

# THE SUNDAY TIMES magazine

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## IS THIS IVAN OF TREBLINKA?



**SPECIAL  
REPORT**

# THE TWO FACES OF



These photographs are separated by 45 years; are they the same man? If so, was this man Ivan, a notoriously brutal guard at the Nazi extermination camp at Treblinka? Two simple questions; behind them lies one of the most tantalising and harrowing trials of our times. The three Israeli judges retired on February 18; soon they will return to the Jerusalem courtroom with their verdict. Accused stands John Demjanjuk, respectable citizen of Cleveland, Ohio, who says he was never at Treblinka and is innocent of any crime; he and his supporters maintain he is the victim of Jewish lies and Russian chicanery. Against him stand survivors of Treblinka who saw Ivan every day for months. But the documentary evidence is sparse and flawed and the memories are of long ago. If John Demjanjuk was Ivan of Treblinka, he was a truly terrible man; if he is innocent, as he says, he has been subjected to a terrifying odyssey of injustice

**THE CASE OF JOHN DEMJANJUK BY GITTA SERENY**



# IVAN OF TREBLINKA?





# I WAS NEVER AT TREBLINKA, IVAN WAS ANOTHER MAN

"Are you that terrible man, Ivan from Treblinka?" asked the defendant's American counsel. The large temporary courtroom in Jerusalem, normally a 350-seat theatre in a huge modern conference centre overlooking the city, was filled to capacity on that blisteringly hot day last summer. The question, simultaneously translated into Hebrew and, in a just audible murmur, Ukrainian by the interpreter sitting next to the man in the dock, was followed by a kind of hiss of indrawn breaths, and then dead silence.

The audience in that hall – and the three judges on the dais – knew well that this was the high point at the end of the examination of John Demjanjuk. But the man on trial seemed oblivious of drama. And his answer – almost mechanical, he had said it so often – sounded, if anything, weary. "I have never been in Treblinka, Sobibor, or Trawniki. I was a prisoner of war of the Germans."

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Three extermination camps – Belzec, Sobibor and the largest and most efficient, Treblinka – were set up by the Nazis in 1942 in a sparsely populated forest area of occupied Poland. The operation was code-named *Aktion Reinhard* to honour the assassinated Reinhard Heydrich, reputedly the originator of this unique system of murder. The staff for this operation – 92 German SS and 3500 Ukrainian, Baltic and ethnic German auxiliaries – supervised the ghettos and transports in addition to their tasks as guards and executioners in the camps. They were schooled, beginning in the winter of 1941, in the SS training camp Trawniki.

Between March 1942, when the operation began, and October 1943 when it ended, about 2,250,000 human beings were gassed in these three camps. In contrast to the huge labour camps like Auschwitz and Majdanek, no records were kept in the *Aktion Reinhard* camps – created solely for killing – and nothing tangible was allowed to remain. The corpses were burned on huge iron racks called "roasts"; the bones not consumed by the

fire were pounded until all that remained was grey ash and whitish powder which, mingled with the pale brown earth of the region, years later could not be told apart.

Of the more than a million Jews who entered Treblinka, barely 60 escaped death after a heroic revolt on August 2, 1943. Two months later – the buildings demolished, lupins and pine trees planted over the site, and a small farmhouse constructed from the bricks of the gas chambers, with an ethnic German farmer installed to deceive the approaching Russians – Treblinka was obliterated. The documentary record is scanty; our knowledge of it depends, in the final analysis, on human memory.

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For months much of Israel had been glued to radio and television for seven and a half hours a day, four days a week, listening to the prosecution witnesses' tragic accounts and the historical and scientific testimony of the experts.

For a whole people one of the most terrible events of human history, which many of the old had refused to discuss for half a lifetime, and which their Israel-born children, most of them seasoned fighters now in their thirties and forties, had rejected as part of their heritage, was once again being brought to life. Within days of the beginning of the trial on February 16 last year, queues of many hundreds formed in the pink light of the Jerusalem dawn, many of them those tanned slender young for whom the Holocaust is no less "just history" than for children everywhere. They watched and listened, and many cried, and yet, extraordinarily enough, for many months the predominant feeling among Israelis of all classes, young, middle-aged and old, remained one of doubt and unease.

For this big hunk of a man, in his one ill-fitting brown suit, sitting day after day flanked by two armed elite regiment soldiers, seemed oddly miscast as an arch-villain. We looked for indications in his face, his bearing and his conduct that would show that he was capable of the horrors he was accused of. On two fleeting occasions some of us thought we saw glimpses of latent brutality. But was it? Or was it only pent-up frustration at his own inability to influence events?

What we saw much more often was an East European peasant who, by no means unintelligent though unschooled, seemed unaware of possible animosity. He gaily, even boisterously, waved his manacled hands to the crowd on entering; as soon as the handcuffs were off, embraced his 22-year-old son John seated behind him; blew kisses to his wife Vera on the rare occasions when she came to Israel, and to



Vera Demjanjuk in 1986 with her wedding photograph from 1947. St Vladimir

## AT HOME IN CLEVELAND, OHIO

his two daughters Lydia, 38, and Irene, 28, who sat, increasingly distraught as the trial progressed, tense and pale in the front row; and tried time and again to joke with his guards and interpreters in his bits of prison-learned Hebrew.

Watching him arrive in court every morning, one had almost to force oneself to remember the appalling acts of brutality and torture this apparently warm and simple man was charged with having committed – not on command but of his own free will: "... the Accused used to select individual victims among those going to

their deaths for his torments ... would stab [them] in various parts of the body, tore pieces of flesh from their limbs ... used to beat 'work-Jews' [and] shoot those who cried out or erred in counting the strokes of the whip [which was the rule] ... [He] sliced off noses or ears thus condemning the prisoners to death as being 'marked' or 'stamped' ... One day [he] ordered a prisoner to lie face down on the ground and ... took a tool for drilling wood and drilled a hole into the prisoner's buttocks ..."

Is it possible for men and women who



Gitta Sereny has written widely on the Third Reich and is the author of the classic book on Treblinka, *Into That Darkness* (Picador).

After the war she worked for the United Nations in Displaced Persons camps in Germany – including the Regensburg camp, where John Demjanjuk would almost certainly have been at the time





John Jr, now 22, Irene, 28, and Lydia, 38. Their father never spoke about the war; to them, he is an innocent man



Orthodox Church in Parma (above), the social centre of their lives. Right: the family's dream house in Seven Hills



witnessed such deeds happening in front of them for months on end ever to forget the face of the man who committed them? Or could a half-century of agonising need for retribution against the figure of "Ivan" – the personification of the monstrosity that was Treblinka – have drawn them unconsciously into identifying a physically similar but different man, as a symbol of that horror?

"I dream about him every night," said Pinhas Epstein, still fine-drawn and slim, who was a strong, blond 17-year-old when he and his family arrived at Treblinka in

1942. His family was gassed immediately, but he was selected to live on as a "work-Jew", burning bodies in the small "upper camp", where the gassings took place and the corpses were disposed of.

"I find it difficult to compare Ivan to animals: when a lion is sated, a gazelle can go by and not be attacked. Ivan was never satisfied. The others, too, are in my nightmares, but Ivan most of all I could never forget. For 11 months I saw him, was near him every day... Now he is in this hall..." He cried, and was gently comforted by the judge. "It is he," he said, and buried his

head in his arms.

The issue of testimony by traumatised survivors is central to the present debate all over the western world, including Britain, about the legitimacy of such trials decades after the events. It has plagued the West Germans who, despite bitter public opposition, have carried on Nazi crime (NS) trials for 35 years, and has been the main impediment there to more convictions and tougher sentences.

Because of the lack of documentary evidence on the extermination camps, the validity of survivor testimony will have

been the gravest question confronting the Israeli judges as – over the past weeks – they reviewed the 14,000 pages of the trial manuscript. For 12 years Demjanjuk has maintained that it is simply a case of mistaken identity. Never had he volunteered for any service with the Germans, worn their uniform, or used a whip, club, knife or gun on their behalf. "Ivan," he says, "was another man."

★ ★ ★ ★ ★

Ivan and Wira Demjanjuk, then 31 and 26, and their baby daughter Lydia arrived in the United States on February 9, 1952, carrying all their possessions in two cardboard boxes. The IRO (International Refugee Organisation) paid for their passage and found a farmer in Indiana who guaranteed them work and lodging.

