and brutality than West European Jews. He had noticed that if two Jews of the same age, physical appearance, and nourishment caught the same disease, the one from Western Europe did not want to live and sought escape in death, while the East European retained a firm will to live and survived, primarily because of a desire to avenge the victims of Nazism.

Dr. Bejlin told also of the arrival of trainloads of German Gypsies at Auschwitz in September 1943. They expected only to be interned and arrived at the camp without having the least idea what it was. Some of the young Gypsies wore the uniform of the Hitler Youth and greeted the inmates with “Heil Hitler.” Others wore the uniform of the German army. Dr. Bejlin’s first Gypsy patient was a girl suffering from tuberculosis who refused to have the Jewish physician touch her. When he saw her again some time later, emaciated with the disease, she said to him: “Doctor, it is murder! We did not know that.” In the spring of 1944, Dr. Bejlin testified, all the Gypsies were murdered in the gas chambers. He also told of what was called at Auschwitz Goebbels’ calendar—the choice of Saturdays and Jewish holidays for sending the sick to the gas chambers. At this point in his testimony, the minutes of the trial record “incidents in the courtroom.”

The writer Jehiel De-Nur thus explained his use of the pseudonym Ka-Tzetnik (concentration-camp inmate):

I do not regard myself as an author, composing literature. It is the chronicle of the planet Auschwitz. I was there for about two years. Time there
is not as it is here on earth. . . . The inhabitants of that planet had no name; they had no parents; they were not born there and they did not beget children. They breathed according to different laws of nature. They neither lived nor died according to the laws of this world. Their name was “Number . . . Katzetnik. . . .” I believe with all my heart that I must continue to bear this name so long as the world has not been aroused, following this crucifixion of a people, to wipe out this evil, as humanity was once roused after the crucifixion of one man. . . . If I am able to stand here before you today and tell you something of the annals of that planet . . . I believe with perfect faith that it is thanks to the oath I swore to them there. It is they who gave me this strength. That oath was the armor that gave me supernatural power so that I might—after two years, according to the time of Auschwitz, after being a Moslem [as the prisoners used to call the living corpses awaiting their end]—survive it all. For they always went away from me . . . and in the look in their eyes there was this injunction. . . . I see them lined up for . . .”

Here Ka-Tzetnik fainted. It was said that he had fasted for several days before the testimony.

TESTIMONY FOR THE DEFENSE

During the tenth and eleventh weeks of the trial, from June 20 to July 2, the defendant held the center of the stage, giving evidence in his own behalf as the first witness for the defense. He had been informed by Justice Landau that three choices were open to him: to say nothing, to make a statement under oath, or to testify under oath, which would entail cross-examination. Eichmann chose the third course.

The prosecution had meanwhile presented the so-called Sassen-Life document, a transcript of a tape recording made in 1957 by the Dutch journalist Willem A. Sassen, a former Nazi. He had made the acquaintance of Eichmann in Buenos Aires and conceived the idea of having him dictate his memoirs for posthumous publication. An extract was published in Life magazine after Eichmann’s capture. The entire document was greatly damaging to the defendant, since it showed him as an unrepentant Nazi, almost bragging of his crimes. But was the transcription accurate? Only certain pages had been read and annotated by Eichmann. The tribunal permitted the annotated and authenticated pages to be placed in evidence, despite the objections of the defense that the entire text had been dictated “under the influence of alcohol,” which Sassen had served Eichmann in abundance.

The strategy of the defendant and his lawyer was based on the theory that the responsibility for the Nazi crimes was not Eichmann’s but that of the political leadership of the Third Reich. According to Servatius,
the involvement of the accused in the persecution of the Jews was an
unavoidable outcome of the directives of the leadership of the state. . . .
If the accused is guilty, then far more guilty are those who initiated this
program, those who sat in high office. . . . It will be shown that he
did not order or implement [the extirpation of the Jews]. . . . It will be
shown that he could not refuse, that he could not disobey orders. . . .

The defense also maintained that others, including perhaps some for-
eign political figures, were guiltier than his client, but he left the fixing of
responsibility to the historians. Servatius asserted that the defendant had
done everything in his power to get the Jews out of Europe before the
war and that he tried to save a million others in 1944 in connection with
the negotiations about the Europa Plan, the failure of which was cer-
tainly not his fault.

An abundance of documents, generally the ones presented by the pros-
ecution, were taken up one by one and given an altogether different inter-
pretation. Eichmann did not try to deny his administrative enthusiasm in
the service of the Third Reich or to pretend to any pity for his victims.
Thus, in connection with Wannsee, he admitted that he was as satisfied
as Heydrich himself with the result of that meeting. He felt that he

had done everything in my power to prevent the extermination program.
I felt, like Pontius Pilate, that I could wash my hands of the guilt, for the
decisions at Wannsee were reached by the highest echelons, by the popes
of the state. As for me, I had only to obey. I have always regarded this
as a justification for my actions afterwards.

He was thus repeating his earlier testimony that he had been an unimpor-
tant cog in the SS machinery, a mere transport officer, and that everyone
in his office had known that each of his orders required confirmation from
above. He did admit that he had been aware that the hundreds of thou-
sands of Jews he shipped to the East were doomed, but he insisted that
he had been powerless to prevent their annihilation.

Explaining the statement in the recommendation for his promotion
that he had done his work with "the necessary ruthlessness," which the
prosecution had submitted as evidence, Eichmann said: "'Personal ruth-
lessness' or 'necessary ruthlessness' was at the time a slogan that had to
appear in every recommendation. . . . If it did not appear, the recom-
mendation was tossed into the wastebasket." He went on to say that he
had always been sympathetic towards Zionism and aided the activities of
the Zionist leaders. Herzl's The Jewish State had inspired him to originate
the proposal to settle the European Jews in Madagascar. "I always main-
tained the Jews should have solid ground under their feet." Because it
would have precluded any possibility of emigration, he continued, he objected to depriving the German Jews of their citizenship.

Eichmann named Hans Globke, an important official in the West German government (see p. 339), as one of the two officials in the Nazi ministry of the interior responsible for depriving the Jews of their citizenship, confiscating their property, and ordering their deportation. By naming Globke, he struck back at the West German government, which had refused to demand Eichmann’s extradition from Israel or to raise money for his defense. Chancellor Konrad Adenauer issued a statement, denying Eichmann’s charges against Globke.

Similarly, the accused denied having had anything to do with the construction or operation of gas vans or having had any knowledge of the work of the Einsatzgruppen. As for sending German Jews and Gypsies to Lodz, from where they were taken to Auschwitz, he felt they would be safer there than in the forests of Poland, where they would have been shot upon arrival.

Continuing his testimony, Eichmann spoke again of his prewar efforts to have the German and Austrian Jews emigrate. He said that his plan was nullified by vom Rath’s assassination and the subsequent Kristallnacht. “I had built up an organization with creative joy, and they, the organizers [of the pogrom], destroyed it for me,” he complained.

Servatius then submitted documents in an attempt to shift Eichmann’s guilt to his superiors. He tried to prove that Nazi Ambassador Otto Abetz was the instigator of anti-Jewish measures in France and that the foreign ministry, in cooperation with local Reichskommissars, were similarly to blame for events in Holland, Belgium, Denmark, Norway, Croatia, and Greece. He also tried to show, on the basis of documents, Eichmann’s secondary role in the plight of the Jews in Italy, Slovakia, and Hungary.

On July 4 the presentation of the defense was interrupted to permit the reading of parts of testimony by former SS officers in Germany and Austria in reply to questionnaires submitted to them by both the prosecution and the defense. The depositions of Wilhelm Höttl, formerly of the intelligence branch of the RSHA, Walter Huppenkothen, head of counterintelligence in that office, and Horst Grell, adviser on Jewish affairs at the Nazi embassy in Budapest, agreed that whereas in Germany Eichmann was the only authority on Jewish affairs, in Hungary he most likely did not act on his own initiative but received orders directly from Müller and Kaltenbrunner. But Kurt Becher, in charge of the economic department of the SS in Hungary, called Eichmann “a confirmed Nazi and anti-Semite” who preferred to follow Müller’s and Kaltenbrunner’s orders
rather than those of Himmler, who was less extreme. Eichmann interpolated that the "blood for goods" deal was not initiated by Himmler, as Becher claimed, but by himself, and not for humane reasons, as he had previously claimed, but to "outdo Becher [who acted as Himmler's representative] and the counterespionage people."

Continuing his testimony on Hungary, Eichmann denied the statement that he had killed a young boy (see above): "I can only say to you that I have never killed anyone, never murdered anyone, never beaten anyone." He added that neither could his adjutant have committed such an act without Eichmann's knowledge, and that the witness must have been confused.

Before the cross-examination began, Eichmann summarized his testimony by drawing a distinction between legal guilt, which rested with those politically responsible for the extirpation of the Jews, and moral guilt:

In order to safeguard its security, the state binds the individual by making him take an oath, but the question of conscience rests with the head of the state. . . . Under a good leadership, the subordinate is lucky. . . . I had no luck, since the leadership of the state ordered the extirpation of the Jews.

He had tried fruitlessly to be transferred to other work and had no choice but to obey orders. Eichmann concluded:

I condemn and regret the extirpation of the Jews. The leadership of the German state ordered it. I was an instrument in their hands, and a man cannot jump over his own shadow and escape. I was in the hands of a supreme authority and a pitiless fate.

So ended Eichmann's direct testimony.

**Eichmann's Cross-Examination**

The last two weeks of the trial proper were a duel between Gideon Hausner and Adolf Eichmann in which the defendant, relegating his lawyer to the sidelines, showed unusual intellectual agility and scored some points on the prosecutor. But the dialectical talent he showed before an astonished courtroom completely belied the insignificance with which he had sought to surround himself.

Hausner began on July 7 by demanding:

When you were interrogated by the police . . . you said as follows: "I know that I will be found guilty as an accomplice to murder. . . . I know that I may be sentenced to death and I do not ask for mercy because I do not deserve mercy." . . . You said you were ready to be hanged in
public to atone for your terrible crimes. . . . Are you ready to repeat these words here before the court?

Eichmann, making a visible effort to compose himself, replied: "I still stand by the words of that statement."

Hausner: "So you confess to being an accomplice to the murder of millions of Jews?"

Eichmann began a long reply:

That I cannot admit. As far as personal guilt is concerned, as far as my participation is concerned, I must point out that I do not consider myself guilty from a legal point of view. I was only receiving orders and carrying out orders, and I was dealing with the implementation of deportations. If I had any share in them and if the Jews who were deported by me died, then the legal aspect of it has to be examined—whether I am to be held guilty from the point of view of personal responsibility.

"My question is not a legal question," the prosecuting attorney shouted at the defendant. "In your heart, do you find yourself guilty as an accomplice to the murder of millions of Jews—yes or no?"

"Menschlich gesehen, ja" (from the human point of view, yes), Eichmann replied, adding, "because I was guilty of carrying out and implementing deportations."

Thus did Eichmann reveal his talents as a casuist, not for the last time. Who then was legally responsible? According to him, the top leaders, those who gave orders; he had never been more than a minor administrator who received those orders.

Three questions dominated the cross-examination. The first was whether Eichmann had had significant discretionary power. For the defendant repeatedly countered accusations by invoking his oath of allegiance and obedience to Hitler. Justice Landau could not refrain from observing sarcastically that according to the Fuehrer-principle, all Nazis received orders and therefore could not be held responsible for carrying them out. Eichmann then tried to distinguish between high-ranking Nazis, "who had special privileges" and "received and gave orders," and an administrator like himself: "I could do nothing. I could give no orders by myself. . . . I was nothing but a cog in a huge machine much more powerful than I."

Hausner confronted Eichmann with a great number of his orders, which were again read to the court. For each document the defendant found a more or less ingenious explanation. Thus about his threat "to drop France completely as a country of deportation," which his Paris representative Roethke had recorded, he said that it was "an empty
threat. . . . there is also an inherent contradiction [in the document], for on the one hand I said that I was afraid of Müller's thunders; I could not therefore, on the other hand, have been sufficiently powerful to decide by myself whether a country should be included or excluded as a country of deportation."

Eichmann described the Nazi bureaucracy's "official channels, which were long and tortuous" and recalled his reputation as a cautious functionary. Sometimes, in response to a thrust by the attorney general, he posed as a martyr to the truth. Thus, in the case of the "Simons woman" whom he had ordered deported to the East: "I am sorry I cannot say that I made that decision myself; I cannot say so because it would not correspond to the truth." Asked by Justice Landau why he was sorry, he replied: "Because I am beginning to have to repeat the same thing over and over again, always saying no, always repeating that the responsibility was not mine. I assure you that I am ready to accept and avow it. I assure the presiding justice that it will take very little before I testify to whatever you want in order to get all this over with."

The attorney general reminded him that as an SS lieutenant colonel he had powers of command. Eichmann admitted that he had had the executive powers of a department head but hastened to add that he had never used them because of his bureaucratic prudence. In fact, care in hiding behind his superiors to avoid assuming responsibility had been a striking trait of this model administrator. The attorney general himself admitted it, letting the defendant score a point.

The second question was whether Eichmann had known of the extermination plan and, if he had, when and how. At first Eichmann actually pleaded ignorance of the fate of those whose deportation he had engineered, but he soon had to admit: "I knew that a part of the Jews were destined for extirpation." Justice Landau, admonishing Eichmann that now was the time to say what he would tell in his proposed book—"to call the child by its right name," in Eichmann's own words—elicited the words the public was waiting for: "I saw in the murder of Jews, in the extirpation of Jews, one of the most hideous crimes in the history of mankind." But that was far from an admission of personal guilt.

