

# Justice at Nuremberg

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The first comprehensive  
dramatic account of the  
trial of the  
Nazi leaders

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Robert E. Conot



# *Justice at Nuremberg*

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ROBERT E. CONOT



1817

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## *Acknowledgments and Methodology*

*Justice at Nuremberg* presented a particularly difficult problem in construction and organization because of the vast scope of the subject and the charges, the large number of defendants, and the enormous amount of material available. (I estimate that my research encompassed documents, papers, and books totaling some fifty million words.) Moreover, it was necessary to reconcile three complementary but sometime disparate elements: 1) The origins of and preparations for the trial, followed by the trial itself. 2) The characters and actions of the twenty-one defendants.\* 3) The history of Nazi Germany applicable to the trial—particularly, the criminal acts perpetrated.

Compounding the problem was the duplication and lack of cohesion in the prosecution's presentation. In essence, the United States first presented the case *in toto* under Count 1, the Conspiracy to Wage Aggressive War. The other three prosecuting nations, Great Britain, France, and the Soviet Union, then offered their cases, which sometimes repeated and were often interwoven with the American case. The interpolation of charges against individual defendants occasionally triplicated the presentation of the evidence.

After considerable experimentation, a couple of false starts, and the receipt of valuable counsel from Buz Wyeth, executive editor at Harper & Row, I devised the following scheme for the book:

*Part I: Crime and Punishment*—the origination of the trial concept and organization of the tribunal.

*Part II: Interrogation and Indictment*—the imprisonment of the accused at Nuremberg and the preparation of the case.

*Part III: Prosecution*—an account of Nazi criminality and the defendants' complicity, interwoven with the presentation of the evidence.

*Part IV: Defense*—the testimony of the defendants and their witnesses.

*Part V: Judgment*—the deliberations of the judges, their verdict, and the aftermath.

The book is composed for the most part from original sources and the trial record. The principal collections are Record Group 238—including the files of American prosecutor Robert Jackson—at the National Archives in Washington, D.C.; the papers of Murray C. Bernays, originator of the basic trial concept, at the University of Wyoming; the papers of Francis Biddle, the American judge, at the University of Syracuse; the papers of John J. Parker, the alternate American judge,

\*Twenty-four were indicted. Of these, Robert Ley committed suicide before the start of the trial; Gustav Krupp was mentally incapacitated; and Martin Bormann was never found.

at the University of North Carolina; the papers of Father Edmund Walsh, founder of the School of Foreign Service at Georgetown University and a consultant to Jackson, at Georgetown University; the papers of Lawrence Egbert, deputy chief of the prosecution's Analysis Section and subsequently editor of the trial record, at Georgetown University,\* and the papers of Commander James Donovan at Stanford University.

I am indebted to the following people associated with the Nuremberg trial for the advice and information they provided in interviews:

Ralph G. Albrecht, who presented the individual case against the number-one defendant, Hermann Goering.

Roger Barrett, who had charge of the Defendants' Information Center.

Louise Bernays, the widow of Murray C. Bernays.

Smith W. Brookhart, a deputy to Colonel John Harlan Amen, the chief of the Interrogation Division. Brookhart had responsibility for questioning Himmler's second-in-command, Ernst Kaltenbrunner, and other SS and Gestapo personnel.

Elsie Douglas, longtime secretary to Supreme Court Justice and prosecutor Robert H. Jackson.

United States Circuit Court of Appeals Judge Murray I. Gurfein (now deceased), who prepared the economics case.

Sam Harris (now deceased), deputy to Gurfein.

Tom Harris, an aide to General Telford Taylor.

William Jackson, son of and aide to Robert H. Jackson.

United States Circuit Court of Appeals Judge Harold Leventhal (now deceased), who was a member of the prosecution committee preparing the charges on Crimes Against Peace.

Daniel Margolies, a member of the prosecution's Analysis Section.

James Rowe, one of the legal advisers to Judge Biddle.

Henry Sackett, a Midwestern prosecutor who had charge of the interrogation of Interior Minister Wilhelm Frick.

Richard Sonnenfeldt, principal interpreter in the Interrogation Division.

Drexel Sprecher, OSS labor expert, who helped prepare the cases against Fritzsche and Schirach.

Telford Taylor, dean of the Law School at Columbia University. General Taylor was in charge of the case against the German general staff and high command, and subsequently replaced Jackson as prosecutor-in-chief of the 185 accused in twelve follow-up trials.

