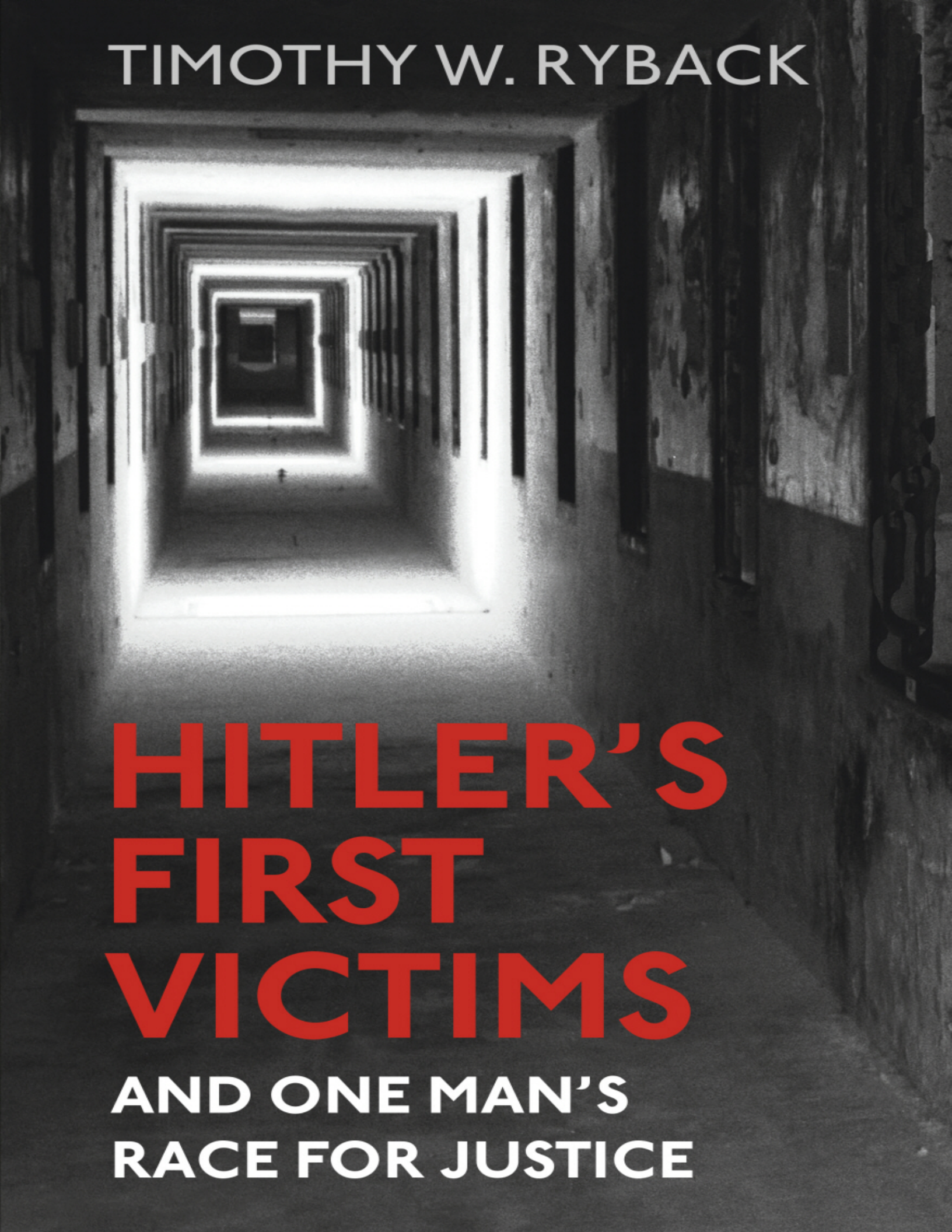
TIMOTHY W. RYBACK
HITLER'S FIRST VICTIMS
AND ONE MAN'S RACE FOR JUSTICE

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ABOUT THE BOOK

Forensically researched and grippingly told, this narrative reconstruction of six dramatic weeks in 1933 tells the astonishing true story of a German prosecutor, Josef Hartinger, and his race to expose the Nazis as murderers on the eve of the Holocaust.

