Announcing the Final Examination of
Deborah VanHoose Dean
for the degree of Master of Arts
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TITLE: The Rhetoric of Robert H. Jackson at Nürnberg: A Study of Ideas

STATEMENT OF THE PROBLEM: An examination of the ideas of Robert H. Jackson's opening and closing speeches at the Nürnberg trial in terms of the inventive process.

SOURCES OF DATA: Jackson's Opening and Closing Addresses; cross-examinations of the defendants; reports to the President; various accounts of the trial by the defendants, justices, and other observers; and magazine articles published during the trial months, all of which have been studied, compared, and analyzed.

FINDINGS: A thorough analysis of both Jackson's Opening and Closing Addresses and a probe into the reasons behind Jackson's ideas and philosophies. Specific accounts of his life, the situation at Nürnberg, and the difficulties he had to overcome before and during the trial. Also a brief account of each defendant and the sentences received by them.

CONCLUSION: That Jackson's speeches were more than just rhetoric. The effect of his speeches on the outcome of the trial was most important. Also his influence in organizing the International Military Tribunal and his ideas of international law and concepts of general warfare were the foundation upon which this trial and a significant part of history were based. Without Jackson's dedication and tireless energy in organization and development, these events would not have happened.

Major: Communications

Committee in Charge	Degree(s) held:
Frederick Voigt	
Joseph Misiewicz	
James E. Quisenberry	

THE RHETORIC OF ROBERT H. JACKSON AT NÜRNBERG: A STUDY OF IDEAS

by

Deborah VanHoose Dean

A Thesis

Submitted in Partial Fulfillment

of the Requirements for the Degree of

Master of Arts in the Division of Communications

Morehead State University

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ROBERT H. JACKSON
RHETORIC AT NÜRNBERG

Deborah V. Dean
Morehead State University, 1976

Director of Thesis: Frederick Voigt

Statement of Problem

The purpose of this thesis is to examine the ideas of Robert H. Jackson's opening and closing speeches at the Nürnberg trial in terms of the inventive process. These speeches present the speaker's ideas and were chosen by the writer as the most appropriate selections embodying Jackson's ideas.

Sources of Data

Research has been gathered from the following kinds of sources: Jackson's Opening and Closing Addresses; cross-examinations of the defendants; reports to the President; various accounts of the trial by the defendants, justices, and other observers; and magazine articles published during the trial months.

Major Findings

Jackson, the speaker, is dealt with in the second chapter providing biographical material. This information includes his

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upbringing and his education. The development of his career as a lawyer is discussed.

An account of the social setting at Nürnberg and the trial's audience are also included in the second chapter. These accounts help to stage the trial and describe the atmosphere in which Jackson presents his speeches.

The third chapter provides an outline of the methodology used in the study. It establishes the criteria and describes the procedure that is followed.

Next, the speeches are analyzed in the fourth chapter. A description of how Jackson's philosophy was applied is provided. The Opening and Closing Addresses are discussed and their effect upon the Tribunal, the trial outcome, and history is cited.

A brief description of each defendant, his association with the Nazi party, and charges of indictment are also given. Along with the description of the defendants, the four counts of indictment upon which the defendants were charged is mentioned in the fourth chapter.

Conclusions

The last chapter summarizes the information given in the thesis and analyzes the significance of the speeches and their impact on the trial and on history.

The chapter also gives an account of the sentences given to each of the defendants is also provided.

An appendix and bibliography accompany the thesis.

Accepted by:

Frederick Voigt, Chairman

Joseph Musiewicz

James E. Quesenberry

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Deborah VanHoose Dean

A.B. Political Science, Morehead State University, 1975

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Accepted by the faculty of the School of Humanities, Morehead State University, in partial fulfillment of the requirements for the Master of Arts degree.

Frederick Voigt
Director of Thesis

Master's Committee: Frederick Voigt, Chairman

Joseph Misiewicz

James E. Quisenberry

4/30/76
(date)

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CHAPTER I

INTRODUCTION AND STATEMENT OF THE PROBLEM

I. Introduction

Long before Justice Robert H. Jackson became a part of the Nürnberg trial, the Departments of War, State, and Justice had been pondering the idea of bringing the top Nazi leaders and organizations to trial as criminals. When discussions began for an international trial of Nazi war criminals, Franklin Delano Roosevelt was the President of the United States. A conference had been held at Yalta, a city in the Soviet Union, to discuss in general terms such a trial. This conference was attended by President Roosevelt, Winston Churchill, and Joseph Stalin in 1945. President Roosevelt died later that year at a time when Judge Samuel I. Rosenman was abroad obtaining an agreement among the nations on a plan of trial. Judge Rosenman's duties ended after a presentation in San Francisco to the Soviet, French, and British Foreign Ministers. It was at this point that Justice Robert H. Jackson assumed the task of negotiating among these nations.

The first public announcement of the upcoming trial, and the United States' involvement, came in a report released by President Harry Truman on June 7, 1945. President Truman's approval of the program was widely published in Europe and served as a point of reference from which following proposals were studied.

On August 8, 1945, the Agreement of London was signed by the United Kingdom, the Soviet Union, France, and the United States. The agreement sanctioned an International Military Tribunal. It was from this agreement and the contents thereof that Justice Jackson took the theme of his Opening Speech. The theme and contents of Jackson's Closing Speech were taken from the evidence presented during the trial. Justice Jackson wrote, "The Opening Statement and the Closing Speech for the United States, one anticipating, the other reviewing the evidence, state the substance of the conspiracy case against the individual defendants."[1]

It was a respect for the skill and leadership of Justice Jackson, the significance of his opening and closing remarks, and the impact of the trial itself on a troubled world that provided the motivation for the writer to undertake this study.

II. Statement of the Problem

The purpose of this study is to examine the ideas of Robert Jackson's opening and closing speeches in terms of the inventive process. Invention involves the attempt on the part of the orator, Cicero says, as reflected by Thonssen and Baird, "to find out what he should say...." It is an

[1] Robert H. Jackson, The Nürnberg Case (New York: Cooper Square Publishers, Inc., 1971), p. ix.

[2] Lester Thonssen and A. Craig Baird, Speech Criticism (New York: The Ronald Press Co., 1948), p.79.

investigative undertaking, embracing a survey and forecast of the subject and a search for the arguments suitable to the given rhetorical effect. Thus certain writers -Aristotle among them- give more attention to invention than to other parts of rhetoric. This is done on the ground that the content is the most important part of the speech.[3] Jackson's opening and closing speeches present the speaker's ideas. These two speeches have, therefore, been selected by the writer as the most appropriate selections embodying Jackson's ideas.

The range of this study has been limited to an analysis of the speaker's ideas and the action arising from those ideas. The answers to two questions should be discussed in an analysis of the speeches in addition to certain conclusions about Jackson's ideas: first, the effect of the speeches on the outcome of the trial; and second, the influence of Jackson's ideas upon international law and concepts of general warfare.

In deciding upon this plan, the writer felt that the speaker's addresses are more than bombast. The purpose of public addresses is not merely to make possible an opportunity for speakers to exercise their rhetorical skills, but to make valuable contributions to the affairs of man. (Not only do speakers make

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[3] Ibid.

valuable contributions, but the critics as well by analyzing the speaker's works.) As Ernest J. Wrage states, "They (students of public address) possess credentials worthy of acknowledgment and interest in a type of materials germane to the object."[4] Albert J. Croft also expressed the same belief in that "criticism should go beyond concern with purely formal rhetorical conceptions; it must enter the field of making specific value judgments of the appropriateness and rightness of the idea adaptation to be found in speeches."[5] Croft also suggests of the speech critic that one objective is the historical function of rhetoric. With this objective Croft would have the critic "report and interpret the manner in which a speaker's values have been related to the social values of his audiences in the course of his rhetorical adaptation."[6] The function of thiswriter is that of both analyst and critic. In order to criticize a speech one must be able to first analyze the speech and evaluate the credibility and effectiveness of the speech.

The focus of this study is upon the viewpoints of the speaker concerning his concepts of man, his ideas, and the society in which he lives. An analysis of rhetoric includes a great deal more than most persons realize. The subjects of history, philsophy, and public

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[4] Robert L. Scott and Bernard L. Brock, Methods of Rhetorical Criticism (New York: Harper & Row, Publishers, 1972), p.105.

[5] Albert J. Croft, "The Functions of Rhetorical Criticism," Quartely Journal of Speech, Vol. LXII (Oct., 1956), p.291.

[6] Ibid., p.287.

speaking are interrelated and to analyze speeches all of these must be considered. A critic must not only study the speaker's ideas, but the influence of the ideas contained in public speeches upon history.

The circumstances of the Nürnberg trial are appropriate for an idea centered study. The trial revolves around the ideas of men and nations and the organization of those ideas and the laws of nations to serve as the framework of the trial. It was Justice Jackson who organized the trial and who worked closely with the other nations' leaders to mold these different and varied ideas and laws into a viable format for the trial.

Justice Jackson expressed these ideas in his opening and closing speeches. It was the ideas and beliefs of individual nations cooperating with each other in creating an international military tribunal and the construction of a trial of this nature that made a study of ideas pragmatic and operational.

III. Definition of Terms

The legal terms used in Jackson's speeches need defining. It is the decision of the writer that it is best to present these terms in a glossary in the appendix to this work. This procedure will be a more convenient reference for the reader of the two speeches. Also certain words and names of cities and people involved will be referred to by the German names. The glossary will include the translation of these words and names.

IV. Statement of Organization

This study contains five chapters with the addition of a bibliography and glossary.

Chapter II deals with Jackson, the speaker and the atmosphere in which he delivered the two speeches. It includes biographical material on Jackson. This chapter also brings to the surface a synopsis of Jackson's background and development of the ideas that surround his speeches. Certain other biographical material is discussed for the purpose of understanding the speeches. A critic cannot sufficiently examine the speeches of any speaker without including a biographical study also. The writings of all speakers reveal certain facts concerning their background. It is important for the critic to understand the speaker's background in order to understand the speaker's work.

An account of the social setting at Nürnberg and the trials' audience are also included in Chapter II. These accounts will help to stage the trial and describe the atmosphere in which Jackson had to present his speeches.

Chapter III outlines the methodology used in this study. It is a description of criteria and procedure.

The speeches are analyzed in Chapter IV. Along with a brief sketch of the defendents and the counts of the indictments. This chapter accomplishes the purpose of this work; i.e. the study of the ideas and their implications in Jackson's speeches.

Chapter V comprises a summary and conclusion.

CHAPTER II

BACKGROUND AND THE SETTING

I. The Background of the Speaker

> "Throughout his career as a lawyer (in both private and public practice) and as a judge, Jackson maintained close ties with the organized bar. He identified strongly and positively with his profession, and many of his opinions - as well as his extramural writing - reflect his deep interest of the interests of lawyers. His continuing preoccupation with the practice of law made him an authentic spokesman for the legal profession...More than any other Supreme Court justice in this century, Robert Jackson was the voice of the bar, speaking from the bench."[1]

Jackson's main concern was the failure of his colleagues to live up to the high standards of judicial neutrality. Although he felt that justice should be "dispassionate," he was very "human" and "not unpassionate."[2] Since the mid-fifties many of the beliefs held by Jackson have changed, but the two problems that concerned him most still remain; "the social and economical issues that confront the political decision makers of today."[3] These same social and economic problems were a great part of the Nürnberg trial.

Jackson valued both individual freedom and social stability. He felt that public policy-making was the responsibility of the

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[1] Glendon Schubert, Dispassionate Justice: A Synthesis of the Judicial Opinions of Robert H. Jackson (New York: The Bobbs-Merrill Company, Inc., 1969), p. vii.

[2] Ibid.

[3] Ibid., p. viii.

Congress and the President, not the Supreme Court. He also felt, however, that in matters between the national and state governments, and among the states, the proper courts should make the necessary decisions. Just as the matters between states should be the responsibility of the national government, the matters between nations should be the responsibility of the International Tribunal.

Robert Houghwout Jackson was born in the small town of Spring Creek, Pennsylvania, February 13, 1892. His growing years and most influential ones were during the Progressive Era in American politics. Jackson was typical of most Americans his age; no college education, only high school. "His father raised, raced, and traded horses"[4] and most of the people he knew and with whom he associated were of the same profession. His early opinions and educational beliefs were directly influenced by the Chautauqua Institute in southwestern New York, established in 1874 as a summer adult education program. These were the forces that shaped Jackson's thinking and his way of life and living.

At the time Jackson attended the Chautauqua Institute there were some 200 courses being taught by the faculty of leading colleges and normal schools. These courses purported to offer the best that the educational world could afford in the literature, arts, and sciences. It may be significant that the Chautauqua system of education soon became known for the expression of liberal views.[5]

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[4] Ibid., p. ix.