I wish to thank the following persons for their assistance at the National Archives: Dr. Robert Wolfe, chief of the Modern Military Branch; Dr. John Mendelsohn, an expert on the Nuremberg records; Don Spencer, who served as an enlisted man at the Nuremberg trials, and is now engaged in the Immigration and Naturalization Service's effort to track down war criminals who entered the United States illegally; and Tim Mulligan, John Taylor, and George Wagner, archivists.

\*The Egbert Papers had just been received at the time I conducted research for the book and had not yet been sorted, so that I am unable to provide box numbers or other locator identification for individual pieces.

## *Introduction*

Supreme Court Justice Robert Jackson, the American prosecutor, observed: "Never before in legal history has an effort been made to bring within the scope of a single litigation the developments of a decade, covering a whole continent, and involving a score of nations, countless individuals, and innumerable events. . . . This trial has a scope that is utterly beyond anything that has ever been attempted that I know of in judicial history."

Norman Birkett, one of the two British judges, called it "the greatest trial in history. The historian of the future will look back to it with fascinated eyes. It will have a glamour, an intensity, an ever-present sense of tragedy that will enthrall the mind engaged upon its consideration."

The panorama was epic, the issues profound, the cast of characters unparalleled. For the first time, the leaders of a nation were charged with international crimes committed on a scale so vast as to strain belief. One of the defendants, Schirach, was three-fourths American. Another, Schacht, had been conceived in Manhattan. A third, Hess, had been born in Egypt and had parachuted into Scotland in the midst of the war. A fourth, Rosenberg, had never set foot in Germany until he was eighteen and never lived there until he was twenty-five. A fifth, Ribbentrop, had been a onetime emigrant to Canada. A sixth, Neurath, was a friend of Queen Mary of England. A seventh, Goering, was a drug-addicted larger-than-life figure, part Machiavelli, part Falstaff.

Yet, contrary to the expectations of the participants, the trial has never been fully explored. Although the record has furnished a documentary bonanza for histories of the Third Reich, there has been an absence of knowledge and comprehension of the trial itself.\* As early as the summer of 1946, when the inquest was still in its final months, former American Undersecretary of State Sumner Welles expressed the fear that too little attention was being paid, even though it was imperative that the lesson become known.

No one who experienced the trial or has become familiar with the evidence and record can doubt that the case was proved conclusively; that, despite all the horrors that were brought to light, it was, if anything,

\*The most widespread impression among the American public comes from *Judgment at Nuremberg*, a fictional TV drama (and later movie) based loosely on one of the subsequent proceedings following the trial of the major war criminals. Eugene Davidson, in *The Trial of the Germans*, published in 1967, provided comprehensive biographies of the defendants, but devoted only a single chapter to the trial per se. Other books about Nuremberg have consisted of personal accounts or have dealt with particular aspects of the proceedings.

understated.\* None of the defendants attempted to refute the evidence. They sought instead to explain away their own participations and to shift the blame onto others. Schirach, the leader of the Hitler Youth, declared: "This murder decree of Hitler's seems to me the end of every race theory, every race philosophy, every kind of race propaganda, for after this catastrophe any further advocacy of race theory would be equivalent to approval in theory of further murder. An ideology in the name of which five million people were murdered is a theory which cannot continue to exist." Fritzsche, the leading radio commentator in Goebbels' Propaganda Ministry, said: "He who, after Auschwitz, still clings to racial politics has rendered himself guilty."

Not only were the documents the prosecution introduced the Nazis' own and the terror that had been unleashed spelled out in their own words, but the witnesses—both for the prosecution and for the defense—included some of the highest officials in Hitler's government. Far from denying what had taken place, each contributed additional information to the litany of murder. Dieter Wisliceny, one of Eichmann's half-dozen deputies, provided a detailed accounting of the 5,250,000 Jews (not including those in the Soviet Union) who had been exterminated. Otto Ohlendorf, the chief of Himmler's internal intelligence division and commander of an *Einsatzgruppe* in Russia, testified to the slaughter of the Jews in the East. Rudolf Höss, commander of Auschwitz, related that three million people, most of them Jews, had perished in his concentration camp—and he, most assuredly, was an authoritative witness. Erich von dem Bach-Zelewsky, the chief of the antipartisan forces, confessed to the indiscriminate extermination of the innocent. It was not as if the evidence were circumstantial or dependent upon secondary witnesses. It was direct and damning.

In his opening address to the tribunal Justice Jackson remarked: "What makes this inquest significant is that these prisoners represent sinister influences that will lurk in the world long after their bodies have returned to dust."

