

A War Over Justice: An Interview with Marcel Ophuls

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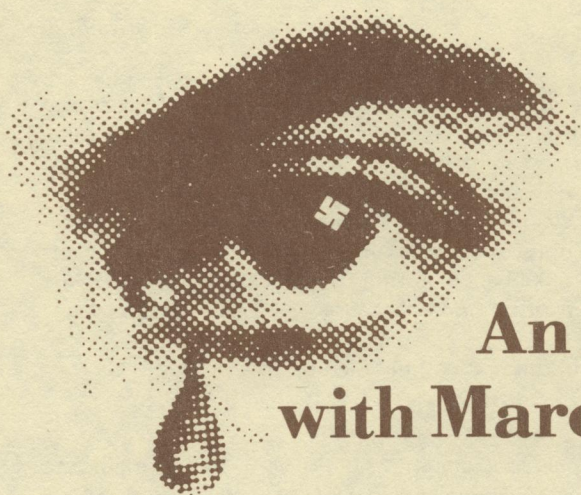
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A War Over Justice: An Interview with Marcel Ophuls

*It's easy to see why Marcel Ophuls is such a controversial filmmaker. He is an artist who refuses to sacrifice principle for profit or popularity. Starting with *The Sorrow and the Pity*, which, in 1972, established him as one of the world's foremost documentarians, Ophuls began asking unpleasant questions about our society. He wanted to know, for example, what was the truth about the Nazi occupation of France during World War II. While the movie itself angered the French mythmakers, New Republic critic Stanley Kauffmann summed up the superb critical reaction by stating that the film, "looks at the past," makes us "understand a little more of both the sorrow and the pity," warns us to "be careful of feeling superior to others," and, "rather chillingly, leaves the future to us." That same year in *A Sense of Loss*, Ophuls explored the complex problems in feud-ridden Northern Ireland. Rather than provide easy answers to complex issues, he chose to disturb audiences with his profoundly humanistic images of an apparently hopeless conflict. Ophuls' commitment to objectivity and his refusal to be compromised by unpopular opinions prompted Time's critic Jay Cocks to pronounce him, "the Orwell of the cinema."*

*Then, in 1976, after four years of personal agony and court battles with his European producers, Ophuls unveiled *The Memory of Justice*. The title, attributed to Plato's conviction that mortals in a less than perfect world must be governed by the primeval memory of Justice and Virtue, acted as a guide to Ophuls' investigation about the nature of war crimes. Once again the director became embroiled in controversy. Critics, scholars, and the general public have taken strong stands over the people interviewed in the film, the editing techniques, and the various interpretations resulting from world-wide screenings. Within recent months, the film itself has almost disappeared from public view. Paramount Pictures and New Line Cinema, distributors of the 35mm and 16mm prints respectively, appear to have little success in getting the film circulated. The questions surrounding the reception of *The Memory of Justice* are disturbing.*

Thus when Marcel Ophuls visited the University of Vermont during the week of April 11, 1977, I persuaded him to present his side of the story. What follows is an edited transcript of his feelings about the controversy.

Frank Manchel
University of Vermont

Manchel: When did the idea for doing *The Memory of Justice* first begin with you?