ABOUT THE AUTHOR

Timothy W. Ryback is the co-founder of the Institute of Historical Justice and Reconciliation at Leiden University in the Netherlands. His previous books include the highly acclaimed *Hitler's Private Library: The Books that Shaped his Life*, which has been translated into more than twenty languages and was described by Ian Kershaw as 'elegantly written, meticulously researched, fascinating', and *The Last Survivor: Legacies of Dachau*, which was a New York Times Notable Book for 2000. He has been involved with several institutions dealing with international affairs and served as a lecturer in History and Literature at Harvard University. He has also written for the *Atlantic*, the *New Yorker* and the *New York Times*. He and his wife live in Paris.

ALSO BY TIMOTHY RYBACK

The Last Survivor: Legacies of Dachau
Hitler's Private Library: The Books that Shaped his Life

ILLUSTRATION CREDITS

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HITLER'S FIRST VICTIMS

And One Man's Race for Justice

TIMOTHY W. RYBACK

THE BODLEY HEAD
LONDON

IN MEMORY OF THE FIRST FOUR VICTIMS OF THE HOLOCAUST

Rudolf Benario, age 24, d. April 12, 1933

Ernst Goldmann, age 24, d. April 12, 1933

Arthur Kahn, age 21, d. April 12, 1933

Erwin Kahn, age 32, d. April 16, 1933

The only thing necessary for the triumph of evil is for good men to do nothing.

Attributed to EDMUND BURKE

Prelude to Justice

ON THE AFTERNOON of Wednesday, December 19, 1945, shortly after the midday recess, Major Warren F. Farr, a Harvard-educated lawyer, took the podium before the International Military Tribunal in Nuremberg to make a case for applying the dubious legal concept of collective guilt. The assistant trial counsel of the American prosecution team intended to prove, he told the tribunal, that the *Schutzstaffel*, Adolf Hitler's black-uniformed "protection squads," was a "criminal organization" and that its members should be held collectively responsible for the myriad atrocities perpetrated in its name.

"During the past weeks the Tribunal has heard evidence of the conspirators'[1] criminal program for aggressive war, for concentration camps, for the extermination of the Jews, for enslavement of foreign labor and illegal use of prisoners-of-war, for deportation and Germanization of conquered territories," Major Farr crisply reprised. "Through all this evidence the name of the SS ran like a thread. Again and again"—throughout his discourse Farr jabbed the air with his pencil—"that organization and its components were referred to. It is my purpose to show why it performed a responsible role in every one of these criminal activities, why it was—and, indeed, had to be—a criminal organization."

Farr spoke in a voice that was firm and resolute, but noticeably restrained, seeking to retain the solemnity with which Robert H. Jackson, chief prosecutor for the United States, had opened the prosecution four weeks earlier. "The wrongs which we seek to condemn and punish have been

so calculated, so malignant, and so devastating,”[2] Jackson had observed, “that civilization cannot tolerate their being ignored, because it cannot survive their being repeated.” Jackson enumerated a triad of transgressions—crimes against peace, war crimes, and crimes against humanity—as the phalanx of twenty-one defendants watched from the dock.[3] They seethed defiant indifference, belligerence, and arrogance. Former Luftwaffe chief Hermann Göring slouched in the corner beside Rudolf Hess. The statuesque Nazi ideologue Alfred Rosenberg appeared in a three-piece suit, as did the Third Reich’s banker, Hjalmar Schacht. The military high command donned uniforms. Wilhelm Keitel blamed Hitler. “Hitler gave us orders—and we believed in him,” Keitel said.[4] “Then he commits suicide and leaves us to bear the guilt.” Julius Streicher, the virulently anti-Semitic editor of *Der Stürmer*, blamed the Jews. Ernst Kaltenbrunner, the highest-ranking SS officer to stand trial at Nuremberg, objected to being forced “to serve as an ersatz for Himmler,”[5] who had sidestepped justice with the snap of a cyanide capsule. Only Hans Frank, the former governor-general of occupied Poland—“a lawyer by profession, I say with shame,” Jackson noted—readily admitted to his own guilt and that of his country.[6] After viewing film footage of the liberated concentration camps, Frank said to his fellow defendants, “May God have mercy on our souls.” He was equally contrite before the tribunal. “A thousand years will pass,” he would tell the court, “and the guilt of Germany will not be erased.” But Jackson knew that crime as well as punishment was on trial in Nuremberg. “We must never forget that the record on which we judge these defendants today,”[7] he reminded the court, “is the record on which history will judge us tomorrow.”

