In the second half of 1941, when incomplete information began to leak through on German atrocities perpetrated against the civilian population of Eastern Europe, on mass executions of Jews and ruthless treatment of war prisoners, both President Roosevelt and Prime Minister Churchill simultaneously made a statement on October 22, 1941, denouncing the Germans that they would be held responsible for all their criminal deeds. Churchill stressed particularly that "tribunals for these crimes must hereafter take their place among the major purposes of the war." These statements laid the foundation for the future creation of the Nuremberg trials. However, the first stone in this foundation was laid by the joint declaration of representatives of nine governments-in-exile who met on January 13, 1942 at the St. James Palace in London.

Noting that all the events which occurred in their countries were contrary to international law and that all civilized countries and referring to the aforementioned statements of Roosevelt and Churchill, the St. James Declaration stated that the governments attending the Conference

"pledge among themselves the will also to establish among the nations an effective machinery of enforcement of international law..."
of such criminals upon occasion of hostilities, irrespective of their nationality, they
so that they be brought over to justice and the sentences pronounced be carried out.

In the course of 1942 the fate of the Jews was revealed, and information about
their annihilation was coming through even more frequently. However, at first the
reaction was that of open distrust and the news was regarded as highly exaggerated.

The President Roosevelt again voiced his protest against the extermination of
civilian population, and on August 21, 1941, referring to the Declaration of
St. James Palace, he solemnly declared that “the time will come when (the criminals)
will have to stand in court of law... and to answer for their acts.” This was the
first declaration of a country not occupied by the Nazis which authoritatively
declared the determination to legally prosecute all guilty of crimes perpetrated
against civilian population. Churchill joined this declaration and, in a statement
made on September 3, 1941, stressed that the subjects would be called before justice
in any country where they committed atrocities in order that an indelible memory
may be given to future ages and that successive generations of men may says
“no perish all who do the like again.”

These declarations did not remain mere words. One month after Churchill’s
declaration, Great Britain and the United States reached an agreement toward the
establishment of a United Nations Commission for the Investigation of War Crimes in which all Allied countries, except the U.S., took part. The Moscow Declaration of November 1, 1943 authorized the previous individual statements and declared that at the time of the Armistice any government which may be set up in Germany will have to deliver to the Allies for trial all the responsible for the atrocities and meant yet in the countries in which they committed their odious crimes and to the Allied Powers will prove this to the utmost ends of the earth and will deliver them to the countries in order that justice may be done.

The fate of these criminals whose activities went beyond the geographical boundaries of any individual country will be determined by a joint decision of the Allied governments. It required nearly two years until the Allies reached an agreement as to the fate of the so-called major criminals. A resolution was adopted at the Potsdam Conference to the effect that all war criminals — irrespective of whether the crimes were committed against the civilian population of war prisoners — were to be brought before justice. Thus we saw that the Allies, and in the first place the United States and Great Britain, as soon as they became acquainted with occurrences in the occupied territories of Europe, decided upon the necessity of bringing war criminals and criminals a most notably before a tribunal, avoiding any arbitrary punishment, and the mere uncontrolled terror of the Germans.
violators become known, the shoulder and the reaction of the responsible leaders of
democratic countries. It hence obvious that these acts of violence should not be
sanctioned by the same kind of terror but should be tried by a Tribunal
sitting international commissions inspired by the best tradition of rightness, a Tribunal
able unilaterally to dismiss the guilty from the bench and to inflict just punishment.

Hence, the establishment of the Tribunal seemed at a distance until President
Roosevelt appointed Justice Jackson an Order of General for the United States in
presenting the proposal that we estimate. After lengthy discussions with the
Allies, Justice Jackson succeeded not only in spreading the necessity of establishing
an International Tribunal for prosecuting the chief war criminals but also in drafting
a charter and laying down the general principles of procedural and penal law.

On August 8, 1945, an Agreement for the establishment of an International Military
Tribunal was signed by the governments of four major Allied Powers; later on other
10 United Nations joined them.

The Agreement particularly stresses that representatives of the United States,
Great Britain, France and the USSR are sitting in the interest of all the United
Nations. It deal, 1 of the Agreement states that the IMT has been established "...for the
trial of war criminals whose offenses have no particular geographical location
whether they be cancers individually or in their capacity as members of organizations
or groups or in both capacities."