For five lonely months Ivan tended pigs and sheep, and Wira kept house in their little room. But good friends from the old country, William and Anne Lishchuk, had settled into the large Ukrainian community in Cleveland, Ohio, and in July the Demjanjuks moved into their first proper home in a Cleveland suburb. On August 1, 1952, Ivan joined William at the Ford Motor Company, where – an excellent mechanic – he was to remain for over 30 years.

Now began their real American immigrant life – hard-working, money-saving, church-attending, child-bearing and, within four years, house-owning. Their social life centred on the St Vladimir Orthodox Church; they moved with the church, as it too became richer, to the white-collar suburb of Parma. And on November 14, 1958, Ivan and Wira – now John and Vera – with a minimum of English but a maximum of dedication to the stability and freedom of their new existence, became American citizens. "The happiest day of our lives," said Vera. A year later they had their second daughter, Irene, and their youngest child, John, arrived in 1965.

This was a close family, with few conflicts. "We laughed a lot," Irene told Michele Lesie, of the *Cleveland Plain Dealer*, after her father had been extradited to Israel. "Now, it's almost like death: he's not here, so I find myself thinking of all the things I always loved about him." Her parents, she says, rarely talked about the past. "They wanted us to be American, not be burdened. Maybe they should have..."

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The "Demjanjuk case", unbeknown to the person most concerned, officially started in the late winter of 1975. Since the early Seventies, members of Congress, Jewish organisations and the media had questioned the US government with increasing urgency about war criminals hiding out in the United States. Reacting to the pressure, the Department of Justice and the INS, their Immigration and Naturalisation Service, put together a "master list" of 205 names, mainly East Europeans, who had emigrated to the US in the early Fifties and were suspected of lying about their wartime activities. ➤➤➤ 23



Ivan Demjanjuk was No 116 on this list because of crucial information he himself had supplied, almost 30 years earlier.

On March 3, 1948, in the IRO office in Landshut, southern Germany, a Ukrainian-speaking interviewer had taken down Ivan and Wira Demjanjuk's particulars for their Displaced Persons eligibility forms. It was a vitally important occasion for the young couple, 27 and 22 years old and married for six months. Everybody in the DP camps – where they had spent three years – knew the importance of these forms which determined not only their immediate future – the continuation of their DP benefits – but their suitability for emigration overseas. Most of them came well-prepared, having exchanged information and tips on how to avoid possible dangers. Indeed, they were advised, by DP camp officials sympathetic to their plight, to find – that is to invent – suitable places in Poland or Czechoslovakia to put on the forms.

For the Yalta agreement promised safety from repatriation if they were living outside Russia on September 1, 1939: the eligibility forms therefore had to show that they had left Russia before that date.

The questions on the all-important form were simple: date and place of birth, education and any useful skills, desired destinations and – a critical question – places of residence for the past 12 years. In Demjanjuk's case, his answers in 1948 would have to cover his life back to 1937.

He said on the form that from 1937 to 1943 he had lived and worked as a farm-hand in Sobibor, in Poland. But Sobibor, little more than a railway halt in the forest, hardly appeared on pre-war Polish maps. What had made him think of Sobibor? How indeed had he found it as the place he wished to cite as his "invented" pre-1939 residence?

It was only in 1942 that Sobibor had become noteworthy, when it was chosen as the site of one of the three extermination camps of the *Aktion Reinhard*.

In 1948 its existence was still so clouded that its name on a form would not exclude Demjanjuk from DP status or emigration to the United States. But 27 years later that name had become a monument of shame: it was its appearance on his official DP and immigration forms that put him on the American "master list" and eventually in the Jerusalem courtroom.

"Why did you put Sobibor?" asked Judge Dov Levin, president of the Israeli court, as mystified as the rest of us. "If you needed a place of residence in Poland," added Judge Dalia Dorner, "why didn't you choose an anonymous city – Warsaw, Cracow – nobody would have known the difference. How could Sobibor, of all places, possibly come into your mind?"

Demjanjuk, red-faced and sullen, said that when he arrived at the International Refugee office that day he "had no idea" what he would put on the form. Another DP in the waiting-room had an atlas, he said, and he asked him for help. The man pointed at a map and said, "Put down 24 Sobibor – it's a good place, there were



Demjanjuk and the man he considered his saviour for four and a half years, lawyer Mark O'Connor, who was to be sacked by the family in mid-trial

## EARLY DAYS

many Ukrainians there." Judge Levin sharply quelled the titters in the audience. But they were justified: the only Ukrainians in Sobibor were the guards at the extermination camp.

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How then does he stand accused of being "Ivan the Terrible" from Treblinka?

In late 1975 the association of Demjanjuk with Sobibor was strengthened by information from Russia supplied through an American communist of Ukrainian descent, Michael Hanusiak, who publishes a Ukrainian-language paper in New York. He brought a list of Ukrainians the Russians claimed had committed war crimes: Demjanjuk, with the notation "Sobibor" next to his name, was on the list. In addition Hanusiak claimed to have seen an identity card in Demjanjuk's name, issued at the SS training camp Trawniki, showing a posting to Sobibor.

In 1976, therefore, the US Immigration and Naturalisation Service made up a spread of photographs taken from visa applications in the Fifties, including Demjanjuk and another Ukrainian, Feodor Federenko (also on both lists), who was suspected of having been a perimeter guard at Treblinka. The photographs were shown to 12 Sobibor survivors in the United States, none of whom recognised either man. Then they were sent to Israel, where most Treblinka survivors have settled, to try for an identification of Federenko – not Demjanjuk.

The two Israeli officials showing the photospread were thus startled when one Treblinka survivor, then another, and within two days a third, though recognising Federenko too, excitedly picked out Demjanjuk's picture as "Ivan from Treblinka". John Horrigan, the US Attorney responsible for the investigation of suspects in the Cleveland area, was in Germany when he heard about the Israeli identifications, and drove the length of the country to reach the only Treblinka survivor living in Germany, before there was

any chance of his being tipped off from Israel – with which he had in fact no known association. He, too, immediately identified Demjanjuk as Ivan.

Over the next two years eight survivors described the 1951 visa photograph of Demjanjuk as "exactly" or "very much" like Ivan the Terrible, though "fatter", "broader", or "more mature". Then Horrigan in 1978 obtained from the Russians a photocopy of the ID card from Trawniki, bearing Demjanjuk's name, personal details and a photo. This and seven other photographs of young men in black German uniforms they also sent were used for another round of identifications: all with the same result. Eventually 10 people were positive that the photos were "Ivan": all but one of them had worked in the upper "death" camp near Ivan for many months. Interestingly, three other survivors of the upper camp – two in Israel and one in Australia – did not see a resemblance.

In August 1977, Demjanjuk received a formal letter from the US Department of Justice, charging that he was "Ivan from Treblinka". Unless he could explain the lies on his visa application his citizenship would be revoked. It requested a detailed reply within two months.

The news of the government charges broke the next day, and that afternoon the couple, distressed to the point of hysteria, allowed themselves to be interviewed on television.

"No, no," Demjanjuk says when asked if the charges are true, "I don't know nothing about it. I was no any place they writing. I was German prisoner..."

"Is not true, is not true," Vera cries and faints against her husband, who jumps up, clasps his hands and begins to cry...

The Demjanjuks' plans for an untroubled future were now shattered. In 1975 they had bought their retirement home, a brick ranch-house on a leafy street in the middle-class suburb of Seven Hills. Inside is a bit of the Ukraine: hand-carved animals, decorated vases, a portrait in the

living-room of the Ukrainian poet and nationalist hero, Taras Shevchenko. The sun porch, which was the centre of the family's life when there was a family life, overlooks the two-acre garden which Demjanjuk had made into a showpiece – a fine vegetable patch, fruit trees, rich red geraniums and rose bushes in all colours.

"They come to this country same as us – deaf and dumb," says their friend Anne Lishchuk. "But they learn... work hard... and now their life should be good. It isn't fair."

"For as many years as we've known Johnny," she went on, "he never once said anything about all this. Even when we are sitting around with the vodka and telling stories, he never says anything about the war years."

Demjanjuk's first defenders, as his case developed with ever-increasing publicity, were the Ukrainian community, particularly the members of his own church.

Bishop Antony Scharba, from the New Jersey headquarters of St Vladimir's, would later twice go to Israel for pastoral visits to Demjanjuk. "In all the years we've talked with priests and parishioners about him, I haven't heard a single bad word against him." He shook his head and searched for words. "I cannot bring together the man I know, who really only wants to talk about matters of faith, and cries the moment his family is mentioned... and the man he is accused of being." He raised his hands in helpless bewilderment. "How can it be?"