Ophuls: Well, Frank, for the sake of honesty, I feel I should throw a bucket of cold water on the idea that filmmakers always have pet projects, and that they are in a position to realize these pet projects, and that is what they consecrate their lives to. In fact, what happened is that after having made a film in Northern Ireland [*A Sense of Loss*] and being once again out of work, I was approached by the BBC, who had had a great deal of success with their showing of *The Sorrow and The Pity* in England. They wanted to have another 4½ hour movie, more or less along the same lines. And so the logical and natural inclination for all of us in this connection, once the BBC put up the seed money, was to say, "Well, what about the chronological follow up to *The Sorrow and The Pity*?" This essentially meant the first three or four years after the war in Western Europe. That original project I used to characterize by saying, "Society falling back on its rotten feet." Sometimes I wish we could have stuck to that original idea. I still think it was a good project. We would have concentrated on France after the war, General Charles De Gaulle, Pierre Mendes-France, Albert Camus, Jean-Paul Sartre, the liberation, the trials of Pierre Laval and Marshal Philippe Pétain, the Labour Party taking over from Winston Churchill in England, the Germans trying to find their way through the ruins, discovering Hemingway, Faulkner, and the beginning of the Cold War. The Nuremberg Trials would have been just one chapter in that original project. And while I was researching for *that* film, I met Telford Taylor. I had read his book called *Nuremberg and Vietnam: An American Tragedy*. I had also found out from a French journalist that there were fifteen hours of footage done by the United States Army Signal Corps during the Nuremberg Trials, which had been used in various documentary films since the war but never with synchronized sound and picture. Then something happened, which I don't want to go into, and I had to go to the BBC and to my sponsors and say, "Well look, I think this film about postwar France is being done by others and maybe we should do something else." In fact, my meeting with Taylor in New York had suggested a new possibility. And I said, "Well, let's do a film about the Nuremberg Trials." My sponsors at the time were more enthusiastic about the new project than I was, and it is only with hindsight that I have come to understand their enthusiasm.

Manchel: When you say your sponsors, you're talking about the BBC, Polytel International, a television packaging company, and Visual Programmes Systems Ltd., a British production

company.

Ophuls: Yes. They came in at different times. First there was the BBC; then the man who was the head of purchase programs at the BBC and who was my well-wishing sponsor at the time got in touch with the subsidiary of Phillips in Hamburg, a very powerful German production company called Polytel. There were a series of contracts signed. All of this is part of my life and it's very dreary for me and for anybody else. Then they involved a private English firm whose principal stockholder is Evelyn Rothschild.

Manchel: Is that Visual Programmes Systems Ltd.?

Ophuls: Yes. A man called David Puttnam. Another man called Sanford Lieberson. They make films like Alan Parker's *Bugsy Malone*, Ken Russell's *Mahler*, and Lutz Becker's *Swastika*. I had had earlier contacts with these people because they had asked me to do a fictionalized version of Albert Speer's memoirs, which they had acquired.

Manchel: How significant was the connection between the proposed Speer film and the current problems you were facing with the sequel to *The Sorrow and The Pity*?

Ophuls: It is only a sideline and a dead end. I would have to go into the motivations for wanting to make a picture about Speer's memoirs and about our conversations at that time. I think it would take us too far afield. Anyway, my trying to rescue the project, the original project and the seed money and the groceries, was to suddenly come out with an idea that originally was only supposed to be a chapter. The plan was now to expand the chapter into a whole film, including, of course, the implications in the post-war world of the Nuremberg Trials. The idea, with hindsight, met with a suspicious amount of enthusiasm. When I say that the amount of enthusiasm seemed to be suspicious, with hindsight, what I mean is that I should have been bright enough and analytical enough to understand that a commercial alliance between German co-producers and trendy Wardour Street, young English producers who were aiming for the American market, should have made me aware enough politically and sensitive enough politically to understand what these people saw in the Nuremberg Trials. With a hindsight of thirty years, it was to them an opportunity of relativizing history and of appealing to what they assumed German prejudices to be. In other words, the idea of getting off the hook by demonstrating that evil is not confined to the Third Reich. On the one hand, this would be for the German television audience; on the other hand, this would be appealing to radical chic conceptions, or what they assumed to be radical

chic conceptions on the American market. To put it another way, those people, because they very sincerely took very adamant positions against the Vietnam War, would have a tendency growing out of their experiences to equate or to compare My Lai to the crimes committed by the Third Reich which led to the Nazi Holocaust. This, I think, was an attempt to cash in on what the Marxist would call an "objective alliance." The idea would be to attempt to cash in on what these people suppose, wrongly I think, to be the positions of the kind of people in America who would go and see documentary films, left of center, and the German television audience of people who would be glad to find out that there is some connection between My Lai and crimes committed by the Germans during World War II. I have to confess quite openly that because of my naivete or my innocence or my good faith or whatever you want to call it, I did not perceive this from the very beginning. Or perhaps I did not choose to perceive it, because when you have to make a living in any one profession you have a tendency to discard signs that go against your interest, because your immediate interest is in making a film.