Under further questioning by Judge Ha-levi, Eichmann continued: "When I saw dead Jews for the first time, I was utterly shattered. The ghastly sight never left me. . . . It has haunted me all the time. . . . But I was compelled—I was in the iron grip of orders to continue my assignment. . . ." And the same thing again, in slightly different words. Subsequently he sought to minimize the extent of his knowledge of what was
happening. Thus he stated that he did not learn until 1944, and then only vaguely, that those whom he had deported were put to death by gas, and that he had not known more until he read Léon Poliakov's *Harvest of Hate* in Buenos Aires.

The third question in the cross-examination was how Eichmann had regarded his job at the time. If it was not always easy for Hausner to disprove Eichmann's statements that he had not been aware of the fate of the Jews, determining his personal feelings about it was even more difficult. The defendant maintained that he had carried out his orders unwillingly, that he had asked several times to be transferred to other duties, but that his superiors, particularly Müller, had always objected. Incredible as his statements appeared, he might have been given the benefit of the doubt, if he had not been imprudent enough to boast of his misdeeds to Sassen in Buenos Aires. There, Eichmann testified against Eichmann.

The attorney general confronted him with his statement to German police officers in Berlin late in the war, as quoted in Sassen's article: "This thousand-year-old scourge [the Jews] will leave us in peace once and for all." And another passage from the same document: "I had direct jurisdiction over all my subordinates, senior police, commanders, SS majors, and captains . . . advisers on Jewish affairs at foreign embassies." Eichmann shifted between denying the truth of the statements and pleading: "I was drunk. There are certain errors. . . ." And, finally: "Yes, I have to admit I said this. But I do not know whether it is word-perfect." He attributed other remarks to Sassen's appeal to him to use his imagination: "I wanted, as a matter of fact, to reproduce the spirit of the period, the *Zeitgeist*. There it was not important that I was confusing my personality with that of others."

Judge Landau, usually sparing of words, addressed this remark to Eichmann at the beginning of the cross-examination: "I don't know why you are so gay and happy today." The defendant may have furnished the answer in his reply to a question by Judge Ha-levi on the trial as a whole at the end of the cross-examination. "From a personal and human point of view, I am happy that this cross-examination has lasted such a long time, since I have been enabled to separate the truth from the lies which have been circulating about me for the last fifteen years."

The character that Eichmann unceasingly proclaimed was that of a German patriot, unconditionally faithful to his oath to the Fuehrer, a loyal, deluded servant of the regime. In short, he claimed to be an idealist. These words often fell from his lips.

Judge Ha-levi asked, in German, whether Eichmann felt himself to
have been an idealist because he had obediently carried out the orders of his Nazi superiors. "At that time," Eichmann replied, "I understood it to be my duty to obey orders as a National Socialist. Today I realize that nationalism in its radical form can lead to terrible excesses."

Judge Ha-levi: "To have the courage to refuse aid in committing crimes—this might have been difficult at the time. But what about the present? Do you have the necessary courage today to take upon yourself the responsibility for the thing that happened then?"

Eichmann: "From the human point of view I have my own thoughts—I have made a reckoning. But one must draw a distinction between what I committed and what I have been falsely charged with committing." After pulling himself upright he said firmly: "I was not the one who issued orders. I was only the receiver of orders. If this is punishable by law, then I am ready to take the penalty."

In another astonishing dialogue, between Eichmann and Judge Raveh, the defendant asserted that he had tried all his life to live in accordance with Kant's Categorical Imperative, "Act as if the maxim of your action were to become through your will a universal law." When Judge Raveh asked whether Eichmann meant that he had observed that principle in deporting Jews to their death, Eichmann replied: "I could not apply the Kantian precepts when my life was under a regime of constraint and compulsion."

THE SUMMATIONS

Attorney General Hausner introduced his summation thus: "Here the shades of Adolf Hitler and his accomplices hover around us. . . . Adolf Eichmann, who stands on trial before you, was Hitler's henchman and executed the crimes required of him." The prosecution particularly stressed the fact that all during the trial Eichmann had not "uttered one word of regret and repentance, one syllable of remorse. . . . He declared that he does not believe in regret. . . . What does he believe? That the oath of allegiance which he swore to Hitler absolves him from all responsibility for his deeds and serves to justify completely what he has done."

This, of course, was precisely Eichmann's defense—that he was merely an instrument in the hands of the architects of the genocide. This argument, made again and again by Eichmann and his counsel, was repeated by Servatius in his closing address: "The purpose of this trial should not be revenge on the accused for the deeds committed by the [Nazi] political leadership. His conviction cannot serve as expiation for
the atrocities perpetrated. . . . Let a judgment be given here which will transcend the Eichmann case, a judgment of Solomon. . . . I propose that this court close the file and dismiss the case against the accused."

While this plea was being made, those present in the courtroom remembered what Eichmann had told Sassen:

I will not humble myself or repent in any way. I could do it too cheaply in today's climate of opinion. . . . I must say truthfully that if we had killed all the ten million Jews that Himmler's statistics originally listed in 1933, I would say: "Good, we have destroyed an enemy."

Léon Poliakov
AMERICA'S RESPONSE

In the United States, as elsewhere, the Eichmann trial (April 11 through August 14) commanded exceptional attention. The following summary outlines this response as exemplified in the editorials of about 100 major newspapers, in a few significant editorials and articles published by the largest general magazines, on television, in films, and in the church press. Findings of opinion polls during the trial period are also included.

NEWSPAPERS AND GENERAL MAGAZINES

Thousands of newspaper editorials dealt with Eichmann between his capture, in May 1960, and the end of the court proceedings, in August 1961. The bulk of this comment was published at the opening of the trial (April 11). Few papers failed to print at least one editorial at this time, and many ran several in close succession—even though the ill-fated Cuban invasion and a spectacular Soviet space flight were competing for attention. Thereafter the volume fell off and only a minority of newspapers continued to comment regularly. A flurry of editorials appeared late in May, when Cuban Premier Fidel Castro offered to release captive invaders in exchange for American trucks; Castro was compared with Eichmann, whose offer to trade 1,000,000 Jewish lives for 10,000 trucks was then being reviewed in court. But neither this event, nor the beginning of Eichmann's defense (June 20), nor the end of the courtroom proceedings (August 14) produced an outpouring comparable to that in April.¹

There was no consistent relationship between the political viewpoints of newspapers and their response to the Eichmann case. Opinion in conservative papers ranged from strong approval (as in the Philadelphia Inquirer and an advertisement in which the New York Daily News announced its coverage of the trial) to skepticism or opposition (as in the Chicago Tribune). The liberal press with conspicuous frequency took a critical attitude, at least in the early stages, some of the severest con-

¹ The verdict (see p. 104) was still pending as of the time of this report.
demnation coming from the Washington Post and the St. Louis Post-Dispatch. Perhaps the most consistently emphatic approval, on the other hand, was voiced by the liberal Republican New York Herald Tribune.

Most papers' opinions of the trial—e.g., the Hearst chain's favorable and the Scripps-Howard papers' critical or non-committal reaction—corresponded to their general attitudes toward Israel. But there were noteworthy exceptions. For example, the Christian Science Monitor, a stern critic of Israel's role in Middle East affairs, was full of praise for the trial, whereas the New York Post, despite its long-standing sympathy for Israel and large Jewish readership, initially expressed grave doubts.

Opinions followed no regional pattern, and papers in the same city often held opposed views. Neither does the volume of comment seem to have varied materially in different parts of the country; the supposedly isolationist Middle West showed as much interest as other regions.

A survey by AJCongress revealed that in many papers—e.g., the St. Louis Post-Dispatch—editorial hostility was noticeably at variance with a favorable tone in news stories and features. Israel had never looked better in the news columns. Newsmen in Jerusalem were impressed with the seriousness of the proceedings, the freedom of access to officials and information sources, the openmindedness with which the Israeli public discussed the case, and the self-confidence of the young nation. Even in editorials, doubts about the trial were sometimes coupled with expressions of respect for Israel's proud spirit of independence (Omaha World-Herald, April 17).

With comment largely concentrated in April, opinion changes can be traced only roughly. Until early 1961 discussion centered on the legal and jurisdictional problems posed by Eichmann's capture and proposed trial, and the tone was predominantly critical. As the trial approached, these issues were not so much settled as laid aside. Discussion turned to the intent, significance, and probable effects of the trial, and press opinion took a decisively favorable turn. ADL, surveying more than 1,000 editorials, found that whereas comment at the time of Eichmann's capture had run about 7 to 3 against Israel, it now ran 10 to 3 in Israel's favor.

Legality

Israel's right to try Eichmann had been intermittently debated during 1960 and early 1961. Many highly qualified experts had remained firmly opposed, among them Telford Taylor, one-time U. S. representative at the Nuremberg trials (New York Times Magazine, January 22).

In April many newspapers, as well as the magazine U. S. News and
World Report (April 24), were still reviewing the negative arguments. The Pittsburgh Post-Gazette and Sun-Telegraph\(^2\) quoted Oscar Handlin, professor of history at Harvard University: "There is no equitable basis for Israel's right to try crimes committed elsewhere before the state came into existence." The Hartford Courant stated:

... There remains some doubt, after all the arguments and all the legalisms, as to whether what is called a trial is a trial. ... It still remains true that two wrongs do not make a right. And the fact seems to be that Eichmann was kidnapped, not to say shanghaied, from Argentina to Israel by a strong-arm squad. And that is a crime in any man's league, even though its size, in relation to Eichmann's crimes, is as the atom to the earth.

The proceedings continued to be criticized for being of an \textit{ex post facto} character. The Nuremberg precedent also was condemned, sometimes:

We are sorry the Israelis have turned to the Nuernberg laws for precedents, because the Nuernberg trials were not a demonstration of 'legal progress.' They were a shocking turn backward to the morals and ethics of the Middle Ages. The purpose, as we said at the time, was to kill the losers [Chicago American, April 13].

A few papers repeated that an attempt should have been made to bring Eichmann before an international tribunal (Denver Post). Others asserted that Germany would gladly have tried him if given the opportunity:

The Israelis should be given the privilege of unveiling Eichmann and his guilt for the world to see, then should send him where he belongs. The West German government is eager to point a moral. A trial there undoubtedly would give swift and sure death to the perpetrator of these horrible atrocities ... [Dallas News, April 15].

A larger number of publications, however, rejected these ideas. Newsweek magazine (April 17) quoted nine experts who found the trial proper and expected it to be useful. Several newspapers made the point that whatever the theoretical merits of the case, no country except Israel had cared to do anything about it. "Did Germany, either East or West, ever make the slightest effort to bring Eichmann before a court of justice?" the Cleveland Plain Dealer asked. "Did anybody, aside from the Jews of Israel, make any move to find Eichmann?" Even if Israel had wanted to yield to a more certain jurisdiction, none would have been available, it was conceded by the Milwaukee Journal, which was otherwise critical of the trial. The Richmond Times-Dispatch (April 12) posed the alternative:

\(^2\) Quotations from the general press date from April 9, 10, or 11, unless another date is given.
Significant is the failure of any other country, or the UN, or other international body to put forward a rival claim to jurisdiction. The question arises whether Eichmann, as a symbol of genocidal mass murder, should have been allowed to go scot-free, without so much as sifting the evidence against him. No reputable jurist, to our knowledge, has suggested that alternative.

The trial was unconditionally accepted as legal, on the basis of the Nuremberg precedent, by a number of papers, including the St. Louis Globe-Democrat (April 17) and the Hearst chain. Others expressed a more guarded, *de facto* approval, on the ground that technicalities must not get in the way of trying unprecedented atrocities. “If there are legal doubts, there are far fewer ones of a moral nature,” said the Baltimore Evening Sun. And the Cleveland Plain Dealer, after acknowledging the legal difficulties, concluded: “It may reasonably be asked whether Eichmann and his Nazi command ever gave the slightest consideration to fine legal points. . . .”

**Intent of the Trial**

At first the purpose of the proceedings evoked sharply opposed opinions. The allegedly extra-judicial role of the court had been attacked —significantly, in a Southern paper, the Richmond News Leader—as early as February 6. (“At a time when the sovereignty of states and nations is being eroded by courts that disregard the established framework of law in the human community, no nation can afford to serve the ends of ideologues. . . .”) Later, the issuance of an official press kit by the Israeli government had called forth forebodings of a travesty of justice (Phoenix Gazette, March 28).

Similar objections were more widely voiced in April. The Milwaukee Journal, while acknowledging that the procedures would be “authentically judicial,” likened their purpose to that of the Soviet purge trials; the Tulsa Tribune characterized the trial as “a new wailing wall—a show and spectacle carefully stage-managed to wring the maximum sympathy out of a dramatic exposure of Nazi genocide.” Others expected an act of vengeance, not justice (Pittsburgh Post-Gazette), or asked whether Eichmann’s real crime, like that of the defendants at Nuremberg, was to have been on the losing side (Hartford Courant). Some of the strongest condemnation came from the Washington Post:

> It is a mistake . . . to confuse the Eichmann trial with the processes of law or the administration of justice. It has little to do with either. . . . It is designed primarily to convey a message to the world. . . . Such utilization of the forms of law debases the high concept of justice. It reduces justice to what Socrates once called it long ago—“the interest of the stronger.”
But the majority took a less negative stand. "Every criminal trial is in some degree a propaganda trial," the Boston Globedeclared. The Hearst papers, the Chicago Sun-Times, the Philadelphia Inquirer, and others emphatically denied any element of vengeance.

One of Israel's avowed purposes in trying Eichmann was to document the evils of totalitarianism for the sake of present and future generations. As the case progressed, nearly all of the American press came to agree that such documentation was needed. Even at the outset, very few papers claimed that nothing new would be revealed (Syracuse Herald-American), while a great many asserted that the full story of the Nazi crimes was yet to be told. The historical value of the unfolding evidence was repeatedly stressed (Christian Science Monitor, May 18), though sometimes with the qualification that the criminals' psychological motivation remained obscure (New York Herald Tribune, July 30).

