

Jews, Nazis, and Civil Liberties

by DAVID G. DALIN

UNTIL THE BEGINNING OF THE 1970's it could be argued that the concern of some Jewish community leaders for the position of Jews in the United States was exaggerated. Antisemitism had largely disappeared in the years following World War II. Reaction to the atrocities of the Nazi era was such that even mildly antisemitic public utterances came to be viewed as unacceptable. The civic status of American Jews seemed more secure than ever before.

This "Golden Age" in American Jewish life has come to an end. American Jews have been experiencing a growing anxiety over various developments in the last decade, including the growth of Black Power, the emergence of quotas in employment and education, and the growth of Arab influence in the United States. The political climate of the country is clearly changing; there appears to be a growing indifference to Jewish concerns. Jews see themselves faced with new threats to their security.

Adding to the renewed sense of insecurity has been the much publicized activities of neo-Nazi groups, activities which the Jewish community has been unable to halt. While few in number,¹ the Nazis, evoking nightmarish memories of the Holocaust, have sent a shudder through American Jewry.

The progenitor of Nazism as we know it in the United States today is the American Nazi party, founded in 1959 by George Lincoln Rockwell. From his national headquarters in Arlington, Virginia, Rockwell controlled a small, but active, organization with units in Chicago, Los Angeles, San Francisco, Boston, Dallas and elsewhere. By the time of his assassination by a disgruntled Nazi party member in August 1967, Rockwell had become the "Fuehrer" of American Nazism.

Following Rockwell's death, a brief but intense leadership struggle took place, with a Milwaukee native, Matt Koehl, emerging as the head of the National Socialist White Peoples' party. (This name had been selected by Rockwell prior to his assassination as being more American and therefore more acceptable.) In 1970 several former Rockwell aides broke away from Koehl to form their own local Nazi groups. Among these men were Allen

¹Total Nazi membership in the United States in 1977 was between 1,500 and 2,000. There were probably no more than 20 activists each in Chicago and San Francisco. See Milton Ellerin, "Intergroup Relations," *AJYB*, Vol. 79, 1979, p. 117.

Lee Vincent, who founded the National Socialist White Workers party (NSWWP) in San Francisco, and Frank Collin, who organized the National Socialist Party of America (NSPA) near Marquette Park, on Chicago's South Side. In the spring of 1977, it was Collin and Vincent who orchestrated the American Nazi movement's most publicized activities, when the former announced plans for a Nazi march through the predominantly Jewish suburb of Skokie, Illinois and the latter opened a Nazi bookstore across the street from a synagogue in San Francisco.

This article will focus on events in Skokie and San Francisco. In both cities the immediate targets of Nazi provocation were groups of Jewish survivors who had settled in the United States in the aftermath of the Holocaust. These Jews viewed the reappearance of the swastika in their midst as a direct threat to both American democracy and Jewish survival. Jews throughout the United States were outraged by the Nazi activities.

Events in Skokie and San Francisco, as well as other manifestations of neo-Nazism, have posed a painful dilemma for the American Jewish community. On the one hand, there has been a growing consensus among American Jews that Nazism, in any form, must not be allowed to reassert itself, and that the earlier Jewish communal strategy of ignoring the activities of virulently antisemitic groups is inappropriate and outdated. "Never Again" is no longer the slogan of the militant Jewish Defense League alone; as a response to the growing Holocaust consciousness of American Jewry, it is becoming the anti-Nazi rallying cry of the organized Jewish community as a whole.

On the other hand, American Jews have traditionally been staunch supporters of civil liberties, including the right to free speech and expression. In a major public opinion study conducted in 1954, Samuel Stouffer found that Jews were far more supportive of civil liberties than were members of other religious or ethnic groups.² This continues to be the case today, as both Everett Carl Ladd, Jr.³ and Alan Fisher⁴ have noted. The civil libertarian propensities of American Jews have resulted in a disproportionate Jewish involvement in the American Civil Liberties Union (ACLU), an organization traditionally committed to protecting and defending the First Amendment rights of all groups, including American Nazis.⁵

²Samuel Stouffer, *Communism, Conformity and Civil Liberties* (Garden City, 1955), p. 143. See also Lawrence H. Fuchs, *The Political Behavior of American Jews* (Glencoe, 1956), pp. 187-190.

³Everett Carl Ladd, Jr., "Jewish Life in the United States: Social and Political Values," paper delivered at YIVO Institute for Jewish Research Colloquium, New York City, May 28-29, 1978, pp. 31-32.

⁴Alan Fisher, "Continuity and Erosion of Jewish Liberalism," *American Jewish Historical Quarterly*, December 1976, pp. 330-334.

⁵Various explanations have been put forward to account for Jewish support for civil liberties. Some have pointed to Jewish religious values derived from biblical and talmudic antecedents

In the public debate over defending the rights of Nazis, many American Jews have been torn between their commitment to the principle of unfettered freedom of expression guaranteed by the First Amendment, and their anguished memory of the Holocaust. This has led them to rethink the meaning of the First Amendment, and the extent of their support of the ACLU. The First Amendment, many Jews now maintain, is not absolute. The public display of the swastika in a community of Holocaust survivors, they assert, constitutes a provocative act that goes far beyond the right to freedom of expression guaranteed by the First Amendment. During the past two years, thousands of American Jews have resigned in protest from the ACLU.

The anger of many Jews over the ACLU role in Skokie cannot be separated from their unhappiness with the general drift of ACLU policy in the last decade—a drift characterized by growing politicization, radical liberalism, and indifference to Jewish concerns. Whereas in the past most Jews supported liberal causes, including free speech for Nazis, even when they seemed to threaten Jewish interests and security, this is no longer the case.

SKOKIE AND SAN FRANCISCO

Skokie

On April 27, 1977 the Illinois chapter of the American Civil Liberties Union agreed to go to court on behalf of Frank Collin, who was seeking to organize a Nazi march through the predominantly Jewish suburb of Skokie. Attorneys for the Village of Skokie had just filed a petition against Collin in the Cook County Circuit Court requesting an injunction to prevent him from organizing the march. Collin claimed that his constitutional rights were being threatened and asked the ACLU to aid him in his legal defense.

A month earlier Collin and his followers had written to the Village of Skokie Park District seeking permission to hold a public rally in the Village park. The trustees of the Park District wrote back informing the Nazis that an insurance requirement for a rally was in force; Collin would have to produce \$350,000 in insurance before a permit to hold the rally could be obtained. Since the Nazis were unable to pay this insurance requirement,

as the source. Charles S. Liebman has suggested that Jewish liberalism in general, and the Jewish commitment to civil liberties in particular, is rooted "in the search for a universalistic ethic to which a Jew can adhere but which is seemingly irrelevant to specific Jewish concerns . . ." See Charles Liebman, *The Ambivalent American Jew* (Philadelphia, 1973), pp. 135-159.

the permit was refused. To protest the Skokie Park District's requirement of insurance for permits, Collin announced that he and his followers planned to march down the streets of Skokie in full Nazi attire.

Skokie, a middle-class community north of Chicago, has a population of 69,000, approximately 40,000 of whom are Jews. Of these 40,000, about 7,000 are estimated to be Holocaust survivors. It has been said that there are more former concentration camp inmates living in Skokie than in any other single community in the United States. Thus, as Chicago Congressman Abner Mikva pointed out,⁶ Skokie is more than a village which happens to be a part of suburban America. Its uniqueness lies not so much in its claim to be the world's largest village, but in the fact that it is a "sanctuary for thousands of Jewish Americans who still bear the scars of Hitler's Germany." For many of these people, the sense of community that they have been able to share has provided important emotional security.