Manchel: I want to clarify one point. In Jay Cocks's *Time* essay concerning *The Memory of Justice*, when he wrote about the internal struggles over the film's evolution, he stated that "Ophuls set out to explore the contested—some would say outrageous—theory that Nazi genocide and tragedies like My Lai are somehow comparable, an idea that had widespread currency a few years ago."¹ What I want to clarify is whose idea was it to make the film a Nuremberg Vietnam comparison: yours or the various producing groups?

Ophuls: I guess that when I started out researching the original project, the relative, the historical priorities, in my own mind, were perhaps closer to the product which the producers and co-producers expected of me than finally turned out to be the case. This is one of the interesting things about documentary filmmaking. If you develop techniques of letting reality come to you, then there is the process of change and hopefully a process of growth in yourself. And therefore, you can then shift positions during the process of the filmmaking. That certainly happened in *The Memory of Justice* and I'm perfectly willing to say that. In that way, the producers, who fired me at one point, do have some semblance of a case. Because in the preliminary discussions, my own positions were perhaps closer to what they hoped the film would be.

Manchel: We're talking about events in 1973?

Ophuls: Yes, this was 1973. In the course of filming, I wrote memoranda to them which stated, as honestly as I could, the shift in my positions.

Manchel: For example?

Ophuls: Well, for example, the fact that by the time that I came to America I no longer wished to confront men like McNamara or Westmoreland or Bundy or Rostow with the question, "Are you, sir, a war criminal?" This had a lot to do with a sense of proportions and a sense of humility which I had acquired by my research and my work concerning Germany and the German connection and the Nazi connection to Nuremberg. It was in fact a shift in emphasis. And since there was that shift in emphasis, I thought my producers should know about it, and I wrote them a memorandum which stated that shift as clearly as I could.

Manchel: Can you be more specific about the shift in your attitudes toward Germany's connection to the Nuremberg Trials?

Ophuls: Well, I just mean that the longer I was confronted by the task I had chosen for myself, the more aware I became that I had no right to substitute myself for trial by law. Since this was ostensibly a film about justice and about the difficulty of judgment and about the ways in which society tries to deal with this, it became more and more apparent to me that any individual, including any individual who has the privilege of having access to the mass media, is not entitled to substitute his own subjective judgments for trial by law. The shift in emphasis, therefore, meant that the theme I assigned to myself had to enable me to talk to people who had been convicted of crimes; that I couldn't cross-cut this with people who my own subjective views, my own political priorities, made me assume were potential war criminals; that this kind of cross-cutting would be detrimental, not only to the film, not only to what I was trying to say, but also to political priorities and to historical priorities in general.

Manchel: What is the chronology of these events? You began the contract negotiations and the research for the film in 1973. Later in the year you come to America and the shift in emphasis plus the memoranda between you and your producers begins in 1974?

Ophuls: The filming started in November, 1973. By spring of the following year, while at Princeton, I began editing the film. Then during the early summer of 1974, I started writing the memoranda. Shortly afterwards, still in the summer of 1974,

I returned to London to complete the editing and the film project itself. And then I was fired *from my own film*. To be quite accurate, I wasn't fired from the film. The film was confiscated from me. It was a blatant power squeeze that took place on December 22, 1974, after what is known in the trade as the rough-cut screening.

Manchel: Before we go into the film's being confiscated, let's clarify the state of the film before December 22. How much of *The Memory of Justice* was completed?

Ophuls: It was a 4 hour 38½ minute film which was not absolutely identical with the 4 hour 38½ minute film which Paramount is now distributing. But for all practical purposes, it was identical. My contract provided for a film of a minimum length of 3½ hours and a maximum length of 4½ hours. It was the BBC who insisted on having the 4½ hour length. In other words, I was 8½ minutes above the length stipulated in my contract. My argument at that time, which went on for days, was that I was asking for the privilege—I was asking to be indulged in my caprice of mixing and dubbing those 8½ minutes. Then, if in the judgment of my producers and co-producers, after the film was dubbed and mixed, they found the additional 8½ minutes a breach of contract, I would remove the excess footage. I was being a realist. Having a lot of experience in this profession, I was not about to let myself be put into a breach of contract on a matter of length.

