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Nuremberg No Afterthought



The outline of two fasces still could be seen in the stonework on the Nuremberg courthouse. A few freshly scrawled swastikas and some old posters plugging "Join the Hermann Göring Division!" brightened the city's rubble. One Nazi holdover, however, was removed last week from the very site of the war criminals' trial. Americans arrested the courthouse head janitor, a member of the SS and of the Nazi party since 1933. And in the courtroom, earnest prosecutors piled fresh evidence on the mounting pile of documents designed to convict the twenty top-ranking survivors of Nazism.

It was the job of Justice Robert H. Jackson and his aides to prove Count One of the indictment, the "Common Plan or Conspiracy." The British were responsible for the next, "Crimes Against Peace." French and Russian lawyers will jointly prosecute Counts Three and Four—"War Crimes" and "Crimes Against Humanity," which they have experienced at firsthand. As the Americans completed their submission of evidence, the British took on Count Two.

In an eloquent five-hour address, Sir Hartley Shawcross, the handsome British prosecutor, charged that the twenty men in the prisoners' dock had deliberately violated 26 international treaties, agreements, and assurances dating from The Hague Convention of 1899 to German promises to Yugoslavia given on Oct. 6, 1939. From the invasion of Poland to the Pacific war, he charged them with starting and waging nine separate wars. Like Jackson, Shawcross anticipated the Nazis' probable defense: that the Allied tribunal is incompetent to mete out retroactive justice, and that individuals cannot be tried for a nation's crimes.

Justice at Nuremberg, Sir Hartley said, is not a victor's afterthought. Instead, "the Pact of Paris is the law of nations" and "this tribunal will enforce it." Stressing particularly the Kellogg-Briand pact signed at Paris in 1928, he documented the Nazis' violation of their pledges and their secret preparations for war even as they signed new treaties with the nations they planned to attack.

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As for the defendants' guilt, the British Attorney General named seven individually as "murderers, robbers, blackmailers, and gangsters" who led Germany into war.

Men Under Ill Stars: Buffoonery in the prisoners' dock came to a halt when Shawcross spoke. Hans Frank's sneer disappeared. Joachim von Ribbentrop—closely implicated in hypocritical German foreign policy—picked up the Göring habit of active head shaking and nodding. Rudolf Hess—who dropped his book of fairy tales along with his amnesia—took copious notes, occasionally conferring with Göring on a point of history. Dissatisfied with his lawyer, who was equally aggravated by his unpredictable client, Hess took over his own defense. Göring's avid note taking was perhaps also a preparation for self-defense. He gestured with increasing annoyance when his counsel failed to raise objections to prosecution evidence.

Wilhelm Frick was cheered when his wife sneaked in with a defense counsel's pass and waved to him from the gallery. But Col. Gen. Alfred Jodl's family ties were loosened when Frau Jodl was fired from his counsel's staff. Franz von Papen, who until now had remained the suave diplomat, shook his fist at the judges' bench during a recess and sputtered: "They want to condemn us before we've had a chance to speak."

Walther Funk still burst into tears easily but kept his faith in astrology. To anyone who would listen he explained that he should have been happy because "I was born at 9 o'clock on a Sunday morning under the sign of Leo, which is particularly favorable in the constellation of Jupiter." But Funk's luck turned in 1937, and thereafter the stars hindered instead of helping him. "Even today, I feel strong internal unrest at the time of a full moon," he said.

Except for Göring, Hess, Funk, and Frick, all the prisoners attended Sunday religious services—especially Frank, baptized a Catholic on Oct. 22. In his cell, Hess read two books of fiction a day. Alfred Rosenberg and Ribbentrop, who requested something by Jules Verne, got through one book a week. Julius Streicher took up the study of Goethe.

In the courtroom Grand Admiral Karl Doenitz spoke briefly, with a sentiment in which all his colleagues undoubtedly joined. When smoke from an overheated ventilator blew into the room, the presiding justice sniffed so noisily that a British prosecutor who was then speaking stopped in confusion. But Admiral Doenitz merely informed a guard, coldly and distinctly: "It stinks in here."