Americans until now had failed to face the full truth, many editorials acknowledged or implied. They had not been able to believe the horrors previously revealed (Akron Beacon Journal) or had been too quick to forget them:

How many Americans since the end of the war have given a second thought to the victims cooked in brick ovens by the carload or shot and stacked like cordwood in trenches for the next victims to bury? . . . Not enough of us, to be sure, for these crimes occurred an ocean away. They left us with sorrow, but even it was short-lived [Jacksonville Florida Times Union].

At the outset the Dallas News (April 15), among other papers, discussed the significance of the trial for young people who know Hitler only from history books: "A new generation should be reminded . . . that the savagery of Attila was practiced in their generation with efficient factory methods." After the testimony ended, the same paper found (August 24) that this aim had been accomplished—that the "shocking revelation of a terror machine they never knew existed . . . hit the young people of the world in their idealistic hearts."

Israel's second aim—to set an explicit precedent that would make genocide technically a crime—evoked much less response. The Chicago Sun-Times (July 4) urged in a long editorial that the United States delay no longer in ratifying the UN Genocide Convention, but few papers echoed this thought or called for the establishment of an international criminal court.

Impartiality

It was recognized that the trial could be of immense value in demonstrating the impartial rule of law—"to affirm that the principles of
justice have endured, that even this wretched figure can have his full day in an Israeli court" (New York Post)—but there was widespread doubt whether Eichmann actually would get a fair trial.

Several papers, including the Chicago Tribune (April 6), questioned the judges’ ability, though not necessarily their desire, to remain impartial, because they themselves were victims of Nazism. Others felt that Eichmann’s defense would be crippled by Israel’s refusal to grant immunity to German witnesses (Washington Star), or pointed out that Israel, otherwise a country without the death penalty, had enacted a law under which Eichmann might be hanged (Raleigh News and Observer). The trial was likened to a kangaroo court in the Scripps-Howard papers:

Any court in the civilized world would be prejudiced. . . . Without doubt the Israeli judges are learned enough in the law to limit the record to a few of the pertinent facts and establish a plausible case for taking jurisdiction. But when it is all added up it amounts to policy on our own frontier when a horse thief was caught in the act: “Give him a fair trial and hang him” [Pittsburgh Press, April 14; the New York World Telegram and Sun omitted the last sentence].

Still, even before the court convened, the skeptical voices seem to have been a minority. “It is a tribute to the integrity of the Israeli authorities that the trial will be eminently fair,” the New York Daily Mirror (Hearst) stated, and most other papers seem to have felt the same, many emphasizing that the judges were obviously aware of their historic role:

Wisely, the Israeli judges recognize that important legal concepts, with immense implications for the future, truly are involved. . . . The world wants Adolf Eichmann tried with such scrupulous fairness that no suspicion of martyrdom ever can attach to the name of this monster among monsters. In its attention to learned defense argument, the Israeli court has made a proper beginning [Philadelphia Bulletin, April 15].

In the weeks that followed, satisfaction with the proceedings became virtually universal. On May 18 the Christian Science Monitor acknowledged that “despite some legal misgivings at the outset, the trial has proceeded with decorum and apparently with full regard for the rights of the defendant.” For many editorialists, legalistic doubts were overshadowed, if not necessarily refuted, by the fairness of the court:

If the state of Israel has not yet made a convincing show of its right to try this German refugee picked up in Argentina, it has impressed the world with the austere dignity of its court procedure. There has been no hint of a Roman circus . . . [Louisville Courier-Journal, July 28].

“Many Germans are convinced that Eichmann . . . has had a fairer trial than he would have got in Germany today,” said the New York
AMERICA'S RESPONSE

_Herald Tribune_ (July 30), because Israeli law, unlike the German, “leans over backward to protect the accused.” The most inspiring aspect of the trial, in the _Herald Tribune’s_ opinion, was that “protection for that fragile thing called justice has been maintained unwaveringly.”

**Wider Effects**

In April much speculation centered on the possibility that the trial might reawaken hatred of Germany among the free nations, to the detriment of the Western alliance—a possibility that had been discussed, with great concern, by German Chancellor Konrad Adenauer. Germany had undergone a change of heart since 1945, many papers said. Adenauer’s claim that Nazism in his country was dead was widely cited (e.g., in the Birmingham _News_), as was a statement by Premier David Ben-Gurion of Israel to the effect that today’s Germany was not Hitler’s (New York _Times_). The Phoenix _Republic_ deplored current anti-Nazi films, articles, and broadcasts; the Richmond _Times-Dispatch_ (April 12) quoted recent German expressions of contrition over Nazi crimes, and the Milwaukee _Journal_ cited West Germany’s prosecution of Nazi criminals and her acts of restitution to Jewish victims.

Skepticism toward Germany was much rarer than wholehearted acceptance. The New York _Post_ , one of the few papers to sound repeated warning notes, discounted Adenauer’s assertion of the absence of Nazism in Germany as a frantic attempt to win the confidence of nations reluctant to trust the Germans with nuclear weapons (April 12), and the New York _Herald Tribune_ observed (April 4):

> It might be unjust to ascribe a cause-and-effect relationship to the Eichmann arrest and the newly disclosed plans to prosecute war criminals in Germany. The extent of the crackdown itself remains to be demonstrated. . . . With fifteen years of freedom behind them, and with advance notice of what is ahead, such criminals may be rather difficult to detect.

Frequently the atrocities of Communist regimes were equated with those of the Nazis (“Mankind should never be allowed to forget the horrors of Dachau and Buchenwald, any more than it should be allowed to forget Katyn Forest and the Hungarian Revolution,” said the Phoenix _Republic_); but, not surprisingly, few editorials indicated how such crimes might be prosecuted—except for the Hearst papers, which suggested that organizations of Iron Curtain refugees might set up tribunals of their own, “even if lacking in legal status” (Los Angeles _Herald and Express_, April 15). The Soviet Union’s anti-Jewish policy was noted
by the Richmond Times-Dispatch (April 17), in an editorial describing how the antisemitic aspects of the Nazi crimes were being played down in the Soviet press.

The probable effect of the trial on Israel and world Jewry evoked relatively little comment. A few publications feared a heightening of antisemitism; Newsweek (April 17) quoted Richard H. S. Crossman, a member of the British Parliament and friend of Zionism, to that effect. The Denver Post even asserted, without evidence, that a new wave of antisemitism had already begun. Later developments did not bear out these pronouncements.

A number of papers warned that Israel might be claiming the role of spokesman for all the world’s Jews—an intention Premier Ben-Gurion had publicly disavowed, at the instance of the American Jewish Committee (see p. 284), following a controversy around the beginning of the year:

Are crimes against Jews anywhere henceforth to be considered punishable in Israel? . . . The American Council for Judaism, a small group of non-Zionist Jews . . . has warned that the Eichmann trial will reinforce the charge of dual citizenship which has done Jews much damage already. And Premier Ben-Gurion of Israel hasn’t helped any by his emotional charge that Jews who do not come to Israel are apostates to their race [Tulsa Tribune].

In a similar vein, the Pittsburgh Post-Gazette suggested that Israel’s “excesses” in the Eichmann case might create an unfavorable reaction against Jews throughout the world, for whom Israel should not presume to act.

Actually, the distinction between Israel and world Jewry remained sharply drawn, at least in the American press. Not one paper seems to have identified America’s Jews with Israel.

A salutary effect on Jewish-Gentile relations was forecast by the New York Times (“. . . a healing catharsis that purges both nations [Israel and Germany] of a nightmare to the benefit of all free men”). T. S. Matthews, in a long, thoughtful article in the Saturday Evening Post (June 10) and another in the Saturday Review (July 8), speculated that Israel, by enforcing justice instead of demanding it hopelessly from God, might free non-Jews of a long-standing feeling of uneasiness and moral inferiority, and thereby pave the way toward better relations. One purpose of the trial, Matthews approvingly stated, was to establish the Jews in the eyes of the world as “a proud nation among other nations,” and Jewishness as an admirable way of life.
Responsibility

Amid all this debate, Eichmann himself received only unqualified condemnation. Since his capture, he had inspired nothing but loathing and contempt in the American press—a reaction which his bureaucratic impassiveness in the face of the terrifying evidence did nothing to dispel. His self-pity, lack of dignity, and shirking of responsibility were censured, sometimes as typically German failings (Louisville Courier-Journal, July 28). His guilt was not questioned, and numerous editorials reiterated that no conceivable punishment could fit his crimes.

Eichmann's defense—that he had merely followed orders—was rejected out of hand by the overwhelming majority of papers, often before it was formally stated. A frequent comment was that a soldier must disobey orders contrary to moral or religious law, whatever the consequences—a principle laid down at Nuremberg, according to the Christian Science Monitor (April 18). The Washington Post (July 30), in discussing Eichmann's assertion that he might have risked death by disobedying, declared that certain conflicts of authority left no other way out. But only a few of the many papers that demanded this standard of conduct looked more deeply into the tragic choices it implies:

Most Christian thinkers say a man has a higher obligation than to his military superiors—a duty to God's law before man's. But where does it begin? How about the men who dropped the A-bomb on Hiroshima, or the men who firebombed German cities? . . . How many innocents should a man be allowed to kill to win a war . . . or even to save soldiers' lives? Is there not something of "the end justifies the means" here? And, if so, are those fliers any better than the Nazis? [Wichita Morning Eagle, April 13].

In general, much of the voluminous comment on the problem of responsibility was marked by reluctance to come to grips with painful specifics. To be sure, there was a nearly universal consensus that the Eichmann case held a reproach for humanity at large. "In the Jerusalem courtroom, all mankind stands on trial," Newsweek said on April 17, paralleling the sentiment of many other publications. But the nature of mankind's guilt remained vague.

There was almost complete silence concerning the ways in which the failures of the free world had contributed to the catastrophe—with a major exception in Life magazine. As early as December 5, 1960, a Life editorial had recalled America's indifference to the fate of the Jewish victims, and had warned: "Anyone's wilful blindness to injustice anywhere makes him a conspirator with evil. . . . Let no citizen of any community use Eichmann as a scapegoat for his own sins of neglect and
unconcern." In a *Life* article by Harry Golden (April 21) the lesson was spelled out further:

The revelations of the trial are likely to prove embarrassing to some of [Israel's] closest friends in the Western world. . . . All the doors were shut tight [to Jews who might have been released from German-occupied territory] and the only place where they could go, Palestine, was effectively sealed against them by Britain. . . . The roadbeds over which the daily boxcars of Jews traveled to extermination were never bombed—because the Russians said that these railroad tracks were too important to their advancing armies.

**Eichmann as a Warning**

For the most part, the American press saw in the trial less a review of past tragedies than a warning for the future—a warning against totalitarianism, demagoguery, and hate. This theme recurred in a great many papers, often in nearly identical words:

Eichmann was a product of the state-controlled mind. There is no better moral for the decades to come: Man must ever remain the captain of his soul . . . [Dallas *News*, August 24].

Eternal vigilance is required to safeguard individual liberty. . . . The blessing of freedom carries the responsibility of protecting it against the onslaughts of the mentally twisted and the morally misguided who would set race against race, creed against creed [Philadelphia *Inquirer*].

What we need to watch out for is that other vicious madmen should not be permitted to rise to power and to bring disaster upon the human race [Los Angeles *Herald and Express*, June 24, and other Hearst papers].

That the world today is not proof against these dangers was often asserted. As early as February 5 the Providence *Journal* had emphasized that violent bigotry survived both in Europe and in the United States. "Let every people viewing either the victims or the sadists say to itself, 'There but for the grace of God stand we,'" the Christian Science *Monitor* (May 18) urged, warning that if a madness like Nazism were to recur, it might strike others than Jews and Germans. The Louisville *Courier-Journal* (July 28) elaborated on this thought:

Couldn't any man's baser nature respond to so powerful a spell? And if Germany could debase her heritage as a civilized, cultured nation to wallow in such sickening excesses . . . is any nation sure proof against a double temptation of revenge for past reverses and power for a glorious future?

However, except for Communism, present-day sources of hate and totalitarianism were rarely named. Few papers were even as definite as the Providence *Journal*, which referred to "hate groups . . . ready to invoke the gun and the whip against minorities, ready to stir up group
hostilities, ready to subvert humanity itself to the purposes of self-appointed supermen." The New York Post was the most specific:

Dachau and Buchenwald are the vilest caricatures of civilized man in the twentieth century. Are they unrelated to apartheid in South Africa, to the mass murder of freedom fighters in Hungary, to the indignities and oppressions inflicted on Mississippi Negroes, to the slave-labor battalions in Angola? The Germans achieved a certain record for the scope and depravity of their tortures, but let it not be said that they have no competition in our sad time. . . . What this proceeding can inspire is an agonizing reappraisal within the human conscience—not only with respect to antisemitism but to every form of bigotry, oppression and organized brutality.

Nor, finally, did many papers address themselves to the question whether the revelations in the courtroom would do more than momentarily jolt the world's conscience—whether they would succeed in leaving a lasting impress on the memory of mankind. One of the few to consider this subject was the New York Times (May 7), in a memorable editorial, "The Faces of the Dead":

. . . This is the story, the mystery and the meaning of the trial of Adolf Eichmann. The nameless and faceless dead have received the blessing of remembrance and are again alive, vivid as a scream in the night, in the minds of men. . . .