[5] The Encyclopaedia Britannica, 11th Edition (New York: The Encyclopaedia Britannica Company, 1910), p. 19.

In 1913 he was admitted to the bar after completing a course at the Albany Law School. He began practicing law in Jamestown, New York, and became general counsel for several local public service corporations. While Jackson was serving on a commission to study the New York State judicial system, New York Governor, Franklin D. Roosevelt, was impressed with Jackson's beliefs and capabilities. Later, when Roosevelt became President of the United States, he appointed Jackson as general counsel of the Bureau of Internal Revenue (1934). In 1935 he became special counsel to the Securities and Exchange Commission, and in 1936, assistant attorney general in charge of the antitrust division, then, solicitor general of the United States in 1938.

Jackson became one of Roosevelt's cabinet members in 1940 by accepting the position of attorney general. Only eighteen months later he was sworn in as associate justice of the Supreme Court. In Washington, Jackson was known as "FDR's brightest young legal eagle."[6] In May 1945, President Harry S. Truman appointed him to the War Crimes Commission serving as chief prosecutor for the United States due to establishment of the International Military Tribunal. When the trial was over in 1946 he returned to the Supreme Court remaining until his death, October 9, 1954. He continued throughout to be vigorous and outspoken.

"Jackson's judicial career is the story of the denouement and dissolution of his political ambitions. For most small-town lawyers to become a Supreme Court Justice would mark the apex of one's

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[6] Ibid.

aspirations for office and public preferment;"[7] but for "Bob Jackson," it was only second best to his great accomplishments and influential speeches during the Nürnberg trial.

II. Aspects of the Speaker's Personality

To be able to analyze the speaker's work, more than a chronological biography is needed. In this section the writer studies Jackson's personality and specific incidents of his life that helped to shape the man and his work. Thonssen and Baird quote Cicero to the effect that a speaker's character contributes to his success in speaking if "the morals, principles, conduct, and lives of those who plead causes, and for those whom they plead, are such as to merit esteem...."[8] He goes on to say that the "feelings of the hearers are conciliated by a person's dignity, by his actions, by the character of his life...."[9] Simply stated by John Lord O'Brian, Esq., a close friend of Jackson,

> "I realize more and more what the factor of personality means in public life, in providing a man with the gift of influence. That elusive element, which I think you will agree is so often missed by biographers and historians, is to me a very important element in the evolution of Robert Jackson."[10]

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[7] Ibid.

[8] Thonssen and Baird, op. cit., p. 384-385.

[9] Ibid., p. 385.

[10] Charles S. Desmond, Paul A. Freund, Potter Stewart, and Lord Shawcross, Mr. Justice Jackson: Four Lectures in His Honor (New York: Columbia University Press, 1969), 7-8.

Growing up as a farmboy in northwestern Pennsylvania, Jackson's formal education was limited. After finishing high school, he borrowed the money to attend the Albany Law School. He only attended for one term, however, This brief schooling was the extent of his formal education which is one of the remarkable factors in his public success.

He was ambitious and his "rare qualities of character"[11] were two of the most important elements that made Jackson a successful lawyer and judge. O'Brian attributes his success not only to his "unusual ability as a lawyer, but also from the character of his own personality and the great charm which he exercised over everybody with whom he came in contact."[12]

Jackson was an independent man and held strong convictions. He was not easily persuaded to change his opinions or reverse his judicial decisions. He could never have been called a 'yes man.' One incident of this occurred when a Senator opposing confirmation of Jackson's appointment as General Counsel to the Internal Revenue Bureau stated that the Secretary of the Treasury was seeking a 'yes man.' Jackson's hometown newspaper printed in their report of the

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[11] Ibid., p. 8.

[12] Ibid.

story that "if the cabinet member requires a 'yes man' we may expect Mr. Jackson back home in Jamestown at an early date."[13] His independence was also evident in his strong outspoken positions on political party issues (Jackson was a member of the Democratic party) and cases such as the one involving strikers accused of rioting. One of his favorite quotations was a line from Kipling: "He travels farthest who travels alone."[14]

Another of Jackson's outstanding characteristics was that of humility. He was devoted to his friends and he felt a sense of obligation to them. One example is that of a school teacher in Jamestown: she had taken a special interest in him and helped him to develop his fine qualities at an early age. Later, he mentioned her every time the opportunity arose and told of his appreciation for her help.

Along with humility Jackson's humor added greatly in molding the man. O'Brian said that "he was not given to anecdotal humor or smart aleck phrases, or telling stories. But he was gifted with that old Elizabethan folk humor in the true sense."[15]

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[13] Ibid., p. 18.

[14] Ibid., p. 10.

[15] Ibid., p. 13.

As for his literary style, he was known for his clarity, directness, and simplicity. He seldom used metaphors or other figures of speech. Law professors have said that his writing developed while on the Supreme Court were of a rich and meaningful English style.[16] He often spoke to various clubs and his speeches were always a success containing both humorous and serious thoughts. Thus his writing method was also a contributing factor to his personality and success.

To conclude, it is very frustrating to try to describe such a man in a few words. Perhaps former Chief Judge Charles S. Desmond says it best,

> "I [saw] him as a practical dreamer, holding fast to one of the best and oldest dreams of our race - the dream of prompt and equal justice for all the members of our free society....Thus was the country lawyer, Robert Houghwout Jackson, at home with the people who loved and trusted him."[17]

III. Social Setting at Nürnberg

The task of reconstructing the social setting in which speeches are given is challenging. It must be realized that "speeches are

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16 Ibid., p. 9.

17 Ibid., p. 28.

events occurring in highly complex situations" and that "not all events happening at a moment of crisis or momentous public occasion are likely to be recorded."[18] In the situations that are recorded the decision as to what to record and what to omit has a great impact on the speeches and how they are analyzed. It would be impossible to analyze a speech from the speaker's written style and a simple examination of the text "without regard to the events which gave rise to the delivery of the speech."[19]

In this section the critic studies the social setting at Nürnberg and the events that led to the trial.

The German people as a whole were never indicted because it was the feeling of the four victorious powers that the crimes were not the results of the general population, but a result of the "terror of the concentration camps and the police state."[20] Justice Jackson in his opening speech stated, "We have no purpose to incriminate the whole of the German people. We know that the Nazi Party was not put into power by a majority of the German vote...."[21]

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[18] Thonssen and Baird, op. cit., p. 312.

[19] Ibid.

[20] Eugene Davidson, The Trial of the Germans (New York: The Macmillan Company, 1966), p. 7.

[21] Ibid.

The German people themselves, however, felt a "collective guilt"[22] and a sense of responsibility for what had happened.

"In Nürnberg as in the result of Germany the threadbare people who had survived the war cared very little what was in store for the men who in the space of twelve years had helped to make the German Reich the master of Europe and to destroy it."[23] The tragic and inhumane treatment of the people was still too real in their minds and little sympathy for the war criminals could be felt.

The nations conducting the trial, the United States, the United Kingdom, the French Republic, and the U.S.S.R., were very strong in their feelings also, and cited "violations of the law and customs of war, criminal acts against the civilian population of occupied nations, and crimes against peace and conspiracy to wage aggressive war"[24] as the basis for the Nürnberg trial.

As for the courtroom atmosphere, the same type of animosity was present. One of the defendants, Albert Speer, recalled,

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[22] Ibid.

[23] Ibid.

[24] Robert K. Woetzel, The Nürnberg Trials in International Law (New York: Frederick A. Praeger, Inc., 1960), p. 6.

"we encountered only hostile faces, icy dogmas. The only exception was the interpreter's booth. From there I might expect a friendly nod. Among the British and American prosecutors there were also some who occasionally manifested a trace of sympathy. I was taken aback when the journalists began laying bets on the extent of our penalties, and their list of those slated for hanging sometimes included [me]."[25]

There were also spectators in the gallery looking down on the proceedings and down on the defendants. Another of the defendants, Hans Fritzche, wrote,

"...these visitors gazed at us...as if we were animals in a circus and I could not help being struck by the cruel contrast between the atmosphere of a social function which they brought with them into a court and the ever-present shadow of the gallows which loomed over us....A German lawyer, about six feet away, [pointed] out each of us in turn to a group of school girls and [explained] after the manner of a tourist guide, who all [of us were]."[26]

Thus, the social setting at Nürnberg, both inside and outside the courtroom, was one of distrust and hatred, with a bitter taste left by the destruction and terror caused by those on trial.

IV. The Audience

One of the Aristotelian concepts of rhetoric is concerned with audiences. Aristotle defines rhetoric as "the faculty of discovering

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[25] Albert Speer, Inside The Third Reich (New York: The Macmillan Company, 1970), p. 514.

[26] Hans Fritzche, The Sword in the Scales (London: Allen Wingate Publishers, 1953), p. 68-69.

all the possible means of persuasion in any subject."[27] Thonssen and Baird interpret this definition to mean that "rhetoric is an instrument by which a speaker can...make an adjustment to a situation composed of himself, his audience, his subject, and the occasion."[28] Aristotle believed, as do most all writers and critics, that the "audience determine's the speech's end and object."[29] An important aspect of the speech situation is the "speaker-audience relationship."[30] Certainly in Jackson's situation his entire speeches and their written style and delivery were geared toward persuading his audience. In the case of trials the audience is most important in determining the speech's "end and object."[31]

In discussing the audience of the trial two divisions are made. These are the same divisions as used in the section on the social setting: inside and outside the courtroom.

First, inside the courtroom. The tribunal consisted of four members and four alternates. The judges were:

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[27] Aristotle, The Rhetoric of Aristotle, trans. Lane Cooper, (New York: Appleton-Century-Crofts, Inc., 1960), p. 7.

[28] Thonssen and Baird, op. cit., p. 15.

[29] Ibid.

[30] Ibid.

[31] Ibid.

"Sir Geoffrey Lawrence, representing the United Kingdom, who was elected Chairman of the Tribunal; his alternate, Sir William Norman Birkett; Mr. Francis Biddle, representing the United States, and his alternate, Judge John J. Parker; M. le Professor Donnedieu de Vabres, representing France, and his alternate, M. le Conseiller Falco; and Major-General I. T. Nikitchenko, representing the Soviet Union, and his alternate, Lt.-Colonel A. F. Volchov. The prosecution was in the hands of Mr. Robert H. Jackson, Chief of Counsel for the U.S.A.; Sir Hartley Shawcross, Chief Prosecutor for the United Kingdom; M. Francois de Menthon, Chief Prosecutor for the French Republic; and General R. A. Rudenko, Chief Prosecutor for the U.S.S.R."[32] "The accused had the services of 27 leading counsels, 54 assistants, and 67 secretaries."[33] During the proceedings [the judges] appeared dressed in their judicial robes, with the exception of the Russians, who wore military uniforms."[34] (The French wore gold-coloured robes; the Americans and British, plain dark gowns.)[35]

Originally 24 men were to be tried, but on October 25, 1945, Robert Ley committed suicide. The trial of Gustav Krupp von Bohlen und Halbach had been postponed indefinitely owing to serious illness. Martin Bormann who was not in the custody of the Tribunal was tried

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[32] Woetzel, op. cit., p. 1.

[33] Joe J. Heydecker and Johannes Leeb, The Nürnberg Trial (Cleveland, Ohio: The World Publishing Company, 1962).

[34] Davidson, The Trial of The Germans, p. 20.

[35] Fritzche, op. cit., p. 69.

in absentia. The other defendants were Herman Wilhelm Goering, Joachim von Ribbentrop, Wilhelm Keitel, Ernst Kaltenbrunner, Hans Frank, Wilhelm Frick, Alfred Rosenberg, Julius Streicher, Fritz Sauckel, Alfred Jodl, Arthur Seyss-Inquart, Rudolph Hess, Walter Funk, Erich Raeder, Baldur von Schirach, Albert Speer, Constantin von Neurath, Karl Doenitz, Hjalmar Schacht, Franz von Papen, and Hans Fritzche. The defendant groups and organizations were: The Leadership Corps of the Nazi Party; Die Schutzstaffeln, known as the SS; Der Sicherheitsdienst, known as the SD; and Die Geheime Staatspolizei, known as the Gestapo, or Secret State Police; Die Sturmabteilungen, known as the SA; the Reichscabinet; and the General Staff and High Command of the German Armed Forces.[36]

The courtoom was on the second floor of the Palace of Justice in Nürnberg, Germany and held some 600 people.[37] The witnesses in the courtroom were: 33 for the prosecution, 61 for the defense, and 143 who gave evidence for the defendants by way of interrogatories;[38] altogether there were 240 witnesses and 300,000 sworn statements[39] presented in the case. Among others admitted were the interpreters

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[36] Woetzel, op. cit., p. 1-2.