Manchel: Then in point of fact people are unfair when they typecast you as a person who only makes 4½ hour films. The length of this film was dictated by the BBC.

Ophuls: Absolutely! The length of *The Memory of Justice* was determined by the BBC. It resulted from the format they had chosen for the subject matter they wanted filmed. I repeat. This was the BBC's initiative, not mine.

Manchel: How much footage had you shot prior to the editing stage?

Ophuls: Ninety hours.

Manchel: And you then proceeded during the summer and fall of 1974 to cut it down to a 4 hour and 38½ minute film. How was the rough-cut organized?

Ophuls: The first part was called, and is still called, "Nuremberg and the Germans." The second part is called "Nuremberg and Other Places." I must confess again that this is cheating. The second part still has an awful lot to do with Nuremberg and the Germans, and only in the very last third of the film do you

get to Nuremberg and other places. This is important because it has to do with what my sense of proportions *came to be* after the end of my inquiry. Let me now pick up that beautiful Christmas of 1974 in London. The Ritz Bar in London. After the rough-cut screening we met there. The representative of the BBC was present and the representative of the German co-producers was present for a while and then had to catch his plane back to Hamburg, and of course, the two hot shots were present.

Manchel: The hot shots being. . . .

Ophuls: Sandy Lieberman and David Puttnam. There seems to be some sort of community between Wardour Street and Carnaby Street. They were, let me tell you, anything but leftists; in their professional policies, in their methods of hiring and firing, in their personal views about the role of capitalism in a market society, they were *anything* but leftists. But they were leftists about their assessment of how they could make money on the American market with that kind of film. Oh yeah. . . . There were three issues discussed at the meeting at the Ritz Bar. The 8½ minutes, which they refused to have dubbed and mixed; there was, of course, a lot of discussion about that and a sort of standstill. By that time I knew pretty thoroughly what the *real* issues were. I think I knew. I *still* think I know. One thing we should all understand is that, in political films whenever a conflict arises, people never admit that the conflict is political. Whenever people try to censor a filmmaker, they never admit that what they are talking about are political issues, because this would be extremely primitive and extremely unsophisticated. They always find other issues. They will tell you that your film is boring or unstructured or too long or too this or too that. Because they know that as soon as they admit that they have political priorities, you can then pounce on them. You can make a public issue on it, and then you can rally support to your side. They are not about to do that. All right, so the conversation at the Ritz Bar, which lasted I think 2½ hours, was mostly about those 8½ minutes. There were three issues. The first was on the 8½ minutes, which I did not refuse to take out of the film but simply asked for the privilege of mixing and dubbing, so that they could make up their own minds. The second issue had to do with frontal, would you believe it, with frontal nudity. The representative of the BBC—the man who had been my original patron, who had put up the seed money—was by that time, for reasons of his own, a hundred percent accomplice. He was later overruled by the hierarchy of the BBC, which finally did telecast my film and made a public commitment to telecast my film or no film.

Manchel: This man's name was. . . .