But how long will they live in the memory now so newly fresh? How long before they are returned to the final grave of the forever-forgotten, returned by man's desire to turn away from pain and by the very fact that their sufferings were so great and their numbers so many that sane men cannot—or will not—really retain comprehension of it all?

How long before their resurrection ends? This will be the real verdict of the Eichmann trial and it will not be given by the judges in Jerusalem, but by each person who has read of the suffering and humiliation of the dead and heard their cries and seen their faces.

TELEVISION AND FILMS

Television news coverage of the trial was affected by Israel's decision to permit only one filming of the proceedings, by Capital Cities Broadcasting Corporation. American broadcasters disapproved of this procedure; yet, with the help of tapes flown in daily from Jerusalem, the networks reported the opening of the trial in exceptional detail. Substantial interest was sustained throughout the long proceedings. Thus, during the entire trial, one-hour summaries prepared by Quincy Howe and other leading correspondents were presented by the American Broadcasting Company once a week over 60 stations; in the New York area ABC gave commercially-sponsored half-hour summaries five evenings a week.

Numerous special programs on the television networks marked the be-
ginning of the court proceedings. On April 8 the National Broadcasting Company featured a debate, "Does Eichmann's Trial Serve the Cause of International Justice?" between Milton Katz of Harvard Law School (affirmative) and Herbert Wechsler of Columbia Law School (negative). On April 9 NBC devoted part of its Chet Huntley program to the trial, emphasizing the guilt of our civilization in letting the Nazi crimes happen. On the same day NBC began a two-part program, "The Trial of Adolf Eichmann," which included a recounting of Eichmann's capture, documentary films of the Nazi camps, interviews with Israeli officials, and a summary of the German reaction to the trial. In concluding the program, on April 23, the narrator, Frank McGee, interpreted the Eichmann case as an object lesson in group hate:

Each of us who has ever allowed the shape of another's nose or the color of his skin . . . or permitted the way he worships his God . . . to poison our feelings towards that person has known a loss of reason that led Eichman to his madness. . . .

The mood of Israel on the eve of the trial was detailed on April 9 in a special ABC network program, "Israel and Eichmann," which included an interview with Judah Bakon, one of the prosecution witnesses. The next day "The Other Adolf," also an ABC network program, discussed current controversies over the impending trial, described the German reaction, and featured some captured Nazi films of camp conditions. German films were shown again on April 12, when the Columbia Broadcasting System's "Armstrong Circle Theater" reran a documentary on Eichmann's career, previously shown on September 28, 1960; and on April 14, on ABC's "Bell & Howell Close-Up," the meaning of the trial was discussed by a former concentration-camp inmate now living in the United States, Simon Gutter.

Other network programs occasioned by the trial included an appearance on NBC's Dave Garroway program of Pennsylvania Supreme Court Judge Michael Musmanno, an expert on the Nuremberg trials, who was scheduled to testify in Jerusalem (April 6); an "Eyewitness to History" program on CBS (April 14); a discussion of the moral issues, together with a "declaration of conscience," by representatives of the three major faiths, on NBC's "Chet Huntley Reporting" (April 23); a summary of the proceedings, including interviews with newsman and Israeli citizens, by Martin Agronsky on NBC (May 9); and another Agronsky summary, assessing the impact of the trial, at the end of the court proceedings (August 18).

Few of the network programs were commercially-sponsored, which
could be interpreted as meaning that television officials and advertisers thought the public either reluctant or too little interested to sit through a recounting of the Nazi crimes. A different impression of the public's reaction was conveyed by ABC's experience in New York, where an offer to supply printed copies of the indictment evoked 24,000 replies in a three-week period.

Network presentations were frequently supplemented by local television programs. In the New York area, for example, WCBS-TV put on a documentary, "Eichmann and Israel" (April 5), which examined the meaning of the trial to Jews in Israel and the United States, featuring interviews with Israeli citizens as well as statements by John Slawson, executive vice president of the American Jewish Committee; Rabbi Joachim Prinz, president of the American Jewish Congress; Nahum Goldmann, president of the World Jewish Congress; and Rabbi Elmer Berger, executive vice president of the American Council for Judaism.

Also on local television in New York, the history of the concentration camps was reviewed by Quentin Reynolds in a program entitled "Remember Us" (WNEW-TV, April 9). The ethical and moral issues were discussed by General Telford Taylor, Dr. Goldmann and the Rev. Donald McKinney, a Unitarian minister (WNEW-TV, April 9); by the participants in "Youth Forum" (WNBC-TV, June 4 and 11), and by a panel of editors of Catholic, Protestant, and Jewish magazines (WABC-TV, June 14).

The film industry initially showed much interest in the case, but of approximately 10 Eichmann films announced by independent producers previous to the opening of the trial, only one materialized. This was Allied Artists' Operation Eichmann, a retelling of the man's career and capture, which was described in the New York press (April 13 and May 4) as "superficial", "a rush job", "standard melodrama", "tame in comparison with the documentaries", and "an obvious attempt to capitalize on a worldwide headline story."

A broader and more profound presentation of Nazism was offered in Mein Kampf, a European documentary on Hitler and his times assembled from contemporary films, which had aroused no interest among movie makers until the strong public response to the Eichmann trial. In April Mein Kampf began to be distributed in the United States by Columbia Pictures and proved highly successful. Later in the year production was going forward on at least two films in which Nazism was to be subjected to searching analysis: Judgment at Nuremberg (Stanley Kramer) and The Rise and Fall of the Third Reich (Metro-Goldwyn-Mayer).
The following summary of reactions to the Eichmann trial in church publications is based on an analysis of denominational and nondenominational Protestant journals, national Catholic publications, and selected Catholic diocesan newspapers, prepared by Judith Hershcopf of the American Jewish Committee. Statements apply to both Catholic and Protestant publications unless otherwise specified.

Religious publications, like the general press, initially voiced widespread reservations concerning the legal and jurisdictional basis of the trial. Possible adverse effects in the political, moral, and psychological spheres also were frequently emphasized. A few publications left the matter there, but many later went on to substantive questions raised in the course of the court proceedings.

Though a great many publications questioned Israel’s right to try Eichmann, none denied that he should be tried. Some felt that the case belonged before an international tribunal and others before a German court; still others objected to Israel’s actions, without suggesting alternatives. A few wondered whether anyone other than God could judge the case. For example, the *Gospel Messenger* (Church of the Brethren) stated on May 13 that “the largest actions are above the law and outside the law. . . . On the larger scale, law is a myth and justice only an ideal.”

On the other hand some journals, including the Protestant *Christianity and Crisis* (April 3), warned that too legalistic an interpretation might spoil the moral effect of the proceedings. One publication, the Catholic *Providence Visitor* (June 30), firmly endorsed the trial in Israel even while asserting that an international tribunal would have been preferable. Others—among them the *United Church Herald* (May 4), published by the United Church of Christ—commented on moral aspects without raising the legal questions.

The proceedings were frequently branded in advance as a show trial or publicity stunt, and even more often as an act of vengeance—for example, in the Boston *Pilot* (April 15) and *Our Sunday Visitor* (April 30), both Catholic, as well as in the *Lutheran* (May 3). Earlier an article in the *Unitarian Register* (October 1960) had equated the “Nazi-pursuing Jew” with the “Jew-pursuing Nazi.” Others voiced pleas for mercy, apparently inspired by the fact that Israel was conducting the trial. Thus the Protestant *Christian Century* (March 15) invoked the
Jewish faith in a plea for Eichmann’s life. (The same magazine in 1945 had unreservedly endorsed the Nuremberg trials, including any death penalty that might be imposed.) By implication, Judaism was sometimes associated with revenge and Christianity with forgiveness, the Lutheran (June 7), for example, declaring that “vengeance for sins committed is 2,000 years out of date.” Protestant publications were singularly preoccupied with the question of a suitable penalty. A great many (Christianity and Crisis, April 3, the Lutheran, June 7, the weekly Mennonite Review, May 25) assumed that a death sentence could be motivated only by thirst for revenge.

One effect of this approach was to concentrate critical attention on Israel instead of Eichmann and Nazism. Indeed, some publications—the Catholic St. Louis Review (April 21) among them—conveyed the idea that Israel was the real defendant. On the other hand, American church publications treated Germany more gently than did German religious spokesmen. Statements by Catholic and Protestant German churchmen acknowledging their nation’s share of guilt in the Nazi crimes were widely reported or reprinted, but they found few echoes in editorial columns. The distinction between Eichmann and the German people was sharply drawn even where it was doubted whether today’s Germans had fully confronted the significance of Nazism in their country’s history, as in the Catholic magazine Commonweal (March 24).

Throughout the trial, discussion of the historical realities of the Nazi era remained vague. Allusions to the court testimony on Nazi genocide were usually kept in broad, general terms, and the question who was responsible for the rise of Hitler and the ensuing evil was rarely examined. The special nature of Hitler’s anti-Jewish program was often ignored, and the total annihilation reserved for Jews (and Gypsies) was not distinguished from his lesser oppressions. The only historical subject treated in concrete detail was the aid given to persecuted Jews by Christian individuals and institutions. The Catholic press was particularly interested in this topic, devoting more space to it than to any other aspect of the trial.

The moral implications of the trial were discussed with great earnestness, and the lessons to be learned often were fully spelled out. Yet these lessons, stated as they were without discussion of the specific choices and conflicts which Nazism imposed on individuals, remained rather abstract. Most frequently the moral issue was presented simply as a clear-cut choice between divine and secular authority, Eichmann
being pictured as a man "who had not learned to obey God" (Pittsburgh Catholic, May 18).

But the Christian press did not make Eichmann a scapegoat on whom the self-righteous might unload their sins. On the contrary, it was careful to stress that mankind shared his guilt.

This discussion took place at two levels. One line of argument was that the ultimate cause of Eichmann’s crimes, like anyone else’s, lies in the inherent sinfulness of man. “Eichmann and the Nazis are viewed apart from any context of a fallen race which encompasses also the modern Israeli and in fact all mankind. . . . However great may be the guilt of this one persecutor of the many, the truth about all human beings is revealed by the crucifixion of Jesus of Nazareth,” it was stated by Carl F. H. Henry, editor of Christianity Today (September 11). The publications which took this line—mostly evangelical—usually paid little attention to the guilt of particular individuals or groups.

Alternately, mankind was found guilty in the specific sense of having failed to live up to concrete responsibilities—a viewpoint expressed by Christianity Today in an article, published after the end of the period covered by this report (November 10), which commented on “the failure of the Christian community during the Eichmann era.” A similar thought had been previously voiced by Christian Century (April 19). According to this interpretation, the Hitler generation was on trial with Eichmann; but so was the United Nations for neglecting to seek out Eichmann; so was the Western world, which closed the door on Hitler’s victims, and so, ultimately, were all of us in so far as we had failed our fellow man.

Quite frequently, Eichmann was viewed as a symbol of the specific evil of group prejudice—for example, in the Catholic magazine America (April 15) and in an editorial by Raymond J. Baughan in the Unitarian Register and Universalist Leader (May 4). Some of the most thoughtful discussions centered on this subject, pointing to “the Eichmann [i.e., the racist] in each of us” (thus in the Catholic New Mexico Register, April 28) and seeking to relate Nazism to prejudice and discrimination today. There was ample emphasis on the links between polite discrimination and persecution, on man’s obligation to combat prejudice and defend the rights of others, and on the necessity of preventing a recurrence of the horror. Indeed, a deep concern with these problems remained in evidence after the conclusion of the court proceedings—witness the Catholic Star Herald of Camden, New Jersey (December 15):

As we recall that bitter and black memory of our age, let us recognize the duty to wash away any trace of anti-Semitism in the hearts of the young. A future
generation may forget such incredible cruelties if we are not at pains to instruct them in love for our Jewish brethren.

The religious press was generally slow to inquire into the historic relationship between Christendom and Jewry. Much of the comment on the trial sounded as if antisemitism were a horror originated by the Nazis, not an ancient evil in the Christian world. Most publications sought to dissociate Christian tradition from antisemitism. This desire was evident even in the choice of words: the term “Christian” usually was reserved for anti-Nazis, while Nazi followers—including the many church members among them—were called “Gentiles” or “pagans.” In the bulk of the religious press, the call for soul-searching was directed solely at the personal morality of individual Christians; the opportunity for institutional self-examination was missed or evaded.

There were exceptions, however. Both Commonweal (May 12) and, later, Christianity Today (November 11) asked whether long-standing anti-Jewish attitudes among Christians had not contributed to the growth of antisemitism that culminated in the Nazi crimes. And here and there, articles on subjects other than Eichmann, appearing after the trial, reflected a strengthened awareness of the fate of European Jewry under Hitler, or called for an understanding of the anxieties of Jews (e.g., Christianity Today, November 10, and the fundamentalist monthly Eternity, December).

**OPINION POLLS**

A Gallup poll in May revealed that 87 per cent of the American public had heard or read about the Eichmann trial—an exceptionally large percentage for a public issue. The responses of this informed group follow:

—Eighty-eight per cent said they were “very interested” or “fairly interested” in the proceedings, although only 4 per cent stated that any of their opinions had been changed by the trial to date.

—Fifty per cent felt that Israel was the proper place to try Eichmann; 36 per cent would have handed him over to an international court, 7 per cent to a German court, and one per cent would have let him go free. Six per cent expressed no opinion.

—Seventy-one per cent thought it was a good thing, and 21 per cent a bad thing, for the world to be reminded of the Nazi concentration camp horrors. Eight per cent expressed no opinion.