[37] Davidson, _The Trial of the Germans_, p. 21.

[38] Woetzel, p. 2.

[39] Heydecker and Leeb, op. cit., p. 94.

who translated the trial into four languages; English, German, Russian, and French. "Every word was simultaneously translated... and every seat in the room was fitted with earphones and a dial which permitted the listener to switch to any of the four languages."[40] Court stenographers, news reporters, and those of special capacities, such as George Bailey who was a Russian Liason and Interpretor-Translator[41] were also part of the audience. The photographers, film operators, etc. "hailed from every country under the sun and spoke every imaginable language, and their equipment ranged from the smallest handcameras to the largest motion picture machines on robust tripods, many of them were German manufactured."[42] "The press box held 250 newspapermen who had come from all over the world...But only five German press representatives were admitted."[43] "...all members of the prisoners' families were specifically debarred from the hearings. Jodl's plucky wife alone was able to gain permission to attend the court and she came in the capacity of assistant to her husband's counsel."[44] In the gallery "were smartly-dressed women...,

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[40] Ibid.

[41] George Bailey, Germans (New York: World Publishing Company, 1972).

[42] Fritzche, op. cit., p. 64.

[43] Heydecker and Leeb, op. cit., p. 93.

[44] Fritzche, op. cit., p. 68.

but they were the wives of officials of the victorious nations who had come to look down from their eminence on the scene in which their husbands were to distinguish themselves."[45] It must be noted, however, that the number of people in the courtroom varied from day to day.

The audience outside the courtroom varied from day to day also. It can be said that the entire world was the audience for the Nürnberg trial because of the news reporting and widespread publicity. The final speeches of the defendants were heard over radio. Albert Speer said that "since these speeches were to be broadcast in full over radio, they had special significance."[46]

Such was the audience of the Nürnberg trial. Again quoting Thonssen and Baird, "Critics of oratory are generally agreed that the effectiveness of oratory is a function of audience adaptation; that it must be regarded in the light of what people do as a result of hearing the speech."[47] Obviously, the effectiveness of Jackson's opening and closing speeches to the Nürnberg trial were dependent upon the audience: the judges for their verdicts and the rest of the world for their realization that everyone "must now be aware that they too may be condemned as international criminals, if they offend against the laws of nations, if they instigate or prepare wars of

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[45] Ibid.

[46] Speer, op. cit., p. 519.

[47] Thonssen and Baird, op. cit., p. 79.

aggression, if they apply laws that are in violation of the laws of humanity, or if they persecute groups or persons whose rights are recognized by most civilized nations." [48]

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[48] Woetzel, op. cit., p. xiv.

CHAPTER III

PROCEDURE AND CRITERIA

I. Establishment of Criteria

This study of Justic Jackson's speeches approaches rhetorical criticism not from the traditional method of analysis which is to examine an orator's work on the basis of literary style and means of persuasion, but from an analysis of the speaker's ideas and the "action fostered by the speech."[1] It is not the intention of this study to imply that the importance of literary style and means of persuasion do not weigh as heavily as the importance of the speaker's ideas on the social setting to the overall success of the work. However, the primary concern of this study is the method of evaluating the "pattern of thought and action."[2] The approach, therefore, will be focused on the speaker's ideas and the relation of those ideas to the social setting.

The decision to focus the study of Jackson's ideas and their relation to the social setting is based upon the circumstances of the Nürnberg trial and the importance of that trial not only to the world and legitimate warfare...

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[1] Thonssen and Baird, op. cit., p. 72.

[2] *Ibid.*

Thonssen and Baird in Speech Criticism state that "the ideas which live within the memories of succeeding generations, and the ideas whose integrity are tested and appraised more often in later history, are the one's which deliberative speakers have developed in addresses on the burning issues of their time."[3] Certainly the Nürnberg trial was a burning issue of its time and Jackson's addresses made during the course of the trial are worthy of analysis from the viewpoint of the ideas presented.

In order to test and appraise Jackson's speeches, their logical content, validity, and significance must be examined. The method of evaluating the integrity of ideas, according to Thonssen and Baird, "should be determined on the basis of how fully a given speech enforces an idea; how closely that enforcement conforms to the general rules of argumentative development; and how near the totality of the reasoning approaches a measure of truth adequate for purposes of action."[4] Although the integrity of ideas cannot be determined by any specific set of rules, a critic must obtain a method either established by himself or another source. Therefore in this study the method recognized by Thonssen and Baird will be employed in analyzing the integrity of ideas in Justice Jackson's speeches of the prosecution.

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[3] Ibid., p. 334.

[4] Ibid.

As a result of the method used for this study, Jackson's attitudes toward man and the society in which he lives must be examined to fully understand the meaning of his speeches and their implications. This examination requires a disclosure of the following attitudes:

1. Jackson's ideas, how they were presented and how he developed them.

2. Jackson's philosophy of law and judicial procedure. This involves an investigation of Jackson's life, education, and career; also a probe into Jackson's supreme court decisions as outlined in Chapter II.

3. What was Jackson attempting to do?

4. Was his attempt consistent with his own background and the circumstances of the trial?

This methodology constitutes the standard by which the ideas were analyzed in Jackson's speeches.

II. Obtaining and Establishing the Authenticity of the Texts

The complete text of Jackson's speeches were obtained from a book entitled The Nürnberg Case written by Robert H. Jackson himself.[5]

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[5] Jackson, loc. cit.

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The speeches in this book were taken from the original transcripts of the trial. Justice Jackson in the Preface of the book, states that the speeches and cross-examinations "As here presented are taken from the official transcript before revision."[6]

The book includes:

I. Report to the President of the U.S., June 7, 1945.

II. Four-Power Agreement for Trials and Charter of International Military Tribunal, August 8, 1945.

III. Opening Statement for the United States, November 21, 1945.

IV. The Law Under Which Nazi Organizations Are Accused of Being Criminal, Arguments by Robert H. Jackson, February 28, 1946.

V. Closing Address, July 26, 1946.

VI. Excerpts from Cross-Examination of Defendants.

In the Preface Justice Jackson states,

> "The mission of this book is to make conveniently available fundamental information about the world's first international criminal assizes. There are four thousand documentary exhibits making up some seventeen thousand pages which could be read by all, but few will find the time or take the time to read them."[7]

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[6] Ibid., p. x.

[7] Ibid., p. v.

Jackson's book condenses the trial into 269 pages which can be easily read. By including the whole of his opening and closing statements, Jackson gives the circumstances of the case and the conclusion allowing his readers to understand "what was being done in their name abroad and to invite support for the principles on which the case was founded."[8]

III. Selection of Speeches

The speeches selected for this study are the following:

1. Justice Jackson's opening address to the jury during the Nürnberg trial. The speech was delivered November 21, 1945 at the Palace of Justice, Nürnberg, Germany.

2. The summation or closing statement to the jury during the Nürnberg trial. The speech was delivered July 26, 1946 at the Palace of Justice, Nürnberg, Germany.

Thonssen and Baird say that "oratory to be great must deal with ideas which make a difference in the affairs of men and states."[9] The Nürnberg trial dealt with ideas which made a difference in the affairs of men, states, and nations. The beginning of that trial with the statement of what was at stake, the predicted effect that its outcome would have on the world, receives a most forceful statement in the opening address. The same is true of the summation which would lead to a decision that would change the course of international law and the laws of legitimate warfare. The study is therefore focused upon the two speeches.

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[8] Ibid., p. v.

[9] Thonssen and Baird, op. cit., p. 332.

CHAPTER IV

ANALYSIS OF THE SPEECHES

I. The Counts of Indictments and Defendants

Preliminary to the analysis of the speeches the writer feels that a brief identification of each defendant will be helpful. The following will enable the reader to understand who the defendants were, their participation in the war crimes, and the counts upon which they were indicted.

First, the counts upon which they were indicted.

Count 1: Crime of plotting and waging wars of aggression.

Count 2: Crime of wars in violation of nine treaties to which Germany was a party.

Count 3: Crime of violating International Law.

Count 4: Crimes against humanity.[1]

Second, brief identifications of the defendants.

Hermann Wilhelm Goering was the chief defendant. He was the former Reichsmarschall who was designated as Hitler's successor. He was called "the leading war aggressor, both as political and as military leader;... the director of the slave labor program and the

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[1] Jackson, The Nürnberg Case, p. 82.

creator of the oppressive program against the Jews and other races, at home and abroad." Near the end of the war Hitler accused him of high treason and ordered his arrest. Goering was indicted on all four counts.

Joachim von Ribbentrop was the Foreign Minister of the Nazi Reich. He participated in the aggressive plans against various nations and was held responsible for war crimes and crimes against humanity. Ribbentrop was considered one of the vainest and most incompetent of the men around the Fueher. He was indicted on all four counts.

Wilhelm Keitel served as Chief of the High Command of the German Armed Forces. He participated in the aggressive plans against several countries, war crimes, and crimes against humanity. He signed the notorious "Nacht und Nebel" decree which provided that in occupied territories civilians who had been accused of crimes of resistance against the army of occupation would be tried only if the death sentence was likely; otherwise they would be handed over to the Gestapo and transported to Germany. Keitel was indicted on all four counts.

Ernst Kaltenbrunner was Chief of the Security Police and S.D. and head of the Reich Security Head Office, an organization which supervised the murder of approximately four million Jews in concentration camps. He was indicted on counts one, three, and four.

Hans Frank served as Governor-General of Poland under the Nazi regime. He was called "a willing and knowing participant in the use of terrorism in Poland; in the economic exploitation of Poland in a way which led to the death by starvation of a large number of people; in the deportation to Germany as slave laborers of over a million Poles; and in a program involving the murder of at three million Jews." Frank was indicted on counts one, three, and four.

Wilhelm Frick was the supreme Reich authority in Bohemia and Moravia. He was held responsible for terrorism of the population, slave labor, and the deportation of Jews to the concentration camps for extermination. Frick was indicted on all four counts.

Alfred Rosenberg was the Reich Minister for the Occupied Eastern Territories. He was supposed to have played an important role in the preparation and planning of the attack on Norway, and to have helped in formulating the policies of Germanisation, exploitation, forced labor, extermination of Jews and opponents of Nazi rule in the Occupied Eastern Territories. Rosenberg was indicted on all four counts.

Julius Streicher was the publisher of "Der Stürmer", an anti-Semitic weekly newspaper. He was held responsible for incitement to murder and extermination at a time when Jews in the East were being killed under the most horrible conditions. He was indicted on counts one and four.

Fritz Sauckel held the position of Plenipotentiary-General for the utilization of Labour. He was in charge of the forced labor of more than six million men and women. Sauckel had brought convoys of foreign workers to Germany from all the countries of Europe. Sauckel was indicted on all four counts.

Alfred Jodl had been Chief of the Operations Staff of the High Command of the German Armed Forces. Jodl was held responsible for participating in the planning of an attack against various nations, and for supporting the notorious Commando Order and the directive for "Case Barbarossa" which contains a plan to eliminate Soviet commissars. He also ordered the evacuation of all persons in northern Norway and the burning of their homes so that they could not be of help to the Russians. Alfred Jodl was also indicted on all four counts.

Arthur Seyss-Inquart was the Reich Commissioner of the Netherlands. The Judgment states that he "was a knowing and voluntary participant in War Crimes and Crimes against Humanity which were committed in the occupation of the Netherlands." These crimes included the deportation of Jews to the Auschwitz extermination camp, the ruthless suppression of all opposition to the German occupation, the economic exploitation of the Netherlands without regard for rules of the Hague Convention, and the deportation of forced labourers to Germany. He was indicted on all four counts.

Rudolph Hess was the former Deputy to Hitler and successor designate to the Führer after Goering. The British jailers thought him insane, but a report from the prison psychologist, stated that there was nothing to show that Hess did not realize the nature of the charges against him, or was incapable of defending himself. Hess was involved in German aggression against Austria, Czechoslavakia, and Poland. He was indicted on all four counts.

Walter Funk had participated in the early Nazi program of economic discrimination against the Jews. Funk was the President of the Reichsbank. The Tribunal felt that Funk knew about and deliberately ignored the fact that, while in concentration camps, the gold from eyeglasses and gold teeth and fillings of the victims had been removed and stored in vaults of the Reichsbank. He also participated in the utilization of concentration camps. Walter Funk was indicated on all four counts.

Erich Raeder had served as Commander-in-Chief of the German Navy from 1935 to 1943. It was said that the invasion of Norway was the decision of Raeder and not Hitler. He was charged with war crimes on the high seas. Raeder was indicted on counts one, two, and three.