In his report submitted to President Truman on June 7, 1945, Justice Jackson states that three answers could be given to the question as to how to deal with war criminals in the broad sense of the term: Do not try them at all without a hearing. But, "to try them without a trial would rob the deed and majesty of the law of its sanctity or at least its meaning, but this would nullify American living itself and be remembered by our children with pride."

The only possible solution in Justice Jackson's opinion was that the question of innocence or guilt of the accused be determined "after a hearing in accordance with the laws and the forms we hold dear, with all permits, and upon a record that will leave our reasons and motives clear."[3]

Despite this interpretation derived by a sound political idealism, in a few circles (both before the trial and after the verdict) voices arose attempting to discredit the Nuremberg trials for several reasons of political and legal nature. These voices, though not numerous, grew in their mushroom-like periods of widespread circulation, and therefore one or two voices took this fact into account. Moreover, these voices were not free agents or overt advocates of fascism but free democratic circles which, by their criticism, try not to undermine the authority of the verdict so as to strengthen legal principles which, in their opinion, were violated by the trial proceedings.

Jerry which has the unmitigated good fortune of being not only the first Nazi victim of this trial, but also of occupying the first place numerically among the forty-nine and seven counts which the people of the United States, the Allied Powers, the world, should demand for a complete justice of the guilty to be punished by a court. For Jerry, as for the entire civilized world, it is by no means immaterial whether the verdict will enter into history as a result of fair trial or as a farcical conclusion of the victrix toward the defeated.

The main objection to the Karlsruhe Trial is that the verdict was pronounced by a Court of victors against defeated and thus, logically, right had to yield to wrong. But one may ask — could there at all be a trial of our criminals had not those been victors? Only because the democratic coalition, together with the Soviet Union, because the victor and not victors as its main purpose prosecution of those responsible for the world catastrophe, the idea of a just punishment was born. The victors were representatives not only of their destroyed countries and defended the interests not only of their tortured citizens, but of all victims of Nazism.

Among the victors — and not as an unimportant at that — was the United States whose population did not suffer from barbarism and whose citizen were not deported.

Yet, the United States was the recognized leader in the establishment of the Tribunal and in unifying a comprehensive view of the crimes. Suggestions were made by the plaintiffs, the four great powers whose military victory made the total possible, but the millions of dead soldiers of all nations, the millions of innocent victims exterminated by Nazi brutality, the millions of men, women and children who suffered deportation and enslavement. Their martyrdom must not have been in vain.
made to set up a Tribunal consisting of members of neutral countries or at least includes their representatives into the I.L.T. But were there any truly neutral positions in the war? There were fighting countries and those who attempted to stay out of it, or at least not to take part in it. How one regarded France, Spain, or the neutral government of Greece as neutral? In this world conflict there were countries occupying front positions and those hiding in the rear. There were no neutral countries. 5) The opponents of the Nuremberg Trial sometimes insisted that there can be no just sentence bestowed... the one thing the victors cannot give to the vanquished is justice... how can inspire justice in a world never again...?

5) "How can we honestly expect any member of the family of nations to be impartial when dealing with international crimes by a great power? Are not all peace-loving countries, whether or not they were technically neutral during a war, entitled to members of the family of nations and close relatives of the victims of aggression...? This is an opportunity to judge Germany without their being influenced by the fear that one day the Reich might become powerful enough to seek vengeance upon those who dared to judge her?" Murray C. Berman, "Moral Basis of the Nuremberg Trial, The New York Times Magazine, dated January 1946, p. 6.

6) "The Nuremberg Conclusions," Fortune, December, 1945, p. 257. We refer to the article published in Fortune not because they particularly oppose the Nuremberg Trial, but because in their exercise of power are committed to upholding the majority of oppositions to the I.L.T."
At the beginning of the Jerusalem trial, the historian Furtado also recorded that despite complaints, the Jerusalem judges did nothing that constituted an illegal practice to influence the course of the proceedings, which was ordered to take place in 1948. The judgment was fixed in advance. That statement in itself discredits the Tribunal for a trial meant that a real possibility of acquittal existed.