Ophuls: Gunnar Rugheimer. There are rumors that he is about to quit the BBC to become an employee of Polytel Incorporated International. Whatever that means, he's a former agent of MCA. An interesting man, a very clever man, and a man whom I still have a debt to, because he did support me for a long time. And he is a wheeler-dealer and he is a go-getter with all the advantages and disadvantages that that sort of thing has. As to the frontal nudity, Gunnar was saying that the BBC has codes of standard for, you know, prime hour broadcasting and youth and general audiences and that sort of thing, which made it imperative that frontal nudity not be shown during prime telecasting hours. I knew this to be bullshit because I have seen the BBC things and the BBC is much, much less Puritan than, for instance, American commercial networks are. They have shown frontal nudity over and over again when they showed *Hearts and Minds*, for instance, but I wasn't about to quibble at that stage and I said, "Well listen, Gunnar, I'm all in favor of respecting family standards, and if the BBC has certain standards about frontal nudity, I will eliminate frontal nudity for the BBC, but I will do that in the print destined for the BBC. I don't think that you as a representative of the BBC have a right to demand that I cut it in the negative. Because this would indeed be censorship and I understand very well, dear Gunnar, what your problem is. Your problem is that if the film is going to be presented at the New York Film Festival with the sequence that had frontal nudity, and then is to be presented later on at the BBC with that particular sequence censored, you will then be responsible to answer certain questions asked by discerning journalists. But if you have good reasons and good guidelines for the stand that you are taking, then you must be prepared to answer those questions to those journalists."

Manchel: Fair enough.

Ophuls: Fair enough. Whereupon my Wardour Street hustler said, "Well that, Marcel, is not the question, because we also request you to cut this in the negative." And then I said, "No." In fact, all of this, of course, is what Truman used to call a red herring, because by that time they were trying to wave a red cloth in front of the bull so that I would charge out of the arena. They had long ago (or short ago) decided, for reasons of their own, that I was not willing to play their game and they, therefore, wanted to have another man to recut the film, and they were waiting for me to walk out. As it turns out, the issue of the frontal nudity was later settled very, very fast because the program controller of BBC (who had refused to arbitrate when

the fight was taking place in Wardour Street, where all he had to do was to take a cab at Christmas time to drive five miles down from Television Center—and who later had to fly 5,000 miles to New York to see the print of the film) reversed the decision of the BBC and said, “We’ll take the film, the Ophuls film, or nothing, including the frontal nudity.” He felt that was a ridiculous pretext. He is a man by the name of Aubrey Singer. So in the end, the BBC did show my film, including the frontal nudity.

Manchel: Without any problems?

Ophuls: Without any problems! The third issue had to do with Russians. The German co-producers wanted me to include a dissident Russian in the film, although they were in no way entitled to do this by contract. Their reasons for wanting to have this in the film, I think, are very obvious. They wanted to lull the German television public into the intellectual comfort of being able to compare German extermination camps with Russian Gulag Archipelago. The intention seems so obvious that it doesn’t need much editorializing. I was not unwilling to do this, because I do happen to think that Stalinism is one of the atrocities of modern times, and while I question the motives of my German co-producers, I have no great doubts about the iniquities of the Gulag Archipelago. So I did try to get Solzhenitzyn. I did not succeed. For some reasons of his own, which I think are not too difficult to analyse either. At that time, Solzhenitzyn had just come out of Soviet Russia. He had stayed in Germany, and then gone to Zurich. Perhaps Solzhenitzyn, a genius and obviously a very intelligent man, was afraid of being annexed by the kind of political skullduggery that we are talking about and, therefore, was reluctant to be within the framework of a film on the Nuremberg Trials. So he refused. If I had a tape of the Ritz Bar, those people who have hairs on their head, which I don’t happen to have, their hairs would stand up straight, because Mr. Gunnar Rugheimer, the representative of the BBC at that particular conference was saying at one point: “Well, Marcel, you didn’t get Solzhenitzyn, so why don’t you satisfy our German co-producers by going into a white Russian bar and interviewing some gypsy violinist?” I am quoting textually, “Our German co-producers are unhappy because you have not come up with a Russian dissident. So why don’t you give them their Russian dissident under any terms?” And I was trying to explain to them that unless it is Solzhenitzyn, or unless it is Sakharov, who happens to live in Moscow and who is unavailable, it did not seem to me to make a great deal of sense. I also tried to explain to them that Stalinist war crimes and Stalinist crimes against humanity were touched upon in the film, and that as far as my sense of proportion was concerned, this seemed to