It is not surprising that the ACLU defense of the Nazis aroused a strong reaction among the Jewish residents of Skokie. Frank Collin freely admitted that he and his followers deliberately chose to march "where our concept of white power is most opposed." In doing so, the Nazis hoped to precipitate a violent counter-demonstration, thus making themselves martyrs, and generating wide media attention. Collin compared his strategy to that of the civil rights protestors of the 1960's. Others have noted a similarity between this tactic and that of Great Britain's National Front, which deliberately targeted London's heavily Jewish East End as the site for antisemitic rallies. A spokesman for the Jewish United Fund and Welfare Federation of Metropolitan Chicago (JUF) called the Nazi plan "a deliberate and calculated" affront to the Jewish community of Chicago, an undisguised effort to provoke a violent confrontation. The residents of Skokie filed suit in Circuit Court to obtain an injunction against Collin, contending that even a few jack-booted storm troopers waving swastika flags in their streets threatened imminent violence.

The legal battle⁷ over the proposed Nazi march in Skokie—initially scheduled for May 1 and subsequently rescheduled for July 4—officially began on April 28, 1977, when Circuit Court Judge Joseph M. Wosik imposed an injunction banning the march. On April 29 the Appellate Court

⁶Abner Mikva, "Skokie is Different," *Moment*, June 1978, p. 43.

⁷The narrative of events in Skokie is developed from a number of sources: Marc Stern, "The Dilemma of Skokie: Protecting Civil Liberties or Curbing the Nazis?" *Research Report*, Institute of Jewish Affairs, London, August 1978, pp. 3-6; David Hamlin, "Swastikas and Survivors: Inside the Skokie-Nazi Free Speech Case," *Civil Liberties Review*, March-April 1978, pp. 8-33; and selected Jewish Telegraphic Agency *Daily News Bulletins*, 1977 and 1978.

of Illinois rejected the Nazi petition to temporarily lift the injunction while Collin and his followers, with the aid of the ACLU, endeavored to appeal the legality of the ban in the courts.

While the ACLU appeal on behalf of the Nazis with regard to the Skokie injunction was pending, the Village of Skokie enacted three new ordinances designed to insure that the Nazis would not be able to march regardless of the outcome of the case. One ordinance required a permit, issued by Village officials, for street or sidewalk parades. In order to obtain such a permit, the applicant had to provide 30 days advance notice and payment of \$350,000 in liability insurance against any possible damage. A second ordinance banned the public display of symbols offensive to the community and political rallies or parades in which participants wore "military style" uniforms. A third ordinance banned the dissemination of literature which might "incite or promote hatred against persons of Jewish faith or ancestry" or against persons of any other race or religion, or which in any way constituted "group libel." Once again the ACLU entered the case on the side of the Nazis.

During the same period, Skokie resident Sol Goldstein instituted, with the legal assistance of the Anti-Defamation League of B'nai B'rith, a class action suit seeking a permanent injunction against the Nazis, claiming that he and his fellow Holocaust survivors in the community would suffer "severe emotional distress" and "psychic" harm if the march were held. Goldstein's attorney, Jerome Torshen, argued that "menticide" could create emotional damage every bit as injurious as physical assault. The ACLU, again representing the Nazis, demanded that Goldstein's suit be dismissed, on the grounds that if speech or other expression that was emotionally painful to individuals or abhorrent to the majority were suppressed little would be left of the freedom of expression protected under the First Amendment.⁸ While the Illinois Supreme Court subsequently ordered, without the benefit of full written or oral arguments, the dismissal of the Goldstein class action suit, it stayed the order so as to allow Goldstein time to petition the United States Supreme Court for a review of the decision.⁹ The Nazis, announcing that they would not march until all legal obstacles had been eliminated, then called off their July 4 demonstration.

Prior to the cancellation of the Nazi rally, the organized Jewish community of metropolitan Chicago had begun to organize itself to combat the Nazis. A special Sub-Committee on Individual Liberty and Jewish Security of the Public Affairs Committee (PAC) of JUF was established to formulate a community response. The chairman of the sub-committee was Sol

⁸Stern, *loc. cit.*, p. 3.

⁹The U.S. Supreme Court subsequently refused to review the Illinois Supreme Court's dismissal, thus upholding the lower court's decision in the Goldstein suit.

Goldstein, who, in addition to having instituted the above-mentioned class action suit, was a former president of the Skokie Holocaust Survivors Association. "There is no room in my backyard for such a demonstration," stated Goldstein. "I went through the Holocaust . . . and I thought the war was the end of the Nazi movement." Goldstein and his neighbors in Skokie, active in the newly-formed PAC sub-committee, argued that the First Amendment "can only be stretched so far." Nazism, he stated, "is an idea the whole civilized world has condemned. When the First Amendment was introduced, they never thought of such a thing as genocide."¹⁰ During the next year, Goldstein and his neighbors played a prominent role in Jewish communal decision-making vis-à-vis the Nazis.

With the threatened July 4 Nazi march called off, PAC, in an effort to reduce tensions, cancelled a scheduled counter-demonstration at a Jewish community center in Skokie. Against the wishes of the PAC leadership, however, the militant Jewish Defense League (JDL) went ahead with its own plans to hold a protest rally in Skokie on July 4. Speaking at the rally, Rabbi Meir Kahane, the JDL leader, exhorted a crowd of about 400 to "kill Nazis now." The JDL held its rally in the parking lot of the Jewish Community Center after having been refused permission to use the building. Sol Goldstein denounced the JDL for stirring up fears that the Nazis would eventually win their ongoing court battle to march. Rabbi Lawrence Montrose of the Skokie Central Traditional Congregation, the unofficial chaplain of the Village's death camp survivors, agreed with Goldstein, stating that, although he wanted to confront the Nazis with a "good strong protest," he was opposed to the violent tactics of the Jewish Defense League. By their actions, Montrose argued, the JDL made it more difficult to forge unity within the Jewish community and to form an anti-Nazi coalition with non-Jewish groups.

The court battle over the Nazis' right to march in Skokie continued for more than a year—through June 1978. On March 17, 1978 Judge Bernard M. Decker of the Federal District Court in Chicago ordered a 45-day ban on the proposed march, to allow Skokie officials time to appeal his earlier ruling holding the three anti-Nazi ordinances unconstitutional. On April 2 the Federal Court of Appeals in Chicago upheld the Decker ruling prohibiting the Nazis from marching before May. However, on April 6 the Circuit Court of Appeals reversed the District Court decision and set aside the 45-day stay, stating that there was no reason for such a postponement since it intended to decide promptly on the constitutionality of the three Skokie ordinances. On May 22 the Circuit Court of Appeals ruled that the Skokie ordinances were unconstitutional. Skokie officials then appealed the ruling

¹⁰Kathryn McIntyre, "One Man's War with Nazis," *US Magazine*, April 18, 1978, p. 56.

to the U.S. Supreme Court, which, on June 12, turned down the Village's request for an indefinite postponement of the June 25 march. At the same time, two anti-Nazi bills that had been introduced in the Illinois State Legislature were defeated in the House after being passed in the Senate. The march in Skokie, it seemed, would go on.

On May 31 the Village of Skokie Council had issued a permit to PAC to stage a counter-demonstration in Skokie on June 25. Plans were announced for providing facilities for 50,000 demonstrators. PAC allocated \$100,000 to underwrite expenses, including the hiring of staff to administer and coordinate all related activities in Skokie. Eugene DuBow, on leave from his position as midwest regional director of the American Jewish Committee, became the coordinator of the project, working closely with Goldstein and members of the PAC sub-committee. Goldstein announced that after discussions with Skokie officials, PAC had accepted the athletic field of Niles Township East as the site for the Jewish community's counter-demonstration.