It would appear that after the Tribunal had acquired these departments, but insufficient jurisdiction of various degrees to constitute with the established rules, and had rejected the original notion of these legal arrangements, one would assert that the Jerusalem trial was a genuine judicial action. For the Tribunal proceeded on the basis of military conviction of legality. Yet the same negative, after the verdict became public, finds another diametrically opposed motive that the Jerusalem trial was not a fair trial. In the author's opinion, the judicial trial would have been impossible because the high leaders were so self-evidently guilty of a multiplicity of crimes, hence that evidence could a literate adult be found who could pretend to sit as an uncorrupted judge...

If Furtado had the possibility of finding a judge some literate adult, then Milton Z. Kevles finds that in general there cannot be found an uncorrupted judge.

2) The Jerusalem Quarterly, "Furtado," December, 1949, p. 120.
3) The Jerusalem Quarterly, "Furtado," December, 1949, p. 120.
To such effect the Charter of the International Military Tribunal inserted a special section (IV) entitled "Fair Trial for Defendants", which established equal fairness to both parties to the prosecution and to the defense.

Art. 18 provides the following procedure:

"(a) The indictment shall include full particulars specifying in detail the charges against the defendants. A copy of the indictment and of all the documents lodged with the indictment, translated into a language which he understands, shall be furnished to the defendant at a reasonable time before the trial.

"(b) During any preliminary examination or trial of a defendant he shall have the right to give any explanation relevant to the charges made against him.

"(c) A preliminary examination of a defendant and his trial shall be done
"in public, or translated into a language which the defendant understands.

"(d) A defendant shall have the right to conduct his own defense before the Tribunal or to have the assistance of counsel.

"(e) A defendant shall have the right through himself or through his counsel to present evidence at the trial in support of his defense and to cross-examine any witness called by the prosecution."
evidence as to the innocence of one or another defendant. Finally, in order
to facilitate the passage involved and accelerate the trial it was provided that

"The Tribunal shall not require proof of facts of which it has knowledge
but shall take judicial notice thereof" (arts. 31 of the Charter, p. 10).

These are in general the basic rules of the procedure which in
the opinion of the authors of the Charter were to serve

"for the quick and prompt trial and punishment of the major war
offenders at the European end" (arts. 31 of the Charter, p. 10).

Does the trial offer sufficient proof to the effect that the last capital case
will enter the historical section assigned to it?

At one of the first meetings Lord Justice Inouye, President of the Inter-
national Military Tribunal, while explaining the conduct of the trial and estab-
lishing the rights of the defense, stated:

"The privilege which defense counsels are performing are important
public services in the interest of justice and they will have the
protection of the Tribunal in the performance of their duties."

(INFORMAL TRANSCRIPT, Meeting of February 25, 1948)

This statement immediately created an atmosphere of confidence toward the
Tribunal. The defense counsels realized that their presence at the trial was
not a matter of mere formality. They became aware of the fact that they were
called upon to help the Tribunal in its difficult task to establish the nature
of personal guilt of each defendant. In this, the defense counsel of Hjalmar
Skorpen, replied to the Tribunal on behalf of all the defense counsels.
"I have the honor to say, for my colleagues, to thank you for the
words you have spoken from the bench. The defense counsel must
consider himself to be a friend of the court toward the achievement of a just
verdict. We are confident in your decision of the trial."

... Continued...

"Having studied carefully the trial, one can see that this confidence can not
be shaken even more, despite the fact that not all the requests of the defense
assertions, etc., indeed, some of the Prosecution, received satisfactory considera-
tions. On the basis of the Trial rulings, the defense counsel realized that
the Tribunal was guided solely by law and by the means of truth. From reading
the indictment, the court can see that the trial of the Tribunal and
expressed great satisfaction that the prosecution placed at the disposal of the
defense counsel the material it collected.

"With the aim of giving to the defendant every possibility for
a free defense" (Matthews case); (Case 17, hearing 2225, 1962).

...Continued...

"The trial, which is now about to begin is unique in the history of the
judiciary of the world and it is of supreme importance to millions of
people all over the globe. For these reasons, there is laid upon everybody
who takes any part in this trial a solemn responsibility to discharge their
duty without fear or favor in accordance with the sacred principles of
law and justice.

...Continued..."
Without discussing each incident which occurred during the trial, where in the course of ten months the conflicting interests of the prosecution and defence collided often, we shall show, for the purpose of illustration, a few characteristic instances.

The accused Habermann also tried to defend himself on complete ignorance of the defence activities, considering that the Tribunal did not protect his interests and refused to answer the questions asked by the Prosecutor during his examination as a witness.