—Seventy-one per cent thought the trial fair, 8 per cent did not, and 21 per cent expressed no opinion.
A reanalysis of the poll results by Benjamin B. Ringer of the American Jewish Committee indicated how persons of different educational backgrounds reacted to the proceedings. According to this reanalysis, the intent of reminding the world of Nazi horrors—one of the main purposes of the trial—found at least as much favor among educated respondents (those who had at least some college training) as among the less educated, but the former apparently were less ready to credit Israel with sufficient objectivity to conduct the trial in a way that would achieve this purpose, and therefore would have preferred to see Eichmann brought before an international tribunal. The less educated—in part perhaps out of a pragmatic acceptance of “things as they are”—did not appear to be so skeptical of Israel’s ability to conduct the case impartially and effectively; a majority of them favored an Israeli court over an international one. The less educated also found it easier to accept the proceedings as fair and proper without necessarily endorsing their purpose. The findings generally suggested that the educated segment of the public took a rather abstract, moralistic attitude toward justice, with an inclination to stress detachment at the expense of feeling.

A subsequent Gallup poll, taken in July, found that the trial had not greatly affected the feeling of Americans toward the German people. Seven per cent reported they had become more sympathetic to the Germans as the result of the trial, 17 per cent had become less sympathetic, 55 per cent reported no change, and 21 per cent expressed no opinion.

A sampling taken at the end of the court proceedings by the New York Herald Tribune in collaboration with 21 newspapers in other cities (August 13-15) found that nearly everyone thought Eichmann had had a fair trial and had been proved guilty. Those few respondents who considered the trial unfair did so, in the main, simply because it had been held in Israel. Very few accepted Eichmann’s defense of having acted under orders.

The Herald Tribune sampling found slightly more respondents in favor of life imprisonment than of the death penalty. This finding was confirmed by a Gallup poll about the same time, in which 43 per cent of the respondents favored life imprisonment (a figure including, presumably, persons opposed to the death penalty on principle), 31 per cent execution, and 4 per cent some other treatment. Five per cent thought Eichmann should go free. Vindictiveness and outrage were evident in many replies to the Gallup question. There were suggestions such as “burn him at the stake,” and some respondents apparently interpreted “letting Eichmann go free” as “throwing him to the crowds.” As for the anticipated
verdict, the majority of Herald Tribune respondents expected that Eichmann would be found guilty but that his life would be spared.

The Gilbert Youth Research Company, which specialized in market and opinion surveys among adolescents, reported in May that young people, like their elders, were much more interested in the trial than in the normal run of current events. Of 1,134 asked, 80 per cent said they were following the proceedings. Fifty-three per cent thought Israel had a right to abduct Eichmann, and 57 per cent approved of trying him in Israel; negative opinion in both cases was 37 per cent. A larger segment than among adults, 56 per cent, expected a death sentence, while 31 per cent expected a sentence of life imprisonment.

Only 44 per cent of the persons interviewed had been taught about Nazi war crimes in school, yet 78 per cent had been aware of them before the trial, and 83 per cent felt that schools ought to teach the subject. No sympathy for Nazism was found among the young people or their parents.

George Salomon
THE JUDGMENT

CRIMINAL CASE No. 40/61, the historic trial of Adolf Eichmann, was held in the district court of Jerusalem before Presiding Judge Moses Landau of the Supreme Court of Israel, Judge Benjamin Ha-levi of the Jerusalem district court, and Judge Isaac Raveh of the Tel-Aviv district court. The chief prosecutor was Attorney General Gideon Hausner and the defense counsel was Robert Servatius of West Germany.

The trial opened on April 11, 1961, nearly 11 months after Eichmann was captured in Argentina, and adjourned on August 14. The court reconvened on December 11 to read the judgment, a massive text of some 200 pages, destined to become a landmark document in the history of jurisprudence because of the international legal precedents it established or gave added force to.

The death sentence was read by Justice Landau on December 15, after the prosecution and the defense had been given opportunities to make their statements concerning the judgment. On December 17 the defense filed a notice of appeal against both the judgment and the sentence in the Jerusalem district court.

NATURE AND SCOPE

The judgment opened with the court’s disclaimer of responsibility or intention to achieve certain purposes, an apparent rejoinder to those critics who contended that the trial had not adequately served particular historical, educational, psychological, or inspirational ends. Thus the court disclaimed its intention to present a comprehensive history of the Hitler regime, or to give an account of the heroic feats performed by the fighters of the ghettos and the partisans, or to answer such insistent historical, psychological, sociological, or moral questions as these: How could the catastrophe that befell millions of Jews happen in the light of day? Why did the evil spring from the German people? Could the Nazis have accomplished their designs without the aid of other peoples? Could at least part of the catastrophe have been averted by the Allied governments? What were the psychological and other causes of antisemitism? What lessons could be learned from the catastrophe?

The court insisted that its function had to be limited to clarifying
whether the charges against the accused were true and, if so, to meting out the proper punishment. Educational effects could only be a by-product of this limited and specific function.

The court then proceeded to devote a substantial part of its judgment to a general analysis of the key legal issues which it had been required to confront and decide, most of them challenging its jurisdiction, under international law, to try the accused. In upholding its jurisdiction, it refuted the objections raised by the counsel for the defense as well as by critics in various countries.

Among the jurisdictional objections which it analyzed and rejected were the following: that the law under which the accused was tried, the Nazis and Nazi-collaborators (Punishment) Law, 5710-1950 (hereafter referred to as the 1950 law), was a criminal law with retroactive effect, and therefore not valid under international law; that it sought to punish offenses committed outside the boundaries of Israel by and against persons who were not nationals of Israel, and that the court had no jurisdiction to try a person who had been abducted from a foreign country, in violation of international law.

In deciding these and other objections, the court considered the validity of international law in Israel in cases of conflict with domestic law. It also addressed itself to the question whether it had violated the accused's international "right of asylum" and whether he was immune from trial because the period of prescription (the Argentine statute of limitations) had passed.

Review of Evidence

After a lengthy analysis of the principles of law on which it had based its judgment, the court briefly reviewed the various categories of evidence before it. Then, as a background for correlating the evidence with the fifteen counts in the indictment, it presented a historical review of the various stages in the anti-Jewish persecutions of the Hitler regime, divided into three phases: from 1933 to the outbreak of World War II in September 1939, from then to mid-1941, and from mid-1941 to the collapse of the Third Reich in May 1945.

In the course of this review, the court laid the basis for confronting the question of the position of the accused in the Nazi hierarchy and, in particular, in the agencies directly involved in the persecution and extirpation of the Jews. It was concerned with Eichmann's precise role in order to determine the nature and scope of his authority, including the extent to which he had had discretion and latitude within the frame-
work of "superior orders." (His main defense rested on the claim that his offenses had been committed in response to such orders.) To this end the court outlined the structure of the SD (Security Service of the Reichsfuehrer SS); the RSHA (Head Office for Reich Security) and its bureaus and departments, including the department headed by the accused under changing designations; the SS, and the relationship of all these to the Nazi ministry of the interior.

Also to this end, the court recounted the activities of the accused in the various cities and areas where he operated at different stages of his career: his activities in the emigration centers in Vienna, Prague, and Berlin before World War II, his career from the outbreak of World War II to mid-1941, and especially his part in the third stage of the Nazi campaign against the Jews, the so-called "final solution." With respect to the third stage, the court presented a country-by-country review of the manner in which the "final solution" was implemented in Germany proper, Vichy France, Italy, Holland, Norway, Denmark, Czechoslovakia, Yugoslavia, Greece, Bulgaria, Rumania, Hungary, and other areas of Eastern Europe. For each, it defined the role of the accused, including participation in the actual murder operations, as distinct from rounding up and transporting Jews to the places where they were to be murdered.

In the course of this review the court touched on the structure, role, and activities of the "operation groups," including their murder methods; the conditions in which Jews were transported to the camps; the living conditions and murder methods in Chelmno, Treblinka, Belsec, Sobibor, Maidanek, Auschwitz-Birkenau; the special character of the Theresienstadt and Bergen-Belsen camps, including the close connection of Eichmann with their administration, and the Nazis' efforts to efface the traces of their murders. It commented on Eichmann's efforts to prevent the emigration of Jews to Palestine (including his relations with certain Arab leaders, headed by the Mufti, Haj Amin al-Husseini) and to other countries. It took note of the discussions among the Nazi leaders, including the accused, about how to treat descendants of mixed marriages, as well as of their program for sterilizing Jews and preventing Jewish births.

After this detailed review of the evidence, the court proceeded to correlate the evidence with the law, i.e., to present a legal analysis of its findings of fact in the light of the indictment. It discussed the provisions of the 1950 law, which specified the three crimes punishable by death: Section 1 (a) (1), "crime against the Jewish people"; Section 1 (a) (2), "crime against humanity," and Section 1 (a) (3), "war crime." (Section
1 (b) defined the nature of these crimes.) It then reviewed each of the fifteen counts of the indictment—counts 1–4, based on Section 1 (a) (1); counts 5–7 and 9–12, based on Section 1 (a) (2); count 8, based on Section 1 (a) (3), and counts 13–15, based on Section 3 (a), specifying the crime of "membership in a hostile organization"—and decided which elements in them had been proved by the evidence and which had not. It found that with certain exceptions, the evidence was sufficient to convict the accused of crimes under all but a few of the charges in all the counts of the indictment, including those which carried the death penalty.

Finally, the court took up the question of its discretion, under Section 11 of the 1950 law, to mitigate punishment if it found that the accused had committed his offenses in a manner indicating an effort to reduce their gravity, and it considered the attitude of the accused towards his offenses.

The judgment concluded with a summary statement of the terms of the conviction.

Questions of Law

The legal analysis opened with an assertion that the 1950 law was expressly designed to operate retroactively and extraterritorially, and that there was sufficient precedent in Israeli and general jurisprudence to sustain such a law.

On the question of retroactivity, the court reasoned, a distinction must be made between (a) a law which for the first time declares as a crime an action, indifferent and innocent in itself, which an accused could not foresee would be declared illegal, and (b) an action, not indifferent in itself, which was not an unknown or new crime in the country of the accused, whether before or after its perpetration. The acts committed by the Nazis against humanity in general, and against the Jews in particular, were in the latter category, in that they "constituted crimes under the laws of all civilized nations, including the German people, before and after the Nazi regime."

That a retroactive law declaring acts of this kind to be a crime did not conflict with natural justice or with international law, the court pointed out, was upheld by the International Military Tribunal at Nuremberg and by the German courts themselves. Thus, in one of the Nuremberg Tribunal judgments it was stated that there was no "taint of ex-post-facto-ism in the law of murder"; in another judgment it was stated that by 1940, at the latest, it was clear to any person who was not too naive, certainly to any who was part of the leadership machinery, that the
Nazi regime did not shrink from the commission of crimes, and that anyone who took part in those crimes could not contend that he had mistakenly assumed that a forbidden act was permissible, since those crimes violated the basic principle of the rule of law.

**ISRAEL'S JURISDICTION**

The court also rejected the defense counsel's objection that Israeli jurisdiction was improper under international law in that it was based on the 1950 law, which sought to punish acts committed outside the boundaries of Israel by and against persons who were not then Israeli citizens. To begin with, the court reasoned, even if this objection were valid under international law, the rule under Israeli law (as under English common law) was that, while international law was part of the law of the land (in the limited sense that where it was possible to construe a municipal statute in a manner consistent with international law, there was a presumption that the legislator so intended), in the event of an explicit conflict between international law and a municipal statute, the latter must prevail. Moreover, the court held, such a conflict did not exist, since Israel's right to punish the crimes in question was based on two criteria: their universal character and their specific character as part of a design to extirpate the Jewish people as such.

As to the first criterion, universality, the crimes in question were crimes against the law of nations itself, and there was centuries-old precedent for applying to them, as to such crimes as piracy, the principle of universality of jurisdiction. Under this principle, which was extensively applied by the Allied Military Tribunals to war crimes of all kinds, including "crimes against humanity," penal jurisdiction to try an accused existed—in the absence of an international court—in any country which held him in custody. In fact, "crime against the Jewish people," "crime against humanity," "war crime," and "membership in a hostile organization," were "defined in that [1950] law according to a precise pattern of international laws and conventions which define crimes under the law of nations." Thus "crime against the Jewish people" was patterned on the crime of genocide as defined in the Genocide Convention. "Crime against humanity" and "war crime" were patterned on the Charter of the International Military Tribunal and on Law No. 10 of the Control Council of Germany (December 20, 1945). The court declared that

... there is no doubt that genocide has been recognized as a crime under international law in the full legal meaning of this term, and that *ex tunc,*
that is to say: the crimes of genocide which were committed against the Jewish people and other peoples were crimes under international law. It follows, therefore, in the light of the acknowledged principles of international law, that the jurisdiction to try such crimes is universal.

Nor did the court find Article 6 of the Genocide Convention incompatible with Israeli jurisdiction in providing that, in the absence of an international penal tribunal, jurisdiction to try crimes of genocide lay with the tribunals of the states in whose territories the crimes were committed. In the court's view, Article 6 was directed to future rather than past cases of genocide. Further, there was ample authority for the view that Article 6 merely established a compulsory minimum, which was not intended to be exhaustive; i.e., it established an obligation for states in whose territories the crime was committed, but did not supplant the universal jurisdiction existing under customary international law. (As an aside, the court observed that the Genocide Convention suffered from a grave defect in not making obligatory the application of the principle of universal jurisdiction to genocide.)

As to the second criterion, the specific nature of the crimes, the court upheld its own jurisdiction on the ground of Israel's special connection with the crimes, their chief target and victim having been the Jewish people. This ground, which conformed to the "protective principle" of penal jurisdiction, had been applied by many nations to certain classes of serious crimes against them, whether committed within or without their territory. Accepting the view of some authorities that jurisdiction required a "linking point" (i.e., a legal connection) between the punisher (Israel) and the punished (Eichmann), the court found a close and definite linking point in the connection of Israel with the victim group, the Jewish people.