A broad-based coalition of Jewish and non-Jewish groups made plans to participate in the demonstration. The American Federation of Jewish Fighters, Camp Inmates and Nazi Victims announced that it would send busloads of its members to Skokie; it publicly urged other Jewish organizations to do likewise. Marvin Morrison, executive director of the New York department of the Jewish War Veterans, sent mailgrams to 100,000 JWV members urging them to be in Skokie on June 25. Congressmen from both major parties announced their intention to join in the anti-Nazi march. Support was also received from labor, veteran, and ethnic groups, among them Polish Catholic army veterans who had fought against the Nazis in World War II. An *ad hoc* coalition of 43 Chicago-area ethnic groups including Poles, Lithuanians, Ukrainians, and Byelorussians, announced strong support for the anti-Nazi demonstration. Julian E. Kulas, local Ukrainian community leader and spokesman for the coalition, announced that it would stand by the Jews of Skokie "in order to make it crystal clear that Nazism is a threat not only to Jews but to all Americans."¹¹

The 25-member planning committee coordinating "Project Skokie" included James Rottman, director of the National Conference of Christians and Jews, and several Christian clergymen from the Skokie area. The committee issued a call to religious leaders to support the march and to condemn Nazism as contrary to the Judaeo-Christian tradition and the ideals of American democracy. Sister Ann Gillen, executive director of the National Interreligious Task Force on Soviet Jewry, convened a meeting of Chicago-area Catholic leaders that pledged "persistent action" against the

¹¹Chicago *Sun Times*, June 20, 1978, p. 12.

Nazis in Chicago and elsewhere. An editorial in the April issue of *St. Anthony's Messenger*, a national Catholic magazine, urged Christians throughout the United States to don the yellow Star of David that Jews had been forced to wear during the Nazi era, as a way of protesting the march. Groups of evangelical Christians planned to travel to Skokie to join the protest as well.

A few days before the June 25 Nazi march, Collin announced that his group was cancelling its planned demonstration in Skokie and would march instead in the racially-mixed area of Marquette Park. This change in strategy was attributable, ostensibly, to a ruling by a federal judge ordering the Chicago Park District to allow the Nazis to hold a rally in Marquette Park without being forced to pay the \$60,000 liability insurance—reduced from an earlier \$350,000—required by the district. Marquette Park, Collin now claimed, had been his original target area all along. "My overall goal always was Marquette Park, speaking to my own white people rather than a mob of howling creatures in the streets of Skokie." Few believed him, however, assuming rather that the Nazis had been scared away by the specter of 50,000 counter-demonstrators. PAC called off its counter-demonstration shortly after the Nazis announced cancellation of their plans. When the Nazi rally was held in Marquette Park on July 9, anti-Nazi demonstrators, largely unorganized, were kept two blocks away, and no violence erupted.

San Francisco

Five days before the beginning of Passover, 1977, Rabbi Theodore Alexander of Congregation B'nai Emunah, a small synagogue composed mainly of Holocaust survivors, in the predominantly middle-class Sunset district of San Francisco, arrived at his office to find that a Nazi bookstore had opened across the street. To mark the opening of the store, named after Hitler confidante Rudolf Hess, the Nazis erected a swastika in front of the building and displayed a picture of Hess, other Nazi insignia, and anti-Jewish posters in the store window. Several days later an angry crowd of Jews armed with sledgehammers and crowbars ransacked and destroyed the bookstore. A few hours later, five stained glass windows at Congregation B'nai Emunah were smashed, apparently as an act of retaliation. Morris Weiss, a Holocaust survivor, and his son Allan were subsequently arrested for leading the assault on the Nazi store.

The bookstore incident was by no means the first in which local Nazis were the cause of public confrontation and controversy. Since early 1974 the San Francisco chapter of the National Socialist White People's Party, of which Alan Vincent was the leader, had been disrupting public meetings of the San Francisco Board of Education. The Nazis had organized several

rallies at public sites at which virulently antisemitic literature was distributed. Moreover, a local *cause célèbre* had developed around Sandra Silva, an avowed Nazi who was employed as a clerk-typist in the San Francisco Police Department.

On one side of the debate in the Silva case was the ACLU, supported by San Francisco Mayor Joseph Alioto, which strongly defended Silva's constitutional right to "maintain her belief" without jeopardizing her job. On the other side were a number of Jewish and Black groups, led by Jewish city supervisor Quentin Kopp,¹² which argued that Silva's anti-democratic beliefs did conflict with the performance of her job. At first, the possibility was raised that she might be dismissed on the basis of her Nazi ideology alone. But that debate ended when the San Francisco Civil Service Commission came to Silva's defense, stating that her party affiliation did not interfere with her performance at work.¹³

A subsequent public furor developed over the question whether Silva had violated a Civil Service residency law requiring city employees to live in the city and might, therefore, be subject to dismissal. This was the argument of Supervisor Kopp, who claimed that he had hard evidence from several sources, including a private investigator, that Silva had been living in San Mateo. Kopp asked the Civil Service Commission to institute dismissal proceedings against her. Following Kopp's request, the ACLU came to Silva's defense. Ruth Jacobs, an attorney with the local ACLU and the wife of radical author-activist Paul Jacobs, charged that Kopp was raising a totally irrelevant issue—i.e., the residency rule—"in an attempt to deprive Silva of her right to free speech under the First Amendment." The ACLU maintained that Silva was "temporarily" residing with her parents in San Mateo and was therefore not in violation of the city's residency requirement. "If Kopp feels that she should be fired because of political beliefs," suggested Jacobs, "it is his privilege to pursue that unlawful course. But he should not use the dubious device of questioning her residency. What Kopp is attempting through this investigation is to punish Miss Silva, by having her fired, for exercising her First Amendment rights."¹⁴ In response, Kopp charged that the ACLU had "smeared me in exactly the fashion used by Joe McCarthy 20 years ago by ascribing false motives to my actions," and that "the ACLU's statement showed a lack of knowledge of the city's residency law and how it applies to Miss Silva . . . I'm not depriving her

¹²Kopp is a former member of the ACLU. He resigned in protest over the organization's growing politicization. Interview with Quentin Kopp, April 24, 1978.

¹³New York *Times*, August 4, 1974, p. 37.

¹⁴San Francisco *Examiner*, July 16, 1974, p. 1.

of free speech, but acting in response to complaints from constituents who believe the [residency] law should be enforced."¹⁵

The opening of the Rudolf Hess bookstore, housed ironically in a building owned by a Jewish survivor of Auschwitz, caused great public outrage. "San Francisco is one of the nation's most tolerant cities," editorialized the San Francisco *Examiner*, "but a terminal point was reached when a group of American Nazis tried to revive Hitlerism with all its horrors . . . The ransacking and burning of the store was inevitable . . ."¹⁶ Reacting to the incident, the San Francisco Board of Supervisors unanimously passed a resolution urging the introduction of a bill in the state legislature to outlaw public display of the swastika and the wearing of Nazi uniforms. (Three years earlier, the Board of Supervisors had failed in an attempt to ban the wearing of a Nazi uniform in public. See below pp. 22-3.) Introduced by Supervisor Dianne Feinstein (who in November 1978 became mayor), the resolution stated: "The Board of Supervisors is of the opinion that the wearing of the Nazi uniform and the display of the Nazi swastika will continue to provoke acts of violence and fear for the public safety."¹⁷ Supervisor Feinstein went further in voicing public sympathy for those who destroyed the bookstore: "I conceivably could have done the same thing if it had been in my neighborhood," she said. "In Nazi Germany the same things existed and people laughed. Then suddenly the Nazis were in power."¹⁸ Feinstein's sentiments were echoed in statements by Rabbi Alexander and other leaders of the Jewish community. "I've heard that it would impair the right of free speech and the right of free assembly," noted Rabbi Alexander in urging passage of the bill. "I've heard it should not be voted and should not be passed . . . But when they dispense hate against other Americans, that can no longer fall under the right of free expression. It becomes an entirely different story. It is no longer political. It becomes incitement to hatred and murder."¹⁹

With the help of the Jewish Community Relations Council (JCRC), the landlord of the building housing the bookstore obtained legal counsel to have the Nazis evicted. The basis of the eviction order was misrepresentation, and they were given until April 15 to vacate the premises. At the same time, friends of the Weiss family hired attorney Ephraim Margolin to represent Morris and Allan Weiss.²⁰ (They also organized a legal defense fund, the Sunset Anti-Fascist Committee, to raise the money needed to

¹⁵San Francisco *Chronicle*, July 18, 1974, p. 3.