Now, on the twenty-third day of the trial, as Farr prepared to leave his mark on judicial history, the courtroom solemnity that had greeted Jackson gave way to

distraction. Farr's fellow jurists shuffled papers. The defendants chatted among themselves or stared blankly into the distance. Göring planted his jowled face on the dock rail like a bored schoolboy. Frank, in dark glasses, sat in shaded, sinister silence. Previously, the tribunal president, Sir Geoffrey Lawrence, had grown noticeably impatient as Colonel Robert Storey, executive trial counsel, presented a meticulously researched case against the Nazi *Sturmabteilung*, the brownshirt SA storm troopers. Telford Taylor, Jackson's deputy and eventual successor, recalled that the defendants had "roared with laughter" each time the tribunal president interrupted Storey.[8] Now it was Farr's turn. "Farr had his troubles with the tribunal,"[9] Taylor remembered. "Its members were still nursing the irritation Storey had aroused and perhaps wanted to avoid giving the impression that he had been singled out for criticism." In addition, Taylor noted, "it was the next-to-last day before the Christmas break, and everyone was tired and eager to get away."

Farr forged into the courtroom fatigue. "About a week or ten days ago there appeared in a newspaper circulated in Nuremberg an account of a visit by that paper's correspondent to a camp in which SS prisoners of war were confined," he said.[10] "The thing that particularly struck the correspondent was the one question asked by the SS prisoners. Why are we charged as war criminals? What have we done except our normal duty?" It was his intention that afternoon, Farr informed Sir Geoffrey and his fellow judges, to answer that question with evidence that proved the SS was "the very essence of Nazism." But as Farr began detailing the structure and nature of the SS, pointing his pencil toward the wall-size chart of this hydra-headed monster—the General SS, the Gestapo, the Security Department, the Death's Head Unit, the Waffen SS—with SS Reichsführer Heinrich Himmler as its leader, Sir

Geoffrey grew peevish. “Major Farr,” he said. “To go into this degree of detail about the organization of the SS?”

The American judge, Francis Biddle, joined the sniping. When Farr read a top-secret order from Hitler relating to the structure, membership, and responsibilities of the SS, dated August 17, 1938, then quoted a speech by Himmler from October 1943 in Poznan on the militarized SS police in the occupied territories and quoted an article by Himmler, Biddle intervened. “What has what you just read got to do with what you are presenting?” he asked irritably. Farr insisted on the need to establish the SS as a “criminal weapon” of the National Socialist regime. “Yes, but Major Farr, what you have to show is not the criminality of the people who used the weapon,” Sir Geoffrey objected, “but the criminality of the people who composed the weapon.”

Farr did not budge. “I quite agree I have to show that,” he said. “I suppose I have to show, before showing the persons involved knew of the criminal aims of the organization, what those criminal aims were.” This, Farr knew, was the core of his case. For the last twenty-three days, the prosecution had presented hundreds of pages of evidence, citations from speeches, directives, and top-secret memoranda. They had shown nightmare footage from the concentration camps. They had introduced as evidence tattooed flesh and a shrunken human head. “It is unnecessary to repeat the evidence of wholesale brutality, torture, and murder committed by SS guards,” Farr said. “They were not the sporadic crimes committed by irresponsible individuals but a part of a definite and calculated policy, a policy necessarily resulting from SS philosophy, a policy which was carried out from the initial creation of the camps.”

Farr cited verbatim and without apology a Himmler speech from 1942, Document 1919-PS, on the necessity of the concentration camps. “We shall be able to see after the war what a blessing it was for Germany that,” Farr quoted

Himmler, “in spite of all the silly talk about humanitarianism, we imprisoned all this criminal substratum of the German people in concentration camps. I’ll answer for that.” Farr paused. He looked to the defendants’ dock, from which Himmler was absent.