Baldur von Schirach was involved in the deportation of Jews from Vienna after he became Gauleiter of Vienna and had been the former Reich Youth Leader. He was indicted on counts one and four.

Albert Speer was the Reich Minister of Arms and Munitions. He was the head of all German war production. The court felt that Speer's establishment of blocked industries did keep many laborers in their homes and that in the closing stages of the war he was one of the few men who had the courage to tell Hitler that the war was lost and to take steps to prevent the senseless destruction of production facilities, both in occupied territories and Germany. He carried out his opposition to Hitler's scorched earth program in some of the Western countries and in Germany by deliberately sabotaging it "at considerable personal risk." Speer was indicted on all four counts.

Constantin von Neurath was a Reich Minister without Portfolio, President of the Secret Cabinet Council, and a member of the Reich Defence Council. He advocated the elimination of the Czechoslavakian intelligentsia and other groups which might resist Germanization. von Neurath was indicted on all four counts.

Karl Doenitz was the Commander-in-Chief of the German Navy and Head of State succeeding Hitler. He was charged with waging aggressive war and with permitting the Commando Order to remain in full force when he became Commander-in-Chief. He was indicted on counts one, two, and three.

Hjalmar Schacht was a banker and world-renowned "prestidigitator" of German finances. He originated the plan that rescued the German mark from its worthlessness in 1923 and then a decade later supplied the loans and complicated financing that made German rearmament

possible. Justice Jackson said that he was either "a great war criminal or...nothing." Near the end of the war he had been sent to a concentration camp by Hitler. Schacht was indicted on counts one and two.

Franz von Papen was the Vice-Chancellor in the first Hitler Cabinet of 1933, and later Minister to Vienna and Ambassador to Turkey. He was indicted on counts one and two.

Hans Fritzche had been the Head of the Radio Division of the Propaganda Ministry and Plenipotentiary for the Political Organization of the Greater Germany. He was indicted on counts one, three, and four.

Martin Bormann had served as Head of the Nazi Party Chancellery and Secretary to Hitler. He was involved in the persecution of Jews and in furthering the slave labor program. He also transmitted instructions allowing the use of firearms and corporal punishment on prisoners of war, and was responsible for the lynching of Allied Airmen. He was indicted on counts one, three, and four.

The above information concerning the defendants was taken from the following sources:

Eugene Davidson, The Trial of the Germans (The Macmillan Company: New York, 1966), pp. 24-27.

Robert K. Woetzel, The Nürnberg Trails in International Law (Frederick A. Praeger, Inc.: New York, 1960), pp. 7-16.

Following is a chart of the defendants, the counts upon which they were indicted, and on which they were found guilty or innocent.[2]

	Count 1	Count 2	Count 3	Count 4
Goering	G	G	G	G
Hess	G	G	I	I
Bormann	I		G	G
von Ribbentrop	G	G	G	G
Keitel	G	G	G	G
Kaltenbrunner	I		G	G
Rosenberg	G	G	G	G
Frank	I		G	G
Frick	I	G	G	G
Streicher	I			G
Funk	I	G	G	G
Schacht	I	I		
Doenitz	I	G	G	
Raeder	G	G	G	
von Schirach	I			G
Sauckel	I	I	G	G
Jodl	G	G	G	G
von Papen	I	I		
Seyss-Inquart	I	G	G	G
Speer	I	I	G	G
von Neurath	G	G	G	G
Fritzche	I	G	I	I

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[2] *Ibid.*, p. xii-xiii.

II. The Opening Address
November 21, 1945

In order to apply the analysis to the inventive process of Jackson's speeches, the writer returns to Chapter III for the method and criteria upon which this study is based. The logical content, validity, and significance, therefore, will be examined. The first endeavor is to identify the ideas; second, to examine their logical content and validity; and third, to evaluate the development and significance of the ideas. The following are the ideas and philosophy of Jackson as they appear in his opening address.

Justice Jackson began his opening address by recognizing the importance and "grave responsibility" that "the first trial in history for crimes against the peace of the world"[3] carried with it. He justified the trial by stating that "the wrongs which we seek to condemn and punish have been so calculated, so malignant and so devastating, that civilization cannot tolerate their being ignored because it cannot survive their being repeated."[4]

In all of Jackson's remarks and justifications of the trial, this statement alone had been the greatest. The possibility of another aggressive war would perhaps have brought total destruction to the world. The fear of such a war was truly the main concern of the prosecution.

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[3] *Ibid.*, p. 30.

[4] *Ibid.*, p. 30-31.

Jackson also justified the trial being conducted by the four victor nations saying "that four great nations, flushed with victory and stung with injury stay the hand of vengenance and voluntarily submit their captive enemies to the judgment of the law is one of the most significant tributes that Power ever has paid to Reason."[5] The logical content and validity of this idea should be obvious to all and not only to persons in the legal field.

Logically this was the best approach for Jackson to take in the beginning of his opening address. Throughout the address he gives the reasons for the trial, the Tribunal, and the counts of indictment explaining and defining each in a chronological and justifiable sequence. Although Jackson cited the trial itself as a significant tribute that "Power ever had paid to Reason"[6], certainly his opening address should be included in this tribute.

Jackson turned next to the definition of the Tribunal. He defined it as "novel and experimental," but not "the product of abstract speculations nor...created to vindicate legalistic theories."[7] The utilization of International Law concerned with aggressive war was a representation of the "practical effort of four

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[5] Ibid., p. 31.

[6] Ibid.

[7] Ibid.

of the most mighty of nations, with the support of seventeen more."[8] For the logic of organizing the Tribunal, Jackson turned to the common sense of mankind:

> "The common sense of mankind demands that law shall not stop with the petty crimes by little people. It must also reach men who possess themselves of great power and make deliberate and concerted use of it set in motion evils which leave no home in the world untouched."[9]

It was for this reason that Jackson justified the Tribunal and its leadership by the victor nations. In truth common sense did recognize the top Nazi leaders as the real war criminals. Jackson at one point referred to the law and its precedent over all men, placing even the King under God and the law.

The consequences of the accuseds' deeds Jackson found to be far-reaching and long lasting. He pointed out that the significance of the inquest

> "was that these prisoners represent sinister influences that will lurk in the world long after their bodies returned to dust. [The prisoners were the] living symbols of racial hatred, of terrorism and violence, and of the arrogance and cruelty of power...of fierce nationalisms and of militarism, of intrique and war-making which have embroiled Europe generation after generation, crushing its manhood, destroying its homes, and impoverishing its life."[10]

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[8] Ibid.

[9] Ibid.

[10] Ibid.

Jackson saw a victory for the accused as "an encouragement to all the evils which are attached to their names."[11] The significance here is that civilized nations could not allow such deeds to go unpunished for fear that they would grow stronger and bring more destruction.

The purpose of Jackson's address is simply stated, giving added justification and reason for the trial. "What these men stand for we will patiently and temperately disclose."[12] He was to give "undeniable proof of incredible events."[13] Cataloging the crimes Jackson omitted nothing. He appealed not only to logic, but to emotion as well by discussing the results of the war on the German people, Jews, Christians, laborers, and the destruction of land and demoralized society that survived. He termed the results "the fruits of the sinister forces that sit with [the] defendants in the prisoners' dock."[14] The development of the effect of the war and Jackson's appeal to the emotions is most significant because it began his plea for the jury's sympathy and verdicts of guilty.

There were certain limitations and difficulties that left their mark on the case. Jackson felt it necessary to define these

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[11] Ibid.

[12] Ibid., p. 32.

[13] Ibid.

[14] Ibid.

limitations and difficulties in defense of the "nations and the men associated in this prosecution."[15] Some of the important limitations and difficulties of the case were cited as: the difficulty of bringing within "the scope of a single litigation the developments of a decade, covering a whole Continent, and involving a score of nations, countless individuals, and innumerable events;"[16] and the limitations caused by the lack of time to research due to the world's demand for "immediate action."[17] This concern for the difficulties and limitations by Jackson was to make all those involved aware of the attempt being made by the prosecution to exercise justice and fairness while at the same time recognizing that they were only human and succeptible to error.

In regard to the judgment made by the victor nations, Jackson remarked, "We must never forget that the record on which we judge these defendants today is the record on which history will judge us tomorrow."[18] The significance of this statement is that the trial is not important just for the moment, but that it would serve as a corner stone for all such crimes and trials of this nature to be held thereafter. The Nürnberg trial would serve as a guide for international law and international judgment and history would be the judge of the success and impact of the trial.

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[15] Ibid.

[16] Ibid.

[17] Ibid.

[18] Ibid., p. 33-34.

To reenforce the decision to hold the trial Justice Jackson presented the alternatives that were possible. Through the use of rhetorical questions he shows that the only course of action was that of an international trial. He then proceeded to justify the Tribunal. Using his appeal to logic he stated, "Realistically, the Charter of this Tribunal, which gives [the defendants] a hearing, is also their only hope."[19] Here again his logic is mixed with emotion as he made the act of the Tribunal appear to be a personal favor to the defendants. The significance he wished to bring out is that although these defendants were unjust and unfair to their enemies, the Tribunal was magnanimous enough to afford them the opportunity to receive the justice and fairness that they were unwilling to give. The guilt of the accused involved "moral as well as legal wrong"[20] and the Tribunal intended to prove all the counts of indictment "by books and records."[21] From this Jackson implied that in no way could anyone logically find the defendants not guilty.

Jackson focused on the guilt of the defendants and denied the collective guilt of the German people. Albert Speer in his memoirs wrote,

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[19] Ibid., p. 34.

[20] Ibid., p. 35.

[21] Ibid.

> "The trial began with the grand, devastating opening address by the Chief American prosecutor, Justice Robert H. Jackson. But I took comfort from one sentence in it which accused the defendants of guilt for the regime's crimes, but not the German people. This thesis corresponded precisely with what I had hoped would be a subsidiary result of the trial: that the hatred directed against the German people which had been fanned by the propaganda of the war years and had reached an extreme after the revelation of those crimes, would now be focused upon us, the defendants."[22]

Jackson's statement was: "We would also make clear that we have no purpose to incriminate the whole German people."[23] It was true that the German people had suffered and could not help but bear the burden of guilt. Jackson went on to explain, "The German people should know by now that the people of the United States hold them in no fear, and in no hate."[24] The denial of collective guilt was a significant factor of the trial and was a major element that many had hoped would be part of the outcome. Here again, it was only logical to condemn those of high command because singly they organized and controlled all that happened.

Referring to what he called "the Nazi nightmare," Jackson said, "The Nazi nightmare has given the German name a new and sinister

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[22] Speer, op. cit., p. 520.

[23] Jackson, The Nürnberg Case, p. 35.

[24] Ibid.

significance throughout the world which will retard Germany a century."[25] The logic and validity of this statement would in time prove to be untrue. Although it was a powerful and seemingly significant statement during his opening address history was to prove him wrong. Albert Speer also commented on this statement appearing to be more logical in his ideas and more valid in his reasoning. He attributed the "criminal events of those years" to two elements; an outgrowth of Hitler's personality and the implementation of technology.[26] Jackson felt that the major element was the attempt to form a "master race."[27] Speer's reasoning about future destruction and danger in all nations was that it would not be a threat from Germany, but the threat of technology:

> "The more technological the world becomes, the greater is the danger.... A new great war will end with the destruction of human culture and civilization. There is nothing to stop unleashed technology and science from completing its work of destroying man which it has so terribly begun in this war...."[28]

Speer also saw this nightmare as that of the future, not the past:

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[25] Ibid., p. 36.

[26] Speer, op. cit., p. 521.

[27] Jackson, The Nürnberg Case, p. 36.

[28] Speer, loc. cit.

"The nightmare shared by many people that some day the nations of the world may be dominated by technology... Therefore, the more technological the world becomes, the more essential will be the demand for individual freedom and the self-awareness of the individual human being as a counterpoise to technology."[29] The preceding statements from Speer were taken from his cross-examination by Justice Jackson. On this point Jackson clearly loses.

Jackson's method of delivering his opening address was to return to the specific purpose of the trial throughout his message. He thus far has discussed responsibilities, justifications, the Tirbunal, fairness, and the trial's limitations returning always to the purpose and terrible crimes for reenforcement of his case. In the continuing segments of the address he gives a chronological overview of the war and development of the Nazi Party again inserting the purpose and destruction that occurred. The following is a chronological listing of Jackson's ideas as they appear in the next section of his opening address.

In discussing the central theme of the case Jackson dealt with the following points:

The Fact and the course of war is history.