¹⁶San Francisco *Examiner*, April 5, 1977, p. 26.

¹⁷San Francisco *Jewish Bulletin*, May 13, 1977, p. 5.

¹⁸San Francisco *Examiner*, April 5, 1977, p. 5.

¹⁹*Ibid.*

²⁰The charges against the Weisses were subsequently dropped.

cover the Weisses' court expenses.) The choice of Margolin as the Weisses' counsel was significant, since he, a graduate of the Hebrew University and Yale Law School, had become one of the leading civil liberties attorneys in the city. As chairman of the Legal Committee of the Northern California chapter of the ACLU, Margolin had impeccable credentials in the civil liberties field. At the same time, he was an important figure in the organized Jewish community—an officer of the American Jewish Congress, JCRC, Bureau of Jewish Education, and Jewish Welfare Federation.

Adding to the anger in the San Francisco Jewish community over the bookstore incident was the insensitivity shown in some quarters as to the meaning of Nazism. A local television station, in a broadcast editorial about the bookstore confrontation, stated that the "anti-Nazis," i.e., those Jews who had attacked the bookstore, "exhibited a mentality as ruthless and primitive as the one they were attacking." "In that fashion," noted Earl Raab, the director of JCRC, "was the calculated demolition of millions of people equated with the minor property damage done by some of its angry victims. Even those who most disapproved of the trashing knew that there was something pathological about that equation as the main burden of a T.V. editorial."²¹ In a televised rebuttal to the station's editorial, noted attorney and JCRC chairman Mathew Weinberg argued that trashing of the bookstore "was not an organized action; it was a spontaneous act of rage against Nazi symbols by relatives of those who were tortured and killed under the aegis of those symbols. I do not defend violence, even against property . . . But to turn the bookstore episode into a primary attack against the principles of Nazi butchery is a strange inversion of values and an affront to our common sense. But more than that, the editorial was a depressing sign that we have forgotten the horror which led America to fight a bloody war."²²

During the same period, Jewish leaders in San Francisco met with the management of a different local television station to protest another Nazi-related incident. While being interviewed by the station, Nazi party chief Vincent stated that at certain times during the year, American Jews "commit their blood sacrifice" and "Christian children begin to disappear from the streets." The station received a large quantity of mail criticizing its editorial judgement in allowing the infamous "blood libel" to go unchallenged on public television. "By what measure of editorial judgement," asked one Jewish communal leader, "had this hoary and gratuitous slander

²¹Earl Raab, "The Insensitives—'Neutral' on Anti-Semitism," *Midstream*, August-September, 1978, p. 59.

²²Mathew Weinberg, "Rebuttal," editorial on "Freedom of Speech," May 4-5, 1977, transcribed and reprinted by KGO-T.V., San Francisco.

been allowed to remain in this filmed interview?" The station management's explanation, that there was no "malicious intent" on its part, and that it was merely being "neutral" in reporting the opinions of newsworthy individuals, seemed to many Jews to represent precisely the kind of indifference to antisemitism that made it possible for Nazi activity to continue.

Throughout 1977 and 1978, much time was spent by the San Francisco Jewish Community Relations Council in discussing ways of counteracting Nazi activity while, at the same time, protecting First Amendment guarantees of freedom of speech and assembly. A lawyer's committee began to examine possible legislation which might limit Nazi activity and propaganda in a number of specific situations. In January 1978 a community-wide Committee for Continuing Education Against Nazism was organized under the auspices of the San Francisco Conference on Religion, Race and Social Concerns. The committee was headed by San Francisco Mayor George Moscone and included Protestant, Catholic, and Jewish clergy, as well as civic and business leaders.

FREE SPEECH AND THE NAZIS

The First Amendment to the United States Constitution states that "Congress shall make no law . . . abridging the freedom of speech . . . or the right of the people peacefully to assemble and to petition the government for redress of grievances." The First Amendment, however, is by no means absolute; it has never been so interpreted by a majority of the United States Supreme Court. The view that the Constitution does not protect all forms of speech was most powerfully expressed by Justice Oliver Wendell Holmes, Jr. in his now classic dictum that "the most stringent protection of free speech would not protect a man in falsely shouting fire in a crowded theater." Over the past six decades a substantial body of legal opinion has developed which stresses that those forms of speech and public expression that are "provocative" or injurious can indeed be restricted. Thus, Professor Philip B. Kurland of the University of Chicago Law School, in supporting the constitutionality of Skokie's position vis-à-vis the Nazis, has observed that "no one denies the value of protecting the right to speak. But this does not mean that all speech is protected speech or that the context of the speech is irrelevant to the protection required to be afforded by the State."²³ Indeed, in at least one instance even the ACLU has refused to uphold the rights of Nazis to absolute freedom of speech. In May 1978 the Houston, Texas ACLU chapter voted not to aid

²³Quoted in Mikva, *loc. cit.*, p. 46.

a Nazi group whose recorded telephone message had been cut off by a court injunction. The message had offered a \$5,000 bounty for "every non-white killed during an attack on a white person." "Offering a bounty or a tangible incentive for murder," commented ACLU executive director Aryeh Neier, "is not protected by the First Amendment."²⁴

The precedent cited most authoritatively by the courts on this matter is the landmark case of *Chaplinsky v. New Hampshire* (1942). As Justice Murphy stated on behalf of the unanimous court:

There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any constitutional problem. These include the lewd and obscene, the profane, the libelous, and the insulting or "fighting" words—those which by their utterance inflict injury or tend to incite an immediate breach of the peace. It has been well observed that such utterances are no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may derive from them is clearly outweighed by the social interest in order and morality.²⁵

Legal precedent for the restriction of provocative and defamatory speech can similarly be found in the 1951 opinion of Justice Robert Jackson in the case of *Kunz v. New York*: Kunz, a Baptist minister, had been convicted and fined for holding a religious meeting on the streets of New York without a permit. Pointing out that Kunz's public meetings had included attacks on Catholics and Jews, Jackson argued that "to blanket hateful and hate-stirring attacks on races and faiths under the protections for freedom of speech may be a noble innovation. On the other hand, it may be a quixotic tilt at windmills which belittles great principles of liberty." It made "a world of difference," Jackson maintained, that Kunz had been speaking in street meetings, since that posed the question whether New York was required to place its streets at his service "to hurl insults at the passerby." Jackson suggested that this case fell within the "fighting words" doctrine of the *Chaplinsky* case.²⁶

The legal debate over Skokie has centered around the doctrine of "fighting words" first enunciated in *Chaplinsky*.²⁷ Opposition to the Nazi march has been based on the fact that the Village of Skokie is heavily Jewish, with a substantial number of "survivors," and that a Nazi march through its streets would thus be a deliberate effort to utter "fighting

²⁴Interview with Aryeh Neier, April 5, 1978.