These influences, in fact, have regenerated like a poisonous weed. Anti-Semitism and the euphemistic catchwords that led to "the Final Solution of the Jewish Question" have reappeared hand in hand. A worldwide cult has arisen claiming that the Holocaust never happened. A hundred books, booklets, and pamphlets have been printed alleging that the slaughter was imaginary or exaggerated, and is but a Jewish invention.

\*Because of the lack of cohesion in the prosecution's presentation and the huge range of the case, I have reorganized some of the material for the purposes of comprehension and conciseness, without, of course, altering the testimony or documentary evidence in any way, except for abridgment.

All of this might be dismissed as the frustrated thrashing about of a radical, irrational fringe were it not for the haunting parallels to the pre-Hitler era, and the continuing employment of Nazi propaganda methodology. A leader of the French neo-Nazis, for example, asserts that those Jews who died had merely been victims of the wartime food shortage. The Nazis had, in fact, originally planned to starve the Jews to death, allocating 186 calories per capita daily for their sustenance, but had abandoned the scheme for more direct methods after the ensuing epidemics had decimated not only the Jews but threatened to spread to the relatively well-fed German population.

Similar in nature is the assertion that Zyklon B gas was employed only as a disinfectant at Auschwitz. This had been the case until the fall of 1941, when an enterprising SS officer had concluded that if Zyklon B killed lice it could kill people just as well. Thereafter, the gas had been used, first, to murder thousands of Soviet prisoners of war, and then hundreds of thousands of Jews—nearly all of them women, children, and old people unfit for “extermination through work.” Hitler’s dictum that “the magnitude of a lie always contains a certain factor of credibility, since the great masses of the people . . . more easily fall a victim to a big lie than to a little one” has once more come into vogue.

The most effective means to combat such distortions is to make the facts accessible, and, with them, expose the statements for what they are. At Nuremberg, General Telford Taylor, the prosecutor of more war criminals than any other man, said: “We cannot here make history over again. But we can see that it is written true.” This book, I hope, fulfills that goal.



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# I

## *Crime and Punishment*





## 1 *Escape from Auschwitz*

On April 7, 1944, two Slovakian Jews, twenty-six-year-old Alfred Wetzler and twenty-year-old Rudolf Vrba, escaped from Auschwitz. They provided the first eyewitness account of the concentration and extermination camp to the western world, an account that set off the chain of events that led to the Nuremberg trial.

When Hitler dismantled Czechoslovakia in 1939, he had left the Slovaks nominally in charge of their own internal affairs, dependent on good behavior. The Slovaks had copied most of the German anti-Semitic laws, expropriated Jewish businesses, removed the Jews from government and the professions, and left them with little opportunity to earn a living. By the spring of 1942 most of the eighty thousand Jews were unemployed and compressed into a few blocks in two cities, Sered and Nováky.

In March, Adolf Eichmann, the head of the Gestapo's Jewish Section, offered to take seventeen thousand of the unemployed Jews off the Slovakian government's hands for, ostensibly, work in German arms factories. On April 13, Wetzler, packed with threescore other men into a small freight car furnished with a single bucket of water, became part of a transport of 640 men destined for Auschwitz.

Auschwitz lay thirty miles west of Cracow, Poland's fifth largest city, and was on the direct railroad line to German Upper Silesia. Before the German attack in September 1939, Auschwitz had been a Polish army camp. In May 1940, Rudolf Franz Ferdinand Höss,\* the adjutant at the Sachsenhausen concentration camp, was detailed with thirty men to establish a new compound at Auschwitz.

Until the early spring of 1941, Auschwitz, containing nine thousand inmates, was an installation approximately the same size as earlier German concentration camps, such as Dachau and Buchenwald. Then, as Hitler prepared the assault on Russia, Heinrich Himmler, the head of the SS and German police, came to Auschwitz and told Höss that the camp would have to be expanded to accommodate a population of 130,000—100,000 of them Soviet prisoners of war. The inhabitants of seven villages standing on the swampy, malarial ground between the Sura and the Vistula rivers west of Auschwitz were to be dispossessed and removed as farm laborers to Germany. Since this area was thickly covered with birch trees, the Germans called the new part of the concentration camp Birkenau ("in the birches").

\*Not to be confused with Rudolf Hess, Nazi Party secretary until May 1941.

Wezler's transport arrived in Auschwitz after midnight on April 15—arrivals were usually timed so that the twelve thousand residents of the adjoining town would not be witness to their coming. Stumbling stiff and bewildered out of the cars into the glare of spotlights, the men were lined up in a column of five. Carrying their heavy luggage—for they had been told to come well equipped—they were marched a mile to a building, where they were ordered to strip. Their heads and bodies were shaved roughly, they were given showers, and then were disinfected with Lysol. Each man had a number tattooed onto his left breast, a procedure so painful that many passed out. (Later, to simplify processing, the Germans changed the location of the tattoos to inmates' left arms.) It was ten o'clock in the morning before the operation was completed.