The connection between Israel and the Jewish people was an integral part of the law of nations, the court said, having been recognized in the proclamation of May 1948, establishing the state of Israel, and in the UN General Assembly's resolution of November 1947, calling for the establishment of the state. Indeed, the very creation of the state was in part a consequence of the crimes themselves. Moreover, the Jewish population in Israel and the pre-1948 Yishuv (Palestinian Jewish community) comprised part of the Jewish people, which the accused had sought to destroy.

The court rejected the argument that the "protective principle" could not be applied by a state which did not exist at the time the crimes were committed. Apart from the fact that the 1950 law was enacted with the
express purpose of being retroactive, this argument fell for other reasons. The courts of many liberated countries had held themselves competent to try crimes that occurred before their establishment. Besides, the state of Israel had in a sense existed before the crimes, in that it was a continuation of the Palestine of the Mandate, which gave international recognition to the Jewish people. Not only did the Mandate precede the crimes but also the Palestinian Yishuv could be considered as a “state on the way.”

The court ended its consideration of this question by declaring that in any event, there was no rule of international law to prevent any “hurt” group (e.g., the Gypsies) from exercising a natural right to punish its offenders once it attained political sovereignty in any territory.

GERMAN STATE'S RESPONSIBILITY

The court also rejected the accused's primary defense that his crimes were committed “in the course of duty” and constituted “acts of state,” for which (under international law) only the German state could be held responsible. It held that while the German state was legally responsible for the crimes committed as its own acts of state, “that responsibility does not detract one iota from the personal responsibility of the accused for his acts.” An identical position had been taken by the Nuremberg Tribunal, which held: “That international law imposes duties and liabilities upon individuals as well as upon states has long been recognized.”

The court also cited the authoritative Oppenheim-Lauterpacht International Law (8th ed., 1955): “It is impossible to admit that individuals, by grouping themselves into states and thus increasing immeasurably their potentialities for evil, can confer upon themselves a degree of immunity from criminal responsibility which they do not enjoy when acting in isolation.” It pointed out, further, that the “acts of state” doctrine was repudiated in a General Assembly resolution of December 11, 1946, and in Article IV of the Genocide Convention (which even Germany had ratified): “Persons committing genocide . . . shall be punished whether they are constitutionally responsible rulers, public officials, or private individuals.”

ILLEGAL ABDUCTION

The court also rejected the defense's challenge to Israeli jurisdiction based on the ground that the defendant had been abducted by illegal means from Argentina, in violation of the latter's sovereignty. It cited established judicial precedents, of Israel and of other states, which held
that a defendant could not oppose being tried by reason of the illegality of the means whereby he was brought within the court's jurisdiction. This was the prevailing rule not only where the mode of arrest was illegal under the municipal law of the trying state, but also where it was illegal under international law by reason of the violation of the sovereignty of a foreign state. For the right to plead violation of international law belonged solely to the aggrieved state, and not to the accused, and the governments of Argentina and Israel had decided to regard as closed the "incident" in which the former's sovereignty was violated. Thus, the accused could hardly presume to claim rights which were not his to begin with, and which the aggrieved party itself had waived. (It was true, the court observed, that some scholars had proposed a change in the law to disallow the prosecution of persons brought within a territory "by recourse to measures in violation of international law or international convention without first obtaining the consent of the state . . . whose rights have been violated. . . ." But that was not now the law, and even if it were, the right to challenge jurisdiction would be vested in the complaining state and not in the accused.)

RIGHT OF ASYLUM

Nor, the court asserted, could the accused claim that his international "right of asylum" and hence his immunity had been violated. Though it had been the practice of states to grant asylum, the "right" was that of the state to grant, not of the fugitive to enforce. Moreover, in this instance, the accused was not a "political" fugitive deserving of asylum, but a perpetrator of abhorrent crimes of the kind which Article 7 of the Genocide Convention declared could not "be deemed political crimes for the purpose of extradition." Many General Assembly resolutions had called on all states to arrest and surrender the perpetrators of those crimes, even without resort to extradition, for expeditious prosecution. Moreover, Argentina itself had stated that it had not given the accused asylum, but that he had entered its territory "under a false name and false document."

STATUTE OF LIMITATIONS

Finally the court rejected the defense "plea of prescription" (the lapse of the period provided in a statute of limitations) under Argentine law, which denied extradition after 15 years from the commission of a crime. This plea did not avail the accused once he was within the territory of Israel, because he "does not carry with him the Argentine law of pre-
scription." As for Israel, Section 12(a) of its 1950 law explicitly provided that the established law of prescription, applying to ordinary offenses, were not to apply to offenses under it. There was to be no statute of limitations on a crime against the Jewish people, a crime against humanity, and a war crime, while there was to be a 20-year statute of limitations for the crime of membership in a hostile organization.

**Findings of Fact**

Having rejected the defense counsel's objections to its jurisdiction, the court proceeded to consider the vast body of evidence presented by the prosecution. It began with a review of the stages in Hitler Germany's anti-Jewish persecutions, with the principal object of establishing the place of the accused within the Nazi hierarchy and the degree of his personal responsibility. It presented the evidence chronologically, first giving the background and then describing the activity of the accused during the particular stage.

Among the most damning bits of evidence were those relating to the notorious Wannsee conference, at which the decision was made to begin the implementation of the "final solution," the euphemism for the extermination program. The conference, which was attended chiefly by high government officials, was held on January 20, 1942, in response to invitations from Reinhard Heydrich, chief of the RSHA. Heydrich's opening speech included the following:

> Instead of emigration, now comes the evacuation of the Jews to the East, as an additional possible solution, after appropriate prior approval by the Fuehrer. But these operations are to be regarded only as passing possibilities. The results of these practical experiments are already collected, since they are invaluable in view of the approach of the final solution of the Jewish problem.

According to the court, the import of this and other "involved wording" in the speech was clear: "... the Jews of Europe were to be expelled to the East and put to hard labor, the weak would die from overwork, and the strong would be killed."

Heydrich also conveyed other information, including the fact that "the central authority" for handling the final solution would be in his hands, regardless of geographic borders, and that foreign-ministry officials dealing with this matter should be in touch with his "authorized referent," Eichmann. The discussion that followed, which revealed a complete consensus, concluded with an exchange concerning the various types of pos-
sible solutions, which (as Eichmann conceded in court) simply meant "various ways of killing."

The court rejected the accused's contention that his role at the conference was merely routine, limited to sending the invitations, supplying Heydrich with material for his opening speech, and taking minutes. Instead, it concluded from the evidence, the conference had much greater meaning for Eichmann, in that "his position as the authorized referent of the RSHA in matters connected with the 'final solution of the Jewish problem' was confirmed in the presence of representatives of all the other authorities."

Summing up its review of the vast body of evidence before it, the court declared:

We reject absolutely the accused's version that he was nothing more than a small cog in the extermination machine. We find that in the RSHA, which was the central authority dealing with the "final solution of the Jewish question," the accused was at the head of those engaged in carrying out the "final solution." In fulfilling this task, the accused acted in accordance with general directives from his superiors, but there still remained to him wide powers of discretion, which extended also to the planning of operations on his own initiative. He was not a puppet in the hands of others; his place was amongst those who pulled the strings.

**Legal Analysis of Facts in Light of Indictment**

The court then proceeded to analyze the legal significance of the facts which it had held to be established and to relate them to the specific counts in the indictment.

The first four counts charged the accused with "crime[s] against the Jewish people," under Section 1(a)(1) of the 1950 law. According to Section 1(b), this crime required an "intent to destroy the Jewish people in whole or in part," which the court held to be established by the evidence only with reference to the period after August 1941. (The definitions of "crime against humanity," "war crime," and "membership in a hostile organization" did not require such an intent, and hence could be applied to acts before August 1941).

Then the court considered counts 5–7, charging Eichmann with "crime[s] against humanity" under Section 1(a)(2), for various acts against Jews; count 8, charging him with "war crime[s]," under Section 1(a)(3), for various acts committed during World War II; counts 9–12, charging him with "crime[s] against humanity," under Section 1(a)(2), for acts against various groups of non-Jewish civilian populations, and
counts 13–15, for the crime of “membership in a hostile organization,” under Section 3(a), because of membership in the SS, SD, and Gestapo.

Beginning with counts 1–4, the court listed the four subsections of Section 1(b) that specified classes of acts to be regarded as “crime[s] against the Jewish people”: (1) “killing Jews,” (2) “placing Jews in living conditions calculated to bring about their physical destruction,” (3) “causing serious bodily or mental harm to Jews,” and (4) “devising measures intended to prevent births among Jews.”

The court found that acts constituting crimes against the Jewish people had been committed by the accused, with the requisite intent, from mid-1941 on, when Hitler issued the order to extirpate the Jews. It found that the accused had information about this order, referred to as the “final solution of the Jewish problem,” by the beginning of the summer of 1941, and that by the end of August 1941 he was directing all his efforts toward that goal. Since there was no definite proof about his actions between June and August 1941, the court limited its finding concerning Eichmann’s activity in the “final solution” to the period after August 1941. From that time on, he knew of the intent to destroy the Jewish people and was personally “permeated with this intent.”

The court concluded “that all the acts perpetrated during the implementation of ‘the final solution of the Jewish problem’ are to be regarded as a single whole and that the accused’s criminal responsibility is to be decided upon accordingly.” It based this conclusion, not on the law of criminal conspiracy (concerning which the prosecution had included no count in the indictment), but on the nature of “the final solution.” That was a “crime against the Jewish people,” in accordance with the definition of the 1950 law, which was patterned on the definition of genocide in the Genocide Convention.

The court ruled that just as the crime of genocide differed from the sum total of the murders of individuals and other crimes perpetrated during its execution, so did a “crime against the Jewish people.” Both involved the commission of certain acts with the intent to destroy a group in whole or in part. The “final solution” was an order to achieve the destruction of the Jewish people as such, and not simply the Jews of particular countries separately. The criminal intent was continuous, and extirpation “could not be divided into acts or operations carried out by various people at various times and in different places. One team of people accomplished it jointly at all times and in all places.” Therefore, the court held,
everyone who acted in the extermination of the Jews, knowing about the plan for "the final solution"... is regarded as an accomplice in the extermination of the millions... during the years 1941–1945... whether his actions spread over the entire front of the extermination, or over only one section of that front... [His] responsibility is that of a "principal offender" who perpetrated the entire crime in cooperation with others... [He must be convicted of] the general crime of the "final solution" in all its forms, as an accomplice to the commission of a crime, and his conviction will extend to all the many acts forming part of that crime, both the acts in which he took an active part in his own section as well as the acts committed by his accomplices to the crime in other sections of the same front.

With regard to the contention of the accused that he should be held responsible only for those actions in which he personally participated, the court observed: "... even if we view each section of the implementation of the final solution separately, there was not one section wherein the accused did not act in one way or another, with a varying degree of intensiveness." By his own criterion, therefore, the court would have "to find him guilty all along the front of extermination activities."

Thus the court found sufficient the evidence to convict Eichmann of "crime[s] against the Jewish people," as charged by counts 1–3, in so far as the acts stated in the charges were committed after August 1941, when the requisite intent to destroy the Jewish people, as such, existed. It acquitted him of the charge with respect to the time before August 1941, for it had not been absolutely proved that the intent then existed to extirpate the Jewish people under the "final solution" plan. However, for those and other acts, committed both as early as March 1938 and after August 1941, it convicted him, as charged by count 5 of the indictment, of a "crime against humanity."

With regard to count 4, the evidence was sufficient to convict the accused of a "crime against the Jewish people" for acts ("devising measures intended to prevent births among Jews") committed by him in 1943 and 1944 against Jewish women in the Theresienstadt ghetto. The court acquitted him of the other offenses alleged in the count.

The evidence was sufficient to convict him, under count 6—relating to Section 1(a)(2) of the 1950 law—of a "crime against humanity," because the various actions for which he was held convicted under counts 1–5 constituted persecution of Jews on "national, racial, religious, and political grounds."

The evidence was sufficient to convict him of a "crime against hu-
manity,” as charged by count 7, because from March 1938 to May 1945, in various territories, he caused “the plunder of the property of millions of Jews through mass terror . . . linked with the murder, destruction, starvation, and deportation of these Jews.”

It was sufficient to convict him of a “war crime,” as charged in count 8, because the various acts (persecution, murder, expulsion) charged in counts 1–7 were “committed during the Second World War, against Jews from among the populations of the countries occupied by Germany and the other Axis states.”

The evidence was sufficient to convict him of “crime[s] against humanity,” as charged in counts 9–12, for acts against non-Jewish groups: causing the expulsion of hundreds of thousands civilian Poles from their homes in 1940–42; causing the expulsion of more than 14,000 Slovenes from their homes in 1941; causing the expulsion of scores of thousands of civilian Gypsies from Germany and German-occupied areas to German-occupied areas in Eastern Europe during the war, and causing the expulsion of 93 of the children of the Czech village of Lidice in 1942. The court acquitted him of the murder of those children.

Finally, the evidence was sufficient to convict the accused of the crime of membership in a “hostile organization,” as charged in counts 13–15—membership in the SS and SD (from May 1941 on) and in the Gestapo (from May 1940 on). It acquitted him of those crimes for the time before May 1941, because of the 20-year statute of limitations.

**Obedience to Orders and Attitude of Accused**

The court then addressed itself again to the principal defense of the accused, that he had acted in obedience to “superior orders.” It repeated the unacceptability of this defense: “The attempt to turn an order for the extermination of millions of people into a political act, with the aim of exempting from their personal responsibility those who gave and those who carried out the order, is of no avail.” The unavailability of such a defense with regard to offenses under the 1950 law was clearly stipulated in Section 8 of the law, which in such cases withheld the application of the relevant provisions of the Criminal Code, absolving an accused of criminal responsibility for acts committed “in obedience to the order of a competent authority.”

