umber 2's cell door is opened. Its occupant's name is called by the American guard. The chief jailer again announces the sentence, "Death by hanging." "Tod durch den Strang," the German interpreter repeats. The cell's occupant should have been second. Now number 1 was dead, a suicide after swallowing a cyanide capsule right under the noses of the American jailers. Number 2 was now number 1.

Handcuffed, an American soldier on each side, number 2 is led down the cell block and into the transformed gymnasium. There, before him, are three newly built gallows, each painted black. He is again asked his name. "Joachim von Ribbentrop," he replies, and he is led up the symbolic 13 steps. Asked if he has any last words, he asks that Germany be forgiven and that East and West live in harmony.

The executioner, an Army sergeant from Texas, places the noose around the neck of Adolf Hitler’s foreign minister. It is a few minutes after one in the morning, October 16, 1946. The trapdoor springs open. Joachim von Ribbentrop is dead.

Within the next two hours, nine other high-ranking Nazi leaders will follow. The order of execution follows the order of the prosecution’s case against the condemned men. All had been convicted and sentenced to death by hanging by an international court.

Their bodies, along with that of number 1, Hermann Göring, former chief of the Luftwaffe and Hitler’s onetime designated successor, are photographed and then taken to Dachau for cremation. The bodies are cremated in the very ovens that the men’s own minions had used for the disposal of their victims.

The ashes are scattered in a small stream near Munich, the city where, more than 20 years earlier, the Nazi movement had begun.

Today, the significance of what happened at Nuremberg is lost to many. The Nuremberg trial and verdict were, as the United States’ chief prosecutor, Supreme Court Justice Robert H. Jackson, described it, “the world’s first post-mortem examination of a totalitarian regime.” For the Nazi leadership, it was the final act of the war. It also set the stage for the trials of the Japanese leaders that would take place in Tokyo and the trials of hundreds of lesser war criminals throughout the world.

The Nuremberg trial is often considered to be either an aberration in the history of war or simply another example of “victor’s justice.” Neither characterization is accurate. Violations of the law of war had been prosecuted for hundreds of years. All armies punished their own soldiers for violations. A war’s winners often took action against its losers.

For example, Napoleon, after Waterloo, was ordered into exile by his enemies. He died while in exile. That those responsible for World War II and the deliberate deaths of millions should be punished seemed elementary to the Allied governments. Yet, determining how that punishment would be meted out was not so elementary.

At the close of World War I, the Allies had demanded that German war criminals be turned over to them for trial. After much discussion, the German government refused and offered to try the criminals in German courts. A few were tried and, if convicted at all, given light sentences. The World War II Allies determined that, at the conclusion of this war, Germany would not be given an option. War criminals would be tried and by the Allies.

The Allies had made clear their intent to punish the top leaders of Germany in the “Declaration on German Atrocities,” issued at the Moscow Conference in November 1943. The declaration provided that the major Nazi criminals would be punished by “joint decision” of the Allies.

There was no requirement that the joint decision be the result of a formal trial. With the publication of the Moscow declaration, the Nazi leadership was put on notice that individuals who failed to follow the accepted rules of warfare would be held criminally responsible and that the Nazis at the highest echelons of the Reich would be responsible for the actions of their subordinates.

After the surrender of Germany, the need to establish a formal mechanism for the punishment of the major war criminals became more pressing. In London, on August 8, 1945, representatives of the United States, Great Britain, France and the Soviet Union signed an agreement establishing the International Military Tribunal, which would sit in judgment of the Nazi leadership.

Each of the four signatories would provide a judge and

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an alternate judge, as well as a chief prosecutor. President Harry S. Truman appointed Francis J. Biddle, a former attorney general of the United States, as the American judge. John J. Parker, a North Carolinian and judge on the Fourth Circuit Court of Appeals, was appointed as the alternate U.S. judge. Justice Jackson agreed to serve as the chief prosecutor.

The agreement signed in London served as the charter for the tribunal. In it were descriptions of the crimes over which the tribunal would exercise jurisdiction, including "crimes against peace," "war crimes" and "crimes against humanity." In addition, conspiracy to commit any of these crimes was also within the tribunal's jurisdiction. An indictment was prepared for each of the defendants based on the collective investigative efforts of the chief prosecutors and their staffs.

Nuremberg was chosen as the site of the trial because its Palace of Justice had survived the war with less than total destruction, the city had been a hotbed of early Nazi activity and because it was in the American occupation zone where adequate logistical support for the tribunal would be assured.

