Halle is a provincial town in Sachsen-Anhalt, one of the new eastern states in the Federal Republic of Germany. She boasts of a small but greatly renowned University (named in 1939 after Martin Luther who started his reformatory career in nearby Wittenberg). Starting with Thomasius 200 years ago, its Law Faculty attracted in the course of generations a good many great minds, among them after the First World War a relatively large number of Jews. The small Jewish community of Halle dates back more than 700 years: its main claim to fame was a Hebrew printing press which in the early 18th century printed the Bible and several tractates of the Talmud.

The present volume is the first of a series of publications of Halle's Law Faculty. It is dedicated to the memory of Halle's "legal scholars of Jewish origin": the dean writes in his Foreword that the Faculty "by this volume honours the memory of all Jewish jurists who, in the period after 1933, suffered injustice, and who shall not be forgotten".

This praiseworthy initiative bore rather meagre fruit. The volume contains two general accounts, one of the life of the University during the Nazi regime, and one of the Law Faculty before and during that period. Then there are three biographies, only one of them of an eminently Jewish scholar, Guido Kisch. The other two are of Jews who had long ago converted to Christianity: Max Fleischmann, a constitutionalist, who had legitimized racial discrimination against Africans already to Imperial Germany's colonial administrations; and Eugen Schiffer held for some time office as Minister of Justice but never held any academic position, and his link to the Faculty appears to be the conferment upon him of an honorary degree in 1928. That biographies of these men are included in a volume designed to honour the memory of Jews, is in consonance with the Talmudic tradition according to which a Jew remains a Jew whatever sins he may have committed. Moreover, Schiffer
himself asserted that his conversion — and presumably also that of Fleischmann — does not amount to “the avowal of a new faith, but rather to the avowal of the nationality of the host people”. Particularly in Germany this was a frequent process: the participants did not become good Christians, as they never were good Jews; they became good Germans, driven by the aspiration to tear down all fences which separated them from Christo-germanic Germany and its people. Hand-in-hand with this desire of identification went, of course, a not less strong desire to further their political or academic careers (until 1920, most German universities disqualified Jews from professorial appointment): they had nothing to lose, but a good chance to win, by de-judaizing themselves. It was their tragic fate to be re-judaized by the Nazis for purposes of racial persecution: the utter disregard by the Nazis of their German identification and deep-rooted patriotism, must have been for them a devastating disaster. (Schiffer's daughter complained after the war that they were discriminated against by Jewish welfare institutions because of their being Christians: “this is senseless, because the persecutions were common to all, and religion was wholly irrelevant: how one could become antisemitic, in the face of such like abomination”). Still, to the Israeli reader it must seem odd that in this age of human dignity and human autonomy, the quest for Jewish scholars to be honoured resulted in the choice of men who refused to be identified as or with Jews.

It makes rather pathetic reading how all these scholars — Kisch included — humiliated themselves before the ruthless (and mostly uneducated) Nazi officials, whether in order to obtain better pensions, or in order to be reinstated, or for some other academic or financial benefits. (In the case of Fleischmann, such endeavour proved even successful in one exceptional instance.)

There can be no doubt that from the very beginning of the Nazi regime (in April 1933), the intellectual and, more particularly, academic and professional elite was overawed, as if dumbfounded. The most striking impression conveyed by this book is the dispiritment, the mental paralysis, which befell the academic leadership in Nazi Germany. It would, for instance, have stood to reason that the public burning of books, one of the first manifestations of Nazi civilization, should have evoked loud and unanimous protest from the whole academic community. Not only was there no such protest anywhere, but it is here reported that the rector of Halle University, at the top of a great many members of the faculty, adorned the burning ceremonies by their presence.
There was not only mute and obedient submission on the part of the faculties to the fate meted out to their non-Aryan (or otherwise suspect) colleagues, but the Nazis found everywhere open ears and open doors for their gross interferences with academic freedoms and dignities. The university authorities readily replied to all sorts of questionnaires — which in reality were intended and understood as denunciations. This readiness to comply stemmed, in the first place, from the enthusiasm which animated the whole German people, academics included, at the sight of the glorious “liberators”; but also from a frantic fear that made, more often than not, for total impotency; and there were, of course, deliberate collaborators who rejoiced in getting rid of the Jews and such like parasites. In the words of a contributor to the present volume, “the antidemocratic and nationalistic, often also antisemitic, mentality to which the professors were addicted, and the orthodox obedience to authority in which they were brought up, rendered them helpless in the face of such goings-on” (Treiben).

One single exception is reported in the book (though not directly relating to the Halle University): Leo Raape, who had left Halle some years earlier for Hamburg, became in 1933 Rector of Hamburg University. He proposed to the Senate to resign en bloc in solidarity with their Jewish colleagues who had been compulsorily suspended. When he was outvoted by a majority, he relinquished his office and tenure, and, having refused to join the Nazi Party, had to withdraw from academic life. (Reading this, I now felt privileged indeed to have attended some of his lectures and seminars on Roman Law.)

The account of the Faculty during and before the Nazi regime, excels in dry objectivity. The facts are stated as they occurred, the names of faculty members listed in chronological order. We hear of few (really) Jewish professors who were suspended in 1933: Friedrich Kitzihger, criminalist and proceduralist, who apparently was the only one to manage his immigration to Palestine; Georg Brodnitz, a legal economist, who was murdered in the ghetto of Lodz; Friedrich Hertz, a constitutionalist who had publicly denounced the validity of racist theories, and found refuge in England; Ernst Grünfeld, the Dean, whose ultimate fate is not reported. To fill the vacancies caused by their suspensions — which by 1935 had been finalized as dismissals — new faculty members were imposed on the University by official appointment: most of them active members of the National Socialist Party. The total number of those expelled is given as 35, of whom only 13 succeeded to emigrate.
As from 1934, students were not admitted unless they had been cleared as pure Aryans: the onus was on them to prove that none of their parents or grandparents had any Jewish blood in them ("Ahnennachweis"). And eventually students had to produce their military or paramilitary records as a condition precedent to admission: the official policy "reviled the erstwhile intellectuality as inimical to the people and as decrepit, warned against overburdening the brain, and praised sport and physical bravado beyond all measure": and this policy commended itself to all academic organs.