The President of the Tribunal explained to him:

"Counsel, not only your own counsel will look after your interests, but the Tribunal will look after your interests, and you must answer the questions, please" (Oral Tr., p. 790).

A similar instance occurred with Julius Streicher, who, with his usual assertion recorded:

"I wish to make clear that by this INT an undisturbed and therefore just defence can be made possible for us" (Oral Tr., p. 300).

The President then said:

"You can rest assured that the Tribunal will see that everything, in the opinion of the Tribunal, that bears upon the case or is relevant to your case or is in any way material in your case will be presented and that you will be given the fairest opportunity of making your defence" (Oral Tr., p. 301).

The Prosecutor raised the question of using as evidence of Mrs. Rosenberg's...
guilt, the documentary evidence was found in his files. Rosenberg stated that the document was completely unknown to him and the Tribunal rejected the Prosecutor's request to use the document. The President of the Tribunal then addressed the Prosecutor with the following words:

"You haven't been able to connect him (Rosenberg) with these reports, with the document. He has not signed the document. Nothing comes on the document that he signed it, at least I suppose I would have put it to him. He says he didn't know the document." (I/I, P. 10622)

During the examination of the defendant, the Prosecutor presented a statement signed by the defendant in which he admitted the possession of a series of notes he was charged with, without saying his signature, made the following statement:

"This document was presented to me in the finished form. I asked that I might read and study this document in my cell and decide whether I could actually sign it. I was denied this privilege. During the conversation an officer was called in. This officer told me that he belonged to the Polish or Russian army, and he told me that if I hesitated too long in asking this document, I would be given to the Russian authorities. Then this Polish officer marched and ordered where Samuel's family was, his family will have to be taken into Russian territory, as well. It is the father of two children. I did not think about this matter, but, with consideration for my family, I signed this document." (I/I, P. 10622-23)

The Tribunal received this document as evidence, on the ground that the defendant said that the document was obtained from him under duress.

The defendants were able to consult their counsel at any time and give their explanations after having consulted them. It was an open secret for the Tribunal that the examination of the defendants as witnesses was previously rehearsed, with their
defence counsel. During the cross-examination of Waldor von Dahlen, the
Defence made a request for two days and the President requested, in view of the
importance of the defendant's deposition, that he be allowed to see his defence
counsel. The defence counsel raised objections. The President, though admitting
that the request of the defence counsel corresponds to the rule of British justice,
permitted the defendant to consult his counsel.

Motion of Adjournment was granted to the defendants in the most urgent
failures.

It suffices to read the sensational statements made by the defendants, which
sometimes showed material error, in order to fully realize that they were per-
mitted to speak on everything that was relevant to the indictment.

Upon the Motion, a member of the defence prosecution, accused an English
attitude toward counsel's answers in reply to his questions and no longer willing
to listen to the defendant's explanations declinants to ask no questions, the
President interrupted his questions stating as follows:

"He has given a perfectly clear answer that he did say it and I think he is
satisfied to give some sort of explanations. It is perfectly clear that the
explanations are insufficiently long, but he is entitled to give some
explanations" (Adf. Tr., 96, 2766).

The same freedom of expression was granted to the defence counsel who often
attempted to take advantage of that freedom for the purpose of Nazi or pro-German
propaganda. Thus the Tribunal was compelled to forbid the practice of the
"Perennial criticism," as irrelevant to the charges made, and in this
connection the Tribunal frequently had to interrupt the defense counsel and,
in a charitable manner, tried to return to this question and prove that with
these terms "Perennial criticism" there would be no limitation and no way.

An interesting incident occurred during the speech of Dr. Fuchs, the
defense counsel of Rosenberg. Discussing Rosenberg's anti-Semitism, Dr. Fuchs
said:

"Rosenberg was certainly a convinced anti-Semite, who expressed his
anti-Semitism and the reasons for it both verbally and in writings. However,
his nature of Rosenberg's anti-Semitism was, above all, noble and
intellectual... I spoke of a 'philosophical solution of the Jewish question.'"