The tribunal first met publicly in Berlin on the morning of October 18, 1945, and moved to Nuremberg that same afternoon. At the first meeting, the indictment was presented to the tribunal. Twenty-four high-ranking Nazis were named in the four-count indictment, though not all were charged with all four counts.

These 24 had previously been selected by the four prosecutors from a list of more than 100 possible defendants. Those chosen for the dubious honor of being tried before an international court had generally been prominent in the Nazi Party or in the German government, and most had participated in internal government conferences in which German policy was formulated. Hitler was not listed in the indictment, the western Allies having accepted the Soviet affirmation of the discovery of his body in his Berlin bunker.

Hermann Göring, as Hitler's main deputy for much of the 12 years of the "Thousand-Year Reich," was the key defendant. He had surrendered to the commander of the American 36th Infantry Division on May 7, apparently believing that he would immediately be taken to General of the Army Dwight D. Eisenhower's headquarters as a representative of the German military establishment.

In his entourage when he presented himself to the division commander were his military aides, members of his family and his kitchen staff. Taken shortly thereafter to Seventh Army headquarters, he met its commander, Lt. Gen. Alexander M. Patch, who directed that Göring turn over his marshal's baton. Göring refused and protested that the baton was his symbol of authority. Gen. Patch replied, "You have no more authority!" Göring would be treated as a suspected criminal, not simply another prisoner of war. He was not so much "captured" as he was "arrested."

Over the next few weeks, other Nazi leaders were taken into custody. Some were captured while posing as low-ranking soldiers or civilians; others simply gave themselves up. In addition to Göring and von Ribbentrop, the other indicted defendants were Robert Ley, labor boss; Field Marshal Wilhelm Keitel, chief of staff of the High Command; Ernst Kaltenbrunner, second to Heinrich Himmler in the SS; Alfred Rosenberg, who had directed Nazi activities in the occupied Eastern territories and had been a major theoretician for the party; Hans Frank, Hitler's lawyer and later governor general of occupied Poland; Wilhelm Frick, interior minister; Julius Streicher, a party official and newspaper publisher responsible for much of the party's anti-Semitic rhetoric; Walther Funk, head of the Reichsbank; Hjalmar H. G. Schacht, prewar head of the Reichsbank; Adm. Karl Dönitz, head of the navy and Hitler's successor as head of state; Adm. Erich Raeder, German navy head until January 1943; Fritz Sauckel, head of the slave labor program; Col. Gen. Alfred Jodl, chief of Wehrmacht operations; Martin Bormann, Hitler's deputy in the party, who was not yet in Allied custody; Franz von Papen, Hitler's predecessor as chancellor and briefly vice-chancellor in Hitler's cabinet; Artur Seyss-Inquart, commissioner of the occupied Netherlands; Albert Speer, Hitler's favorite architect and minister of armaments; and Konstantin von Neurath, a former foreign minister. Von Neurath was the only defendant held by the French.

Also added to the list, as a representative of German industry, was 75-year-old Gustav Krupp, head of the Krupp Munitions firm. Rudolf Hess, Bormann's predecessor as deputy party leader and the second defendant named in the indictment, was brought to Germany from Great Britain, where he had been since his "peace mission" flight in a stolen Messerschmitt from Germany to Britain in 1942. He would join his fellow Nazis in Nuremberg before the trial began.

Two comparatively minor officials were also taken into custody. The first, Hans Fritzschke, had been a prominent radio newscaster in the propaganda ministry and had the bad luck, along with 70-year-old Adm. Raeder, to have been captured by the Soviets.

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The Soviets insisted that Frtsche be added to the list. After all, his boss, Joseph Goebbels, the minister of propaganda, was not available. He had committed suicide in Hitler’s bunker as the Soviets entered Berlin. And producing two defendants for trial would enhance the Soviets’ right to sit as judges and participate in the prosecution. It would also give them an opportunity to produce twice as many defendants as the French.

The second minor official, Baldur von Schirach, had been the head of the Hitler Youth. The British pushed his inclusion even though he had played no significant part in the formulation of German policy. The British argued that his indoctrination of German youth in the philosophy of the party made him as culpable as the others and, therefore, a candidate for a seat in the defendant's dock. Von Schirach seemed to agree when he testified at the trial, “It is my guilt that I educated the German youth for a man who committed murders a millionfold.” He was sentenced to 20 years in prison.

The indictment also declared that six Nazi organizations, including the SS, the Gestapo and the prewar SA, were criminal in nature. The prosecution hoped to establish the criminality of the six organizations in the international proceedings. Once the criminal nature of the organization had been proven and judicially accepted, individual members could be more expeditiously tried in follow-on trials to be held in the military courts of the Allies. In the prosecution’s mind, membership alone would be an indication of guilt.