Bishop Scharba very soon veers away from Demjanjuk, to talk about the aspect of these cases which makes the whole Ukrainian community feel unjustly attacked. "Why do their witnesses, the moment they mention SS guards or the horrors they are alleged to have committed, invariably say 'the Ukrainians'? Don't they know how many other nationalities were forced to work for the Germans?"

The considerable financial support the Ukrainians, both in the US and in Canada, have given for the Demjanjuk defence over the years (by now amounting to about \$1¼ million) is primarily due to the outrage they feel at having all Ukrainians tarred with this same appalling brush of collaboration and anti-Semitism. It seems that their tragic history of conquest and oppression, and their awareness of the desperate circumstances under which some of their people assisted the Germans, has blinded them to the necessity for a clear distinction between three categories of Ukrainians under the Nazis: the millions forced into slave labour; the Ukrainian nationalists who, choosing what they thought was a lesser evil, took up German arms against the hated Soviets; and those few who readily – some indeed eagerly – assisted the Nazis in their worst crimes. Their fear of the consequences of both true and false accusations (there have been bombs, suicides and at least one assassination in the wake of charges) has forced them into an indiscriminate solidarity which extends even to individuals whose attitudes and conduct





Рослин  
Größe: 175 cm  
Gesichtsform: oval  
Haarfarbe: dunkelblond  
Augenfarbe: grau  
Besondere Merkmale: Narbe auf dem Rücken

Рückseite  
Демьянюк

Familiennamen: Demjanjuk

Vor- und Vatersname: Iwan/Nikolai

geboren am: 3.4.20

geboren in: Duboimachariwzi/Saporosche

Nationalität: Ukrainer

Abkommandiert am: 22.9.42 zu: Lublin

Abkommandiert am: 27.3.44 zu: Sobibor

Abkommandiert am: zu:

Abkommandiert am: zu:

Abkommandiert am: zu:

Bestimmung des Reichsführers-SS für die Errichtung der SS- und Polizeistützpunkte im neuen Ostraum.

AUSBILDUNGS- und POLIZEI-AMT LUBLIN

Dienstausweis Nr. 1393

Демьянюк Иван

Der Demjanjuk, Iwan

(Name des Inhabers)

ist in den Wachmannschaften des Beauftragten des RE-SS für die Errichtung der SS- und Polizeistützpunkte im neuen Ostraum als Wachmann tätig.

Служит в командах многолюдных лагерей по охране и содержанию их.

Служит в командах многолюдных лагерей по охране и содержанию их.

Seitengew...

Ausgegeben:

Rechnung...

Stempel: Reichsführer-SS, Lublin

Signaturen: Hauptsturmführer, etc.

This, the only documentary evidence, is at the core of the case. If the card is genuine, it proves that Demjanjuk was in the SS extermination programme,

though not necessarily at Treblinka – which does not figure. If it is a fake, it proves what the defence has always said – the Russians have framed an innocent Ukrainian

# THE CRUCIAL CARD

most of them would normally deplore.

By the late Seventies a number of trials against immigrants from Eastern Europe accused of lying about their wartime activities had gone through the US courts. Feodor Federenko had been convicted, and would be deported to Russia, where, in June 1987, it was announced that he had been tried and executed. Some were acquitted, some left the US before trial, some appealed against denaturalisation.

The most controversial case was that of Frank Walus, a Polish resident of Chicago, who was accused by 11 survivors of the Kielce ghetto of being a member of the Gestapo there, with detailed accounts of his barbaric deeds. He was convicted, but his appeal demonstrated that the eye-witnesses were wrong: he had been a forced farm labourer in Germany as of 1940. His health insurance records and other documentation were produced in court, and his former employers, fondly referring to him as "our Franzl", gladly

gave evidence for him.

The Walus case, continuously held up by opponents of the trials as proof of the fallibility of survivor testimony 40 years on, has haunted the American judiciary ever since. And by the late Seventies the Demjanjuk case, which John Horrigan had been investigating all over Europe for years, took shape not only as the trial of one individual, but as a tool for confrontation between powerful forces.

In 1979 the US Department of Justice, at the urging of several highly vocal members of Congress, set up the Office of Special Investigations, the OSI, which would take over from the INS the prosecution of suspect immigrants. The support of Congress was principally obtained through the zealous lobbying of organisations such as the World Jewish Congress and the Simon Wiesenthal Center, who are obsessively committed to rooting out and prosecuting anyone involved in the Nazi murders of the Jews.

The crimes, however, had been committed in the eastern territories captured by the Russians and any documentary evidence was in Russian hands.

The Soviets were ready to help, up to a point. They had three aims: to show up the West as harbourers of Nazi criminals, to sow dissension between the new ethnic populations and other Americans, and to discredit the prosperous emigrants in the West, whose political and religious propaganda beamed to their homelands was increasingly troublesome.

To tackle this problem Ukrainians such as John Demjanjuk, against whom monstrous charges could be found – or produced – were a gift for the Soviets. For the American prosecutors, however uneasy they felt about the Russians' underlying motives, their co-operation was essential to their investigations.

Ranged against the OSI and its supporters is an alliance which stretches from respectable conservatives, with honest

misgivings about war crimes trials and the Russian evidence supplied for them, to rabid rightists who not only passionately loathe the Russians but also the Jews, and refuse to accept that the Holocaust ever took place.

So in 1981 when John Horrigan, a Catholic, and Harvard-educated Norman Moskowitz, a Jew, prosecuted the denaturalisation case in Ohio, the Demjanjuk case, with its "Ivan the Terrible" label, had taken on the shape of a US Eichmann trial, even though it was only a civil case: US law does not allow prosecution for crimes committed abroad.

By this time, the Russians had delivered by courier the original Trawniki ID card bearing Demjanjuk's name and picture, and Horrigan had not only several Treblinka survivors on the witness stand, but also the videoed testimony of Otto Horn, a 77-year-old German SS sergeant who had been in charge of burning the bodies at Treblinka. He was the only SS man



acquitted at the 1965 Treblinka trial in Düsseldorf: he turned state's evidence, and was described by the survivors as "inoffensive". His identification of Demjanjuk as Ivan was important: he had no axe to grind.

Demjanjuk said that he had written "Sobibor" on his DP questionnaire as his residence from 1937 to 1943 after "finding the name of this village on a map". On his visa application in 1951 he had repeated it merely "to be consistent". But he had never been in Sobibor, he said: he had lied because a residence outside Russian territory on September 1, 1939, would save him from repatriation to Russia and almost certain death.