But even under the provisions of the Criminal Code, the court observed, the defense of “superior orders” was not available if “the order is manifestly unlawful,” and the orders on which he relied were indeed
"manifestly unlawful." The court then cited a precedent decision of an Israeli court in a domestic military case and noted that, according to the Criminal Code,

the distinguishing mark of a "manifestly illegal order" . . . [is not] mere formal unlawfulness, hidden or half-hidden, not the kind of unlawfulness discerned only by the eyes of legal experts, but a flagrant and manifest breach of the law, certain and necessary unlawfulness appearing on the face of the order itself . . . glaring to the eye and repulsive to the heart, provided the eye is not blind and the heart is not stony and corrupt.

Of such a nature were the orders at issue in the present case, as the accused himself conceded when he stated: "I see in this murder, in the extirpation of Jews, one of the gravest crimes in the history of humanity."

Section 11 of the 1950 law, relating to the sentence, allowed the court to take into account the excuse of superior orders in mitigation of punishment, provided the accused had "done his best to reduce the gravity of the offense." This rule was similar to that applied by the Nuremberg Tribunal, which held that the plea of superior orders could not exempt an accused from his legal responsibility but could serve as a ground for mitigation of penalty. The court therefore addressed itself to the question of "the inner attitude of the accused toward his deeds":

. . . did these orders disturb his conscience, so that he acted under a compulsion from which he saw no escape?; or did he act with inner indifference, like an obedient automaton?; or did he in his heart identify himself with the contents of the order?

The evidence convinced the court that the accused was "merciless in all his deeds," which he "carried out, at every stage, again because of an inner conviction, wholeheartedly and willingly." His hatred for the Jews was so overwhelming that

mere blind obedience could never have brought him to commit the crimes which he committed with such efficiency and devotion as he evinced, were it not for his zealous belief that he was thereby fulfilling an important national mission. . . . It is true that in . . . principle, he received orders from above, and these orders decided the various stages of implementation for him. But within this general framework, he still had much scope left to him in working out the details of implementation which were entrusted to him. . . . The accused also stood at the head of a widespread establishment of officials, who obeyed his orders; whom he set to work, constantly supervising and spurring them on. All this required a great deal of initiative and continuous thought and consistent striving towards the end in view.
After citing the fact, "undisputed in our opinion, that at the end of the war he expressed satisfaction at the death of millions of Jews and declared that the very thought would make it easier for him to 'jump into the pit,'" the court said:

... in all his activities the accused always acted together with others, and this is how he was charged in the indictment. We shall not see the complete picture, if we place the entire extermination campaign only upon the accused. Above him there were the men at the top, beginning with Hitler himself.

But "the accused's department in the RSHA stood at the very centre of the final solution; and the guilt of the others does not lessen by one iota the personal guilt of the accused."

The court found no ground for mitigation of punishment.

**Sentencing**

The judgment was read in the courtroom on December 11 and 12 and was followed by statements by the attorney general (on December 13) and the accused (on December 14). The former urged the imposition of the death penalty as a mandatory punishment under the 1950 law. Eichmann reiterated his defense that the crimes against the Jews had been committed against his will. His statement contained such sentiments as the following:

... my guilt lies in my obedience. ... I accuse those in power of abuse of my obedience. ... It is a great mistake to assume that I was among the fanatics in the persecution of Jews. ... The witnesses here have been most untruthful. ... I never possessed the responsibility and authority to issue orders.

Finally, he charged that the old Nazis "and others" had been spreading lies and shifting their blame onto him.

The death sentence was pronounced by Justice Landau on December 15. In so doing, he rejected the attorney general's contention that this sentence was mandatory in the case of a conviction under Section 1 of the 1950 law. While that had been true when the law was enacted, the position had changed in 1954, with the enactment of an amendment to the Criminal Law making every penalty provided in any law a maximum penalty and leaving the extent of punishment in the court's discretion.

Even so, Justice Landau declared, the court had decided that Eichmann's penalty should be death, as due punishment and to deter others, for crimes against the Jewish people, for crimes against humanity, and
for war crimes. Punishment was not imposed for the crime of membership in a hostile organization, of which he was found guilty.

The defense counsel was informed that he might appeal the judgment and the sentence, and a notice of appeal was filed in the Jerusalem district court on December 17. The appeal was to be heard in 1962 by a panel of five justices of the Supreme Court. If the Supreme Court rejected the appeal, Eichmann still had the final recourse of a plea to President Isaac Ben-Zvi for commutation of sentence.

SIDNEY LISKOWSKY
Text of the Indictment Against Eichmann

INDICTMENT PRESENTED BY
ATTORNEY GENERAL

Adolf Eichmann is hereby charged as follows:

FIRST COUNT

Nature of Offense:

Crime against the Jewish people, an offense under section 1 (a) (1) of the Nazis and Nazi collaborators (Punishment) Law 5710–1950, and section 23 of the Criminal Code Ordinance, 1936.

Particulars of Offense:

(a) The accused, together with others, during the period 1939 to 1945, caused the killing of millions of Jews, in his capacity as the person responsible for the execution of the Nazi plan for the physical extermination of the Jews, known as "the final solution of the Jewish problem."

(b) Immediately after the outbreak of World War II the accused was appointed head of a department of the Gestapo in Berlin, the duties of which were to locate, deport and exterminate the Jews of Germany and the other Axis countries, and the Jews of occupied areas. That department bore in succession the following distinctive numbers: IVD 4; IVB 4; IVA 4.

(c) Instructions for the execution of the plan of extermination in Germany were given by the accused directly to local commanders of the Gestapo, while in Berlin, Vienna, and Prague the instructions of the accused were issued to central authorities (Zentralstelle für Jüdische Auswanderung) for the direction of which the accused was personally responsible until their liquidation towards the end of the Second World War.

(d) In areas occupied by Germany the accused acted through the offices of the commanders of the Security Police and the S.D., and through those persons specially nominated to deal with Jewish affairs, who were appointed from the department of the accused in the Gestapo, and were subject to his instructions.

(e) In Axis countries and areas conquered by them the accused made use of the offices of the diplomatic representatives of Germany in each place, in continual coordination with the special departments of the German Foreign Ministry in Berlin which dealt with the Jewish Problem. Advisers were appointed in the offices of such diplomatic representatives from among the members of the Department of the accused, who were subject to his instructions.
(f) The accused, together with others, secured the extermination of the Jews, by—among other means—their being killed in concentration camps, the purpose of which was mass murder, the more important of such camps being as follows:

1. Auschwitz—Millions of Jews were exterminated in this camp from 1941 until the end of January 1945, in gas chambers and in crematories, and by shooting and hanging. The accused directed the commanders of the camp to use gas known as Zyklon B, and in 1942 and 1944 the accused also secured the supply of a quantity of gas for the purpose of exterminating the Jews.

2. Chelmno—This extermination camp was operated from November 1941, to the beginning of 1945, and poison gas, among other means of extermination, was used therein.

3. Belsen—This extermination camp was operated from the beginning of 1942 until the spring of 1943, and poison gas, among other means of extermination, was used therein.

4. Sobibor—This extermination camp was operated from March 1942, until October 1943, and there were erected there, among other buildings erected for purposes of extermination, five stone gas chambers.

5. Treblinka—This extermination camp was operated from July 23, 1942, until November 1943. Also in this camp poison gas, among other means of extermination, was used.

6. Maidanek—This extermination camp was operated from 1941 until July 1944, and poison gas, among other means of extermination, was used therein.

(g) Immediately after the invasion of Poland by the German army in September 1939, the accused committed acts of expelling, uprooting and exterminating the population, in coordination with massacre-squads, recruited from the ranks of the German Security Police and the S.S., which were known by the name of "Operational Groups" (Einsatzgruppen). Groups of this nature also operated after the invasion of Russia in 1941, and advanced in the steps of the German Army. These groups received their orders directly from the Reich Security Head Offices (R.S.H.A.), and each such group cooperated with the accused in the extermination of the Jews in the area of its jurisdiction. These groups operated in the main on the Sabbath and Jewish festivals, which days were selected for the slaughter of Jews. These groups exterminated hundreds of thousands of Jews in the area occupied by Germany in Poland.

(h) Before the invasion by the German army of areas of Russia and the Baltic countries of Lithuania, Latvia and Estonia, which were annexed to Russia, four operational groups cooperated with the accused in the extermination of Jews in the areas referred to, and in that portion of Poland which was annexed to Russia after September 1939. The activities of such groups included the following acts, inter alia:

1. Operational Group A—During the first four months of the invasion of
the areas above mentioned, by the German army, this group exterminated in Lithuania more than 80,000 Jews; in Latvia more than 30,000 Jews; in Estonia about 470 Jews; in Byelorussia more than 7,600 Jews; in Russia about 2,000 Jews; in the District of Tilsit about 5,500 Jews. A total of more than 135,000 Jews.

2. Operational Group B—Up to November 14, 1941, this group exterminated more than 45,000 Jews in Byelorussia and other areas.

3. Operational Group C—Up to November 3, 1941, this group exterminated more than 75,000 Jews in the Ukraine, including 33,000 Jews in Kiev.

4. Operational Group D—Up to December 12, 1941, this group exterminated about 54,000 Jews.

5. During the period from August to November 1942, the operational groups referred to above exterminated some 363,000 Jews. The operational groups above mentioned operated in the same manner and for the same purpose in the said districts in the extermination of the Jews from June 1941, until 1944, and exterminated hundreds of thousands of Jews in addition to those detailed above.

(i) At the end of 1941 the accused ordered the deportation of thousands of Jews from Germany, Austria and Czechoslovakia (Protectorate) to ghettos in Riga, Kovno and Minsk. These Jews were exterminated and, inter alia,

1. A number of such Jews deported from the Reich (Germany) were murdered on November 30, 1941, together with some 4,000 Jews from Riga.

2. Some 3,500 Jews from Germany who were sent to Minsk as aforesaid, pursuant to instructions issued by the accused, were exterminated by an operational group in Byelorussia together with 55,000 more Jews who were residents of that district.

(j) During the years 1940–1945 the accused, together with others, caused the killing of hundreds of thousands of Jews in forced labor camps which were conducted on the lines of concentration camps, and in which such Jews were enslaved, tortured, and starved to death in Germany, and in countries occupied by Germany.

(k) The accused, together with others, caused the killing of still more hundreds of thousands of Jews during the years 1939–1945 in Germany and the other Axis countries, and the areas occupied by them, by their mass deportation and concentration in ghettos and other concentration points under cruel and inhuman conditions, that is to say, in the following countries:

- Germany, Austria, Italy, Bulgaria, Belgium, U.S.S.R. (and the Baltic States, Lithuania, Latvia and Estonia, which were annexed to the U.S.S.R., and that part of Poland which was annexed to the U.S.S.R. after September 1939),
- Denmark, Holland, Hungary, Yugoslavia, Greece, Luxembourg, Monaco, Norway, Poland, Czechoslovakia, France, Rumania.

1. The accused caused the killing of some half a million Hungarian Jews by means of their mass deportation to the extermination camp at Auschwitz and other places during the period from March 19, 1944, to December 24,
1944, at a time when he acted as head of the "Eichmann Special Operations Unit" (Sondereinsatz-Kommando Eichmann) in Budapest.

(m) All the acts mentioned in this count were committed by the accused with the intention of destroying the Jewish people.

**SECOND COUNT**

**Nature of Offense:**
Crime against the Jewish people, an offense under section 1 (a) of the Nazis and Nazi Collaborators (Punishment) Law, 5710–1950, and section 23 of the Criminal Code Ordinance, 1936.

**Particulars of Offense:**
(a) During the period from 1939 to 1945 the accused, together with others, placed many millions of Jews in living conditions which were calculated to bring about their physical destruction, and took steps toward this end in Germany and the other Axis countries, in the areas occupied by them, and in the areas in which they exercised de facto control. During the period aforesaid, and pursuant to his duties as stated in the first count, and for the purpose of executing "the final solution of the Jewish problem," the accused committed the following acts in respect of such Jews:
1. Putting them to work in forced labor camps.
2. Sending them to ghettos and detaining them there.
3. Driving them into transit camps and other concentration points.
4. Deporting them and conveying them by mass transportation under inhuman conditions.

All the said acts were committed by the accused for the same purposes, in the same manner, and in the same places mentioned in the First Count.

(b) All the said acts were committed by the accused with the intention of destroying the Jewish people.

**THIRD COUNT**

**Nature of Offense:**
Crime against the Jewish people, an offense under section 1 (a) (1) of the Nazis and Nazi Collaborators (Punishment) Law, 5710–1950, and section 23 of the Criminal Code Ordinance, 1936.

**Particulars of Offense:**
(a) During the period of the Nazi regime the accused fulfilled certain duties in the Security Services of S.S. (S.D.) in dealing with Jews, in accordance with the program of the Nazi party (N.S.D.A.P.). After the outbreak of World War II these duties were combined with the duties of the depart-
ment in the Gestapo which is described in the First Count, at the head of which stood the accused.

(b) During the whole of the period aforesaid the accused, together with others, caused serious physical and mental harm to millions of Jews in Germany and the other Axis countries, in areas occupied by them and in areas under their de facto control, in the countries detailed in the First Count.

(c) The accused, together with others, caused the serious harm aforesaid by the enslavement, starvation, deportation and persecution of the said Jews and by their detention in ghettos, transit camps and concentration camps in conditions which were designed to cause their degradation, the deprivation of their rights as human beings and to suppress them and cause them inhuman suffering and torture.

