

Levy. Now to obtain the name 'Joly' one has only to remove the 'e' from Joe and the 'ev' from Levy – a procedure which, he felt, 'probably has some secret meaning for the Jews'.¹

Not surprisingly the court was unable to make much sense of these speculations, but that did not prevent Fleischhauer from pursuing them long after the trial was over. Nor was he alone in this. It must have given him immense satisfaction to receive the following communication, dated 6 February 1937, from an Italian baron who was a subscriber to the *Weltdienst*:

You are quite right in saying that all Jolys were most zealous revolutionaries. And what revolutionaries! The Vatican State police used to regard them as a real plague and the devil's own emissaries.

It is true that the baron's information concerning these mysterious beings was limited. 'My material,' he admitted, 'is rather slight, and consists of family traditions and a few short studies.'

The Berne trial ended on 14 May 1935. Judge Meyer found that the *Protocols* were largely plagiarized from Joly's book and were indecent literature; and he imposed a fine on the two main defendants. His comment could hardly have been sharper. 'I hope,' he said, 'that there will come a time when nobody will any longer understand how in the year 1935 almost a dozen fully sane and reasonable men could for fourteen days torment their brains before a court at Berne over the authenticity or lack of authenticity of these so-called "protocols", these *Protocols* that, despite all the harm they have caused and may yet cause, are nothing but ridiculous nonsense.'² And when Fleischhauer asked for a fee of 80,000 Swiss francs for his services as expert, the court promptly reduced the sum by nine-tenths.

That however was not the end of the matter. The defendants appealed and the case was heard by the Court of Appeal in Berne in the autumn of 1937. On 1 November the court ruled that as the *Protocols* were not salacious, the law concerning indecent literature could not be applied to them; the sentence

¹ Bulletin No. 6 in *Der Berner Prozess um die 'Protokolle der Weisen von Zion'*. (This is a collection of bulletins on the progress of the second part of the trial, in April–May 1935. A copy is in the Wiener Library.)

² *Ibid.*, Bulletin No. 23.

was therefore quashed. This has enabled later editors of the *Protocols* to claim that the Court of Appeal refused to commit itself on the authenticity of the *Protocols*. In reality the court ruled that 'this scurrilous work contains unheard-of and unjustified attacks against the Jews and must without reservation to be judged to be immoral literature', and it added a recommendation: 'It will be for other authorities to forbid, for reasons of state, the propagation of writings of this kind.' The court also refused to award damages to the defendants, on the grounds that 'whoever disseminates libellous and insulting writings of the greatest possible coarseness, runs the risk of being summoned before the courts and must take the consequences'.¹

The Berne trial, then, achieved all it could reasonably have been expected to achieve: the proceedings had revealed the *Protocols* as a fabrication designed to cause persecution and massacre, and they had been reported at length in hundreds of newspapers throughout the world. It is hardly necessary to add that this made not the slightest difference to the Nazis and their accomplices. The *Weltdienst* conference of 1937, consisting of 'many experts, authors and political leaders from more than twenty countries', passed a solemn resolution reaffirming the authenticity of the *Protocols*. Fleischhauer found himself suddenly famous and much in demand as a lecturer; when he lectured at Munich the rectors of the city's two universities did not disdain to appear as guests of honour. After all – as the German press insisted – who could doubt that the trial had been initiated and stage-managed, and the judges suborned, by the ever-resourceful Elders of Zion?

¹ A mimeographed copy of the 1937 judgement is in the Wiener Library. The passage quoted is at pp. 49–50.