“But he is not here to answer,” Farr said. He turned to Sir Geoffrey. “Certainly there was no ‘silly humanitarianism’ in the manner in which SS men performed their tasks,” he told the British aristocrat. “Just an illustration,” he said. “I have four reports, relating to the deaths of four different inmates of the Concentration Camp Dachau between 16 and 27 May, 1933.” Farr held a sheaf of evidence collected in the spring of 1933 by the Munich prosecutor’s office. “Each report is signed by the Public Prosecutor of the District Court in Munich and is addressed to the Public Prosecutor of the Supreme Court in Munich. These four reports show that during that two-week period in 1933, at the time when the concentration camps had barely started, SS men had murdered—a different guard each time—an inmate of the camp.”

These were not manuals or speeches or directives or confidential memoranda. This was hard evidence, the stuff on which successful criminal prosecutions were built: signed depositions; police reports; crime scene sketches; forensic reports; autopsies; original black-and-white photographs of abused human bodies with lacerated backs and buttocks, cracked necks, and deeply gashed flesh with dangling sinews and glimpses of bone; and, most important, the names of the SS personnel indicted for these murders. This was “an illustration of the sort of thing that happened in the concentration camps at the earliest possible date, in 1933. I am prepared to offer those four reports in evidence and to quote from them”—and here Farr paused to observe acidly—“if the Tribunal thinks that the point is not too insignificant.”

“Where are they?” Sir Geoffrey asked.

"I have them here," Farr said. "I will offer them in evidence. The first is our Document 641-PS."[11]

THE DOCUMENTS THAT Farr offered Sir Geoffrey on that late December afternoon contain some of the earliest forensic evidence of the systematic execution of Jews by the Nazis. While these initial Dachau killings do not represent the homicidal process in its full horrific scope, the murder of Jewish detainees in Dachau that spring involved the constituent parts of the genocidal process—intentionality, chain of command, selection, execution—we have come to know as the Holocaust.

I first became aware of the Dachau murders while on assignment as a "far-flung correspondent" for *The New Yorker* in the early 1990s. At the time, Hans-Günter Richardi had already detailed the killings in his superb account of the early Dachau Concentration Camp, *Schule der Gewalt* (School of Violence), as had Prof. Dr. Lothar Gruchmann in his fascinating though daunting twelve-hundred-page compendium, *Justiz im Dritten Reich* (Justice in the Third Reich). I felt there was little left to add.

Later, I discovered in a Munich archive the unpublished, and seemingly forgotten, account of these incidents by Josef Hartinger, the Bavarian deputy state prosecutor who had collected the forensic evidence that Farr was to present in Nuremberg twelve and a half years later. In two extended letters, one dated January 16, 1984, and the other dated February 11, 1984, Hartinger, ninety years old at the time, revealed an astonishingly bold plan to have the camp commandant, Hilmar Wäckerle, arrested on murder charges, and the SS guard units evicted from the concentration camp system.

At the time, Hartinger was a thirty-nine-year-old Munich prosecutor and a rising star in the state civil service. Like many that spring, he sensed the horrific nature of the Hitler regime, but like few others, he recognized its

fissures and early fragility, and like fewer still, he willingly risked everything—his career, his welfare, even his life—in the unflinching pursuit of justice. While Hartinger's fight for accountability couldn't stem the tide of Nazi atrocity, his story suggests how vastly different history might have been had more Germans acted with equal courage and conviction in that time of collective human failure.

PART I

INNOCENT

1

Crimes of the Spring

THURSDAY MORNING OF Easter Week 1933, April 13, saw clearing skies that held much promise for the upcoming holiday weekend. Mild temperatures were foreseen for Bavaria as they were throughout southern Germany, with a few rain showers predicted for Friday, but brilliant, sunny skies for the Easter weekend. Previous generations hailed such days as *Kaiserwetter*, weather fit for a kaiser, a playful gibe at the former monarch's father, who appeared *en plein air* only when sufficient sunlight permitted his presence to be recorded by photographers. In the spring of 1933, some now spoke in higher-spirited and more reverential tones of *Führerwetter.*[1] It was Adolf Hitler's first spring as chancellor.