Outfitted with wooden clogs and Russian uniforms daubed with red paint, Wezler and his compatriots were taken to Birkenau. There he learned that only 150 of the twelve thousand Russian prisoners of war detailed in December 1941 to work on the camp's construction had survived the winter. Quartered in half-finished, unheated buildings, they had died of exposure, starvation, and disease. The Birkenau camp, a mile long and a half-mile wide, was encompassed, like Auschwitz, by two rings of electrified barbed wire. Along these, watchtowers were placed every 150 yards. Only a few buildings had so far been completed, though the ultimate goal was to expand the camp to an area covering some two hundred square miles.

The men were awakened at three o'clock every morning and marched off at four to clear land and work on the construction of factories for Siemens, Germany's largest electrical manufacturer; I. G. Farben, the nation's leading chemical company; and the Deutsche Ausrüstungswerke (German Defense Works), an SS enterprise. Jews not capable of labor were executed.

Except for a half-hour break at noon, when the prisoners each received a bowl of filthy carrot, cabbage, or turnip soup, the work continued uninterrupted until 6 p.m. For supper the men received one ounce—a little over one slice—of moldy bread made from ersatz flour and sawdust. They slept in almost windowless barracks with steeply pitched roofs resembling stables. Tiers of balconies, honeycombed with cells two and one-half feet high, each shared by three men, ran along the walls, giving the building the appearance of a giant beehive.

Lice and fleas tortured the men. Rats were so bold they gnawed at the toes and fingers of sleepers and stole carefully preserved crumbs of bread out of their pockets. A third of the prisoners died every week—the sick and injured were taken to the infirmary, where they were granted two to three days to recover or expire. If they did neither, they were spritzed—given

a fatal injection of phenol directly into the heart. At the end of two weeks, only 150 of the 640 men Wezler had arrived with were still alive. By August 15, all but 159 of the 2,722 on the first four transports from Slovakia were dead.

It was possible to survive only by becoming part of the inmate administration that Höss needed to operate the concentration camp. In the middle of May, Wezler obtained assignment to the *Krankenbau* (infirmary), first as head nurse, then as manager. The infirmary constituted an assembly hall for death, through which two thousand passed weekly. Of these twelve hundred died without assistance; the remainder were killed.

In June and August of 1942 typhus epidemics devastated Auschwitz. In the women's compound, Dr. Josef Mengele, the SS physician, devised an ingenious solution. The 750 women in the first barracks were taken to the gas chamber, where humans and lice were exterminated together. The barracks was then sealed and disinfected. After it was habitable again, the inmates of the second barracks were deloused by less heroic means, and moved into the first barracks. The second barracks was then disinfected; and so on down the line.

Over 105,000 bodies had now been dumped into shallow trenches in the spongy fields of Birkenau. As they decomposed, the earth rose like a yeasty mixture of dough and bubbled up nauseating gases, which spread for miles. Rats multiplied and swarmed in packs. Fish died in the streams. The entire area's water supply was polluted. *Brigadeführer* Ernst Grawitz, chief medical inspector of the SS, ordered the bodies burned. A drunken, one-eyed, twenty-seven-year-old trumpeter, gardener, and pig farmer named Otto Moll was placed in charge of 150 inmates set to exhuming and incinerating the bodies on open pyres. Week after week, month after month, the towers of smoke rose into the sky. The stench of burning flesh permeated hundreds of square miles, as far as Cracow and the Vistula River. The ashes of the dead were used to fertilize the fields of nearby farms. Not a person in the area remained unaware of what was going on.

Rudolf Vrba, the second of the Slovaks, arrived at Auschwitz in midsummer 1942, after first having been sent to the Maidanek concentration camp. Together with three thousand other men, he was assigned to the construction of the artificial rubber plant for I.G. Farben. Before long his legs were so swollen that he barely managed to avoid being picked for the gas chamber at a "selection." When he heard of an opening in the *Aufraumungskommando*—the so-called cleaning squad—which promised easier labor, he volunteered.