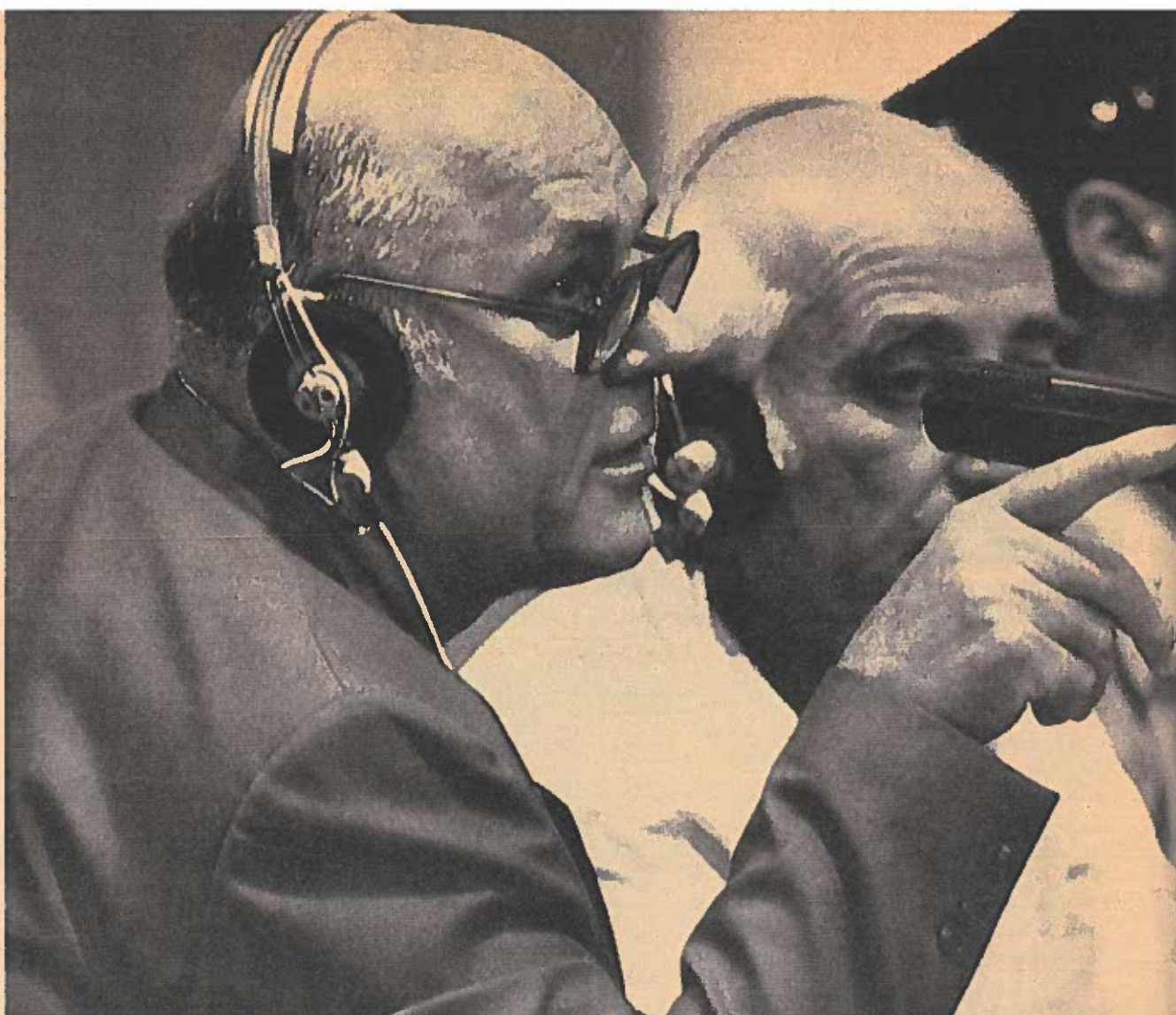
He said he was conscripted into the Russian army in 1940, wounded and taken prisoner in the Crimea in 1942, and ended up as a prisoner of war in Rovno in the Ukraine and (though he only remembered after months of interrogation) in a terrible camp in Chelm in Poland until October 1944. To have been taken prisoner alive was already treason in Stalin's eyes, but worse was to come. From there, now dressed "in clean but old Italian uniform", he was co-opted into two anti-Soviet units, the Galician (Waffen SS) Division in which he "was given the SS blood-group tattoo", and then - he would add in 1984 - the Vlasov Army. (The "Galician" and the "Vlasov Army" were military units set up by the Germans with anti-Soviet volunteers from the USSR.)

"I was uncertain for a long time how strong the case was," said John Horrigan, "until during pre-trial examination I interrogated Demjanjuk myself many times. He works hard at playing the simpleton, but it isn't true: he is actually very intelligent. Not intellectual, of course, but very canny..." It was the name "Ivan the Terrible" (virtually unknown in Treblinka but snapped up by the US media) that had caught the imagination of the public. "But none of this was important," said Horrigan. "What mattered was that Demjanjuk was a liar. His alibi was a lie. He kept adapting it as new information emerged. By the time we went to trial, in February, 1981, I had no doubt whatever that he was Ivan from Treblinka, a truly terrible man. Prosecuting him, for all of us, became an obsession."

The judge's decision was that Demjanjuk had lied. The prosecution case was found proved by the documentary evidence plus the survivors' testimony, and he was de-naturalised for having falsified his visa application.

Four years later, with all appeals exhausted and his extradition to Israel getting ever closer, the support for Demjanjuk turned into a carefully orchestrated attack on those considered responsible for his plight. William Turchyn, a self-styled "archivist" who has been a mainstay of the Demjanjuk defence for years, made a speech in 1985 to North American ethnic leaders which was widely distributed under the title "Victory Without Fear". He addressed himself to what he and

26 many others saw as the four main issues of



Almost invariably impassive, John Demjanjuk here shows a rare moment of reaction. Next to him is his Israeli-Ukrainian interpreter, Isiya Zobelman who, although exceptionally discreet, loathed the assignment

## THE ACCUSED

such cases: the "alliance" between the Jewish-dominated OSI and "the evil KGB"; the pervasive influence of Jews in American public life; the danger to Christianity arising from these "Nazi-hunting" activities, and the "fraud and corruption" which produced such fabricated cases. He found the testimony against Demjanjuk "contradictory... self-serving... questionable... and very fraudulent, probably due to the profit motive".

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John Demjanjuk arrived in Israel on the morning of February 28, 1986. Wearing that same brown suit and open-necked white shirt he has been seen in ever since, he asked permission upon getting off the plane to kiss the ground of the Holy Land. Permission was refused.

It was to a great extent to unite their divided generations and national elements that Israel 25 years ago kidnapped and tried Eichmann, that quintessential "desk-murderer". And now again, though with enormous reluctance and misgivings, they had accepted Demjanjuk for trial, perhaps less from a sense of justice than in order to make history serve to unify their people and strengthen their resolve.

Specifically, it was the Americans who persuaded them to stage their second war-crimes trial. By 1984 the American

government was anxious to justify the enormous expenditures incurred for 350 investigations and 50 civil trials, with 300 more cases still in the pipeline. They tried to get first the West Germans and then the Israelis to accept a deportee for a criminal trial. The Israelis had always felt, rightly or wrongly, that the Eichmann trial satisfied their country's need for a symbolic act. And the West Germans, who since 1958 have investigated tens of thousands of cases and brought several hundred to trial (among them the *Einsatzgruppen*, Auschwitz, Majdanek, Sobibor, Treblinka and Trawniki trials, each lasting for years), still have a large backlog of their own. Both declined for years, but Israel, under continuing American pressure, finally agreed, subject to three conditions: the accused had to be healthy and reasonably young, indictable for murder, and credible witnesses had to be available. John Demjanjuk fulfilled the conditions.

The prospect of the trial aroused the most contrary emotions in Israel. First and foremost the discomfort (which would persist to the end of the trial) of trying someone whose identity was in doubt. Then, remembering the Eichmann trial, there were reservations about the "show trial" aspect, and fears that it would reopen appalling wounds. Set against that

was the hope that it would be a catharsis - that by learning to understand what it took for a Jew to survive Treblinka, and that by airing the horrible dilemma and complex guilt-feelings of the "work-Jews" of the death camps (and by extension, of the Jewish councils and police - the *Judenräte* and *Kapos* of the ghettos), the generations might at last be reconciled.

While the prosecution team of 30 continued the worldwide search for documentation and witnesses which resulted in the almost encyclopaedic knowledge they later displayed, the Demjanjuk circle in America was busy, too. Ed Nishnic, Demjanjuk's son-in-law, left his job to take over fund-raising and co-ordination. He acquired with demonic energy over the years a vast store of historical, political and legal information. "We have a baby," his wife Irene said sadly, "but no life."

"I know what you are doing," Demjanjuk whispered to her once on a prison visit, "but please, live - live your life."

It was not possible: Lydia's marriage broke up and the defence team, including Turchyn and another ready helper, James McDonald, who had connections with *Spotlight*, a leading publication of the radical right, established their headquarters in the basement of the Demjanjuk house.

One of Demjanjuk's earliest supporters





Pinhas Epstein (above): 'He is there,' he said, 'Ask him.' Below left, Eliyahu Rosenberg shrinks from the extended hand. 'How dare you!' he cried



TOP: HAVAKUK LEVISON/REUTERS. LEFT: Y. ZAKEN/MEDIA IMAGES

## THE ACCUSERS



Key witness Otto Horn, SS sergeant in Treblinka's 'upper camp'

was Jerome Brentar, a travel agent of Croatian extraction who after the war had worked in Germany as an IRO screening officer. He is still proud today, he told us with engaging frankness, of the help he gave to "suitable" immigrants. "We managed to get thousands of Waffen SS over here and helped them get established. And we got advice on just what people had to say to get their visas."

His agency specialises in "visits home" for the area's huge immigrant population. He also heads the Cleveland chapter of the St Raphael Society (Motto: "To aid the traveller in need"). In Rome after the war the society, true to its motto, was instrumental in getting Adolf Eichmann, among others, out of Europe.

Brentar, at his own expense, travelled widely on Demjanjuk's behalf, getting

statements from three Polish villagers near Treblinka that Demjanjuk's photograph in no way resembled the "Ivan" they had known: a "giant" approaching his forties, with greying hair. He then visited Kurt Franz, Treblinka's deputy commandant, in his German prison where this most awful of the SS men still alive is serving a life sentence, and got an affidavit with an identical description.