Shortly after nine o'clock that morning, Josef Hartinger was in his second-floor office at Prielmayrstrasse 5, just off Karlsplatz in central Munich, when he received a call informing him that four men had been shot in a failed escape attempt from a recently erected detention facility for political prisoners in the moorlands near the town of Dachau. As deputy prosecutor for one of Bavaria's largest jurisdictions—Munich II—Hartinger was responsible for investigating potential crimes in a sprawling sweep of countryside outside Munich's urban periphery. "My responsibilities included, along with the district courts in Garmisch and Dachau, all juvenile and major financial

criminal matters for the entire jurisdiction, as well as all the so-called political crimes.[2] Thus, for the Dachau camp, I had dual responsibilities," he later wrote.

Deputy Prosecutor Hartinger was a model Bavarian civil servant. He was conservative in his faith and politics, a devout Roman Catholic and a registered member of the Bavarian People's Party, the centrist "people's party" of the Free State of Bavaria, founded by Dr. Heinrich Held, a fellow jurist and a fierce advocate of Bavarian autonomy. In April 1933, Hartinger was thirty-nine years old and belonged to the first generation of state prosecutors trained in the processes and values of a democratic republic. He pursued communists and National Socialists with equal vigor, and since Hitler's appointment as chancellor had watched the ensuing chaos and abuses with the confidence that such a government could not long endure. The Reich president, Paul von Hindenburg, had dismissed three chancellors in the past ten months: Heinrich Brüning in May, Franz von Papen in November, and Kurt von Schleicher just that past January. There was nothing preventing Hindenburg from doing the same with his latest chancellor Adolf Hitler.

Until then, Hartinger's daily commerce in crime involved burned barns, a petty larceny, an occasional assault, and, based on the remnant entries in the departmental case register, all too frequent incidents of adult transgressions against minors. Forty-one-year-old Max Lackner, for example, was institutionalized for two years for "sexual abuse of children under fourteen." Ilya Malic, a salesman from Yugoslavia, was arrested after he "forced a fourteen-year-old to French-kiss." Hartinger spoke discreetly of "juvenile matters." Homicides were rare. The only registered murder for those years was a crime of passion committed by forty-seven-year-old Alfons Graf, who put four bullets into the head of his companion, Frau Reitinger,

when he discovered her in the back of his company car with another man.

But that year, following Hitler's January appointment as chancellor and the dramatic arson attack a month later that saw the stately Berlin Reichstag consumed in a nightmare conflagration of crashing glass, twisted steel, and surging flames, the jurisdiction was swept by an unprecedented wave of arrests in the name of national security.[3] In Untergrünberg, the farmer Franz Sales Mendler was arrested for making disparaging remarks about the new government. Maria Strohle, the wife of a power plant owner in Hergensweiler, told a neighbor that she heard Hitler had paid 50,000 reichsmarks to stage the arson attack on the Reichstag; she was sentenced to three months in prison, as was Franz Schliersmaier in Bösenreutin, who put the amount at 500,000. One Bavarian was indicted for comparing Hitler to Stalin, and another for calling him a homosexual, and still another for suggesting he did not "look" German. "Hitler is a foreigner who smuggled himself into the country,"[4] Julie Kolmeder said at a Munich beer garden a few streets from Hartinger's office. "Just look at his face." A Munich coachman crossed the law with the indelicate aside, "*Hitler kann mich im Arsch lecken.*" Euphemistically: Hitler can kiss my ass. More than one person was prosecuted for calling a Nazi a "*Bazi.*"[fn1] Thousands of others were taken into *Schutzhaft*, or protective custody, for no apparent reason at all.[5]

The shooting of four men in a failed escape from the Dachau Concentration Camp must have struck Hartinger's Roman Catholic sensibilities as particularly unfortunate, coming as it did just two days before Good Friday and amid an appeal by the archbishop of Munich and Freising for an Easter amnesty. "In the name of, and on behalf of, the Bavarian bishops, I have the honor, Your Excellency, to extend the following request," the stately and imperious Cardinal Faulhaber had written Bavaria's Reich governor

