Plough new ground

Paul Macarius Hebert

Date: 1948

Repository Citation
Paul Macarius Hebert, Plough new ground, Nuremberg Trials Documents (1948).
Available at: http://digitalcommons.law.lsu.edu/nuremberg_docs/21
[Pencil Notes]
Jottings

Referring to (1) I presume you are referring to that point of IMT judgment discussing law and findings as to ?????? defendants in that case. + As to finding aggressive war we certainly are bound by the judgment of IMT, - don't you think?

CFM (Clarence F. Merrill)

[PMH Response]
Yes. - We are bound to the extent provided by Mil. Ord 7 - only.

We are not bound by any misapplication of the law of conspiracy or common plan to individual defendants. IMT announced test - "cooperation with knowledge of Hitler's aims" – then
in applying it they acquitted defendants who had no specific knowledge of specific aggressive plans. We are not bound by this misapplication as a matter of law and, as a matter of evidence. We cannot properly evaluate their actions. Even if the recited evidence is taken as the evidence on which they acted - the judgment cannot be harmonized. The finding as to Schact is self-contradictory & facts relied upon are consistent with guilt or innocence. His acquittal therefore cannot be controlling here. No industrialist who did what these defendants are charged with was before IMT - we must plough new ground in our own way.