The Polish War Crimes Commission announced that the Polish witnesses had been "unduly influenced". (Later, two of Demjanjuk's present defence lawyers travelled to Poland to interview them – "unaccompanied and not interfered with in any way", they told us – and, although Israeli visas and Polish travel permits had been provided, decided not to call them. And the same lawyers would decide, too, to dispense with Franz's testimony.)

Brentar and other lobbyists for Demjanjuk see no reason for embarrassment at their methods: to them the end justifies the means. Their aim is to use men such as Demjanjuk in their holy war against communism, to make them into symbols for their battle against the hated Soviets.

In this battle the fanatical right was soon joined by respectable conservatives and liberals, who also warned against putting any trust in Soviet-supplied evidence.

The biggest gun in Demjanjuk's support came from the heart of the White House when Patrick Buchanan, then President Reagan's Chief of Communications, came to his defence. Writing in syndicated columns in the *Washington Post* and the *Cleveland Plain Dealer*, he attacked the treatment of Demjanjuk, who was clearly innocent. He was "a decent and honest family man whose life has been



destroyed by Soviet malice and American gullibility". Quite understandably, said Buchanan, he had lied on his visa application to avoid being repatriated to Russia and executed "as a traitorous member of the Vlasov Army"; his name was not on any of "the Trawniki rosters or Treblinka transfer lists now in possession of the defence"; the only documentary evidence – the Trawniki ID card – had been "proved a fake" by two experts; Polish witnesses who had "definitely" established "Ivan" as being twice Demjanjuk's age and half again his size had been prevented from coming to testify; and, most important of all, various people had recorded the fact that the monstrous "Ivan" had been killed in 1943, in the Treblinka uprising.

All this made impressive reading for millions, coming as it did from such an authoritative spokesman. But unfortunately, as we will see, none of his "facts" were true.

Buchanan's information, as he told us in Washington last year, came from Mark O'Connor, who was Demjanjuk's chief counsel from 1982 until June 1987, when the family finally sacked him.

In a way O'Connor, too, was a symbolic figure, for he had been provided as a sort of legacy by a man highly placed in US public affairs, who as a passionate anti-Communist became a staunch supporter of Demjanjuk, and appeared as a witness for the defence in his US trial in 1981.

Ed O'Connor was an Irish-American of considerable charm and ability who was the most active of three Commissioners of Displaced Persons appointed by President Truman. Like Jerome Brentar – a close friend in Germany in the Fifties – he was very early convinced of the Russian menace, and helped half a million DPs to enter the US, and 1½ million more to find homes in other countries. He later described these immigrants as "... active seeds of Russian disaffection".

In 1982 this powerful man recommended that his 40-year-old son Mark, who had taken a law degree in Buffalo after his Vietnam service as a captain but had never pleaded a major case in court, should take over the Demjanjuk case.

It would be difficult to overstate the harm which Mark O'Connor's inexperience and naïveté, coupled with an almost mystical anti-Soviet ideology, did to his client. After the deportation hearing and two appeals had failed, knowledgeable sympathisers in the American Ukrainian community (which had already funded the defence to the tune of \$750,000) suggested replacing O'Connor with either of two well-known trial lawyers of Ukrainian descent. But the Demjanjuks, remembering Ed O'Connor's help and dazzled by his son's charm and promises of eventual victory over the conspiracy of the KGB and the OSI, didn't listen.

For three years Ed O'Connor had stood behind his son with advice and political connections. But when he died, in 1985, Mark O'Connor was on his own.

Until a few days before the extradition



Zvi Tal, Dov Levin, Dalia Dorner: patience of Job, wisdom of Solomon?

## THE JUDGES



Michael Shaked, Yona Blattman, Michael Horowitz: insufficient proof?

## THE PROSECUTION



Yoram Sheftel, John Gill, Paul Chumak: too many flaws in the alibi?

## THE DEFENCE

to Israel, he had assured the family it would never happen. When it did, he was still cheerful. "There's nothing to worry about," he kept telling the Demjanjuks in chatty overseas phone calls from Jerusalem. "The prosecution hasn't got a case: they're getting ready to drop it."

He complained bitterly to whoever would listen that his attempts to prepare the case were blocked by the impossibility of finding an Israeli lawyer to assist him, and by the refusal of the Israelis "who had financed Eichmann's defence" to do the same for Demjanjuk.

However, when Gershon Orion, a distinguished Israeli lawyer and expert on identification, at the request of the Israeli Bar Association, offered his services free of charge (except for the minimal legal aid which was all Eichmann's defence received), O'Connor was deeply suspicious. Within a week he had firmly stamped down on Orion's proposal for a different approach to the case: to begin

with a "mini-trial" purely on the question of identity. Such a procedure, if allowed by the judges, would cut out the dangers of a show-trial. If the prosecution could not prove his identity, the trial would be over.

But this did not appeal to O'Connor at all: he sacked Dr Orion before there was time to sign a contract, told Ed Nishnic to go and get more money, and hired a quiet Cleveland lawyer, John Gill, for a 50:50 split of the fees after the first \$250,000, of which he would keep 70 per cent.

Then, for a modest fee, he enlisted as adviser on Israeli law an intelligent 38-year-old native-born Israeli of Ukrainian descent, Yoram Sheftel, who speaks seven languages and shared his detestation of the Russians. Also, like many Israelis of his generation, he has ambivalent feelings about the survivors, and glories in impossible tasks. "I wouldn't have taken it on if I thought Demjanjuk was 'Ivan,'" he told me. "But that's the indictment, and legally nothing else he might have done

counts" – an observation which, however cynical it appears, may prove to be prophetically accurate.

O'Connor, happy in the security of heading a team, and with money streaming in from generous American and Canadian Ukrainians, was full of optimism. "We'll fly John home in triumph," he announced to the Demjanjuks. "The Senate will quash the denaturalisation and we will have struck the greatest blow for freedom in this century." And he quoted to all and sundry Buchanan's final literary flourish: "... John Demjanjuk may be the victim of an American Dreyfus case."

Less exuberant as the trial drew nearer, he talked time and again about the lack of credibility of the survivors. "If the Israelis persist in going ahead," he told me two months before it started, "I'm going to turn their witnesses inside out and show them up for what they really are."

The discrediting of the witnesses' memories is a legitimate strategy in cross-examination. But, in pursuing it, he took on the Jews' greatest taboo, the nightmare which has pursued the survivors asleep and awake for 45 years... that they, Jews, helped to kill Jews.

Once the trial started, it took him hardly any time to get to this point. His primary target, Treblinka survivor Eliyahu Rosenberg, who was 20 when he arrived at Treblinka in 1942 and was posted to the "upper camp" – the worst assignment for any "work-Jew". He has testified in many trials and is the strongest and most controversial Israeli witness.

"Is it not true that... taking out the lifeless bodies was one part of your work?" O'Connor opened his attack.

"True."

"...and...cleaning of the gas chambers once the lifeless bodies were removed?"

"Yes... and to clean the stains..."

O'Connor pounced. "Was sealing the gas chambers also part of your duties?"

There were angry murmurs in the hall, and Judge Levin intervened, as he would often have to do, in an effort to stem O'Connor's emotive approach. "So the components of the work were 1) to take out the corpses, 2) clean up, and 3) seal the doors?" he asked.

"Yes... [When] there was a shout from an SS, 'Rampe raus' [Ramp detail on the double], we knew... we had to lower the doors and fill the gaps in with sand..."

"Are you now saying that with the innocent naked men, women and children [sealed] in the gas chambers, you stood on the *Rampe* while they died in agony?"

"To my great sorrow, yes."

Rosenberg is a strong, massive figure of a man, rather like Demjanjuk, with a stubborn working-man's voice and a craggy angry face. When they were both 20 – one a blond Ukrainian, one a dark-haired Polish Jew – their essential East European resemblance may have been less obvious, but now it is astounding.

Whether Rosenberg's personal confrontations with Demjanjuk date back to Treblinka 45 years ago or only began at the Cleveland trial, it became ➤➤➤ 29

MICHAEL SHAKED: GAMA/ZOOM 77



increasingly evident over the months of the trial that a strong and rather frightening current existed between the two men – one in the dock on trial for his life, the other his most vocal and practised accuser.

Demjanjuk much of the time gave the impression of being a spectator at his own trial. But if one observed closely, he did of course show tension: he continually stretched his jaws, sipped water, clenched his hands and pulled at his fingers.

"If he is really innocent, though," said Israeli psychologist Dan Bar-On, "then however often he has heard these accusations, he would have to show anger."