After these words, General Sikorski, Chief Prosecutor of the trial, voiced
the following protest:

"... I believe that the Council is going beyond any permissible limits
the defendant as sitting in the dock and hearing the Council expressing
his anti-Semitic views, as they have not been investigated by the
Council, but I think that it is absolutely inadmissible that the Defense
Council should use this place to propound anti-Semitic propaganda, otherwise
I cannot understand the continuation of the lawyer that Rosenberg's belief
in gathering all Jews in a ghetto and chivalrously I protest against the use
of this trial for the spreading of anti-Semitic propaganda. I ask the
Tribunal to consider this objection of mine and to take appropriate action.

However, the Tribunal did not accept the Prosecutor's protest, accepting
the necessity of maintaining freedom of expression.

"... the Tribunal thinks that there may, of course, be differences of
opinion as to the use of words in the course of your argument, but they
see no reason for stopping you in the argument that you are presenting
to the Tribunal." (Ex. IV, pps 18349-18357)

Shortly before the closing of the trial, after the Tribunal ruled none
...the defense, the defense requested that hearing be re-convened.

Mr. Blank, member of the U.S. Prosecution, objected to this request stating that it would not add anything new.

"I would be the last one and the first to try to get out of this very important trial anything that I thought was really vital or important. I would not object to any means of establishing, in any capacity of the, upon this splendid record of release the Tribunal has compiled (Def. Pr, pp3164-65).

Despite this objection, the Tribunal deemed it possible to approve the request of the defense.

In order to have convincing proof as to the possibility of the defense to produce evidence, it suffices to state that, in the matter of establishing the nature of the activities of the organization, the evidence of the defense was interrogated and the following documents examined: 50,000 affidavits, along with 150,000 person depositions, the statements of political leaders, 152,000 affidavits examining crimes, and 14,600 affidavits referring to other groups. This could be done only because the Tribunal helped the defense in every way, placing on the display the entire documentation of the past tribunal archives, and listening to every statement made by the defendants and the defense witnesses.

Justice Jackson was right when he stated in his concluding speech that...
"Any result that the vain and critical judgment of plurality could
produce might not be a victory for any of the countries associated
in this prosecution," declared Justice Jackson (N.Y. Rev. 1155).

Anyone who carefully studies the case should be just enough to admit
the exceptional objectivity of the tribunal, though it is difficult to agree
with none of its conclusions. The role of penal trial in democratic countries
in the Hague Court of the defendants. The I.L.P.S. vigilantly watching these
rights.

Indeed, scrutiny on penal procedure, finds the I.L.P.S. admitted that
"as far as possible, in accordance, the trial is unequivocally?"
For the occupants of the Nuremberg Trial did not limit themselves with
stating that the rights of the defendants could not be guaranteed by a court of
violation against them. They also state that the Charter and the trials con-
ceeding themselves were violated the fundamental principle of criminal law of non
ex post facto. In their opinion, the defendants were charged with crimes which
until the drafting of the indictment were not regarded as criminal. Thus, they
contradicted a basic violation of the rights of the defendants and made the trial
only a screen behind which arbitrary actions are concealed. Every person accused
by a court must know in advance that the deeds committed by him are on the list of
criminal acts subject to punishment. Moreover, he must also know the degree of
punishment which might be inflicted upon him in the event he is convicted.

After the Hague Conventions of 1899 and 1907 and the Geneva Convention of 1929,
the question of responsibility for crimes committed against war prisoners and
civilian population during the war ceased to be a problem — it became an established
fact. If after World War I, the department of punishing the guilty was unsuccessful,
this can be explained only by the over-riding of the Allies-victors who wanted to
believe that there were judges in Berlin and left it to the discretion of the German
people to examine the cases of possibly responsible for the violation of the
elementary requirements of war conduct and treatment of the civilian population
of the occupied countries.

13 Conventions for the Pacific settlement of International Disputes, Hague,
20 July 1899 and 18 October 1907.
Critics against humanity, though they blamed mankind by their peculiarity and new methods of murder, torture and beans, were regarded as crimes already at the dawn of history. Whether we call the extermination of millions of victims "genocide" or "extermination" by the new name of "holocaust," does not alter the situation: it will remain the same crime, and the number of the British perpetrators was perfectly right when he said that "massacre does not cease to be murder because of the quantity of the victims" and that "these defendants are charged also as common murderers." Likewise, the "medical experiments" will not cease to be torture which caused suffering or death of innocent victims, regardless whether we call it by the new name of "therapeutics" introduced during the trial of Dr. M. or by the old name of "torture.