More than 250 reporters from around the world were present when the defendants were brought into the courtroom on November 20, 1945, for the start of the prosecution’s case. Each defendant was dressed in clothing issued by the captors. The military men were dressed in German uniforms with the insignia of rank removed; the civilians were in suits and ties. Each had been issued shoes for the trial; the shoelaces were removed when the defendants were returned to their cells.

They were seated in two rows; the order of seating followed the listing in the indictment. The listing in the indictment was based on one’s position in the Nazi regime, with those who actually participated in planning the war given precedence over those who were merely accused of carrying out those plans. Thus, Göring was first, Hess second, then Ribbentrop and so on through Frtsche.

The defendants were formally informed of the charges against them as the prosecutors began reading the 44-page indictment. It is doubtful that any defendant was surprised. They had been interrogated for months by their captors and by the prosecution staffs. All had previously seen the indictment. Not one displayed an obvious reaction to the charges; a few dozed off under the intense heat of the camera lights.

One of the first issues to be taken up by the tribunal was that of the mental and physical competence to stand trial of several of the indicted individuals. The tribunal eventually determined that Gustav Krupp was too sick to be tried; that Rudolf Hess, Hitler’s apparently mentally unstable defector, was not too mentally ill to be tried; that Julius Streicher was also mentally capable of standing trial; and that Martin Bormann, Hitler’s deputy, could be tried in absentia.

Robert Ley, in the words of the official report, “succeeded in accomplishing his exit from the court of judgment, and from the world of living men.” He committed suicide (by hanging himself) just after the trial began, so 21 Nazis sat in the dock for the trial.

After the formal reading of the indictment, each of the defendants was required to enter a plea, either guilty or not guilty. Göring as the ranking defendant went first and immediately attempted to read a prepared political statement challenging the right of the Allies to sit in judgment of the defendants.

The court quickly stopped him and directed that he answer the charges, either guilty or not guilty. “Im sinne der Anklage, nicht schuldig!” he forcefully replied. “In the sense of the indictment, not guilty!” German defendants in later war crimes trials sometimes mimicked Göring’s wording.

A view of the prison exercise yard at Nuremberg with the prison at rear.
Hermann Göring listens to a translation through head-phones as the lengthy trial progresses. He was sentenced to death by hanging but committed suicide in his jail cell before his sentence could be carried out.

when called on to enter a plea.

Hess, still seemingly mentally unstable, was the next to be asked for his plea. "Nein," he replied. The court took that as a plea of not guilty. In turn, each of the other defendants followed. All pleaded not guilty.

Justice Jackson began the presentation of the prosecution's case on November 21, 1945. Jackson explained the need for the trial by saying, "The wrongs 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."

Everyone listened attentively as Jackson outlined the evidence that would be offered by the prosecution. The first count, to be presented by the Americans, alleged a conspiracy to commit the crimes. Each of the defendants was charged with participating in the conspiracy. Because the Americans presented their case first and the conspiracy charge basically enveloped all the other charges, the American approach to the evidence and the tribunal's reaction to it became the model.

The British presented the evidence to support the second count that alleged a violation of international law by planning, preparing, launching and waging a war of aggression. The French were responsible for the third and fourth counts. The third count charged violations of the law of war. The fourth count charged that the actions of the Nazis within Germany that had been committed against German nationals constituted crimes against humanity. The Soviets were responsible for presenting evidence of war crimes committed on the Eastern Front. During the trial, the presentation of evidence on the various counts tended to overlap. The four prosecutors often repeated evidence previously presented by one of their colleagues.

The case was an organizational nightmare for the American support personnel. Every document had to be translated into English, French, Russian and German. The oral testimony of the witnesses had to be simultaneously translated for the benefit of the defendants and the court officials.

Consecutive translation into four languages would have meant a trial of several years duration. IBM designed a communications system to accomplish simultaneous translation of the oral testimony. The system was largely experi-mental. It worked well, and the trial proceeded fairly efficiently.

The prosecution's case took three months to present and involved 33 witnesses. The defense case lasted five months and included 80 witnesses. Nineteen of the defendants testified in their own defense. Hess and Frank did not testify. Each of the defendants had a German defense counsel, and each counsel could object to evidence presented by other defendants.

Much of the prosecution's case was based on documents captured from the Germans. The quick collapse of the German military meant that there had been little time to destroy secret state papers. Some 100,000 captured documents were screened for information to support the charges; about 4,000 were translated into the four languages and used at trial.