That afternoon, too, Eliyahu Rosenberg related a unique occasion when a group of Polish Jews, being driven through the "tube" – the fenced-in path to the gas chambers – pitched themselves *en masse* against the barbed wire, toppling one section of it, and ran out into the "upper camp".

"How were they able to break out of the 'tube'?" asked O'Connor.

"It wasn't a problem for people who knew they were going to their death to push down a fence," said the witness drily. "They could have pushed down a wall."

O'Connor led Rosenberg – his purpose only apparent at the end – through a minute description of these victims' abominable suffering when they were locked into one of the small gas chambers, chlorine was poured in through an opening in the roof and they took all night to die.

"Good heavens," he exclaimed, as he reached the point he had been aiming for. "What did you feel when you saw them so heroically rebel? Did you not find it in your heart to help them?"

The prosecutor shot to his feet but the judge stopped him. "No," he said. "The defence has a hard task. I will give them the chance to explore even this avenue."

Rosenberg was trembling now. "How could I help?" he said. "There was no possibility of contact. I couldn't even shout at them. If I had..." He paused and then gave vent to his fury and the despair O'Connor had proved incapable of understanding.

"What could I say to them? Not to go? The worst anti-Semites never asked me such a question." Then he turned to the dock and – it was impulsive, not theatrical – stretched out his arm stiffly, pointed at Demjanjuk. "Ask him why I didn't try to help," he shouted hoarsely. "I would have been thrown into a pit of blood."

It was at that moment that Demjanjuk, flushed to the roots of his hair, said in Hebrew, "You are a liar."

## The anger of an innocent man?

Was this, as I certainly felt at the time, the anger of an innocent man that Dan Bar-On had predicted? But O'Connor could never leave well enough alone. Time and again, ignoring the lawyer's golden rule never to ask a question to which he doesn't know the answer, his "blind" questions

led to calamity.

Thus, another day he asked Pinhas Epstein, "When you saw John Demjanjuk get off the plane, did that man fit the 'memory you couldn't forget'?" (He had spoken of his daily nightmares.)

"We were in that place – together, one might say – for almost a year," replied Epstein, a man of considerable dignity. "He was 22 or 23, I was 17. He was tall, thick-necked, with those protruding ears... and the way he walked – shall I show it?" he asked the judge. He produced an uncanny likeness of the way we had all seen Demjanjuk walk. "Heavily," Epstein said, as he demonstrated, "his weight on his left foot, just as he did when he stepped off the plane arriving in Israel... 'Oh, my God, my God,' I said to my wife. 'Look at the walk. That's just how I saw him walking every day in Treblinka.'" His wife, sitting just in front of me, nodded vigorously. "Exactly," she whispered, "that's exactly what he said."

It was one of those moments when one's doubts dissolve: this was no horror story, no prepared scenario by a professional witness. He could not have known this question would be asked – just as O'Connor had not expected the answer: the memory of how a man walked, a characteristic that does not change with age.

It was, not surprisingly perhaps, the survivors' testimony which provoked the strongest comments in America's and Germany's hate-journals; showing that the shadow of the "gas chambers never

existed" cabal hovered over the trial.

David McCalden (aka Lewis Brandon) in the extreme right magazine *Truth Mission*: "Absent from the Israel case is its basics: no murder weapon nor any forensic evidence to show there ever was one... no corpse or corpses, nor any... evidence that such ever existed... (and no) documentation (that) such an enormous programme was ever presented... only recycled hearsay..."

And the broadsheet *Ostdienst* in Hamburg warned its public: "If Demjanjuk can be convicted on... manufactured evidence... it opens the door wide to the 'Auschwitz-lie' thesis. In Germany discussion is rife: why is there new anti-Semitism in a country with almost no Jews? It is trials such as this one against Ivan Demjanjuk which are responsible."

And William Turchyn, to Ukrainian leaders: "The real 'Ivan' was killed by the inmates... in 1943... I did not invent this fact... The death of 'Ivan' was reported by a Treblinka survivor... in a sworn affidavit in Vienna... This (same) survivor... testified... against John Demjanjuk. I leave the conclusion for you."

"Ivan is dead" became the cornerstone of O'Connor's public relations in Israel as it has been in America. He expected to prove it through Eliyahu Rosenberg, who had made the Vienna statement in 1947.

"Did you say there," he asked, "that people in the 'upper camp' including Ivan were killed in the uprising?"

"I said that comrades from ➤➤➤

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the "lower camp" said they had *beaten to a pulp* some Ukrainians, including Ivan.' "

"Did you think then that everything [you said then] was the truth?"

"...I certainly knew that certain parts of it were true..."

"What was not true?"

**"I found out later ... that some of the acts of heroism I described were not true."**

This was a success for O'Connor – a survivor had admitted that he had lied – and he could have left it at that. Instead he triumphantly announced to the world's press that the man who had taken down Rosenberg's statement in 1947 – “an Israeli for whom I have the highest regard” – would appear as a defence witness “to testify about what Rosenberg had *really said* in Vienna, which would establish once and for all that Ivan was dead.” “IVAN DEAD” appeared in headlines all over the world next day.

But O'Connor's witness did not appear (he hurriedly left for America). And worse, whether or not he was aware of it, a 1965 statement from the Düsseldorf Treblinka trial had been entered in the trial record – by SS sergeant Gustav Münzberger, Ivan's immediate boss at the gas chambers. He was asked, "What happened to Ivan?" "Ivan?" he had said. "He came with my group to Trieste. Toward the end he cleared off into the partisans."

That statement — which could account for the “Italian uniform” Demjanjuk had said he ended the war in — is supported by information which did not come before

the court. The director of the Adriatic Institute for Research into Partisan Warfare, Dr Giuliano Fogar, told us in 1986 in Trieste, "A lot of people got away from the Germans in those last weeks... The partisans took anybody; they put them into some sort of Italian uniform and put them where they could shoot at Germans."

And two Italians in Trieste, one a former *carabiniere*, the other a former shoemaker, identified Demjanjuk's photograph in 1977. The *carabiniere*, now over 80 and too ill to be a witness, said he had met him at San Sabba, the notorious SS concentration camp for Italian Jews. He remembered him clearly, he said, because the man told him they had "been killing Jews in Poland". The shoemaker (not called because he would have been a "reluctant witness") went further: he identified Demjanjuk by name: he had been a customer of his at SS headquarters.

O'Connor's last cross-examination at the end of the prosecution's case, before the Demjanjucs finally dismissed him in June, produced yet another catastrophe for the defence.

The three judges had travelled to West Berlin (unprecedented for an Israeli court) for a "rogatoire" (the hearing of a witness who cannot travel) of Otto Horn, the SS man who, as a non-victim, was a key witness for the identification of "Ivan".

Questioned not at all gently by Israeli prosecutor Michael Horowitz, who loathed being in Germany and loathed Horn too, the old man described "Ivan" with precision: "I saw him all the time," he said, "except when I was on night duty or on leave. He was light-haired, 1.75 or 1.80 tall, strong, solid, about 23 years old. He wore a black uniform, cap and boots... carried a pistol and a whip..."

O'Connor understandably was desperate to discredit in some way this witness whose description of "Ivan" was so close to that on the Trawniki ID card. He asked, "And you did nothing yourself, only watched?... But still...you consider yourself innocent?"

"Morally," said Horn slowly, with unexpected dignity, "it was my responsibility too. But that's what all of us did: we just stood by..."

A little later, O'Connor asked weightily, "Do you know that John Demjanjuk is on trial for his life?"

"What? What?" asked Horn, who is now rather deaf. "His life?"

"Yes. Do you realise that what you say here, now, can hang this man?"

"Now really, Mr O'Connor," interposed Judge Levin, with an apology to the presiding German judge, Hans Jürgen Müller. "Nobody has said yet that anyone is going to hang."

Horn, his mind working a little slowly, had missed this exchange. "I didn't know anybody was still hanged," he said, sounding sad. "In 1979 I recognised the photo-

graph as Ivan. I now also think — (he compromised) there is a resemblance." He paused. "I cannot help it," he said regretfully. "The resemblance is there."

And Otto Horn delivered a final blow to the defence's most important claim, that "Ivan" was killed in the Treblinka revolt.

"I was on leave when it took place," Horn said. "When I came back the barracks had been burned down. Only the gas chambers remained standing. Afterwards, they still gassed people." Then he added, unasked, "Ivan was there—I saw him."