on April 3, “that the investigation procedure for those in protective custody be expedited as quickly as possible in order to relieve the detainees and their families from emotional torment.”[6] Faulhaber expressed the desire that the detainees could be home in time for the Easter weekend, reminding the governor that there was no occasion more sacred to Christians than the Eastertide. “If because of time constraints the investigations cannot be completed by Good Friday,” Faulhaber proposed, “then perhaps out of pure Christian and humanitarian grounds, an Easter amnesty can be granted from Good Friday until the end of Easter.” The cardinal reminded the governor that in December 1914 Pope Benedict XV had invoked a Christmas armistice that stilled weapons on both sides of the front. What worked in a time of war must certainly work in peacetime, was the suggestion. Indeed, the previous month Chancellor Hitler himself had stated that his “greatest ambition” was to “bring back to the nation the millions who had been misled, rather than to destroy them.”[7] What better way to instill a sense of national loyalty than through a gesture of Christian clemency on the holiday celebrating the resurrection of Jesus Christ? In this deeply Catholic corner of the country, when the archbishop of Munich and Freising, the oldest and most powerful of the state’s bishoprics, spoke, the vast majority of Bavaria’s four million Catholics listened, and on this occasion so did its political leadership.

A week later, the state interior minister, Gauleiter Adolf Wagner, responded on the Reich governor’s behalf.[fn2] “Most Honorable Herr Cardinal, I have the honor of responding to your letter to the governor of April 3, 1933,”[8] he wrote, “to inform Your Eminence that we are in the process of reviewing the cases of everyone currently in detention, and that by Easter more than a thousand individuals will be released from protective custody.” Wagner conveyed additional good news. The state government would permit

Easter Mass to be celebrated among those practicing Roman Catholics who remained in detention as long as it did not constitute “a burden to the state budget.” Wagner recommended that “the responsible religious authorities should be directly in contact with the administration of the individual detention camps, whom I will provide corresponding instructions as to how to deal with this matter.”

But now, amid heartening news of the Easter amnesty, came news of the deaths at Dachau. The call to Hartinger that Thursday morning was conducted in conformity with Paragraph 159 of the *Strafprozessordnung*, or Criminal Procedure Code, which required police officers “to report immediately to the prosecutor or local magistrate” any case in which “a person has died from causes other than natural ones.”[9] Paragraph 160, in turn, obligated Hartinger to take immediate action: “As soon as the prosecutor is informed of a suspected criminal act, either through a report or by other means, he is to investigate the matter until he has determined whether an indictment is to be issued.” In compliance with his Paragraph 160 responsibilities, Hartinger called Dr. Moritz Flamm, the Munich II medical examiner, who was responsible for conducting postmortem examinations and autopsies in criminal investigations.[10]

Hartinger liked Dr. Flamm. Both men had previously worked in Munich I, Hartinger as an assistant prosecutor and Flamm as a part-time assistant medical examiner. Like Hartinger, he was a man of keen intelligence who had earned perfect grades in school. And like Hartinger, Flamm was a man of sterling professionalism.[11] Flamm autopsies were models of precision and efficiency—not a moment wasted, not a detail overlooked. Often thirty pages in length, they could withstand the most rigorous scrutiny in a court of law. Flamm was particularly proficient in bullet wounds. He had completed his medical training at the Ludwig Maximilian University of Munich in July 1914, just

in time to join the 2nd Bavarian Infantry Regiment. He was dispatched to the front in August 1916 with the 3rd Medical Company, where he served meritoriously, earning an Iron Cross, the Bavarian Military Order, and the Friedrich August Cross. “Particularly noteworthy is his absolute reliability and his medical professionalism that make him, without question, suited for any type of service,” the company surgeon had commented after the war.[12] “At the front [Flamm] became virtually indispensable as the situation with medical supplies deteriorated,” he wrote, “all the while demonstrating a seemingly inexhaustible dedication to his work.”[13] The surgeon observed that Flamm was notably “modest” and “by nature rather sensitive,” but possessed of intelligence, sound judgment, and humor even “in the most desperate situations.” The surgeon said he had come to know in Flamm a physician “for whom one can only wish full and well-deserved recognition and in good conscience can provide unqualified praise.” Flamm’s handwriting, precise and refined, with playful, elegant flourishes, reflects his calm and easy competence.