The allegation that the German leadership had engaged in a conspiracy to launch a war of aggression was proved not only by official papers of the government, but also by passages from Hitler's Nazi testament, Mein Kampf. The meticulous records kept by the German bureaucracy clearly outlined the criminal activities of the defendants and made the prosecution's case much easier to prove.

Films of the huge Nazi Party rallies and the immense German war machine, made for propaganda purposes before and during the war, were used by the prosecution as evidence proving that there was an intent to wage a war of aggression. Films of the horrible conditions in the extermination camps, graphically illustrating the depths of the Nazi tyranny, were also shown. Few could see these films and still feel compassion for those responsible. Several of the defendants were moved to tears upon seeing what the Hitler regime had done in the camps.

The extensive use of Nazi documents made the case somewhat dull. However, it also made the prosecution's case much stronger than it might have been had it been forced to rely more heavily on the memories of participants.

In addition, particularly for the conspiracy charge, there were few people around who could have testified as to what was said in conferences with Hitler in the years leading up to the war. Those who could were sitting in the defendant's dock. Minutes of the Führer's meetings were sufficient to prove that the defendants had indeed engaged in a conspiracy to commit the crimes.
Even so, the tribunal convicted only eight of the defendants of conspiracy. Four were military men (Göring, Keitel, Raeder and Jodl); two were foreign ministers (Ribbentrop and von Neurath) and two were high party officials (Hess and Rosenberg). All had attended numerous prewar planning conferences with Hitler.

After 403 open sessions and 17,000 pages of oral testimony, the tribunal rendered its judgment on October 1, 1946. The tribunal described in detail the evidence that supported its conclusions. The entire proceedings were broadcast on German radio. Göring’s wife, listening at home on an American-supplied radio, sent their young daughter outside to play so she would not hear the announcement of her father’s fate.

Twelve of the defendants were sentenced to hang: Göring, Ribbentrop, Kaltenbrunner, Streicher, Keitel, Jodl, Rosenberg, Frank, Frick, Seyss-Inquart, Sauckel and Bormann, who, of course, had not yet been found. (His fate has never been conclusively determined.)

Seven of the defendants—Hess, Funk, Dönitz, Raeder, von Schirach, Speer and von Neurath—were sentenced to imprisonment for terms from ten years to life. Three—Schacht, von Papen and Fritzche—were acquitted. The three acquitted remained in their prison cells for a few days (von Papen for several weeks), afraid to go out and face the hostility of the German community. When they finally left, all three were arrested by the new German authorities and charged with crimes under German law. After conviction in German courts, they, too, were sentenced to imprisonment.

Three of the six indicted Nazi organizations were found guilty. But the tribunal did not go so far as to decide that every member of the convicted organizations would automatically be guilty of some crime. Future prosecutors would have to prove that a member of a Nazi organization was a willing participant in the organization’s activities.

Göring, Frank and Streicher declared that they did not want their convictions and sentences appealed. Their lawyers filed petitions asking for clemency anyway. Their sentences, along with those of all the other defendants except Speer and Kaltenbrunner, were appealed to the Allied Control Council, a body charged with overseeing the joint occupation of Germany.

The council could only act unanimously, and the Soviets were not in a merciful mood. Keitel and Jodl asked to be shot instead of hanged. Göring’s lawyer made a similar request for his client. All three viewed death by musketry as more befitting a soldier than death by hanging. Raeder, though sentenced to life in prison, asked that his sentence be “commuted” to death by shooting. All appeals were denied. Shortly after the denials, the sentences were carried out. The Nuremberg trial has been much discussed. Some criticize it as somehow less than fair because the judges and the prosecutors came from the victorious Allies. This criticism is based on the false idea that “victor’s justice” is inherently unjust.

The Nuremberg trial was a watershed event in the development of law. Today, every time there is a threat to the peace of the world and every time atrocities occur in an ongoing conflict, the specter of a Nuremberg-style trial is raised. And well it should be.

Nuremberg stands for the propositions that international disputes are not to be solved by resort to war, that individuals have rights that are deserving of protection even from abuses by their own government and that if war does occur those who violate the rules governing combat are liable for punishment.

The United Nations has, for the first time since Nuremberg, authorized the creation of an international court to try war crimes cases that arise in the Bosnian conflict. Efforts are under way to create a similar forum for the trial of Rwandan war criminals. If such trials actually occur, these courts will look to the precedent of Nuremberg for guidance on both the law to be applied and the procedure to be followed.