Beginning Sept. 1, 1939, Germans overran many countries.

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[29] Speer, loc. cit.

Those countries included: Denmark, Norway, The Netherlands, France, Belgium, Luxembourg, the Balkans, Poland, the Baltic States, and parts of Russia.

The war did not just happen - it was planned and prepared.

The defendants all united with the Nazi Party in a plan which they well knew could be accomplished only by an outbreak of war in Europe.

The offices and officials were dedicated to criminal purposes and committed to use criminal methods.

Jackson's purpose was to open the case by dealing with the common plan or conspiracy to achieve ends possible only by resorting crimes against peace, war crimes, and crimes against humanity.

The case was concerned with the brains and authority responsible for all the crimes.

At this point Jackson took up the subject of the lawless road to power in which he discussed the following historical records:

The chief instrumentality of cohension in plan and action was the National Socialist German Workers Party, known as the Nazi Party.

Adolf Hitler became the supreme leader, known as the Führer, in 1921.

February 24, 1920, at Munich, the Nazi Party publicly proclaimed its program.

The proclamation carried with it certain commendable demands such as, profit-sharing in the great industries, general development of provision for old age, creation and maintenance of a healthy middle class, a land reform suitable to national requirements, and raising the standard of health.

There was also a demand for loyalty and patriotism.

The Nazi Party from its inception contemplated war putting together the necessary organizations.

The Nazi Party also declared that no Jew or any person of non-German blood could be a member of the nation.

> The Party promised an authoritarian and totalitarian program for Germany.
>
> Restrictions were placed on education, the press, publications, and religion.
>
> The Party platform read: "The leaders of the Nazi Party swear to proceed regardless of consequences-if necessary, at the sacrifice of their lives.

Jackson now switched to the fulfillment of the party pledge which entailed enumeration of the following points:

> The foreign objectives were to undo international treaties and to wrest territory from foreign control, as well as most of their internal program.
>
> The first effort was to subvert the Weimar Republic by violent revolution.
>
> This effort failed and the Nazi Party turned to plans for its capture.

Jackson next elaborated on the Nazi Party structure comprising the historical chronology of the Nazi organization as follows:

> The Nazi Party, under the Führerprinzip, was bound by an iron discipline into a pyramid, with the Führer, of Adolf Hitler, at the top.
>
> The structure then broadened into numerous Leadership Corps: Die Sturmabteilungen (SA), Die Schutzstaffeln (SS), Der Sicherheitsdienst (SD), and Die Geheime Staatspolizei (Gestapo).
>
> The Nazi Party had its own source of law, courts, and police.
>
> The chain of command was military.
>
> Adolf Hitler became Chancellor of the German Republic on January 30, 1933.

The manner in which the Nazi power was consolidated was of obvious significance and Jackson elaborated the following points in this connection:

> This consolidation and the steps involved embraced the most hideous of crimes against humanity.
>
> This consolidation was used as a means of perfecting control of the German state.
>
> The Nazi program was recognized by other nations as a desperate program for a people still suffering the effects of an unsuccessful war.
>
> During this period there appeared to be two governments existing in Germany - the real and the ostensible; the German Republic form and the Leadership Corps of the Nazi Party.
>
> On February 27, 1933 the Reichstag building was set on fire, it had been the symbol of free parliamentary government and the Nazis were believed to have staged the fire.
>
> The Nazis accused the Communist Party of the crime.
>
> On February 28, 1933 Hitler obtained a decree from President von Hindenburg suspending the guarantees of individual liberty contained in the Constitution of the Weimar Republic.
>
> Articles 114, 115, 117, 118, 123, 124, and 153 were suspended.
>
> These articles that had given Germans certain rights included: deprivation of personal freedom by a public authority; the right of every German's home as his sanctuary, the secrecy of letters, and all postal, telegraphic and telephonic communications; freedom to express opinions in speech, in writing, in print, in picture form or in any other way; the right to assemble peacefully and unarmed without giving notice and special permission; the right to form associations or societies for purposes not contrary to criminal law; and property was guaranteed by the Constitution.*

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* (Note: The Constitution itself authorized von Hindenberg to temporarily suspend these fundamental rights "if the public safety and order in the German Reich are considerably disturbed or endangered.")

> This decree had no provisions for restoring these rights leaving the Nazi policy and party formations completely unrestrained and irresponsible.
>
> This enabled the Nazis to carry out their battles for complete domination.

The Nazis focused their persecution upon certain elements of society among which were representative of the working class. This section of his speech enumerated these Nazi efforts:

> When Hitler came into power, there were three groups of trade unions in Germany: the General German Trade Union Confederation (ADBG), the General Independent Employees Confederation (AFA), and the Christian Trade Union.
>
> The working class had little to gain by war and would not support the war efforts.
>
> The Nazis required that the working people be stripped of power and whipped into new and unheard-of sacrifices as part of the Nazi war preparation.
>
> The Nazi Party issued an order for attacks on the ADGB and the AFA. The SA and the SS organizations were to take union properties and to take into custody persons who came into question.
>
> They began to carry out these orders on May 2, 1933. The confiscation was done by the Deutsche Arbeitsfront (Labor Front).
>
> On May 19, 1933, by government decree "trustees" of labor, appointed by Hitler, should regulate the conditions of all labor contracts, replacing the process of collective bargaining.
>
> Not only did the Nazis dominate and regiment German labor, but they forced the youth into the ranks of the laboring people.
>
> Jackson commented, "Robert Ley, the field marshal of the battle against labor, answered our indictment with suicide. Apparently he knew no better answer."

The next social element singled out for persecution was religion and this signaled the battle against the churches:

> The Nazi Party always was predominantly anti-Christian in its ideology.
>
> The Nazis' crime was not in that they were pagan in their own beliefs, but because they persecuted others of the Christian faith.
>
> Religious sects such as, Jehovah's Witnesses and the Penecostal Association were persecuted.
>
> A most intense drive was directed against the Roman Catholic Church.
>
> After the occupation of foreign soil, these persecutions went on with greater vigor than ever.

The Nazi crimes against the Jews aroused more notoriety than any of the other Nazi efforts at persecution. Jackson proceeded to elaborate these crimes:

> The most savage and numerous crimes planned and committed by the Nazis were those against the Jews.
>
> The Jews in Germany, in 1933, numbered about 500,000.
>
> The crimes against the Jews included: expropriation of Jewish property, discriminations against the Jewish religion, placement of impediments in the way of success in economic life, organized mass violence against Jews, physical isolation in the ghettos, deportation, forced labor, mass starvation, and extermination.
>
> The avowed purpose was the destruction of the Jewish people as a whole, as an end in itself, as a measure of preparation for war, and as a discipline of conquered peoples.
>
> Jackson commented, "History does not record a crime ever perpetrated against so many victims or one ever carried out with such calculated cruelty."

On February 24, 1942, Hitler proclaimed that "the Jew will be exterminated."

Under the Nürnberg decrees of Sept. 15, 1935, the SD was made responsible for the guardianship of the Jews.

On November 10, 1938, an order was given for all Jewish synagogues to be blown up or set fire. This was later called the "Kristallnacht" or the night Jewish property was plundered and churches burned.

Following this attack Jews were sent to concentration camps.

Jackson then presented official German documents that gave detailed reports of their actions against the Jews.

In keeping with a comprehensive coverage of Nazi criminal actions Jackson reported historical data revealing the terrorism and preparation for war:

The German mistreatment of Germans is now known (at the time of the trial) to pass in magnitude and savagery any limits of what is tolerable by modern civilization.

The purpose of getting rid of the influence of free labor, the churches, and the Jews was to clear their obstruction to the precipitation of aggressive war.

Terrorism was the chief instrument for securing the cohesion of the German people in war purposes.

Concentration camps were opened all over Germany.

Beatings, starvings, tortures, and killings became routine.

Deportations and secret arrest were labeled "Nacht und Nebel" (Night and Fog.)

The victims of concentration camps were used for cruel and inhumane scientific experiments.

> Germany became a vast torture chamber.
>
> Financiers, economists, industrialists joined in planning and promoting elaborate alterations in industry and finance to support an unprecedented concentration of resources and energies upon preparations for war.

The period during which the German government tested the will of the Allies, was seen by Jackson as a scheme of experiments in aggression:

> The Nazis advanced only as others yielded keeping in a position to drawback if they found persistence to be dangerous before resorting to open aggressive warfare.
>
> On March 7, 1936, the Nazis reoccupied the Rhineland.
>
> On March 12, 1936, they began the invasion of Austria.
>
> On March 15, 1939, the Nazis seized Bohemia and Moravia.

At this point, Jackson interrupts his chronological report stating that he "will not prolong this address by detailing the steps leading to the war of aggression which began with Poland on September 1, 1939. The further story will be unfolded to you from documents including those of the German High Command itself."[30] These documents

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[30] Jackson, The Nürnberg Case, p. 68.

did indeed prove that the war was a planned war of aggression.

Jackson reminded the jury that "even the most warlike peoples have recognized...some limitations on the savagery of warfare" and that "rules to that end have been embodied in international conventions to which Germany became a party."[31] The code had prescribed certain restraints as to warlike treatment. Once again Jackson justified the international trial by showing that Germany had not upheld an international agreement.

The Nazi treatment of their enemy forces could not have been stated more clearly than in a letter written February 28, 1942 by Rosenberg to Keitel. The letter stated, "The fate of the Soviet prisoners of war in Germany is on the contrary a tragedy of the greatest extent."[32] This letter Jackson submitted as evidence on behalf of the prosecution - a logical choice of evidence as well as a significant one.

The Prosecutor returned to the horrible crimes and the ruthless manner in which they were committed. He seemed to linger unnecessarily long on these matters. Although he occasionally commented on not going into detailed accounts, he did so frequently.

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[31] Ibid., p. 73.

[32] Ibid., p. 74.

His reasoning is obvious, merely for reenforcement and to point the most tragic of all portraits of the war. He also accused numerous defendants of specific crimes and supported his accusations with documents written by the defendants. Realizing this Jackson remarked:

> "I shall not go into further details of the war crimes and crimes against humanity committed by the Nazi ganster ring whose leaders are before you. It is not the purpose in my part of this case to deal with the individual crimes.... My task is only to show the scale on which these crimes occurred, and to show that these are the men who were in the responsible positions and who conceived the plan and design which renders them answerable, regardless of the fact that the plan was actually executed by others."[33]

This he accomplished and more.

With the chronological review finished Jackson then turned to the law of the case. He began by asking the question, "Is there no standard in the law for a deliberate and reasoned judgment on such conduct?"[34] He then proceeded to answer the question beginning with an explanation of the legal philosophy of the Charter of the tribunal. The Charter was not only an agreement by the four victorious nations, but of "twenty-one governments, representing an

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[33] Ibid., p. 79.

[34] Ibid., p. 80.

overwhelming majority of all civilized nations."[35] Jackson, along with his colleagues, also recognized that this "declaration of the law"[36] was not declared at the time the defendants enacted the crimes making the declaration somewhat of a shock to the defendants. He stated, however, that "their program defied all laws,"[37] and he cited statements and documents by the High Command and the defendants in which they openly stated that they were defying the law because it did not adhere to their purposes. These statements and documents were definitely helpful to the prosecution. The prosecution knew that anything it would say or accusations that it would make would only be valid if they could present concrete evidence to support them - and this they did.

Jackson went on to explain the counts of indictment which have already been listed at the beginning of this chapter.

The principle that war is unjust and illegal can be found in many documents, pacts, and agreements among nations. Some of these include such significant charters as the Briand-Kellogg Pact, 1928; the Geneva Protocal of 1924; the Eighth Assembly by the League of Nations in 1927; and the Sixth Pan American Conference of 1928.[38]

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[35] *Ibid.*

[36] *Ibid.*, p. 81.

[37] *Ibid.*

[38] *Ibid.*, p. 84.

All of the meetings recognized wars of aggression as an international crime. With such documents as these already established the Charter of the Tribunal was not creating a new law, but in actuality carrying out a law already adopted by the civilized nations. Once more Jackson's justification of the Tribunal was strengthened.

In the following section much of Jackson's own philosophy seeps through as he attempts to interpret and explain international law. He admitted that there was no judicial precedent for the Charter but that "he was not disturbed by the lack of judicial precedent for the injury [the prosecution proposed] to conduct."[39] He made these comments about international law to substantiate his lack of concern for judicial precedent.

> "International law... is an outgrowth of treaties and agreements between nations and of accepted customs... [It] is not capable of development by the normal processes of legislation for there is no continuing international legislative authority....It grows, as did the Common Law, through decisions reached from time to time in adapting settled principles to new situations. The fact is that when the law evolves by the case method...it advances at the expense of those who wrongly guessed the law and learned too late their error.... the events I have earlier recited clearly fall within the standards of crimes,... whose perpetrators this Tribunal is convened to judge and punish fittingly".[40]

Again more justification for his case.