me to be adequate. I also tried to explain to them that the motives of the German co-producers seemed to me to be so transparent as to be a major turnoff. Furthermore, I had no contractual obligation to do this, because there was nothing in my contract that obligated me to furnish one interview rather than another. Finally, I said, "Well listen, if you are willing to give me another ten minutes over and above the 4½ hours that we already have, then I will try to cash in on the contacts that we have made with Daniel . . . the Russian dissident in Paris. [A very interesting man who was available in Paris.] But I will not do it to the detriment of the 4 hours 38½ minutes that I have now, because it seems to me that 4 hours 38½ minutes that I have now are more to the point and more pertinent to what I want to say than a Russian dissident whom the German co-producers feel should be in the film." At that point, David Puttnam, who I think is 32 years old, suddenly said, "Listen, Marcel, I'm getting very tired of this. We've been arguing about these things for 2½ hours." And I said, "I've been working on this for 2½ years. I don't mind arguing about it for 2½ hours." He said, "Yes, but I have other things to do. And I'll tell you this right now, our intention is to cut up the film in any way, shape, length, or form that our American clients would judge to be adequate." Whereupon I said very quietly, "David, if you do that you will be in breach of contract." Whereupon David said to me, "Marcel, that may well be, but you'll have to take us to court and by the time that the judgment is given in court, we will have recouped, hopefully, our money." Whereupon I said, "I think this is morally perverted." Whereupon he said, "I don't know how someone who has breached his contract in terms of budget and scheduling has any right to question our morals, because I think that you are morally degenerate."

Manchel: This was Christmas time.

Ophuls: This is the 22nd of December. Whereupon I got up and said, "Gentlemen, I think I have seen enough of you," and walked out of the Ritz Bar in London. Twenty-five minutes later they went to the cutting room and told the editors that I had walked out of the film and that they were justified, therefore, in taking custody of the work print. On the very next day, which was the 23rd of December, and a Sunday, it was very difficult to get a British solicitor to give me advice. So even before I could get that advice, I sat down and wrote a letter to them by registered mail pointing out the difference between walking out of a meeting and walking out of a film. And I said that there was no clause in my contract which obligated me to suffer their physical presence. There is no clause in any contract as far as I know between filmmakers and producers which obligates either party to ever suffer the physical presence of the

other party. You can correspond by mail, by lawyers, or by telephone. This is not a breach of contract. They chose to interpret it as such. They chose to interpret it as such not only on legal grounds but simply on power grounds, because they assumed, quite rightly, that I would not be able to afford to sue them. Okay, so after trying to get out an injunction against them, after trying to rouse the British unions to blackball the work in the lab, unsuccessfully, but with a lot of support from people like Lindsey Anderson, Robert Boles, Stanley Kubrick, I left England and went back to Princeton, which was at that time my only job, and more or less gave up on the whole thing because they were right. I could not afford the services at that time of lawyers and lawsuits. So they proceeded to have the film recut—

Manchel: By Lutz Becker.

Ophuls: He was the one who did *Swastika* and *Double-Headed Eagle*. Now the proof of the pie is in the eating, and their denial that they had political motivations in confiscating the film from me is totally ludicrous once you have seen the Becker version, which they took five months to do and which was broadcast on German television. I will try to confine myself to a couple of examples. In the Dresden sequence, I question former Wing Commander Rose about whether he would have accepted to go to Nuremberg if the London charter had been different and had included allied war crimes and if "Bomber" Harris had been in the dock. In the interview with him, Wing Commander Rose, who had just testified to the fact that he, as the Chief of British Air Force Intelligence, had given very, very solid information to the Allied High Command and to the American and to the British Air Force to the effect that Dresden was not a military target. And, therefore, should not be bombed. The American General Spaatz, who was in charge of strategic bombing, thereupon reacted by saying, "Well, if the British agree not to bomb Dresden, we will not bomb Dresden." Whereupon Jim Rose, who is now a publisher of Penguin Books, incidentally called up his own chief at headquarters, Air Marshall Saunby, and told about the information that he had from totally reliable German intelligence sources, that the S.S. Panzer divisions were joining the Eastern Front northeast of Prague, a hundred miles from Dresden. "Bomber" Harris' second-in-command said, "Well, that makes no difference to us. We are going to bomb Dresden." Whereupon at the end of the Dresden sequence in *The Memory of Justice*, I ask Wing Commander Rose, "Well, if the London charter had not excluded allied war crimes from the deliberations in Nuremberg would you have accepted to go to Nuremberg and testify about what you knew?" He says, "Yes, of course." And being an Englishman, and a decent Englishman, he then immediately adds,