Flamm also demonstrated a fierce independence and willingness to act on his conscience when circumstances demanded. In the spring of 1919, amid a failed Bolshevik coup that saw thousands taken into protective custody—with and without cause—he exercised his authority as chief physician of a military hospital to order the release of two patients who were being detained on suspicion of collaborating with communists. Flamm was accused of Bolshevik sympathies, but was taken into “personal protection” by his superior, who vouched for him “administratively, professionally, and politically” and insisted that he was a man free of “any personal, moral, or political blemish.” After two years with Flamm in Munich II, Hartinger had come to share the same high regard. In

addition, Flamm had a driver's license and his own motorcar.[14, 15]

DACHAU WAS an easy twenty-minute drive north of Munich, first to the town of Allach, where BMW had an assembly plant, then into the Dachau moorlands along tree-lined country lanes and across open fields. The town, whose name derived from *dah*, for "mud," and *au*, for "meadow"—the "muddy meadow"—was in fact a charming weave of cobblestone streets and cross-timber façades situated on a prominent rise that overlooked the surrounding moorlands. The local residents, a sturdy rural Bavarian stock reputed to be particularly *geschert*—rough-cut and provincial—took their history in stride, managing over the centuries to till their fields and peddle their wares in the service of monarchs, communists, constitutionalists, and now National Socialists.

In the eighteenth century, the Wittelsbachs, who had ruled Bavaria for more than eight hundred years, built their summer residence there, a cheerful rococo palace with a splay of windows along its southern façade that still glint splendidly in the afternoon sunlight. In the late nineteenth century, landscape artists discovered the Dachau moors, whose soft hues complemented the impressionist style that was all the rage of the era. In the 1890s, Dachau was awarded two stars by the Michelin Guide. Munich received only one. By the end of the century, more than a thousand artists were said to be living and working around Dachau.

During the Great War, the Royal Powder and Munitions Factory was constructed just east of town in a swampy woodland fed by the Würm Mill Creek, isolated enough to protect the local population from an industrial accident but accessible to the Dachau train station along the main rail line between Munich and Stuttgart and beyond to the fighting fronts. For the next several years, the factory produced millions of projectiles that were adapted to the

changing fashions of the front. In addition to standard bullets for pistols, rifles, and machine guns, specialized munitions for slicing barbed wire, shooting down observation balloons, and piercing armor were developed. After the war, in April 1919, the Bolsheviks won a military victory here during the rule of the ill-fated Soviet Republic of Bavaria, when Bavaria broke briefly from the Reich, only to return to the longer-lived but equally tumultuous and ultimately equally ill-fated Weimar Republic.[16]

The Treaty of Versailles idled munitions production, stranding thousands of workers. For the next decade, the facility stood as a haunting reminder not just of military defeat and political humiliation but also of the ruinous impact on the local economy. “Since 1920, the numerous work sites have stood empty,” the *Dachauer Zeitung* reported, “the many buildings and work halls, constructed at such expense, stand dead and abandoned.”[17] A local author, Eugen Mondt, who circulated within distinguished literary circles—he was a friend of the poet Rainer Maria Rilke and attended a reading by Franz Kafka[fn3]—lived adjacent to the abandoned facility. As Mondt watched the vacant building fall into decay, an eerie and seemingly Kafkaesque ruin emerged in his mind. “The facility seemed uncanny to me,” he wrote.[18] “It was like a city of the dead.”

No one was quite certain who selected the moldering ruin as the site for a detention center. Some thought it was the new thirty-two-year-old chief of police, Heinrich Himmler, whose first job had been with an agricultural fertilizer business in the nearby town of Oberschleissheim. Some thought it might have been Dachau’s own town fathers. In January 1933, a few weeks before Hitler came to power, the *Amper-Bote (Amper Messenger*) published an ambitious plan to retool the abandoned industrial facility into a public work camp for the unemployed. The offices could be reequipped, the cooking and sanitation facilities renovated, the barracks refurbished. The camp residents

would be put to work cultivating the fields, shoring up the banks of the Amper River, and rebuilding local roads. “Naturally, it would be necessary to develop this organization carefully and in the greatest detail,” the article said, “so that in every respect the best orderliness, security and pleasant working conditions would be provided for those wishing to work here.” The only issue that remained to be clarified was whether residency in the facility was to be “forced” or “voluntary.” The proposal was taken under consideration by the Munich authorities.