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39 Ibid., p. 85.

40 Ibid.

Pointing out certain problems and weaknesses of the Charter, Jackson discussed its failure to define a war of aggression as a major oversight. For his definition of a war of aggression, Jackson used the Convention for the Definition of Aggression signed at London on July 3, 1933, one of the most authoritative sources of International Law on the subject. He listed the four acts of that definition and one of his own as the criteria for defining a war of aggression for the purposes of this case. He concluded the matter with this statement, "It is upon such an understanding of the law that our evidence of a conspiracy to provoke and wage an agressive war is prepared and presented."[41]

Another problem that Jackson felt could have prolonged the trial was that the position held by the Tribunal and the German state on the conditions causing the war differed. To avoid such a problem or extension of the trial he made clear the concern of the Tribunal. The cause of the war he said was for "history to unravel."[42] The concern of the prosecution was "that whatever grievances a nation may have... aggressive warfare is an illegal means of settling those grievances or for altering those conditions."[43]

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[41] Ibid, p. 87.

[42] Ibid.

[43] Ibid.

The Charter amidst its problems and weaknesses did recognize the law of individual responsibility. The individual responsibility was directed toward those who committed "acts defined as crimes, or who [incited] others to do so, or who [joined] a common plan with other persons, groups, or organizations to bring about their commission."[44] The Charter also stated that "one who has committed criminal acts may not take refuge in superior orders nor in the doctrine that his crimes were acts of states."[45] If this had been permissable all of the defendants could have used that doctrine. As in all events, however, the charter realized that under certain circumstances a person cannot be held responsible for his actions, but the defendants were not among those exceptions. All of the defendants had played major roles in the war and were responsible for their actions. To further justify the Tribunal making clear that their Charter was not solely created for this trial, but in effect a compilation of laws enforced by all the individual nations he remarked. "Every day in the courts of countries associated in this prosecution, men are convicted for acts that they did not personally commit but for which they were held responsible because of membership in illegal combinations or plans or conspiracies."[46]

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[44] Ibid., p. 88.

[45] Ibid.

[46] Ibid., p. 89.

Jackson also pointed out to the jury that by rendering a verdict of guilty against the organizations it "will render *prima facie* guilt for thousands upon thousands of members now in custody of the United States forces and other armies."[47]

The logical approach for Jackson to take in ending his opening address was to remind the bench how all that he had said was applicable to the case - and this he did. He completed the circle by returning to the Tribunal and its responsibility. The great importance and significance of the trial are stated throughout his address, but he felt it necessary to bring the matter to the bench's attention in his conclusion as well. He described the court as "the first court ever to undertake the difficult task of overcoming the confusion of many tongues and the conflicting concepts of just procedure among diverse systems of law, so as to reach a common judgment."[48]

In summing up Jackson intertwined emotion with logic and tried to make the United States appear more than fair in its participation. He pointed out that "the United States is perhaps in a position to be most dispassionate, for having sustained the least injury, it is the least animated by vengeance."[49] While the United States had

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[47] *Ibid.*, p. 91.

[48] *Ibid.*

[49] *Ibid.*

sustained the least injury it was acknowledged by Jackson that "twice in my lifetime, the United States has sent its young manhood across the Atlantic, drained its resources, and burdened itself with debt to help defeat Germany."[50] He contined, "the United States cannot, generation after generation, throw its youth or its resources onto the battlefields of Europe to redress the lack of balance between Germany's strength and that of her enemies, and to keep the battles from our shores."[51] The possibility that another such war could take place makes the importance of this trial even more significant. This was what Jackson wanted; not only for the judgments to be guilty for the defendants of this trial, but to remind others contemplating a similar war of aggression of the consequences that they too would have to face.

Although making this point Jackson was "aware of the weaknesses of juridical action alone to contend that in itself [the] decision under this Charter [cannot] prevent future wars."[52] There could only be hope that it would do so. His sense of fairness and equal justice for all was evident as he made clear to all concerned "that while this law first applied against German aggressors... and if it

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[50] Ibid., p. 92.

[51] Ibid.

[52] Ibid.

is to serve a useful purpose... must condemn aggression by any other nations, including those [who sat in judgment]."[53]

Jackson saw the trial as a representation of "mankind's desperate effort to apply the discipline of the law to statesmen who have used their powers of state to attack the foundations of the world's peace and to commit aggression against the rights of their neighbors."[54] He also envisioned the trial as a "part of the great effort to make the peace more secure."[55] These remarks would only be valid if the judgments reached were in favor of the prosecution.

A final appeal by Jackson was made in the name of Civilization. His concluding words were very powerful and moving, placing the case in the hands of the jury. All of his logic, justification, and significance were for the last time put into words: "Civilization ... does not expect that you can make war impossible. It does not expect that your juridical action will put the forces of International Law, its precepts, its prohibitions and, most of all, its sanctions, on the side of peace, so that men and women of good will in all countries may have leave to live by no man's leave, underneath the law."[56]

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[53] Ibid., p. 93.

[54] Ibid.

[55] Ibid.

[56] Ibid., p. 94.

In giving a final analysis the writer quotes Lord Shawcross, during the time of the Nuremberg (sic) Trial Lord Shawcross was known as Sir Hartley, the Chief British Prosecutor, who in commenting on Justice Jackson's Opening Address remarked, "None of the arts of the actor [were] here. This [was] no dramatic declamation, but calmly in words of dignity and authority the demand of a lawyer and statesman too that law and justice should in the end prevail."[57]

III. The Closing Address
July 26, 1946

July 26, 1946, Justice Robert H. Jackson delivered his closing address to the Nürnberg Tribunal at the Palace of Justice, Nürnberg, Germany. As in any closing statement, he summarized all that had taken place during the eight months of the trial.

Explaining what had taken place Jackson stated, "We have introduced evidence which embraces as vast and varied a panorama of events as ever has been compressed within the framework of a litigation."[58] With this statement he wanted to remind the Tribunal

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[57] Desmond, Freund, Stewart, and Shawcross, op. cit., p. 125.

[58] Jackson, The Nürnberg Case, p. 120.

that this was not an ordinary trial nor were the events leading to the trial ordinary ones. The recognition of these factors were most important to Justice Jackson's summation.

Jackson also recognized the limitations of his Closing Address. He remarked, "It is impossible in summation to do more than outline with bold strokes the vitals of this trial's mad and melancholy record, which will live as the historical text of the twentieth century's shame and depravity."[59] The jury had the facts and documents before them if needed Jackson's responsibility was not to recreate all that had happened, but to conclude the case for prosecution in this last appeal to the jury.

Throughout Jackson's Opening Address he had brought out the significance of the trial and the impact that it was to have on history. He too, in his Closing Address again commented on the trial's historical effect. Jackson had concluded his Opening Address with a plea for the rise of civilization and not its fall. He also opened his Closing Address with this same plea: "The deeds are the overshadowing historical facts by which generations to come will remember this decade. If we cannot eliminate the causes and prevent the repetition of these barbaric events, it is not an irresponsible

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59 Ibid.

prophecy to say that this twentieth century may yet succeed in bringing the doom of civilization."[60] Jackson saw that a long range effect of the trial had been to persuade the bench of its responsibility to posterity and to possible future trials of this kind.

Jackson felt it necessary to mention the law of the case in his summation, but only to mention it, not to dwell on the matter. He said, "I shall not labor the law of the case. The position of the United States was explained in my opening statement."[61] The main point that he did bring out, however, was that although the defendants had asked for the legal basis of the trial to be nullified this could not be adhered to because the Tribunal did not have the power to set aside or to modify the Agreement that had been made among the four victor nations and eighteen others.[62] One of the reasons for the defendants' plea for the denouncement of the law Jackson believed was based on the premise that any man who has been held accountable for a crime by the law does not have a good opinion of it. Germany had unconditionally surrendered and technically the Allies were still in a state of war with Germany. The Military Tribunal in effect was a continuation of the war effort

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[60] Ibid.

[61] Ibid., p. 121.

[62] Ibid.

by the Allied nations. As a result the "International Tribunal [was] not bound by the procedural and substantial refinements of our respective judicial and constitutional systems, nor [did] its rulings introduce precedents into any country's internal civil system of justice"[63]

The Charter itself was not the only significant accomplishment of the nations involved; Jackson called the International Military Tribunal a "unique and emergent character of this body" which should not be overlooked.[64] By drawing attention to this Jackson had placed the bulk of the responsibility of the proceedings on the Tribunal. He told the Tribunal that they must "[seek] guidance not only from the International Law but also from the basic principles of jurisprudence which are assumptions of civilization and which long have found embodiment in the codes of all nations."[65]

Referring to justice for the defendants, Jackson stated that, "History will know that whatever could be said, [the Nazis] were allowed to say. They have been given the kind of trial which they, in the days of their pomp and power, never gave to any man."[66] He tried to impress upon the Tribunal the significance of the power nations' quest for a fair trial for the defendants. He cited this

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[63] Ibid., p. 122.

[64] Ibid., p. 121.

[65] Ibid., p. 122

[66] Ibid.

greatness of the Four Powers to be one of the elements that made them great: "...fairness is not weakness. The extraordinary fairness of [the] hearings [was] an attribute of our strength."[67] He pointed out that even though the prosecution had given the defendants every possible opportunity to prove their innocence they were not able to do so. "The fact is," he had said, "that the testimony of the defendants has removed any doubts of guilt which...may have existed before they spoke."[68]

Because of the defendant's own testimonies and the conclusive evidence presented in the cases against them, the weight of passing judgment was made easier to bear for the Tribunal. Jackson remarked, "They have helped write their own judgment by condemnation."[69] The only reason the court had studied the Nazi war tactics was because "their creed and teachings [were] important only as evidence of motive, purpose, knowledge, and intent."[70] This study had been necessary in order for the prosecution to present to the Tribunal a clear cut case which could be proven, not only by the defendants' testimonies, but also by official documents and records.

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[67] Ibid.

[68] Ibid.

[69] Ibid.

[70] Ibid., p. 123.

An admitted weakness, as Jackson pointed out, was that the "world had failed to provide political or legal remedies which would be honorable and acceptible alternatives to war."[71] However strong this factor was it still did not excuse the Nazis of their crimes. Any civilized country should have been capable of using a more reasonable method for obtaining their goals than that of aggressive warfare he believed.

Jackson emphasized the fact that, "The United States [had] no interest which would be advanced by the conviction of any defendant if we have not proved him guilty on at least one of the counts charged against him in the Indictment."[72] He did not see an unjust verdict as a victory for the prosecution.

Lawyers often refer to their cases as an open and shut case. In the following statements of Jackson's address he found this to be such a case: "...in summation we now have before us the tested evidences of criminality and have heard the flimsy excuses and paltry evasions of the defendants. The suspended judgment with which we opened this case is no longer appropriate. The time has come for final judgment and if the case I present seems hard and uncompromising, it is because the evidence makes it so."[73] The writer reviewing the case also saw the case as 'open and shut' and agreed with Jackson.

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[71] Ibid.

[72] Ibid.

[73] Ibid.

Jackson's next step was to discuss the case impressively, but simply. He saw the specifics of the case as being "diplomacy, naval development and warfare, land warfare, the genesis of air warfare, the politics of the Nazi rise to power, the finance and economics of totalitarian war, sociology, penology, mass psychology, and mass pathology."[74] The discussion of these specifics he would leave "to experts to comb the evidence and write volumes on their specialties."[75] His intention in this section was to "picture in broad strokes the offenses whose acceptance as lawful would threaten the continuity of civilization."[76] Quoting Kipling he described his attempt as a "splash at a ten-league canvas with brushes of comet's hair."[77] Jackson's began with a diagram of the crimes of the Nazi regime. One significant point emphasized that the case was against the Nazi regime and not the German people as a whole. It included the Crimes of the Nazi Regime:

> The seizure of power and subjugation of Germany to a police state.
>
> The preparation and waging of wars of aggression.

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74 *Ibid.*, p. 124.

75 *Ibid.*

76 *Ibid.*

77 *Ibid.*

> The warfare in disregard of international law.
>
> The enslavement and plunder of populations in organized countries.
>
> The persecution and extermination of Jews and Christians.

Following this discussion Jackson went on to the central crimes; an admitted war of aggression:

> The war of aggression did take place.
>
> From the moment the Nazis came to power, every member had worked to prepare for war.