Therefore, the sharpest criticism of the trial direct their strongest criticism mainly against the fact that aggressive war was first declared criminal by the Charter of the ICT and that individual persons should not bear responsibility for this act of state.

In view of the fact that the Charter connects "persecution on political, racial or religious grounds with planning and waging of aggressive war," we must, in a few words, deal with the question whether the principle of collective responsibility has been violated in this case.

13) Quoted in ibid.
14) J.S. Park, October 10, 1946.
As early as 1924 the Right of the Agreement on Dictatorship stated
29 nations declared that "aggressive war is an international crime."*

The armed Protocol of the League of Nations devoted to the question of
the "settlement of international disputes" again states that "an act of
aggression constitutes a violation of this solidarity and an international crime."*

As members of the League of Nations voted in its favor. The armed Protocol provided
for a possibility of expelling nations against a government which would be an
aggressive war.

In the 10th Plenary Meeting of the Assembly of the League of Nations,
September 18, 1927, a resolution was adopted by the effect that since aggressive
war could never lead to settlement of international disputes, it was an interna-
tional crime. At the Pan-American Conference held in Havana on February 10,
1928, representatives of 25 Latin-American Republics recognized aggressive war
as an international crime against the human species.*

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16) Sheldon Gluck, a distinguished authority on international law, e.g.,
who gave a brilliant analysis on the question whether the principle of
non-aggression under Article 22 was violated by the charges of planning and
aggressive war, in his article that "...the armed Protocol of Geneva did express the
strong attitude of leading states and nations of most of the nations of the world regarding
both the illegality and the criminality of aggressive war." (Sheldon Gluck, The
Evolution of International Law, New York, 1946, p. 30.)
The Brioni-Callcock Pact of August 27, 1932, known under the "pact of Paris" pseudonym, was an instrument for national or international policies. For
the purposes of solving international disputes and the signatories
undertook to abide by the principles. Oppenheim, a recognized authority
in the field of international law, while commenting on this pact, stated the follow

These comments went even further. Thus, the *Harvard Law Students*,
which enjoys an excellent reputation as a serious publication, brought an article
of Frankfurter, entitled "The Prussian de law gure", in which the author states it
for granted that the principles of the Brioni-Callcock Pact has proclaimed 37
as a police and it has been recognized as such by a large number of nations.

Cases in our time point somewhat as possible, although this was not the case is
regard to the war of 1914 and the others." 18)

After analyzing the aforementioned conventions as well as other conventions
and statements made by various statesmen, Prof. Closed reached the conclusion
that there exists a widely prevalent custom among civilized peoples inhering
a juristic climate favorable to the encouraging of a war of aggression as not being "unfair" or "illegal" but "clearly original." 19)

18) *Harvard Law Students, War Ordinances, Their Prohibition and Punishment*.
New York, 1936, p. 199 (colonial era).
1936, p. 114.
While in essence during Prof. Ghose's definition, it would appear to us con
venient to express in this sense rather of a situation but not of a legal condition of an
aggressive war accepted by international law. Actually, nations are bound on the
basis of real precedents which impact themselves rather than on abstract statements
made if there are made by most authoritative organizations as the League of Nations
If the question of pacifying aggressive war an actural is included into multila-
teral agreements of any nature, that it become an international law. If this
question was raised in resolutions and general assemblies, then it is a proof
that international conscience is firmly convinced that aggressive war is a crime.
This thesis Prof. Ghose clearly proved.

The fact that, despite the definite international opinion of the crimeability
aggressive war, neither Japan's attack on China nor Soviet Union's invasion of Finol-
resulted in international application of sanctions to be explained by certain
political conditions, and not by lack of established international legal norms—

Military weakness and fear of a weak position often cause nations to refrain from
using their rights. The principle of no-change-power over war a crucial
principle of international law. Ghose has always differentiated between orders
as acts of war and acts of hostility. While acts of war are acts which public
opinion regards as criminal, as acts are required to sanction their criminality.
In the gradual evolution mankind, even before codification, regressed murder, robbing, and other acts of violence as natural. The principle of the principle, under the acts, should not be applied to unless self-defense for even without legal action the defendant knows that he is creating a societal act. Of a different nature are acts in themselves unimportant, but tolerated by law on the premises of certain conditions, as for instance, sale of goods at prices above cost during the war. In those cases, naturally, the principle of self-defense should have in mind for both the legislature and the judge. The French Revolution proclaimed this principle in acts of protest and in opposition to the royal house which, under a false pretense (raison d'Estat), refused to eliminate undesirable elements because of personal motive uninvolved time and charged with acts during critical periods.