Even if the Bosnian and Rwandan war crimes courts succeed in trying some of the conflicts’ war criminals, it may be difficult to assemble a permanent international
court to hear cases that grow out of other conflicts. Nonetheless, the trial at Nuremberg solidified the notion that war has limits and that those who exceed the limits are subject to punishment.

The possibility of punishment and the international stigma that comes with being placed in the same league as the defendants at Nuremberg may deter some who otherwise might resort to wars of aggression and may increase compliance with the law of war when war does occur.

The Nazis suffered absolute defeat at the hands of the military forces of the Allies. Nazi ideology was fully exposed and discredited by the evidence presented at Nuremberg. Several of those primarily responsible for the death and destruction that followed the Nazi Party’s accession to power were put to death themselves because of the efforts of the lawyers and soldiers who prosecuted the trials at Nuremberg. The defendants were granted a public trial—a trial where they were given a chance to explain their actions and where the world could see the depravity of the Nazi ideology.

Just before Christmas 1945, Göring told the prison psychiatrist that in five years Hitler would again be the idol of Germany. A few months later, as evidence of the Nazi atrocities began to mount, he told the psychiatrist that in 15 years the trial would be viewed as a disgrace. Still later, Göring said that in 50 years all the defendants would be recognized as martyrs and that his body would be in a marble tomb similar to that of Napoleon.

Just before his sentencing, Göring discussed the trial again with the prison psychiatrist. His attitude had undergone a significant change. He said then, “You don’t have to worry about the Hitler legend any more. When the German people learn all that has been revealed at this trial, it won’t be necessary to condemn him; he has condemned himself.”

The trial accomplished its goals. The Nazi conspiracy and its tragic consequences for Germany and the world were exposed. Those who were most responsible for the tragedy were punished.

At Nuremberg, justice was done.

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The Fruitcake

I was working for Kroger Grocery and Baking Co. in Detroit, Mich., when the Japanese bombed Pearl Harbor on December 7, 1941. Early the next morning, I signed up to join the Army and was sent home to await further instructions.

On January 12, 1942, I was sworn in and sent to Fort Custer in Battle Creek, Mich. In July, I attended medical technician training in El Paso, Tex. While in Texas, I received word from Kroger’s that the company was sending me a fruitcake for the holidays that year.

After several more transfers, in the fall of 1944 I was sent to school to become an air evacuation technician in the U.S. Army Air Corps. Three weeks after the training, a group of us were put aboard a troop train headed for California. On Christmas Eve, we boarded a plane bound for Hickam Field, Hawaii.

Three Christmases came and went, but I never received the fruitcake. My group and I left Hickam Field and island-hopped across the ocean to the South Pacific. We flew to Biak Island near New Guinea.

For the next two months, we flew to various islands in the area to collect sick and wounded servicemen and return them to Biak, where they were transported to Hickam Field and then to Hamilton Field in California. Later, the other members of my crew and I were transferred back to Hickam Field.

In late 1945, I was waiting on Saipan Island to go to Tokyo to help transport sick and wounded American prisoners of war back to the United States. One day, a surprise radio message came from Hickam Field telling me to return to headquarters in Hawaii for shipment home. I was to be discharged from the Army.

My trip back to the United States was the highlight of my career as I was assigned to escort Lt. Gen. Jonathan M. Wainwright, who had been held prisoner by the Japanese after being forced to surrender all troops in the Philippines in 1942.

I escorted Gen. Wainwright from Saipan to Hawaii and then to the United States. Upon landing at Hamilton Field, I assisted the general down the ramp and into a waiting ambulance. I then turned around and saluted some 20 odd generals who were present, and then returned to the plane for my flight bag. The war was over for me, and I had yet to see that fruitcake sent by Kroger Co.

I received my discharge on October 11, 1945, in St. Louis, Mo., after three years and nine months of service. Afterward, I joined my family in the San Francisco area.

In 1948, I was recalled to active duty as an Army Reservist and assigned to the Army recruiting center in downtown San Francisco. I soon reenlisted in the Regular Army and was assigned as a recruiter.

One day, in late 1948, I received a package in the mail—my long lost fruitcake had finally caught up with me. It had been rewrapped about 11 times and was covered with addresses from being forwarded repeatedly since it was mailed in November 1942. The tin can was a mass of rusty flakes. The fruitcake looked like a small hourglass, and it was green and fuzzy after taking almost six years to reach me.

Later, I was transferred to Korea for another war, but there was no fruitcake to look forward to this time.

Henry Lawrence Powell