In outlining these crimes Jackson directed the court's attention to the defendants saying that "a glance over the dock will show that despite quarrels among themselves, each defendant played a part which fitted in with every other, and that all advanced the common plan."[78] Jackson followed with a brief run down on the defendants and their major involvement in the criminal events. This part of his Closing Address was primarily a review of the statements he had made in his opening remarks. By repeating them in the summation he hoped to refresh the jury's memory on the cruelty, injustice, and inhumane treatment administered by the defendants and the organizations on trial.

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[78] Ibid., p. 141.

Nearing the close of his address, Jackson found it necessary to examine the charges of responsibility against the defendants. He felt that these charges could be reviewed on the basis of common responsibility, not individual responsibility. The defendants' answers to these charges he listed as: 1) admission of limited responsibility; 2) putting the blame on others; and 3) admission of the crimes, but that there were no criminals.[79]

The defendants denied the charge of conspiracy stating that the Nazi plan was a common plan, not a conspiracy. Jackson pointed out, however, that "the Charter concept of a common plan really represents the conspiracy principle in an international context."[80] To contest this charge further, the defendants said that there was no conspiracy involving aggressive war for the following reasons:

> "1) none of the Nazis wanted war; 2) rearamament was only intended to provide the strength to make Germany's voice heard in the family of nations; and 3) the wars were not in fact aggressive wars but were defensive against a 'Bolshevik menace'."[81]

In proving that these statements were false Jackson referred to documents and testimonies by the defendants which did not back up their denial of conspiracy charges. Comments such as, "To be sure we were building guns. But not to shoot. They were only to

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[79] Ibid., p. 147.

[80] Ibid.

[81] Ibid., p. 148.

give us weight in negotiating."[82] were used. Logically, Jackson did not need to continue his defense on this charge - he had clearly proved their guilt.

The charge of waging an aggressive war was Jackson's next concern. The defendants had argued that the "wars were not aggressive and were only intended to protect Germany against some eventual danger from the 'menace of Communism'."[83] This Jackson turned their "argument of self-defense"[84] saying that certain "facts clearly established in the record"[85] made their argument invalid. He cited these facts as 1) the enormous and rapid German preparations for war; 2) the repeatedly avowed intentions of the German leaders to attack; and 3) the fact that a series of wars occurred in which German forces struck the first blow, without warning, across the borders of other nations.[86] Obviously, these facts aided the prosecution and Jackson proved guilt on the second charge. He said, "In all the documents which disclose the planning and rationalization of these attacks, not one sentence has been or can be cited to show a good-faith fear of attack."[87]

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[82] Ibid.

[83] Ibid., p. 149.

[84] Ibid.

[85] Ibid.

[86] Ibid.

[87] Ibid., p. 150.

The defense had tried to prove that the defendants had no alternatives to their actions because they were under the power and rule of a dictator. Jackson was quick in reacting on this point. He reminded the court that

> "the defendants may have become slaves of a dictator, but he was <u>their</u> dictator. To make him such was, as Göring [had] testified, the object of the Nazi movement from the beginning."[88]

Here again Jackson documented and proved the defendants' guilt.

For additional reenforcement Jackson asked to be allowed to "turn devil's advocate"[89] for a moment. He said,

> "I admit that Hitler was the chief villain. But for the defendants to put all blame on him is neither manly nor true. We know that even the head of state has the same limits to his senses and to the hours of his day as do lesser men. He must rely on others to be his eyes and ears as to most that goes on in a great empire. Other legs must run his errands; other hands must execute his plans. On whom did Hitler rely more than upon these men in the dock?"[90]

With this question he encompassed the whole of the trail and placed the answer directly in the hands of the jury.

The worth of the defendants' testimonies was also questioned by Jackson. He drew attention to contradictory remarks in their

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[88] <u>Ibid.</u>, p. 152.

[89] <u>Ibid.</u>, p. 160.

[90] <u>Ibid.</u>

individual testimonies which discredited their validity and importance. "We have presented to this Tribunal an affirmative case based on incriminating documents which are sufficient... to require a finding of guilt on count one against each defendant,"[91] he said.

Jackson concluded,

> "In opening this case I ventured to predict that there would be no serious denial that the crimes charged were committed and that the issue would concern the responsibility of particular defendants."[92] "The defendants now ask this Tribunal," be continued, "to say that they are not guilty of planning, executing, or conspiring to commit this long list of crimes and wrongs.... If you were to say of these men that they are not guilty, it would be as true to say there has been no war, there are no slain, there has been no crime."[93]

His responsibility had been fulfilled and his commitment to the Nürnberg trial had ended.

Returning to Lord Shawcross' lecture on Jackson during the Nürnberg trial, he also referred to the Closing Address. Lord Shawcross remarked,

> "It was not a long speech. It was a speech illuminated by humanity, clearly and vividly illustrating the crimes that had been committed, the rule of law which was to be vindicated. It was a speech that no one who heard it will forget: a speech which future historians and statesmen would do well to remember."[94]

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[91] Ibid., The Nürnberg Case, p. 161.

[92] Ibid., p. 151.

[93] Ibid., p. 163.

[94] Desmond, Freund, Stewart, and Shawcross, op. cit., p. 130.

CHAPTER V

SUMMARY AND CONCLUSION

Justice Jackson once wrote, "The hard months at Nuremberg (sic.) were well spent in the most important, enduring and constructive work of my life."[1] In the pages of history, Jackson wanted to be remembered most for the important part he played in the Nürnberg trial. Perhaps many of his Supreme Court decisions were more significant in shaping our nation's laws, but his remarkable contributions to the establishment of an international system of law certainly was his greatest accomplishment.

In October 1941, while the United States claimed neutrality, President Roosevelt stated, "One day a frightful retribution would be exacted."[2] Again in August 1942 Roosevelt "warned the Axis Powers that 'the time will come when they will have to stand in the Courts of Law in the very countries they were oppressing and answer for their acts.'"[3] These early remarks of President Roosevelt and first thoughts of a judicial trial were proposed long before other countries had even considered such actions and also before Justice Robert H. Jackson became involved. Once the proposal had officially

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1 Desmond, Freund, Stewart, and Shawcross, op. cit., p. 90.

2 _Ibid._, p. 91.

3 _Ibid._, p. 92.

been made and other countries had accepted it, the organization of an International Military Tribunal began. It was with this beginning that "its fulfillment and success depended more upon the wisdom, the vision, the organizational capacity, and the leadership of Justice Jackson than upon anything else."[4] Finally on August 8, 1945, the "Agreement and Charter of the International Tribunal was duly signed. As Mr. Francis Biddle later wrote: 'Robert Jackson's tireless energy and skill had finally brought the four nations together-a really extraordinary feat.'"[5]

Jackson's predominate concern was to prove the guilt of the defendants on the charges of "violation of the laws of legitimate warfare, waging a war of aggression, and crimes against humanity."[6] This he wanted to achieve by presenting sound evidence and reasoning to confirm the defendants guilt. His presentation of concrete evidence - documents, records, films, photographs, and witnesses - was quite impressive. As for his reasoning he used for the most part, the inductive method: "A result of [the speaker's] observation of specific instances or concrete facts... [formulating] a general conclusion or principle deriving from observed data."[7] To establish

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[4] Ibid., p. 91.

[5] Ibid., p. 114.

[6] New Republic, "To the Nuremberg Court", Robert H. Jackson, August 26, 1946, p. 232-33.

[7] Thonssen and Baird, op. cit., p. 348.

the general guilt of the defendants and organizations on trial Jackson had pointed out specific discrepancies in their testimonies, official orders and personal letters written by them to determine their guilt. His use of inductive reasoning was most **effective** and did accomplish his objectives.

Although Jackson's major achievement, the organization and outcome of the trial as a whole, was successful, some of his minor attempts were not. Many have criticized Jackson for particular incidents that occurred during the trial. "Jackson was not immune from the human frailties we all possess," stated Lord Shawcross, "Sometimes he was impatient, occasionally he was irritable."[8] Mr. Justice Birkett felt that at times Jackson was "inclined to be pompous or even vain."[9]

Probably Jackson's most unsuccessful moments of the trial came during his cross-examination of Goering. "Your prosecutor Jackson is certainly a brillant cross-examiner. Even when he is not sure what he will find, he beats on the bush to see if a rabbit jumps out - and sometimes it does,"[10] Schacht had remarked. To this Goering had replied, "Wait until he starts on me - he won't have any nervous [person] to deal with."[11] "Goering himself was a remarkable man. A

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[8] Desmond, Freund, Stewart, and Shawcross, op. cit., p. 125.

[9] Ibid.

[10] Leonard Mosley, The Reich Marshall: A Biography of Herman Goering, (New York: Dell Publishing Company, Inc., 1975), p. 410.

[11] Ibid.

criminal no doubt," said Lord Shawcross,

> "But a courageous one, a man of great ability and of outstanding personality. One felt of him that in some respects his personality could dominate the whole proceedings if he sought to make it so.... This was a man to be cross-examined in one way only - by following the first axiom of cross-examination in a criminal trial, which is never to ask a question without knowing that there is only one inescapable answer to be given to it - usually a 'yes' or a 'no', and by that process to lead the witness up to the last fatal but inescapable response."[12]

This approach Jackson did not use, however, "His forte was, rather, advocacy and argument."[13] Shawcross cited Jackson's lack of success as due to his intellectual honesty: "His whole case was to expose the evil philosophies with which the Nazis had sought to dominate the world: this inevitably involved him in putting matters of opinion and in an argumentative rather than a factual exchange."[14] Jackson's failure, perhaps, was not entirely his fault but also that of the Tribunal in allowing Goering to make long statements in response to Jackson's questions and not intervening when the situation developed and retaining control of the proceedings.[15] As a result, the British team had "spent the night digging up documents signed by Goering

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[12] Desmond, Freund, Stewart, and Shawcross, op. cit., p. 125-26.

[13] Ibid., p. 126.

[14] Ibid., p. 127.

[15] Ibid.

personally showing him to be a...bandit and a thug."[16]

On the other hand, not all the comments about Jackson were negative. Sir Elwyn Jones, Attorney-General of England, said that "Jackson was the real driving force that by sheer energy and will got Nuremberg (sic) under way."[17] Another English Judge has written,

> "One of the very nice things about Jackson was his friendliness to all the lesser lights...and the other junior members of the British delegation. He was always approachable and ready to help if he could."[18]

The criticisms of the trial were not all directed toward Jackson. The trial itself has been criticized by many and the historical value of the trial has been questioned. "We must never forget," Jackson had said in his Opening Address, "that the record on which we judge these defendants today is the record on which history will judge us tomorrow."[19] Tomorrow has come and some of the judgments that have been made are not favorable. George Bailey has written,

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[16] Ibid.

[17] Ibid, p. 128.

[18] Ibid.

[19] Jackson, The Nürnberg Case, p. 33-34.

"In destroying the German state by refusing to recognize the authority of the German law the victors at Nuremberg (sic) undermined the concept of the state in breaching its defined local authority by proclaiming a higher responsibility to an abstraction called 'international law'.... I am not a historian but in the course of my general reading I have yet to encounter a spectacle of slovenly thinking on the part of professional intellects comparable to that of the prosecution of Nuremberg (sic) ..."[20]

Hans Fritzsche remarked,

"A trial of war-guilt and atrocities at the end of a long conflict may perhaps, in the abstract, be considered a good thing. One may welcome the effort to establish a supreme international tribunal charged with the duty of seeing right is done and pronouncing from aloft a New Law for the peoples of the world.... But Nuremberg (sic) failed to live up to such lofty aims; there the victors uttered the anathema only against the vanquished. They sought to establish the guilt of various Germans, even of the entire German people; but would break off a hearing whenever they saw that the deeds of the Allies might be measured by the same yard-stick as those of the defeated. Yet the gravest failing of the Nuremberg (sic) trial is this: it failed to transcend the guilt of individuals and reach the deeper causes of disaster."[21]

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[20] Bailey, op. cit., p. 102-103.

[21] Fritzche, op. cit., p. 334-335.

Joe Heydecker and Johannes Leeb ended their account of the Nürnberg trial with this statement: "Somehow the men and events of 1946 have become incredibly remote."[22]

Lord Shawcross reflected,

> "Looking back now, over twenty years later at a world still torn with lawlessness and war, I cannot pretend that the trial has so far had the effect on the course of history for which we had hoped. It is a matter of bitter disappointment, indeed of shame, in which perhaps we all must share."[23]

Even though Lord Shawcross had recognized the weaknesses of the trial he concluded,

> "The Nuremberg (sic) judgment still stands as a clear statement of the law of Nations. If in the end mankind is to survive at all its principles must prevail."[24]

Just as Lord Shawcross pointed out the strengths, as well as the weaknesses of the trial, so did others. The criticisms of the trial appeared to be more plentiful from the Germans and German sympathizers. The praises came from historians, newsmen, and professionals, etc. Major H. R. Trevor-Roper, a British Intelligence Officer in charge of the investigation into the truth of Hitler's death, stated from London by wireless to the New York Times,

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[22] Heydecker and Leeb, op. cit., p. 388.