★ ★ ★ ★ ★  
Back in Israel, the judges were said not to be entirely happy with the sacking of O'Connor, "really because a change in midstream is usually bad for the defendant," said someone close to the court. Demjanjuk, no doubt brainwashed into accepting O'Connor as his saviour, seemed depressed for days. His family, by contrast, were relieved, especially when a desperate search for a senior lawyer produced Canadian-Ukrainian Paul Chumak, a highly-regarded former chief prosecutor.

The responsibility for leading Demjanjuk through his evidence when he appeared as the first witness for the defence (as required by Israeli law), would now fall on John Gill. "O'Connor really should be disbarred," he fumed two weeks later, while Demjanjuk was on the stand. "Would you believe that in five years he did not find a single witness we could use, and nobody ever worked with Demjanjuk? Mark wouldn't let us go near him; ►►►

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he was his property. After he finally left, I went to the prison to prepare Demjanjuk for his testimony. 'What you doing, John?' he said to me. 'What's all these questions? You a prosecutor now?'"

Certainly, with O'Connor gone, the defence would be conducted in a far more serious manner, and Sheftel, now acting as chief counsel, a fact which appalled most Israelis, succeeded too in finding reputable expert witnesses in England and Holland. Nevertheless the case was extremely difficult, the fundamental problem being Demjanjuk's alibi.

Demjanjuk's account of his life until 1942 was generally accepted: with four years' schooling, he became a tractor driver on a collective farm in the Ukraine. He was conscripted in 1940, wounded in action, taken prisoner in the Crimea in late 1941, and briefly held in a POW camp in Rovno. There the disputes begin.

The prosecution claimed he then volunteered as a foreign auxiliary in the SS, and was trained for the *Aktion Reinhard* at Trawniki not later than July, 1942. Though sent for brief periods to Oksów, a farm worked by Jewish women, and Sobibor, his main posting, they say, was Treblinka, where survivors claim he spent most of the year between July 1942 and September 1943 servicing the gas chambers.

Demjanjuk says that this is not true: from Rovno he was sent to a terrible camp at Chelm, where he stayed for 18 months.

Historians called by the prosecution said it was impossible: no prisoners stayed

there for 18 months. The first 100,000 Russian POWs died in the appalling conditions that winter, except for those transferred to work in Germany. Early in 1943, with the camp now empty, new lots arrived but stayed only for short periods. In September 1943, with the Italian surrender to the Allies, 13,000 Italians, made POWs, came to Chelm: Demjanjuk never mentioned their presence.

Demjanjuk first told the Americans he left the camp in late 1944, but when evidence was presented that Chelm was captured by the Russians in July 1944, he revised his departure: he left the camp in the spring, with 350 other Ukrainians, to join the Galician (Waffen SS) Division in Graz, Austria. There he was given the SS blood-group tattoo. (This, too, is virtually impossible: only SS and *Western Waffen SS* frontline troops plus a few exceptions such as the *Aktion Reinhard* men in Trieste received this medical precaution.)

A few weeks later, he says, he was transferred to the Vlasov Army in Heuberg, Germany, where he was assigned to a unit "guarding the generals". He stayed there for a year, "not doing anything much", and wound up in various DP camps after the war. In Heuberg, he says, he "scraped off" the tattoo "because only the SS had it, and the Vlasov Army wasn't SS". The mark that remained was tiny, and - extraordinarily again - Demjanjuk himself drew the attention of the Americans to it.

But this, too, was impossible, say the experts. The Galician Division was train-

ing in north Germany until July 1944, 1000 kilometres from Graz. The Vlasov Army did not exist until November 1944, thus was not at Heuberg - and there were certainly no generals to guard at the time he claimed. Besides, the Galician Division never received the SS blood-group tattoo.

## He had forgotten just one place

The defence countered with testimony from Nikolai Tolstoy, the well-known writer on forced repatriation and the Vlasov Army. He had not been eager to go to Israel until the defence sent him transcripts of some of the testimony. Reading these, Demjanjuk's stubborn adherence to his story for 12 years, and what he saw as his "simplicity of mind", convinced Tolstoy that he was telling the truth. In court he testified about the very real fears that DPs had of repatriation, about which he himself had written: there were groups of disaffected Russians all over Germany, and he felt therefore that Demjanjuk's story was "both internally consistent and, insofar as it could be checked, reflected larger historical events".

Chelm was to haunt Demjanjuk throughout the Israeli trial. How was it, the chief prosecutor asked, that over the first eight months of American interrogation, when he remembered so clearly everything else about his life, he had "forgotten" just one place - the "most terrible place he had ever been to"? For just the

period when the prosecution said he was at Trawniki and Treblinka he had "forgotten" Chelm?

"I guess only God knows how it happened," said Demjanjuk.

"You are saying," asked Judge Dalia Dorner, "that when the prosecution says you were at Treblinka, you were actually at Chelm. Is that right?" "Yes." "And *this*," she shook her head in disbelief, "this you didn't remember when you appeared before the American investigators?"

"Mr Demjanjuk," said Judge Levin, "Please listen to me very carefully. I want to explain to you what an alibi is... *Chelm, Chelm is your alibi*."

"Honourable Judges," he answered, "I'm an honest person and have always told the truth. Have you never forgotten anything in *your* life?"

Judge Dorner said sadly, "Yes, yes... but *this*..."

The court was dead quiet. Demjanjuk's face was glistening with sweat and his voice trembled when he replied, "Your Honour, it was read out [from the US transcripts] that I said I had been in two camps, one of which I forgot the name of. I wish to be shown [those statements]."

The judge stopped Blattman as he rose. "Don't object," he said. "He is on a grave charge and in a predicament. Let us show him. Maybe it will help him. Justice must be seen as well as done."

The court was silent while Demjanjuk, his English reading ability minimal, slowly read the transcript. "I have >>>

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### DEMJANJUK continued

read it," he said then, stiffly. "It says I was in Rovno and another place and I forgot the name. I can't say why I forgot: I just did."

"Maybe there is a different reason," said Blattman in his severe, measured voice. "You weren't at Chelm."

Demjanjuk's answer came back in a flash – no trembling now, or primitivity either: "That's what you say. I say I was at Rovno and Chelm, two camps. If you say I was at Sobibor and Treblinka, you'll have to prove it."

In the end there is only one piece of documentary evidence: the bitterly contested Trawniki ID card. For, contrary to what Patrick Buchanan wrote, neither the prosecution nor the defence have any Treblinka or Trawniki staff documentation: there is nothing left except one Trawniki duty roster, with 14 names.

The Russians say they found the ID in one of their war archives. Demjanjuk's backers say, how convenient – they faked it.

The controversial document in the Demjanjuk case is the "Service ID No 1393" from the SS training camp Trawniki where between 1941 and 1943 about 3500 foreign auxiliaries, most of them from the Baltic countries and the Ukraine, were prepared for work connected with the Aktion Reinhard.

If the document is genuine, it proves that the account Demjanjuk gave of his life between May 1942 and the end of 1943 is a lie and that – even if he was not the monstrous "Ivan" – he was a member of this infamous unit. Its authenticity has been hotly disputed since its appearance, first in the US and now in Israel, by Demjanjuk's defence and backers, who are passionately convinced that it is a KGB fake.

Their belief that it is a fake stems mainly from its provenance, Russia. Nonetheless, it is an untidily spelt – and printed – document and the defence cite three substantial points to back their claim: there is (very curious for any ID) no date either of issue or of validity. Strange, too, Demjanjuk's two postings are written in by hand, so that the bearer could, at least theoretically, have written in, and transferred himself to, any place he wished.

Even more peculiar, the SS quartermaster, Teufel, who signed Demjanjuk's card No 1393 as *Rottenführer* (private), was promoted to *Unterscharführer* (corporal) on July 19, 1942. But Teufel signed a lower-numbered card, No 1211 (one of three the

Russians sent to Israel last August) with his *new* rank.

And the most important witness Sheftel found, Dr Julius Grant, one of Britain's most distinguished forensic scientists, considered Demjanjuk's signature, in Cyrillic writing, "unlikely" to be genuine. All these are considerable flaws in a document on which the life of a man now partly depends. The Russians could have learnt in 1975 that Demjanjuk's name was on the American "master list" linked with Sobibor, making him an ideal tool for their political machinations.

But if that was in fact their game, why stop at Sobibor? Why not place him firmly at Treblinka? His identification by the Treblinka survivors was known long before the first photocopy of the document arrived in the West in 1978. It thus seems hard to believe that, if the Soviets had really faked the document in order to create a *cause célèbre*, they would not have added a posting to Treblinka.