A particular instance of academic persecution is the "degraduation" of doctors and professionals who had received their degrees at the University: all the universities readily followed "the trend of the times" and engaged in such degraduations "with assiduity". In cases of revocation of German citizenship, academic degraduation followed as a matter of course. The courts could, in exercise of their power to deprive a convicted criminal of his civil rights, order also his degraduation. But then there was a special professorial committee for degraduations which had practically unlimited discretion. Among the degraduated of Halle University we find such names as Paul Tillich, the great philosopher of religion; of Paul Kahle, one of the greatest orientalists and non-Jewish hebraists of our time; or of Alfred Kerr, the famous literary critic. What an honour to be counted with victims like those, what a shame to belong to degraduators!

The fact is that university authorities committed every injustice and indignity expected of them, and willingly allowed their academic standing and prestige to be misused and reduced ad absurdum. One can only share the sentiment of one of the authors that "the mode and extent of the entanglement of members and alumni of the University, with National Socialist criminality, still requires more intensive research".

To turn to the gratifying part of this volume — the biography of Guido Kisch. Professor Lueck, his successor on the chair of legal history in Halle, presents an eminently readable and emphatic picture. Kisch was born in Prague as the son of Rabbi Alexander Kisch, the only rabbi ever appointed by Imperial decree to be a government professor of religion. He came to Halle in 1922 at the age of 33. He had started his teaching career at the Jewish Theological Seminary (Rabbinerseminar) in Breslau, where he taught Jewish history. But his interest soon turned to German legal history: this was his subject-matter for "habilitation" as a lecturer at Leipzig University and for his first professorship in Königsberg. When he was called to fill a professorial vacancy in Halle, he had already
earned a reputation as historian of German medieval law — and Halle appeared to have some special attraction for him, because the great medieval codes had been conceived and written in her immediate neighbourhood, and their originals were kept in the University library. While his — still authoritative — textbooks on the codes occupied most of his time, he also wrote a small volume on the history of the Jews in Halle.

His suspension in 1933 came to him, as to most others, as a wholly unexpected shock. He refused to accept it, and in a lengthy petition asked the Nazi authorities for his reinstatement. He pleaded that all his life had been devoted to Germanistic legal studies, and that he had made significant contributions of his own; but he also mentioned that one of his ancestors had been the first Jew to be allowed (in 1749) to study and practice medicine, and that one of his uncles was the personal physician of several royal families. Whereupon the dean received an official enquiry, whether Kisch’s writings reflected any “specifically Jewish attitude”; and the dean replied that there was “no reason to assume” that Kisch had ever emphasized “specific values of the Jewish race” and that he had never denied “facts unfavourable to Jews”. The petition was, of course, rejected, and his expulsion from the University made final.

Notwithstanding his firm conviction that the Nazi episode was only a temporary nightmare and would soon be over, he let himself be persuaded (probably mainly by his wife) to go to the United States — not without having first obtained official permission to go abroad for research purposes (“Studienreise”), he was convinced that he would soon come back and be reinstated. That was in January 1935; had he delayed his journey, the permission would presumably not have been given.

In New York he found himself unemployed and without means of livelihood, and his acclimatization was difficult and painful. It took him two years until he was invited to join the Hebrew Union College — Jewish Institute of Religion as guest lecturer. He was a persistent guest: he remained at the Institute for 15 years — and it was surely not least the genius loci which inspired him to engage again in fruitful and prolific research. Now he concentrated on the Jewish aspects of German legal history: his works on Sachsenspiegel and the Bible (1941); The Jews in Medieval Germany — A Study of the Legal and Social Status (1949); and Jewry Law in Medieval Germany — Laws and Court Decisions Concerning Jews (1950) — are regarded as masterpieces of Jewish scholarship. He founded and edited a learned journal by the name of Historia Judaica, which attracted the best Jewish historians in America.
He never considered returning to live in Germany again; but when, in 1952, he was called to Basel as a professor honoris causa, the temptation was too great to withstand. The University of Basel was — and still is — one of the most ancient and celebrated universities in Europe; and life in Switzerland as well as work in his German mother-tongue were no small attractions. He spent in Basel 33 blissful years, until his death at 96 in 1985. There — again under the impact of the genius loci — he devoted himself entirely to the history of humanism and humanistic jurisprudence. His monumental study on *Erasmus and the Jurisprudence of his Time*, appeared (in German) in 1960, followed by his *Studies in Humanistic Jurisprudence* (in German) in 1972. Three years later he published his autobiography, *Der Lebensweg eines Rechtshistorikers*, from which his present biographer drew much of his material.

It was in 1962 that I first met Kisch: he honoured me by chairing my lecture at the Basel Law Faculty on Israeli law. Thereafter I visited with him several times when I happened to be in Basel. He often expressed his regret that his particular field of research, and his ignorance of the Hebrew language, had prevented him from making his home in Israel. But he retained throughout his long life a keen interest in Jewish and Israeli law — as indeed in all things Jewish.

The Halle Faculty rightly prides itself with a brilliant Jewish scholar of the stature of Kisch, having belonged to its ranks. With his commemoration in the present volume, that pride may now be shared by new generations which have never heard of him. But nothing can undo the outrage and monstrosities which he and his Jewish colleagues were subjected to within its walls.

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