[23] Desmond, Freund, Stewart, and Shawcross, op. cit., p. 135.

[24] Ibid., p. 136.

> "What will history say to these trials?... No such court has been so universally recognized or its prestige so successfully maintained... Had it not been for this exposure [of the most private documents and most secret archives] it would have been possible for a new German movement in ten year's time to maintain that the worst of Nazi crimes were Allied propaganda easily invented in the hour of such total victory. That is now impossible."[25]

Justice Jackson himself said,

> "The Nuremberg (sic) trial of the Nazi war criminals [proved] that always it is worthwhile to give men a hearing... Another lesson of the Nuremberg (sic) trial is that captives can be given a dispassionate hearing even in the immediate aftermath of war."[26]

The opinions of these men and countless others have been recorded; their validity is still to be tested. Obviously history has been affected by the Nürnberg trial and its impact has carried with it certain contributions as well as certain pitfalls. After thirty years, however, the full impact of the trial is perhaps not distant when its significance and permanent mark on history will be tested.

In the writer's evaluation of Jackson's Opening and Closing Address two factors were considered: What was Jackson attempting to do and was he successful in his attempt and in keeping with his background and legal philosophy? First, what was Jackson attempting

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[25] New York Times Magazine, "The Lasting Effects of the Nuremberg Trial," Major H. R. Trevor-Roper, October 20, 1946, p. 51.

[26] New York Times Magazine, "Justice Jackson Weighs Nuremberg's Lesson," Robert H. Jackson, June 16, 1946, p. 12.

to do? Jackson stated in his Opening Address, "My task is only to show the scale on which these crimes occurred, and to show that these are the men who were in the responsible positions and who conceived the plan and design which renders them answerable, regardless of the fact that the plan was actually executed by others."[27] The writer believes that Jackson, through his presentation of evidence and inductive reasoning found in both his speeches, made a skillful and logically reasoned case. Jackson spoke simply and directly to the bench. He made his speeches easy to follow by using such methods as topical-chronological order and a listing of facts and reasons. The use of these methods also aided Jackson because he was able to lead the jury through an historical narrative of the war detailing the war crimes and describing the horrible events that took place. On the otherhand, his speeches were lengthy and could have been condensed. He was repetitious in parts and appears to have lingered much too long on certain issues. This Jackson did for reenforcement, but the arguments were well stated and did not require any added rhetoric to drive home the point. Overall, Jackson's speeches were impressive and very powerful. They were most instrumental in determining the outcome of the trial. Speer had described Jackson's Opening Address as "grand" and "devastating."[28] Lord Birkett

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[27] Jackson, The Nürnberg Case, p. 79.

[28] Speer, op. cit., p. 513.

commented on Jackson's advocacy of the trial,

> "In the court itself, sitting as I did on the Bench day by day, I had the opportunity of seeing a superb exhibition of advocacy, notably in the opening speech when he outlined the case for the prosecution in most memorable and striking language, and in the closing speech when, after many, many months of evidence, he made the most masterly summing-up of [the case]. The two speeches have been singled out by lawyers all over the world as supreme examples of advocacy... One of the marks of the highest advocacy has always been the ability to make an orderly presentation to the court of the most complicated facts, but it is safe to say that never in the history of criminal trials was so complicated a case ever set before counsel, and never did any counsel emerge from it so triumphantly. These two great speeches, in my opinion, are the superb triumphs of his days at Nuremberg (sic)."[29]

As for consistency in his work at Nürnberg and his earlier work, Jackson's ideas and philosophies remained the same. He had always upheld justice and the idea of everyman's right to a trial by jury. He had assessed the alternatives which were: to free the prisoners, or to turn them over the the German law, or to turn them over to the individual countries knowing that Great Britain and the Soviet Union would shoot them without a trial, or to hold an international trial.

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[29] Desmond, Freund, Stewart, and Shawcross, op. cit., p. 88-89.

To Jackson the only logical and justifiable alternative was to hold an international trial. There was no indication or evidence anywhere to show that Jackson supported the idea of withholding justice. Jackson had remarked, "Despite the fact that public opinion already condemns their acts, we agree that here they must be given a presumption of innocence, and we accept the burden of proving criminal acts and the responsibility of these defendants for their commission."[30]

An important observation concerning Jackson's struggle for fairness was that many did not see it as a struggle for fairness, but one of injustice. Leonard Mosley had felt that it was a forgone conclusion that the Tribunal had found the defendants guilty even before the trial began.[31] In Jackson's favor, however, was the fact that three of the defendants were acquitted and that others were only given prison sentences. The following is a list of the defendants and their sentences:

Herman Goering	Hanging
Rudolf Hess	Life
Martin Bormann	Hanging
Joachim von Ribbentrop	Hanging
Wilhelm Keitel	Hanging
Ernst Kattenbrunner	Hanging
Alfred Rosenberg	Hanging
Hans Frank	Hanging
Wilhelm Frich	Hanging
Julius Streicher	Hanging
Walthar Funk	Life
Hjalmar Schacht	Acquitted

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[30] Jackson, The Nürnberg Case, p. 34-35.

[31] Mosley, op. cit., p. 432-433.

Karl Doenitz	10 years
Erich Ralder	Life
Baldur von Schirach	20 years
Fritz Sauckel	Hanging
Alfred Jodl	Hanging
Franz von Papen	Acquitted
Arthur Seyss-Inquart	Hanging
Albert Speer	20 years
Constantin von Neurath	15 years
Hans Fritzche	Acquitted [31]

Note: Goering committed suicide by poison.

Edward A. Parry, speaking of lawyers, said, "the great lawyer is like the accomplished actor; both occupy the stage for a brief moment, win applause, and then make their last bow before the curtain falls."[32] Robert H. Jackson fits this description of a great lawyer: he occupied the stage at Nürnberg for a time, won the applause of much of the civilized world, and after some 200 performances made his final appeal to the court. Unlike the actor's performance, however, it will take decades and perhaps the aftermath of another global confrontation before the significance of Justice Jackson's performance can be evaluated in its entirety.

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[31] Jackson, The Nürnberg Case, p. xii-xiii.

[32] Thonssen and Baird, op. cit., p. 333.

BIBLIOGRAPHY

BIBLIOGRAPHY

Aristotle. The Rhetoric of Aristotle. trans. Lane Cooper. New York: Appleton Century-Crofts Inc., 1960.

Bailey, George. Germans. Cleveland, Ohio: The World Publishing Company, 1972.

Benton, Wilbourn E. Nuremberg: German Views of the War Trials. Dallas: Southern Methodist University Press, 1955.

Davidson, Eugene. The Death and Life of Germany. New York: Alfred A. Knopf Inc., 1959.

Davidson, Eugene. The Trial of the Germans. New York: The Macmillan Company, 1966.

Desmond, Charles S.; Freund, Paul A.; Stewart, Potter; and Shawcross, Lord. Mr. Justice Jackson: Four Lectures in His Honor. New York: Columbia University Press, 1969.

Doenitz, Admiral Karl. Memoirs: Ten Years and Twenty Days. Cleveland, Ohio: The World Publishing Company, 1959.

Freidin, Seymour, and Bailey, George. The Experts. New York: The Macmillan Company, 1968.

Fritzche, Hans. The Sword in the Scales. London: Allan Wingate Limited, 1953.

Heydecker, Joe J., and Leeb, Johannes. The Nuremberg Trial. Cleveland, Ohio: The World Publishing Company, 1962.

Jackson, Robert H. The Nürnberg Case. New York: Cooper Square Publishers Inc., 1971.

Jackson, Robert H. The Struggle for Judicial Supremacy. New York: Vintage Books, published by Random House, 1941.

Mosley, Leonard. The Reich Marshal: A Biography of Hermann Goering. New York: Dell Publishing Company, Inc., 1975.

Schubert, Glendon. Dispassionate Justice: A Synthesis of the Judicial Opinions of Robert H. Jackson. Indianapolis: Bobbs-Merill Company Inc., 1969.

Scott, Robert L., and Brock, Bernard L. Methods of Rhetorical Criticism. New York: Harper and Row Publishers, 1972.

Shirer, William L. The Rise and Fall of the Third Reich: A History of Nazi Germany. New York: Simon and Schuster Inc., 1960.

Speer, Albert. Inside the Third Reich. New York: The Macmillan Company, 1970.

Steinert, Marlis G. 23 Days: The Final Collapse of Nazi Germany. New York: Walker and Company, 1969.

Thonssen, Lester, and Baird, A. Craig. Speech Criticism. New York: The Ronald Press Company, 1948.

Truman, Harry S. Memoirs. Kansas City Edition, Garden City, New York: Doubleday and Company Inc., 1956.

Vogt, Hannah. The Burden of Guilt. New York: Oxford University Press Inc., 1964.

Woetzel, Robert K. The Nuremberg Trial in International Law. London: Stevens and Sons Limited, 1960.

B. Periodicals

Croft, Albert J. "The Functions of Rhetorical Criticism," Quarterly Journal of Speech, XLII (Oct., 1956), 283-291.

Nilson, Thomas R. "Interpretive Function of the Critic," Western Speech, XXI (Spring, 1957), 70-76.

Wrage, Ernest J. "Public Address: A Study in Social and Intellectual History," Quarterly Journal of Speech, XXXIII, 451-457.

C. Miscellaneous

The Encyclopaedia Britannica, 11th Edition (New York: The Encyclopaedia Britannica Company, 1910), p.19.

"Justice Jackson Weighs Nuremberg's Lesson", New York Times Magazine, (June 16, 1946), 12-60.

"The Lasting Effects of the Nuremberg Trial," New York Times Magazine, (October 20, 1946), 15-52.

"To the Nuremberg Court", New Republic, (August 26, 1946), 232-233.

"Trial of War Criminals", Department of State Publication 2420, United States Government Printing Office, Washington, D.C. 1945.

APPENDIX

Definition of Terms

Briand-Kellogg Pact of 1928 - A pact by which Germany, Italy, and Japan, in common with practically all the nations of the world, renounced war as an instrument of national policy, bound themselves to seek the settlement of disputes only by pacific means, and condemned recourse to war for the solution of international controversies.

"Case Barbarossa" - The code name for the invasion of Russia.

Case Method - A detailed analysis of an individual or group, especially as an exemplary model of medical, psychological, or social phenomena.

Commando Order - An order by Hitler October 18, 1942, demanding the extermination of captured Allied commandos.

Commissar - A deputy commissionar in charge of political indoctrination and the enforcement of party loyalty.

Common Law - The system of laws originated and developed in England, based on court decision, and on customs and usages, rather than on codified written laws.

Covention for the Definition of Aggression in 1933 - The definition was signed at London on July 3, 1933, by Rumania, Estonia, Latavia, Poland, Turkey, The Soviet Union, Persia, Afghanistan It was one of the most authoritative sources on International Law.

Der Sicherheitsdienst (SD) - The Secret State Security Service.

Deutsche Arbeitsfront - The German Labor Front, a Nazi controlled labor bureau, directed by Robert Ley to teach the Nazi philosophy to German workers and to weed out from industrial employment all who were from industrial employment all who were backward in their lessons.

Die Geheime Staatspolizei (Gestapo) - The Secret State Police.

Die Schutzstaffeln (SS) - The Leadership Corps of the Nazi Party.

Die Sturmabteilungen (SA) - The Nationalist Socialist Assault Troops, known as the "brownshirts".

Eighth Assembly by the League of Nations in 1927 - A resolution by the representatives of forty-eight member nations, including Germany, declaring that a war of aggression constituted an international crime.

Geneva Protocal of 1924 - The protocal was for the Pacific Settlement of International Disputes and signed by the representatives of forty-eight governments. It declared that a war of aggression constituted an international crime.

Hague Convention - An agreement which forbade the attacking of a ship without warning and the use of prisoners of war in armament factories or any labor connected with the fighting.

Nacht und Nebel - German for 'Night and Fog' referring to the secret removal of Jews and other political suspects during the night leaving no word of their whereabouts.

Nürnberg Decrees - Ordered on September 5, 1935, deprived the Jews of German citizenship, confining them to the status of "subjects."

Sixth Pan-American Conference of 1928 - The twenty-one American Republics unanimously adopted a resolution stating that a war of aggression constitutes an international crime against the human species.