The will present of the twentieth century — concentration camps where victims were imprisoned without any legal proceedings — was not known in the enlightened eighteenth century. The concept of self-defense in the presence of law and law and self-defense agreements and under HII until that concept agreements are the basis to be utilized of the Realistic-Italian Code. In addition, in a system of rules the Allii is the majority of judicial resolution.
Under these circumstances, the contention that by including into the indictment charges of planning and engaging in aggressive war the defendants were deprived of the sacred right of knowing that the acts committed by them were criminal and subject to punishment is by no means convincing. The accused knew what they were doing: in the course of six years they—by preaching war in their speeches—were preparing for an aggressive war, expecting a Blitz victory. To be sure, there is one formal limitation: the defendants did not know the degree of the forthcoming punishment. But everyone of them was charged with conspiracy which not only contemplated aggressive war but also extermination of civilian population and prisoners of war. They knew that they would be held responsible for murder and could not be mistaken as to the degree of punishment in case they were convicted.

We wish to mention another objection to the proceedings at Nuremberg which was made by Prof. Var Stahn, an outstanding authority in the field of criminal law. In his interesting article, "Justice at Nuremberg," Prof. Stahn is ready to admit that the war which Germany planned after 1933 and which she waged after September 1939 was, beyond reasonable question, aggressive war, and therefore punishable as such. Actions may be punished. There would obviously be nothing so much facts in doing so. But in view of a crime for individual actions to constitute aggressive war is more legitimate to attach liability to acts which could not have been more avowedly planned as wicked by those who committed same nor by the public opinion at the
at the time of conclusion.\textsuperscript{20}  For, Sperreike quite rightly states that an international agreement or deal within a league of nations is the responsibility of individuals and that it would be unfair to offer a opinion for waging an aggressive war. Public opinion would not agree to it. As Agneses, however, that in this case it did not refer to military officers or even generals, but to heads of state who with the aid of some members of the general staff, such as Ribbentrop, Joachim, and less so mentioned by the author, who was only a commander-in-chief of the army and navy but also command of the planned aggressive war.

If one mean theory of law were to return the principle of an responsibility of head of state an international, as a result of the act of a sovereign, and recognize the possibility of presenting them for acts of state, then on those grounds should they be discharged of any responsibility for the highest crime of which rulers are capable — waging aggressive war. After the Versailles Treaty recognized the legal responsibility of \textit{Wilhelm II}, this question hardly requires any further elaboration.

Justice Jackson in a very lucid and determined fashion answered to all question and disputes as to the responsibility of heads of state: "We do not accept the premise that legal responsibility should be the least where power is the greatest.\textsuperscript{21}"

\textsuperscript{20} Retroactive Appeal, April 1966, Vol. 25, p. 272.
\textsuperscript{21} Report to the President, \textit{Trial of the Principals, Department of State}, p. 3.
Concerning the possibility of a fair trial on the ground that the defendants could not be offered the means of defence, that they were charged with acts which at the time of commission were not regarded as criminal, and that the Tribunal, as a Tribunal of victors, would act according to instructions previously received, the majority of those who...
But the Nuremberg Trial has still another significance and a quite important one, which concerns mainly and directly the Jewish problem. It unfolded an extensive picture of the persecution of Jews, including German subjects of Jewish faith in Germany proper, from the very first day of Hitler's accession to power.

As is to recall here the long and bitter dispute about the question whether a foreign government may be prosecuted for crimes committed by it against its own subjects, Lord Biron's Declaration of October, 1942 limited the competence of the United Nations' Commission on the Investigation of War Crimes by crimes committed against nationals of the United Nations (insert).*

Justice Jackson was instrumental in settling the dispute between the official British point of view and public opinion of the United States. In the aforementioned report addressed to President Truman, Justice Jackson stated that:

...the following:

...war crimes were outraged by the prosecution, the cruellest forms of torture, the mass killings, and the wholesale violation of property which initiated the Nazi regime within Germany. They witnessed persecution of the greatest majority of religious, political, and racial groups, though Nazi was not the legitimate activity of a state within its own boundaries, but not necessary to the launching of an international course of aggression...[25]