²⁵*Chaplinsky v. New Hampshire*, 1942. For an interesting discussion of the *Chaplinsky* ruling see Hadley Arkes, "Civility and the Restriction of Speech: Rediscovering the Defamation of Groups," in Philip B. Kurland (ed.), *Free Speech and Association: The Supreme Court and the First Amendment* (Chicago, 1975), pp. 414–22.

²⁶David Fellman, "Constitutional Rights of Association," in Philip B. Kurland, *Ibid.*, p. 44.

²⁷See Aryeh Neier, *Defending My Enemy* (New York, 1979), *passim*.

words" and provoke public disorder. Many Jews who agreed with the ACLU on the question of freedom of speech generally—even for Nazis and other antisemites—differed over the proposed march in Skokie. In their opinion, a parade by uniformed stormtroopers, complete with jackboots and swastika armbands, was nothing short of a direct provocation, and thus was excluded from the protective umbrella of the First Amendment.

In July 1977, the Illinois Appellate Court invoked the "fighting words" doctrine to uphold the local injunction barring the Nazi march. "The swastika," the court declared, "is a personal affront to every member of the Jewish faith. It calls to mind the nearly consummated genocide of their people committed within memory by those who used the swastika as their symbol . . . The epithets of racial and religious hatred are not protected speech." Thus, the public display of the swastika, in the view of the Illinois Court, constituted "symbolic speech," which, being the equivalent of "fighting words," could legitimately be curtailed. The ACLU, arguing that the Appellate Court based its decision on a "novel" and entirely unwarranted interpretation of the *Chaplinsky* case, appealed on behalf of the Nazis first to the Illinois Supreme Court and then to the U.S. Supreme Court for a stay of injunction. The swastika, it maintained, is "symbolic speech" just as fully protected by the First Amendment as the wearing of black arm bands during the Vietnam war. The state, the ACLU claimed, does not have the power to decide which symbols are permissible and which are not. In taking this position, the ACLU was following the direction of the Supreme Court in recent years, as a majority of the Court had attempted to narrow the interpretation of *Chaplinsky* by suggesting that there is no way to effectively distinguish between forms of speech—real or symbolic—that are provocative or injurious and those that are neutral or inoffensive. In its 1971 decision in *Cohen v. California*, and in subsequent rulings, the Supreme Court made it more difficult to uphold anti-Nazi municipal ordinances on grounds of "provocative" speech.

The judges who ruled in favor of the Nazis indicated that it was the "burden" of the Skokie residents to avoid "the offensive symbol if they can do so without unreasonable inconvenience." Presumably, then, it would be the responsibility of the Holocaust survivors living in Skokie to stay indoors while the Nazis marched through their village. At the very least they would have to avoid the City Hall area around which the march would be centered. The "burden" of the Holocaust survivors in San Francisco, whose B'nai Emunah synagogue was directly across the street from the Nazi bookstore, would be much greater; they could avoid the public display of the swastika in their midst only by ceasing to attend the synagogue. Would

such "inconveniences," some wondered, not constitute an infringement of Jewish civil rights?²⁸

The Supreme Court and ACLU opinion that the swastika is "symbolic speech" deserving of protection under the First Amendment was challenged on a variety of grounds. For years the ACLU has argued that the best test of truth is the power of an idea to get itself accepted in the marketplace of ideas. Yet, one may ask, as have George Will, Hadley Arkes, and other critics of the ACLU position, what unresolved issue exists in the marketplace of ideas that the Nazis may help to settle. "If we restrict the speech of Nazis," Arkes has asked, "is it conceivable that we may shield ourselves from ideas that may turn out one day to be valid? Is it possible, for example, that a convincing case could yet be made for genocide if people were given a bit more time to develop the argument?"²⁹ George Will maintains that the marketplace is not a good place to test truth, since it "measures preferences (popularity), not truth. Liberals say all ideas have an equal right to compete in the market. But the right to compete implies the right to win. So the logic of liberalism is that it is better to be ruled by Nazis than to restrict them."³⁰

Those who oppose the ACLU position maintain that the organization's First Amendment rights of Nazis is a betrayal of its basic civil liberties function. "The overriding purpose of the ACLU," argued Florida State University economist Abba P. Lerner in a letter to the *New York Times*, "is to promote and defend a democratic social order in which freedom of speech is secure. If this purpose comes into conflict with the freedom of speech directed at destroying such a social order, their obligation is surely to protect the social order of free speech rather than the free speech of its destroyers."³¹ Through its staunch defense of the Nazis, these critics assert, the ACLU is helping to undermine the cause of civil liberties and liberal democracy itself. "The irony," notes Arkes, "is that the ACLU sees itself as defending at this moment the freedom of a minority, but the principles on which it mounts that defense would cut the ground out from under constitutional government itself and, in that sense, would also imperil the freedom of all minorities."

Some of those opposing the ACLU position point out that the Nazis do not merely insist on their right to advocate freely the denial of freedom to others but anticipate, and receive, free legal assistance in support of their

²⁸This point is made by Marie Syrkin in "Sadat, Skokie and Cosmos 954," *Midstream*, March 1978, pp. 65-66.

²⁹Hadley Arkes, "Marching Through Skokie," *National Review*, May 12, 1978, p. 593.

³⁰George F. Will, "Nazis: Outside the Constitution," *Washington Post*, February 2, 1978, p. A19.

³¹*New York Times*, March 20, 1978, p. 20.

right to do so. Those taking this position concede that the Nazis have a right to march, but maintain that the ACLU, given its limited resources, should not provide the Nazis with free legal representation. The ACLU, they point out, turns away a number of cases in which civil liberties have been denied simply because it is unable to find the lawyers to handle them and unable to pay the costs of the litigation. Why, therefore, permit any part of the ACLU's scarce funds to be wasted on the Nazis? As one such critic of the ACLU position, labor union leader Victor Gotbaum, has put it: "If you want to ask me if Nazis ought to march through Skokie, I'd say 'Yes,' but if you ask me if the ACLU . . . should put its resources to work for them, I say, 'No.'"³²

In a reply to a letter by Aryeh Neier in the *New York Jewish Week*, one writer stated: "I cannot agree that it is not 'a clear and present danger' for demonstrators to deliberately provoke an outraged people into violence. It is far too much to expect Jews sensitive to the Nazi Holocaust to react dispassionately to an organized Nazi provocation in a Jewish neighborhood, just as it would be too much to expect the people of Harlem to be judicious about an organized anti-Black provocation in their area. Shouldn't there be a distinction in law and law-enforcement between demonstrators for realization of constitutional rights and demonstrators who seek to destroy constitutional rights for others?"³³ Most American Jews clearly thought there should. Thus, by 1978 the search for an effective anti-Nazi legal strategy was well under way. In both San Francisco and Chicago, lawyers' committees were formed within the Jewish community to explore possible group libel legislation or other legal action that might limit Nazi activity in a number of specific situations. At the May 1978 annual meeting of the American Jewish Committee, Hadley Arkes made an eloquent plea for the desirability of enacting group libel legislation aimed at the Nazis. He sat down to a standing ovation, a far different response from that he would have received from a comparable audience in the 1960's. Maynard Wishner, the AJC Board of Governors chairman, echoed the changing sentiments of many members when he observed: "This proposed march represents an obscenity. Saying 'We aren't finished with you' or 'Hitler was right' goes beyond the pale of what we should expect under the First Amendment."³⁴ There was a similar shift of opinion within the American Jewish Congress. In 1960 the Congress had agreed that Nazis should be permitted to hold a rally in New York City. In 1978 the Congress, "after long and heated

³²Quoted in Fred Ferretti, "The Buck Stops With Gotbaum," *New York Times Magazine*, June 4, 1978, p. 89.