On Thursday, March 13, Interior Minister Wagner dispatched a team to Dachau to assess the site’s potential for concentrating in one place the thousands of political prisoners glutting Bavaria’s jails, prisons, and makeshift detention centers. The following Sunday, a column of trucks loaded with Nazi “volunteers” rolled into the abandoned facility and hoisted a swastika banner. “On the water tower of the former gunpowder factory, visible from far away, the black-white-and-red flag flutters in the wind,” the *Dachauer Zeitung* reported, “a sign that new life has moved into the once desolate compound of the big Dachau gunpowder factory.” On Monday, March 20, Police Chief Heinrich Himmler announced the opening of the Dachau Concentration Camp.[19, 20] Two days later, a bus delivered the first detainees.

HARTINGER AND FLAMM ARRIVED at the camp, along with a note taker, shortly before ten o’clock that morning.[fn4] The facility was enclosed by the ten-foot-high perimeter wall that once protected the industrial park from sabotage; the stone escutcheons of Wittelsbach heraldry still graced the entrance gate. The detention center had been officially designated the *Konzentrationslager Dachau*, but it was in fact situated in the district of Prittlbach, a town so obscure and isolated that the Nazis had borrowed the name from the neighboring rail-linked town of Dachau. It was

Hartinger's first visit to this remote corner of his jurisdiction since Himmler had announced the camp's opening three weeks earlier.

Hartinger was troubled from the outset. There was not a single green uniform of a state police officer in sight. Instead, the entrance was guarded by a clutch of armed men in brown storm trooper uniforms with black kepis indicating their elevated status into the elite SS. Hartinger knew that the Reich governor had issued a special ordinance on March 10 permitting storm troopers to help manage the surge of protective-custody detentions—"These are to be armed by the police with pistols"—but it made provision for these guards to serve under state police supervision.[21]

Hartinger demanded entrance. A call was made. The iron gate swung open. Flamm steered his motorcar through the narrow entrance. As they drove past boarded-up buildings and work details of detainees in gray dungarees, their heads shaven, guarded by rifle-toting storm troopers, Hartinger's disquiet deepened. He knew something about detention facilities. His position after university had been as a prison assessor with the attorney general's office in his hometown of Amberg. At a glance, Hartinger knew this place violated virtually every regulation for a state facility.

At the camp commandant's headquarters, a two-story building, the judicial commission was received not by a state police officer but by an SS captain, SS Hauptsturmführer Hilmar Wäckerle. He was dressed in a crisp black SS uniform with flawlessly polished knee-high riding boots and a peaked black kepi, a veritable poster boy of Aryan superiority. With one hand, Wäckerle held a leashed and muzzled attack dog. In the other, he gripped a pizzle. He exuded cruelty and arrogance. Wäckerle was evidently a man who understood the trappings of brute force but possessed little appreciation for the less overt, more subtle sources of power. He did not understand that

the middle-aged, slightly balding civil servant with thick-rimmed eyeglasses, a man of modest appearance and stature—in the office, Hartinger was known as the “short, dark guy”—carried with him the full legal authority of the Bavarian state.

Hartinger had entered the facility not on the SS captain’s beneficence but through the force of Paragraph 160 of the Criminal Procedure Code. For his part, Wäckerle was obligated under Paragraph 161 to cooperate fully with “authorities and officials of the police and security services” and adhere to “all regulations in order to avoid obscuring the facts of the case.”[22] The Dachau Concentration Camp may have been Wäckerle’s concentration camp, but it remained in Hartinger’s legal jurisdiction.

Hartinger was led to the scene of the shooting across a small footbridge over the Würm Mill Creek and along a wooded path to a remote area that was being clear-cut for a shooting range for the camp guards. He was told that the four detainees had been equipped with picks and shovels the previous afternoon around five o’clock and had been led to the clearing to remove stubble and underbrush by SS lieutenant Robert Erspenmüller, a former police officer, who was serving as the deputy camp commandant.[23, 24] According to Erspenmüller, the four men had been noticeably “lax” in their comportment and needed to be prodded repeatedly. They had been at the site for only a few moments when the youngest, a twenty-one-year-old medical student from Würzburg named Arthur Kahn, allegedly sprinted for the trees. The accompanying guards, Hans Bürner and Max Schmidt, said they had shouted for Kahn to halt. Suddenly, it was said, two other detainees, Rudolf Benario and Ernst Goldmann, both twenty-four and both from the town of Fürth, near Nuremberg, also bolted. The two guards said they shouted again, then opened fire.