(d) The accused, together with others, committed the acts aforesaid through measures the more important of which were as follows:
1. The sudden, mass arrest of Jews without any guilt on their part or judicial decision, and merely by reason of their being Jews, and the torture of such Jews in concentration camps such as those at Dachau and Buchenwald.
2. The organization on the night of November 9 and 10, 1938, of the mass persecution of some 20,000 Jews from Germany and Austria by arrest, cruel beatings, causing serious bodily harm, and torture in concentration camps.
3. The organization of the social and economic boycott of Jews and their designation as a sub-human racial group.
4. The application of the laws known as the Nuremberg Laws in order to deprive millions of Jews in all the countries specified in the first count of their human rights.

(e) The acts aforesaid were committed by the accused with the intention of destroying the Jewish people.

FOURTH COUNT

Nature of Offense:

Crime against the Jewish people, an offense under section 1 (a) (1) of the Nazis and Nazi collaborators (Punishment) Law, 5710–1950, and section 23 of the Criminal Code Ordinance, 1936.

Particulars of Offense:

(a) As from 1942 the accused, together with others, devised measures the purpose of which was to prevent child-bearing among the Jews of Germany and countries occupied by her.

(b) The devising of such measures by the accused, by virtue of his duty as head of the Department for Jewish Affairs in the Gestapo in Berlin, was also designed to advance the “final solution of the Jewish problem.”

(c) The measures referred to included:
1. The instructions of the accused to Dr. Epstein who was Head of the Council of Elders in the Concentration Camp of Theresienstadt during 1943–1944, in regard to the forbidding of births in the camp and in regard to the interruption of pregnancy by artificial abortion in all cases and at all stages of pregnancy.

2. An order by the German police in the Baltic countries in 1942, against Jewish women in the ghetto of Kovno, forbidding birth and compelling such women to undergo operations for abortion in all stages of pregnancy.

3. On October 27, 1942, in the offices of the accused IVB4 (R.S.H.A.) in Berlin, the accused, together with others devised measures for the sterilization of the offspring of mixed marriages of the first degree among Jews in Germany and in areas occupied by her in accordance with the following principles:

   (aa) The sterilization will be performed on the offspring of the mixed marriages, Jews or Jewesses with their consent, in return for the favor of their being given the right to remain within the area governed by the German Reich.

   (bb) The offspring of the mixed marriages will be entitled to choose between sterilization and deportation to extermination areas in the East.

   (cc) It will be suggested by the authorities to the offspring of the mixed marriages to choose deportation.

   (dd) Those who choose deportation will be separated according to their sex in order to prevent any further births.

   (ee) The sterilization will be carried out secretly and in a camouflaged manner.

(d) In devising the measures aforesaid, the accused intended to destroy the Jewish people.

FIFTH COUNT

Nature of Offense:

Crime against humanity, an offense under section 1 (a) (2) of the Nazis and Nazi collaborators (Punishment) Law, 5710–1950, and section 23 of the Criminal Code Ordinance, 1936.

Particulars of Offense:

The accused, during the period 1939 to 1945, committed in Germany and other Axis countries, in areas occupied by them and in areas controlled by them, de facto acts constituting a crime against humanity in that, together with others, he caused the murder, extermination, enslavement, starvation and deportation of the civilian Jewish population in those countries and areas.

The accused committed those acts whilst functioning in the capacities specified in the First Count.
SIXTH COUNT

Nature of Offense:
Crime against humanity, an offense under section 1 (a) (2) of the Nazis and Nazi Collaborators (Punishment) Law, 5710–1950, and section 23 of the Criminal Code Ordinance, 1936.

Particulars of Offense:
The accused, in carrying out the acts described in Counts 1 to 5 above, persecuted Jews on national, racial, religious and political grounds.

SEVENTH COUNT

Nature of Offense:
Crime against humanity, an offense under section 1 (a) (2) of the Nazis and Nazi Collaborators (Punishment) Law, 5710–1950, and section 23 of the Criminal Code Ordinance, 1936.

Particulars of Offense:
(a) During the period of the Nazi regime in Germany and the other Axis countries, in the countries occupied by them and in the areas subject to their de facto control, the accused, together with others, caused the spoliation of the property of millions of Jews resident in the countries aforesaid, by means of inhuman measures involving compulsion, theft, terrorism and torture.
(b) Such measures included:
1. The establishment, organization and operation of the Central Authority for the Emigration of Jews (Zentralstelle für Judische Auswanderung) in Vienna, from immediately after the entry of the Nazis into Austria in March 1938, until the end of World War II through which authority the accused transferred the property of the Jews of Austria and all the Jewish communities of that State into German control. Part of this property was stolen for the purpose of financing the expulsion of the Jews of Austria to places beyond the borders of that state, and part of such property was transferred to the authorities by means of compulsion and measures of terrorism against its owners.
2. The establishment of the Central Authority for the Emigration of Jews in Prague after the Nazi invasion of Czechoslovakia in March 1939, until the end of World War II and the organization and operation of that authority by the accused in the same manner as the Central Authority in Vienna. By means of this authority a “special account” was operated through which the property of the Jews who had been robbed by the accused, together with others, in Czechoslovakia itself and in other countries, was transferred to the control of Germany.
3. The establishment of a Central Authority for the Emigration of Jews and
the Affairs of German Jews (Reichszentrale) in Berlin in 1939 and its operation by the accused until the end of World War II.

PROPERTY CRIME CHARGED

By means of this Central Authority, as was the case with the Central Authority in Vienna, the accused, together with others, despoiled the property of the German Jews, both the individual property as well as the property of the various Jewish communities in that country by the same methods and under the same conditions as were prescribed by him in regard to the authorities in Vienna and Prague.

4. The accused compelled hundreds of thousands of Jews to finance their deportation to extermination camps and other centers of mass slaughter by the levy of compulsory payments upon deportees from Germany and areas occupied by her. For this purpose the accused conducted a special account 'W' which was placed at the sole disposal of his department.

5. The property of Jews who were murdered in German occupied countries in Eastern Europe was also stolen by their murderers, members of the S.S.

In order to centralize the acts of plunder special actions were organized in 1942–1943 within the framework of the special operation for the murder of Jews in Poland known as "Aktion Reinhardt." The person in charge of this special operation was the commander of the Security Police and S.D. in the District of Lublin. During the two said years, property, the nominal value of which was 200,000,000 marks, was stolen but the actual value thereof was several times in excess of that sum.

REMOVAL OF BODIES

6. During World War II and up to a short time before its conclusion, freight trains containing the movable property of persons murdered in extermination camps, concentration points and ghettos were run month by month from the occupied districts in the East to Germany. This property also contained vast amounts of parts of the bodies of the murdered persons, such as hair, gold teeth, false teeth and artificial limbs; all other personal effects were also robbed from the bodies of the Jews before their extermination and thereafter.

7. The accused, together with others, planned all the acts of extensive robbery in order that the property of the millions who were sent to extermination should be taken from them and conveyed to Germany. The extent of the success of such robbery is reflected by the fact that when the Germans, at the time of their retreat in January 1945, burnt twenty-nine stores of personal effects and valuables out of thirty-five such stores which had been erected in the extermination camp at Auschwitz, the six stores saved from the fire were found to contain, inter alia: 348,820 men's suits; 836,255 women's dresses; 38,000 men's shoes.

(c) The accused committed the said acts until the end of 1939 in the exercise of his special functions in the Security Service of the S.S. (S.D.); and
from the end of that year the accused combined these functions with his func-
tions in Office IV of the R.S.H.A.

(d) The accused executed the spoliation of the property of the Jews of
Germany and the other areas occupied by her, in addition to those already
mentioned hereintofofore in this count, by giving instructions to local com-
manders of the Security Police and, in Axis countries and areas occupied by
such countries, through the offices of the diplomatic representatives of Ger-
man as described in the first count.

EIGHTH COUNT

Nature of Offense:
War crime, an offense under section 1 (a) (3) of the Nazis and Nazi Col-
laborators (Punishment) Law, 5710–1950, and section 23 of the Criminal
Code Ordinance, 1936.

Particulars of Offense:
The accused, during the period of World War II, in Germany and other
Axis states and in areas occupied by them, committed acts constituting a war
crime in that, together with others, he caused the ill-treatment, deportation
and murder of Jewish inhabitants of the states occupied by Germany and
other Axis states.
The accused committed these acts whilst functioning in the capacities spec-
ified in the first count.

NINTH COUNT

Nature of Offense:
Crime against humanity, an offense under section 1 (a) (2) of the Nazis
and Nazi Collaborators (Punishment) Law, 5710–1950, and section 23 of the Criminal
Code Ordinance, 1936.

Particulars of Offense:
The accused, between 1940 and 1942, in Poland, then occupied by Ger-
many, committed acts constituting a crime against humanity in that, together
with others, he caused the deportation of over half a million Polish civilians
from their places of residence with intent to settle German families in those
places.
The Polish deportees were in part transferred to Germany and German oc-
cupied areas for the purpose of their employment and detention under con-
ditions of enslavement, coercion and terrorism; in part abandoned in other
regions of Poland and German occupied areas in the East; in part concen-
trated under inhuman conditions in labor camps organized by the S.S.; and in
part transferred to Germany for the purpose of re-Germanization (Rueckverdeutschung).

The accused committed these acts under a special appointment dated December 1939, by which he was empowered by the head of the Security Police in Berlin to act as officer in charge of the "Evacuation" of civilians.

**TENTH COUNT**

**Nature of Offense:**

Crime against humanity, an offense under section 1 (a) (2) of the Nazis and Nazi Collaborators (Punishment) Law, 5710–1950, and section 23 of the Criminal Code Ordinance, 1936.

**Particulars of Offense:**

(a) The accused, in 1941, in the then German-occupied parts of Yugoslavia, committed acts constituting a crime against humanity in that, together with others, he caused the deportation of over 14,000 Slovene civilians from their places of residence with the intention of settling German families in their stead.

(b) The Slovene deportees were transferred to the Serbian part of Yugoslavia by coercive, terrorist measures and under inhuman conditions.

(c) The planning of the deportations aforesaid was devised by the accused at a meeting which took place at Marburg (Untersteiermark) on May 6, 1941, to which the accused summoned the representatives of the other authorities concerned in the matter. The deportation headquarters continued to be located in that city, and operated under the directions of the accused.

The accused committed these acts under his special appointment referred to in the ninth count.

**ELEVENTH COUNT**

**Nature of Offense:**

Crime against humanity, an offense under section 1 (a) (2) of the Nazis and Nazi Collaborators (Punishment) Law, 5710–1950, and section 23 of the Criminal Code Ordinance, 1936.

**Particulars of Offense:**

The accused, during the period of World War II, in Germany and German-occupied areas, committed acts constituting a crime against humanity in that, together with others, he caused the deportation from their places of residence of tens of thousands of Gypsies, their concentration at concentration points, and their transportation to extermination camps in German-occupied regions in the East for the purpose of their being murdered.
The accused committed these acts under his special appointment referred to in the ninth count.

**TWELFTH COUNT**

*Nature of Offense:*

Crime against humanity, an offense under section 1 (a) (2) of the Nazis and Nazi Collaborators (Punishment) Law, 5710–1950, and Section 23 of the Criminal Code Ordinance, 1936.

*Particulars of Offense:*

The accused, in 1942, committed acts constituting a crime against humanity in that, together with others, he caused the deportation of approximately 100 children, civilians of the village of Lidice in Czechoslovakia, their transportation to Poland, and their murder there.

The accused committed these acts in the discharge of his functions in the Gestapo in Berlin.

**THIRTEENTH COUNT**

*Nature of Offense:*

Membership in a hostile organization, an offense under section 3 (a) of the Nazis and Nazi Collaborators (Punishment) Law, 5710–1950.

*Particulars of Offense:*

The accused, during the period of the Nazi regime in Germany, was a member of the organization known as Schutzstaffeln der N.S.D.A.P. (S.S.), and attained during his service in that organization the rank of S.S. Obersturmbannfuehrer.

This organization was declared a criminal organization by judgment of the International Military Tribunal dated October 1, 1946, in accordance with Article 9 of the Charter of the Tribunal annexed to the Four-Power Agreement of August 8, 1945, concerning the trial of the major war criminals.

**FOURTEENTH COUNT**

*Nature of Offense:*

Membership in a hostile organization, an offense under section 3 (a) of the Nazis and Nazi Collaborators (Punishment) Law, 5710–1950.

*Particulars of Offense:*

The accused, during the period of the Nazi regime in Germany, was a member of the organization known as Sicherheitsdienst des Reichsfuehrers S.S. (S.D.).
This organization was declared a criminal organization by judgment of the International Military Tribunal dated October 1, 1946; in accordance with Article 9 of the Charter of the Tribunal annexed to the Four-Power Agreement of August 8, 1945, concerning the trial of the major war criminals.

FIFTEENTH COUNT

Nature of Offense:

Membership in a hostile organization, an offense under section 3 (a) of the Nazis and Nazi Collaborators (Punishment) Law, 5710-1950.

Particulars of Offense

The accused, during the period of the Nazi regime in Germany, was a member of the Secret State Police (Geheime Staatspolizei) known as Gestapo, and served in it as Director of the Department for Jewish Affairs.

This organization was declared a criminal organization by judgment of the International Military Tribunal dated October 1, 1946, in accordance with Article 9 of the Charter of the Tribunal annexed to the Four-Power Agreement of August 8, 1945, concerning the trial of the major war criminals.

The Notice of Charge was handed to Counsel for the Accused on February 1, 1961, and he intimated that he waives his right to the holding of a preliminary examination.

Jerusalem, this fifth day of Adar, 5721. (February 21, 1961).

GIDEON HAUSNER,
Attorney General.