³³Phineas Stone, *New York Jewish Week*, August 7, 1977, p. 14.

³⁴Maynard Wishner, "American Nazis and the First Amendment," *Sh'ma*, May 27, 1977, p. 136.

internal discussion," urged the U.S. Supreme Court to prohibit Nazis from marching through Skokie wearing Nazi uniforms "which identify them as implementing the evil objectives of Hitlerism."³⁵

THE CRISIS WITHIN THE ACLU

The ACLU's decision to defend Chicago Nazi leader Frank Collin resulted in the most serious crisis in the organization's history, a crisis from which, some believe, it may never recover.³⁶ ACLU officials indicate that 40,000 members, out of a total membership of 250,000, resigned from the organization in 1977. In 1978 there were additional heavy membership losses. The resulting financial pinch led to a 15 per cent cut in the national ACLU staff, and a corresponding cut on the local level.

Not surprisingly, the loss of membership and income was most dramatic in the Chicago area. David Hamlin, executive director of the ACLU's Illinois affiliate, stated in August 1977: "We've projected that we'll lose 25 per cent of our Illinois membership and our financial support because of this Nazi-Skokie case." It is safe to assume that the majority of those resigning from the ACLU were Jews.³⁷

During 1977 and 1978, ACLU staff officials made a concerted effort to broaden support for their position on Skokie within the Jewish community. Executive Director Aryeh Neier, while freely admitting his lack of involvement in Jewish affairs, spoke with pride of his Jewish background and reminded audiences that he and his parents had been refugees from the Nazis. National Chairman Norman Dorsen, a Jewish professor of law at

³⁵Stern, *loc. cit.*, p. 6, and American Jewish Congress press release, Feb. 2, 1978, p. 1.

³⁶Jim Mann, "Hard Times for the ACLU," *The New Republic*, April 15, 1978, pp. 12-15. The decline in ACLU membership since 1976 is not attributable solely to the Skokie controversy. A good many ACLU members were outraged by the organization's decision to defend Ku Klux Klan members stationed at the Marine Corps base at Camp Pendleton, California, after they were attacked by a group of Black marines in November 1976. See J. Anthony Lukas, "The ACLU Against Itself," *New York Times Magazine*, July 9, 1978, p. 11.

³⁷Not all groups in the Jewish community thought it wise for Jews to disassociate themselves. The Union of American Hebrew Congregation's Commission on Social Action of Reform Judaism stated that "one can disagree strongly with the approach of the ACLU, but it would be destructive of our deepest Jewish interests to contribute to the weakening and undermining of the ACLU on the American scene." This position was also supported by the Central Conference of American Rabbis, the Reform rabbinic group. See Albert Vorspan, memo on "Skokie," Commission on Social Action of Reform Judaism, Union of American Hebrew Congregations, June 15, 1978. The UAHC position is further developed in its "Working Paper on Skokie," on file at the Commission on Social Action of Reform Judaism, Union of American Hebrew Congregations, New York City.

New York University, presented the ACLU case to the Domestic Affairs Commission of the American Jewish Committee. Neier, Dorsen and other ACLU leaders indicated that the angry Jewish response to the ACLU role in Skokie took them by surprise, since the organization had a long-standing policy of defending freedom of speech for Nazis.

Why did Jews, both within and outside the organization, react so strongly to the ACLU role in Skokie? Certainly the crucial factor was the burgeoning Holocaust consciousness of American Jews; the feeling that, no matter what, Nazism must never again be permitted to lift its head. At the same time, Jewish anger over the ACLU defense of the Nazis has to be seen in the context of a growing Jewish disillusionment with the general drift of the organization's policies.

Until the early 1960's the ACLU was a relatively small (45,000 members) organization, heavily concentrated in New York and devoted primarily to filing *amicus curiae* briefs in free speech and other First Amendment cases. Since that time, however, the Union has been transformed into a "mass organization with a large professional staff, involved in a wide range of concerns, of which fundamental civil liberties issues such as free speech and free assembly are only a small part."³⁸ It was the Vietnam war that first thrust the organization into the political and social arena. When Dr. Benjamin Spock was indicted for counseling draft evasion, the national ACLU Board agreed to take the case, although a number of members voiced concern that such a step would result in the organization's defending Spock's politics, rather than his civil liberties. In 1970 Aryeh Neier was elected executive director as the "candidate of the left"; he was responsible for pushing the organization in a more political direction.³⁹ Following the Cambodian invasion and the Kent State incident the ACLU, under Neier's direction, passed a resolution calling for the "immediate termination" of the war, a popular political stance that won the organization thousands of new members. In 1973, after an acrimonious internal debate, the ACLU became the first major national organization to call for Richard Nixon's impeachment. By the mid-1970's the politicization of the ACLU had, in many respects, become the salient feature of its organizational life.

Jewish involvement in the ACLU had been conspicuous and consistent since the organization's founding in 1920.⁴⁰ Among those playing a direct

³⁸Mann, *loc. cit.*, p. 13. See also Joseph W. Bishop, Jr., "Politics and the ACLU," *Commentary*, December 1971, pp. 50-58.

³⁹J. Anthony Lukas, *loc. cit.*, p. 20.

⁴⁰In recounting the history of the ACLU, Roger Baldwin, the guiding spirit behind the organization, stated that he could not "remember a time from when [he] first began when there was not a very strong Jewish presence" in the ACLU. See Interview with Roger Baldwin, November 16, 1973, p. 16, on file at William E. Wiener Oral History Collection, American Jewish Committee.

role in establishing the ACLU were Felix Frankfurter, Stephen Wise, and Arthur Garfield Hayes. Louis Marshall, while not a card-carrying member, argued several cases on the ACLU's behalf during the 1920's, as did his law partner Samuel Untermyer. Morris Ernst, who was instrumental in organizing both the American Newspaper Guild and National Lawyer's Guild during the 1930's, served as ACLU general counsel for many years. In 1937, when the ACLU first engaged in the legal defense of Nazis, it was Ernst and Hays who urged Mayor La Guardia of New York to approve the use of city property for a Nazi meeting. Hays also aided the attorney for the (Nazi) Friends of New Germany in court proceedings appealing a prohibition of meetings by that group in New Jersey. In 1955 Osmond K. Fraenkel, who had assisted Ernst in preparing the defense for the Scottsboro case, became general counsel to the ACLU. In the 1960's and 1970's Aryeh Neier played a crucial role in the organization. Many staff attorneys and affiliate executives, including David Goldberger in Chicago and David Fishlow and Ruth Jacobs in San Francisco, are Jewish. When Neier resigned as executive director in October 1978, Ira Glasser, a New Yorker, running against Marvin Schacter of Los Angeles, was elected to succeed him.

Despite the large number of Jews in leadership positions in the ACLU during the latter half of the 1960's and throughout the 1970's, the organization manifested a cold indifference to the concerns of the Jewish community. Neier and his Jewish colleagues were representative of a "new politics" oriented group of civil rights attorneys and social policy experts for whom the ethnic concerns of Jews—whether the welfare of the State of Israel, or the institutional needs of the Jewish community, or just the protective comfort of political representation—were at best a peripheral matter. The focus of their attention was the political agenda and rhetoric of the New Left, Black Power and the Third World. Thus, it is not surprising that on issue after issue, between 1966 and 1978, the ACLU took a stand that was seen by many as being inimicable to Jewish interests. The ACLU, for example, supported the proposal by the Lindsay administration in New York City to establish a civilian review board for the police department. During the New York City teachers' strike, the organization backed demands by Black militants for community control of the schools. The ACLU came to the defense of the openly anti-Jewish Black Panthers in their confrontations with the police. Finally, the ACLU opposed Marco De Funis and Alan Bakke in their suits charging reverse discrimination.