If Demjanjuk's case is gravely imperilled by his own mention of the blood-group tattoo and Sobibor, the prosecution case hangs on a less-than-satisfactory ID card, plus photo-identifications which many people feel were carried out with less than impeccable procedures.

The original identifications, in Israel in May 1976, were preceded by multi-lingual advertisements in the Israeli press, asking any survivor who had known a "war criminal" Feodor Federenko at Treblinka, or Ivan Demjanjuk at Sobibor, to come forward. No one did, but the defence points out that the ads could have provided an unconscious conjunction of "Ivan" with Treblinka, so that when its survivors, only a few days later, were confronted with the photo-spreads (with a photograph perhaps resembling "Ivan"), a suggestion could have remained in their minds. Although few of the SS and normally none of the Jewish workers knew the surnames of the auxiliaries (who in a way were "non-persons" too, to the Nazis), the very first man to identify "Ivan", Mr Eugene Turowski (now deceased), said he knew Demjanjuk's family name.

The defence further says that the arrangement of the visa photos, with Demjanjuk's and Federenko's pictures next to each other, was suggestive. Besides, Demjanjuk's full-faced photograph on that page was bigger than the others. They feel, too,

that after two of the first three survivors had described "Ivan" as "short-necked" and "broad-faced", the gallery should have included a majority of faces of that description. As a CBS reporter from Cleveland remarked, "If you go to a service at St Vladimir's, heads like Demjanjuk's are a dime a dozen."

Finally, almost two years were to elapse before all of the 10 survivors who would eventually testify in America had been shown the photospreads. The five who testified in Israel (four have died, and one was too fragile to take the stand) all said they did not discuss the identification among themselves. But it is known that until quite recently the few survivors of the "upper camp" who remained alive met at a cemetery every August 2 – the anniversary of the revolt – to commemorate those who died. Is it humanly possible that they would not have mentioned to each other on August 2, 1976, 1977 or 1978 the incredible survival of Ivan? Or that those who are friends never discussed this shattering development as soon as it was known?

## 'Are you threatening this court?'

The last week of the trial produced the angriest confrontation between judges and defence. Canadian lawyer Paul Chumak, who during his six months on the team had won the court's respect for his professional demeanour, denounced the ID card as part of the "KGB conspiracy" which had put Demjanjuk in the dock. The Russians, he said, were punishing Demjanjuk for defecting, all Ukrainians for not wanting to live in the Soviet Union, and causing dissension between Jews and Ukrainians everywhere. Picking up Patrick Buchanan's "Dreyfus case" description, he warned the judges to "be careful": Israeli justice was "on trial".

"Are you threatening this court?" asked Judge Dorner ominously.

It was not he who threatened anyone, Mr Chumak replied. (He would "unreservedly" apologise the next day.) It was the Soviets with their plans for world domination. He said that a few years from now the KGB may do to Israel exactly what they had done to Ivan Demjanjuk.

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But he is wrong: it is not the KGB or the Americans who put Demjanjuk where he is ➡➡➡



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## DEMJANJUK continued

today. It is Demjanjuk himself.

Why had he claimed, on not one but two official documents, to have lived in Sobibor? The mystery remains where it started 30 years ago. Time and again he has been asked the same question by investigators, and by judges.

"Your Honours," he said despairingly, in Israel, "If I had really been in that terrible place, would I have been stupid enough to say so?"

Israeli prosecutor Michael Shaked, the most elegant legal mind addressing the court, believes that, needing a residence outside Russia, he chose a place he knew, in case he was ever questioned. Knowing only Sobibor, Treblinka, and a few neighbouring villages, he chose the lesser of two evils, hoping no one would be left to identify him.

Demjanjuk bolstered that explanation in pre-trial interrogation. "Superintendent Russek asked you on April 4, 1986," said Shaked, "Were you ever in either of the following places: Kossow or Miedzyrze-Podleski? You said you didn't want to answer. He asked the same question again and you said, 'No comment - you are pushing me towards Treblinka.' What I want to know is, how did you know this was pushing you toward Treblinka?" Blushing deeply, Demjanjuk said, "It wasn't a question I wanted to reply to."

The judge tried to help him. "Did you feel (looking at the map) these two places being near Treblinka meant you were being pushed towards Treblinka?" Demjanjuk didn't notice the helping hand. "No," he said. "I didn't know where those places were."

## 'Liar, liar, you are a liar'

In February this year the prosecution's final arguments were interrupted by the defence, who brought Eliyahu Rosenberg back to the stand to confront him with a statement he had made in 1945, implying that he had seen someone named "Gustav beating [Ivan] to death with a spade".

Rosenberg admitted that the statement had been untrue. Many things were said and done in the euphoria of surviving Treblinka, he said, which were the result of wishful thinking and the desire to be part of a heroic deed.

"Liar, liar, you are a liar!" Demjanjuk shouted hoarsely at Rosenberg in Hebrew.

It is hard to estimate how Rosenberg's untruths will affect the judges' view of him now.

Their questions during the prosecution's final arguments, many on dubious points in the original photo-identifications, clearly demonstrated that they were troubled by gaps in the evidence.

What did the prosecution claim had happened to Demjanjuk after Treblinka? Were they saying that he went to Trieste, or that he was transferred to concentration camps as a guard?

Where he went afterwards, said the chief prosecutor, was not the question before the court: he was indicted for Treblinka, and the prosecution had concentrated their evidence on Treblinka.

But was it not true, asked Judge Levin, that the accused could have used the ID card as an alibi, as proof that he was in Sobibor, not at Treblinka?

He offered the same point to the defence. "You need to be very clear in your mind," he said. "As his counsel, should you not advise him to change his alibi?" The judges, of course, had not yet come to any decision, he said, "but if we conclude that the ID is authentic, and that his alibi is *not* true, this could create major cumulative weight as far as the identification is concerned."

"Identifications are never foolproof," Judge Levin warned, "and if the alibi is accepted it outweighs the identifications. But if it is refuted, there is a problem, and we will have to weigh the identifications all the more."

The defence was unmoved: Demjanjuk would stick with his alibi. But in their final arguments they no longer defended the contested points of the alibi. "We submit," said Sheftel, "there are three Ivans: Ivan from Treblinka, Ivan on the ID photo graph, which is *not* Demjanjuk, and Ivan Demjanjuk." It was up to the prosecution to prove that the three are one man, he said: in the absence of clear proof, his client should be set free.

The judges gave the defence great leeway during their final arguments, hardly interrupting at all, and reprimanding the prosecutors for signalling disagreement (or amusement) to each other during the presentation. "Go out in the hall if you wish to communicate," he said sharply.

All parties to the case have taken umbrage at the degree of intervention from the judges. But the frustration they sometimes displayed had good reasons: the inordinate length of the trial; the difficult atmosphere during the decisive first four months; endless historical lectures brought out by the prosecution and the

political harangues from the defence; and, above all perhaps, the many problematic witnesses, because of age, emotion, motivation, or degree of expertise.

Although there were exceptional aspects to this case, above all that it took place in Israel where the defence felt isolated and beleaguered, much of what happened in that Jerusalem court over the past 12 months is inevitable in any case involving Nazi crimes being tried so long after the events. It is thus highly relevant to the investigations now going on in Britain and elsewhere, and to the discussions about changing the law.

As this article appears, the verdict is only days away. The unhappy Demjanjuk family has let it be known for months that they consider the court is biased and that they believe a fair trial is impossible in Israel.

But most outside observers who have watched these proceedings over the past year - surely as heart-rending and difficult as any court has had to deal with - tend to disagree with such a charge. On the contrary, the balanced severity and kindness displayed to both the prosecution and the defence seemed astonishing under the circumstances.

The ID card may be a forgery - although the absence of a Treblinka posting on it speaks against it being that. And the survivors, however sincere, could be mistaken - although there cannot really have been collusion between the first two in Israel, or between them and the one who lived in Germany - not to speak of Otto Horn.

The judges know all this better than any of us. They know too, however, that Demjanjuk's alibi is a fabrication. The appalling difficulty they have is that while, legally, his guilt as charged may not be proven to their satisfaction, his flawed alibi may well leave, in their view, the essential question of his war unanswered. And - an enormous dilemma - a "not guilty" means a rejection of the testimony of the survivors of Treblinka.

And yet, if they feel there is a reasonable doubt that Demjanjuk is "Ivan from Treblinka", these judges - even though they are Israelis, have lost members of their own families, and will be attacked by some in Israel and many Jews outside if they don't convict - will acquit him.

That is the moral and judicial quality they have communicated to many of us throughout the long and bitter year of this trial ●