These ideas were fully incorporated in the Charter of the IIT and the

Judgment. The Nazi leaders were charged with religious, racial, and political

persecution not only in the occupied countries but in Germany proper, and not only
during the war but in the course of all Nazi activity, beginning with the establish-
ment of the S.S. — provided these persecutions were connected with the planning,
preparation, or waging of an aggressive war. While including these ideas into the report
to President Truman and into the Indictment, Justice Jackson become at the same time
a faithful interpreter of the will of Roosevelt — an ardent advocate of just
retribution to Nazi leaders for all crimes perpetrated by them in general and for crimes
perpetrated against Jews in particular.

In his declaration of March 24, 1944, while warning the Hungarian government of
the responsibility for crimes committed against the Hungarian Jews, President Roosevelt
... stated that the crimes against Jews "began with the murder in the day of peace and
multiplied by time a hundred thousand times in time of war — the despicable systematic murder
of the Jews of Europe goes on unabated every hour."[6]

Congress held in Atlantic City, New Jersey (November 21-23, 1944) issued the following:
"... the acts for which the accused will be held responsible must include all forms of persecution of racial, religious, and political minorities com-
mitted in the course of and incidental to the war by the Axis and their satellites and collaborators after January 30, 1933, in countries
under their control."
An authentic picture of all these activities was revealed before the
Tribunal and the entire world -- activities directed toward the moral, political,
ecconomic, and, finally, physical extermination of Jews.

The task of this study is to give a general picture of the Tribunal, which
will enter history under the name of Nuremberg Trials. We do not claim to give
an exhaustive picture, we shall attempt to bring here the basic ideas of the
charges of international prosecution in the part referring to crimes against the
Jewish people. We shall attempt to understand the leading notions of the defense
which appealed not only for cleanness and acquittal, but even for love to the
defendant, courageously reminding the beautiful words of "I am here to love even if
to hate" (Off. Tr., p. 162b). We shall also attempt to relay the important
items of the statements made by the defendants themselves, as well as the contents
of the documents written by the latter and intended for future history, which is
unfortunately fall into the hands of an international justice. In presenting
this factual material, our task is not to show what actually occurred, but the
mental in which it occurred, and thus indicate how the government operated, from
the big lesson which set the machinery in motion, and ending with
the smallest details, each of which played its part in the general system of
cog-wheels, grinding everything in their own small spheres of activities.
We shall equally devote our attention to the events unfolding in the Third Reich, which activities affected the whole nation, and to the leaders of the movement who led the small detachment of the National Socialists. But we shall confine ourselves only to novel aspects revealed by this trial. Therefore, some well-known facts will not be mentioned here at all.

For instance, we were able to understand such a study only thanks to the freedom which the Tribunal allowed both the prosecution and the defense. Only because the Tribunal did not assume a narrow and formalistic point of view, and very liberally approached the question as to what degree one or another document was connected with the charges levied, was it possible to collect so much evidence which could have disappeared from the face of earth, had not the order been given to gather them and preserve them for the trial.

And this is another of the merits of the Nuremberg Trial, which even its opponents ought to admit. Granted that the documents were not destroyed. Would there be another possibility to check them with such an accuracy and objectivity as it was done in Nuremberg? The horrible tragedy of Nurey and, for that matter, of all Nazis, for the always regarded their victims (though not necessarily) as the subjects of civilized nations, will find its historians who will study each document and analyze each document of the victims and their hangmen.
In the question of *Majestas Paeoniorum...* we may answer with at least such clear assurance that it is wrong in our use of a *...* in connection with the Nuremberg Trial. That is either a deliberately false assertion or an assertion made because of lack of knowledge of the actual trial proceedings and the contribution made by the trial to the discovery of historical truth.

Although we may not be in full accord with the verdict, yet everyone believes in the triumph of justice and in relationships between man and nation, all have to share the grandly expressed by M. de Rhou, Chief Prosecutor of France, to the Tribunal:

"I must ask the Tribunal's permission to express the conviction that there were no facts of which any country has a clean record and the necessity with which these trials have been conducted." (P.R., p. 1626).

For nearly the Nuremberg Trial was it the faithful and indomitable description of the unlimited suffering of the Nazi people and the depth of refine German cruelty will remain on eternal epitaph on the unknown graves of the six million victims.