Against the background of the ACLU's drift to the left and its indifference to the Jewish communal agenda, the organization's defense of the

Nazis appeared to many Jews as the final insult. Small wonder that the ACLU suffered significant membership losses.

COMBATting THE NAZIS: THE LEGISLATIVE FRONT

In Jewish communal circles throughout the United States much effort has been made over the past few years to develop a legal strategy to combat Nazism in America. The enactment of effective anti-Nazi legislation, however, has proved to be no simple matter. Indeed, the inability to pass such legislation has been a source of frustration and concern to Jewish communal leaders.

The experience in San Francisco offers insight into the difficulties that arise in attempting to combat Nazis by legal means.⁴¹ During the early months of 1974, as was noted above, Nazi party members began to sit in on public meetings of the city's Board of Education. Despite the heated objections of Jews and Blacks in the audience, to whom the Nazi uniform symbolized both racism and genocide, there was no legal way to halt Nazis. As an official statement of the San Francisco Human Rights Commission issued at the time put it: "The Board of Education must let anyone enter the hall when there is a public meeting in session . . . The Board of Education must let anyone speak . . . The City of San Francisco and San Franciscans detest the Nazis, but we must allow them to speak, within the limits of the First Amendment. The courts would force us to let them speak, if we did not, and the courts would be right."⁴² The problem posed by the presence of the Nazis at the Board of Education meetings was similarly articulated by the Jewish Community Relations Council: "The presence of that [Nazi] symbol at the Board of Education meeting is disgusting and disturbing to all of us. It is also frustrating in the extreme because there is no way to ban the presence of these individuals from a public meeting without destroying our most basic principle of liberty, and therefore handing a great victory to the Nazis . . ."⁴³

After consulting with Jewish communal leaders, supervisors Quentin Kopp and Robert Mendelsohn proposed a new municipal ordinance which would have made it illegal to wear the uniform or insignia of the Nazi party

⁴¹The discussion which follows is based on David G. Dalin, *Public Affairs and the Jewish Community: The Changing Political World of San Francisco Jews*, unpublished Ph.D. dissertation, Brandeis University, 1977, pp. 152-155.

⁴²San Francisco *Jewish Bulletin*, January 25, 1974, p. 1.

⁴³*Ibid.*

in public. The proposed ordinance, however, while enjoying widespread popular support, both within the Jewish and the general community, never became law. On May 20 City Attorney O'Connor advised the Board of Supervisors that it could not legally outlaw the wearing of Nazi, or any other, uniforms in public. The United States Supreme Court, he indicated, had in the past consistently ruled that the wearing of political symbols is "symbolic speech" protected by the free speech provisions of the First Amendment. In 1969, for example, the Court ruled (*Tinker v. Des Moines*) that students could not be prevented from wearing black armbands to school in order to protest the Vietnam war. In 1960 a Miami ordinance prohibiting the wearing of Nazi (or Communist) uniforms in public places was struck down by a state court.

In the wake of O'Connor's advisory opinion, the Board's State and National Affairs Committee called upon the state legislature to deal with the matter. During the next three years, however, the legislature in Sacramento failed to enact any anti-Nazi legislation. Hence, at the time of the opening of the Rudolf Hess bookstore in 1977 there was still no legal way to ban the public display of Nazi symbols. It was in response to this legislative void that Supervisor Dianne Feinstein, as was noted above, introduced a new resolution urging the legislature to bar the display of the swastika and the wearing of the Nazi uniform in public. In co-sponsoring this resolution, Supervisor Mendelsohn said that the display of Nazi symbols and uniforms "provokes acts of violence and threatens the public peace." Mendelsohn and the other supervisors, however, expressed doubt about the proposal's chances of being enacted as state law. This in fact proved to be the case.

One other unsuccessful effort at passing anti-Nazi legislation in San Francisco is worth noting. In early 1978 it was revealed that the Nazis were holding meetings at the Wawona Clubhouse, a rented public facility in the city-owned Sigmund Stern Grove. The JCRC issued a statement protesting "the private use of public facilities by Nazi groups, which exclude people on the basis of race and religion." On the basis of a municipal ordinance requiring that there be no discrimination in the rental of city property, Supervisor Kopp sought to evict the Nazis. The City Attorney, backed by the ACLU, ruled in March, however, that the ordinance in question did not apply to the Nazis, because of an amendment stating that rentals of less than 30 days a year would be exempt from the law's provisions. The Jewish community's efforts to combat Nazi activity were thus once again thwarted.

In Chicago the Jewish community has found itself similarly powerless to enact anti-Nazi legislation. Illinois State Senators John Nimrod and Howard Carroll introduced two bills in May 1978; one would have empowered local officials to deny parade permits for demonstrations which might result in defamation of a group because of race, creed, color, or religion; the other

would have allowed for the rejection of parade permits if there were "reasonable apprehension" about violence occurring as a result of the display of "quasi-military" uniforms.⁴⁴ The first bill, by making group defamation criminally punishable, might have served as a model for similar laws in other states. Illinois, it should be noted, had first enacted group libel legislation in 1917 (it was upheld by the United States Supreme Court in 1952 in a five-to-four decision), but the law had been repealed in 1964.

After the Illinois State Senate adopted the two bills, the state's Assembly Judiciary Committee met to consider the matter. Spokesmen for Skokie's Jewish community, including Rabbi Laurence Montrose and Erna Gans, president of the B'nai B'rith Korczak Lodge in Skokie, testified on the bill's behalf. They urged the legislators to speak out by passing the statutes, just as the residents of Skokie had spoken out by resisting the Nazi demonstration. Joel Sprayregen, a prominent Chicago civil liberties attorney, who had been a staff counsel for the ACLU in the early 1960's and had subsequently served for several years as a member of its board of directors, testified in favor of the proposed bills, while ACLU executive director Aryeh Neier testified in opposition. Following the Sprayregen-Neier debate, the committee voted. To the shock of the many Holocaust survivors in attendance, the anti-Nazi bills were soundly defeated; the Judiciary Committee voted fifteen to five against the group libel bill and sixteen to four against the bill introduced by Carroll. Chicago's Jewish community viewed the defeat of the bills as a moral victory for the Nazis, who called a press conference to celebrate the legislature's inaction.⁴⁵

In Milwaukee efforts at enacting anti-Nazi legislation met with similar results. The Brennan ordinance, patterned on the Illinois bill prohibiting group defamation, won the support of the Milwaukee County Board of Supervisors but was subsequently defeated in the Common Council of the City of Milwaukee. In the view of political observers, the ordinance's defeat was largely due to the efforts of the Wisconsin chapter of the ACLU, which vigorously defended the Nazis' constitutional rights.⁴⁶

⁴⁴JTA *Daily News Bulletin*. May 30, 1978, p. 4.

⁴⁵Neier, *op. cit.*, pp. 62-65.

⁴⁶Zvi Deutsch, "Milwaukee Jews Counter Nazi Threat," *Jewish Currents*. September 1977, p. 6.