The task of the *Aufraumungskommando* was to empty the freight cars after their arrival, and collect and sort the possessions of the people. A hundred Jewish prisoners were assigned to the squad. Luggage, rucksacks,

boxes, parcels of all kinds were stacked in mountainous heaps in warehouses. Vrba and his companions went through and separated their contents—toothbrushes, mirrors, cans of food, underwear, furs, chocolate, drugs, cameras, photographs, watches, tobacco, fountain pens, eyeglasses, money, jewels. The usable portion of the clothing went to the German *Winterhilfe* (relief) organization, the remainder was sent to textile mills for reprocessing. The punishment for pocketing any of the things was hanging for the inmates and prison sentences for the SS guards. But, in fact, the SS joined with the *Aufraumungskommando* in plunder. In this way a large amount of goods, including food, jewels, and money, entered the camp—and even created a madcap inflation. Those inmates who had access to the black barter—such as the *Aufraumungskommando*, the Kapos (trusties), and the prison bureaucracy of block elders and camp clerks—represented a distinct class. It was only by providing the inmate elite with a chance to survive, and thus binding them to the SS in an unholy alliance, that Höss was able to govern his charnel house and squelch periodic waves of rebellion.

Following the transportation of the seventeen thousand Slovakian Jews to Auschwitz in the spring of 1942, thirty-three thousand relatives—women, children, and old people—were left behind in Slovakia. The Slovakian government had expected the men to send back money for support. When none came, the government asked Dieter Wisliceny, Eichmann's deputy in Slovakia, what was to be done with the families. Eichmann offered to take them off the Slovaks' hands and resettle them. President Tiso, a Catholic priest, agreed on condition that the several thousand converted Jews among them would be able to follow the Catholic religion—the Slovaks, though anti-Jewish, did not subscribe to the Nazi *racial* anti-Semitism.

Assurances were given, and the thirty-three thousand were duly shipped: directly to the gas chambers of Maidanek and Auschwitz. When, by the end of July, no word had been received from the families, Tiso summoned Wisliceny and, in the presence of the papal nuncio, asked what had happened to them. Receiving no satisfactory reply, he demanded that a Slovakian commission be permitted to travel to Poland to talk to them.

Wisliceny, taken aback, said he would have to go to Berlin to discuss the request with Eichmann. Eichmann murmured: "It is too bad the Slovaks won't be able to see their Jews anymore, because they no longer are among the living." He advised Wisliceny to make up a story and apply himself to having the thirty thousand Jews still remaining in Slovakia shipped to Poland.

But, amid rumors of Jews dying by the tens of thousands, the Slovaks balked. No more Jews were transported.



By the winter of 1943 Höss had augmented his extermination installation with four crematoriums, each with its own gas chamber capable of killing two thousand people simultaneously. The number of workers to be salvaged from a transport was always determined beforehand according to the labor needs of the camp. If there had been an epidemic, or it was summer, when farmhands were required, as many as thirty percent of the arrivees might be reprieved momentarily. At other times, as few as ten percent were selected for work.

As soon as the ambulatory had left the boxcars, the *Aufraumungskommando* scrambled in. In addition to the corpses left behind amid the incredible jetsam and filth, there were frequently seriously ill and sometimes unconscious persons. Once a woman gave birth to a baby at the moment of arrival. Simon Gotland, one of the *Kommando*, wrapped it and put it next to the mother on the floor. A Romanian-born German SS guard named Stefan Baretzki stormed up and beat Gotland and the mother with his swagger stick. Yelling "Why are you playing around with this filth!" he kicked the infant out of the car like a football, then directed Gotland: "Bring the shit over here!" But the baby was already dead.

Everyone unable to stand on his feet was declared by the SS doctor to be officially "dead." The dead, the near-dead, and the infants were heaved indiscriminately onto trucks by the *Aufraumungskommando*. Driven to the burning pits that continued to handle the overflow of corpses even after the construction of the crematoriums, all were heaped together upon the pyre and incinerated. At Auschwitz there was no particular compunction about burning humans alive—newborn infants were sometimes thrust into the laundry furnace as a matter of convenience.

Escape from Auschwitz was made difficult not only by the physical barriers, but by the negative attitude of the general camp population, which suffered after every escape. If an escapee somehow made his way beyond the two electrified barbed-wire fences and watchtowers, blaring sirens alerted the whole countryside. Dogs were put into pursuit, and SS and military personnel began to comb the fields and woods. With his shorn head and prison uniform, an inmate could expect no help from the local populace, for assisting an escapee meant death.

Weczler and Vrba had, however, learned from the failures of others and been able to secrete civilian clothing, money, and food. On April 7, 1944, they slipped through the cordon at Birkenau, and within a week they were in Bratislava, Slovakia.

When, at first, they told their tale to members of the Jewish community remaining in that city, they were greeted with incredulity. The most common reaction to revelations of the Nazi plan to exterminate the Jews