COMBATting THE NAZIS: THE EDUCATIONAL FRONT

As legislative efforts to combat neo-Nazism proved increasingly ineffective, American Jewry turned its attention to the educational front. There was growing support within the Jewish community for the introduction of Holocaust study courses on both the high school and university levels. During the 1977-78 school year, such courses were in fact mandated in the New York City and Philadelphia school systems. Jews were concerned that the history of the Holocaust was little understood by young people, since most social studies texts and curricula avoided the subject. One survey of the 45 most widely-used high school, social studies textbooks revealed that 15 "omitted any mention of the Nazi persecution of Jews and 22 glossed over the facts."⁴⁷

In April 1977 the San Francisco Conference on Religion, Race and Social Concerns, an interfaith social action group coordinated by JCRC associate director Rita Semel, announced the formation of a city-wide committee for "community education" against Nazism. A cross-section of Protestant, Catholic, and Jewish clergy and civic leaders, including Mayor George Moscone and Supervisors Kopp and Feinstein, agreed to join the committee, whose purpose would be "to focus on educating the public on what is behind the headlines . . . why Nazism is and should be anathema to a democratic society and why the fight against its ideology must be broadened and strengthened." Plans called for the inservice training of teachers, as well as "education for the general public" through the showing of movies such as "Judgment at Nuremberg." "The teaching of social studies," noted Semel, "has changed so that World War II is barely mentioned in many courses now. And we're now in the fourth generation. Not only haven't the kids lived through World War II, many of the teachers haven't either."⁴⁸

Public education concerning Nazism took a significant step forward in April 1978 when NBC televised "Holocaust," a nine-hour, prime-time special dealing with Jewish fate under the Nazis. Jewish and Christian organizations, as well as NBC, developed a variety of discussion guides targeted for different audiences, to be utilized in conjunction with the show. Under the auspices of the National Jewish Welfare Board, 15 Jewish agencies joined together in preparing a "Holocaust Program Package" designed "to transform this TV special into a 'multi-media' educational tool for use in formal and informal Jewish educational settings."⁴⁹ The National

⁴⁷Judith Herschlag Muffs, "US Teaching on the Holocaust," *Patterns of Prejudice*, May-June 1977, p. 29.

⁴⁸San Francisco *Examiner*, April 7, 1977, p. 4.

⁴⁹"Materials for NBC-TV Holocaust Series," National Jewish Community Relations Advisory Council memo, February 24, 1978, p. 2.

Council of Churches, in cooperation with the National Conference of Catholic Bishops and the American Jewish Committee, produced a four-page interreligious study and discussion guide for use by churches throughout the country. NBC developed its own discussion guide, which it distributed, through its 217 affiliated stations, free of charge to public schools across the nation.

The National Jewish Community Relations Advisory Council asked its constituent agencies to utilize "every possible channel to the non-Jewish community" to encourage public viewing of "Holocaust." In some cities cooperative efforts were undertaken by local NBC affiliates and Jewish community relations councils in arranging a pre-screening of the program for various religious, ethnic, and civic leaders. NJCRAC also encouraged its constituent agencies to organize follow-up programs to "Holocaust" and intergroup dialogues on various aspects of the Holocaust and contemporary neo-Nazism. "We are attempting," one NJCRAC leader noted, "to teach the lessons of the Holocaust to our non-Jewish neighbors. If we cannot stop Nazi appearances, if we must endure the anguish, must we not use every possible means to fasten the general public's attention onto the principles for which the Nazis stand?"⁵⁰

THE LESSONS OF SKOKIE

The threatened Nazi march through Skokie represented a radically new experience for many American Jews, especially those under the age of 35. As Eugene DuBow, organizer of the planned PAC counter-demonstration, noted, it had been many years since American Jewry was faced with the prospect of a major Nazi demonstration in an area heavily populated by Jews. The planned Nazi march in Skokie forced many Jews to weigh their commitment to civil liberties against their concern for Jewish security and abhorrence of Nazism.

There were Jews in Skokie who had the gnawing feeling that history was repeating itself, that Nazism was once again on the rise. "There are the echoes of history rumbling through your mind and ticking off similarities and parallels that are all too uncomfortable," said one Skokie resident. "Absurd analogies you say? Hitler started off small, bluffed and got what he wanted by promoting ideas contrary to what the vast majority of people and countries believed. He radicalized antisemitism. So has Collin. Hitler used the law to promote his 'rights' until he was in a position of power to

⁵⁰Theodore R. Mann, address delivered at NJCRAC plenary session, Tucson, Arizona, January 22-23, 1978, p. 5.

have his will alone become law. So has Collin. His violence of words, deed and symbols are protected."⁵¹ There was a determination in the Skokie Jewish community, and among Jews throughout the United States, not to sit idly by in the face of Nazi threats.

This was a much different communal response from that of the 1960's, when the policy of the organized Jewish community had been one of "quarantine," i.e., to ignore most Nazi incidents in the hope that the Nazis, bereft of publicity and media attention, would disappear.⁵² By 1978 leaders of the National Jewish Community Relations Advisory Council were seriously reconsidering the wisdom of the quarantine approach. "I am troubled by our 1963 conclusion that public protests against Nazi appearances merely provide them with increased publicity and bolster their image of martyred heroes," stated NJCRAC chairman Theodore Mann. "It seems to me curiously outdated . . . The concept of quarantine as the general rule seems to be an anachronism." On the contrary, Mann argued, "Jewish leadership should be able to fashion a counter-demonstration or protest march or meeting, with signs and literature and releases to the media depicting the bestial acts of Nazi Germany, which would provide both an outlet for Jewish anguish and a lesson for our neighbors as to what the swastika really means."⁵³ A shift from quietism toward communal activism vis-à-vis the Nazis was apparent in San Francisco, where JCRC urged the "organized Jewish community to speak out vociferously and take prompt and militant action against the Nazis in any way that will hurt the Nazi cause."⁵⁴ A reporter noted that in Skokie "Jews, who normally would be appalled at the thought of taking to the streets, now are thinking the unthinkable."⁵⁵

Sol Goldstein, chairman of the PAC Committee on American and Jewish Security, maintained that it was the determination of thousands of people to confront the Nazis that had scared them off. Goldstein emphasized that he regarded Skokie as only "one battlefield" of a much larger "war." "This battlefield gained a victory. But the war is not over . . . We will come to any place the Nazis will appear." The lesson of Skokie, Goldstein maintained, was that the Nazis would back down "when confronted by a determined American public."⁵⁶ In commenting on the cancellation of the Nazi

⁵¹Arthur J. Sabin, "Skokie," *Sh'ma*, September 15, 1978, p. 163.

⁵²The "quarantine" strategy was first developed in the 1940's. See S. Andhill Fineberg, "Checkmate for Rabble-Rousers," *Commentary*, September 1946, pp. 220-26 and S. Andhill Fineberg, *Deflating the Professional Bigot* (New York, 1960), pp. 8-10.

⁵³Theodore R. Mann, address delivered at NJCRAC plenary session, Tucson, Arizona, *loc. cit.*, p. 5. NJCRAC memo to member agencies, February 24, 1978.

⁵⁴*How to Prevent Nazism*, discussion guide, Jewish Community Relations Council, San Francisco, 1978, p. 49.

⁵⁵San Francisco *Examiner*, June 26, 1977.

⁵⁶*JTA Daily News Bulletin*, June 27, 1978, p. 4.

march, National Jewish Community Relations Advisory Council chairman Theodore Mann noted: "The important lesson of Skokie is that the Jewish survivors of the Nazi death camps found that they were not alone as they were 40 years ago."³⁷

Skokie's Holocaust survivors had the satisfaction of having kept the Nazis out of their community. Their active opposition helped educate a generation that had grown up with only a dim awareness of what Nazism was all about. "Sure, the Nazis have gotten publicity because of our opposition," said Korczak B'nai B'rith lodge president Erna Gans, "but we've also raised the consciousness of the American people. Schools are beginning to teach courses on the Holocaust. People from around the country are standing with us. When I talk to groups, they all want to know what they can do to keep Nazism from happening here."³⁸

³⁷Theodore R. Mann, NJCRAC plenary address, *op. cit.*

³⁸Quoted in John J. Camper, *loc. cit.*, p. 34.