"but I would have had to listen to what the defense had to say, because perhaps I did not have the whole picture. But as far as I know, Dresden was a war crime." Then there was a pause and I asked, "And in the twenty-eight years since, have you ever heard of anything that would make you change that assessment?" And he hesitates for a fraction of a second and he says, "No." And then he smiles. All of that was cut from the Becker version. So much for British susceptibilities! What was also cut from the Becker version were things like Albert Speer showing his home movies, including meetings with the economic bosses of the Third Reich (people like Porsche, who designed the Volkswagen) and then remarking quite casually that these people got back into top jobs after the war and took over German industry. That was cut from the film. For reasons of length? Interesting question isn't it? You think it's length?

Manchel: No.

Ophuls: No. In the interview with Admiral Karl Doenitz, my question about his having made an anti-semitic speech and whether he sees any connection between that anti-semitic speech and the extermination camps has been cut from the Becker version. Do you think this is for reasons of length?

Manchel: No.

Ophuls: I'm sorry I'm using you as a patsy. I do not think that it's for reasons of length. But the most flagrant thing, when we talk about the proof of the pie being in the eating, is something that I came across very late when I was waging a lawsuit against the German co-producers and against German television, because they had programmed the Becker version in contradiction to our agreements and had left my name on the film. In a way, I suppose it is flattering that they should have thought that it was in their interest to keep my name on that truncated version. So, there had been an injunction in a German law court two weeks before the thing was supposed to go on the air on German television. Meanwhile, I was seeking evidence for that lawsuit. Very late one night, my assistant Anna Carrigan stumbled across a passage in the transcript of the Becker version, and all of a sudden she said, "Hey, Marcel, here is something on page 3." This was in the very first minutes of the Becker version. "Look at this." I then looked at something which later became known as the Telford Taylor distortion. My own film starts with the montage of the defendants of the Nuremberg Trial "Nicht Schuldig . . . Nicht Schuldig . . . Nicht Schuldig!" -pleading not guilty, not guilty, not guilty, not guilty. The Becker version, interestingly enough starts with atrocity footage from the Vietnam War. Burning of a village, hutches, napalm bombings. This is then followed by the testimony of Colonel

Tony Herbert, which also is included in my film, but only in the very last reels, saying that when he first discovered the atrocities being committed in Vietnam, he thought that these were field incidents, that once he got back to Saigon, he would be able to clear them up. He then proceeded to report them in Saigon and discovered that various Saigon generals were interested in the cover-up and were accomplices to these acts. Then he thought that when he got back to Washington he would be able to clear it up, and he found that once he was back in Washington, it went all the way up to Westmoreland. Herbert finally had to resign from the Army. This is placed in the first 60 seconds of Lutz Becker's film, long before you ever get to see Goring, Hess, and the other defendants in Nuremberg. Before you ever see anything about the Nuremberg Trials. You see how emphasis can change things. And the third segment, within the first three minutes of the film, was a statement by Telford Taylor. He was Chief U.S. Counsel at Nuremberg and led the follow-up trials, and he was the chief assistant to Justice Jackson at the main Nuremberg Trial. And he is made to say in the German version that was put on German television and was seen by millions of Germans—he, chief of the former prosecutors of the Nuremberg Trials—was made to say the following thing, and now I quote, literally: "It would seem to suggest that American forces at Vietnam had been guilty of the same crimes and to the same degree as the Nazis that we had convicted in Nuremberg." Quote, unquote. This is the passage which Anna Carrigan, very late one night in the editing room in London, had suddenly discovered in the Becker transcript. She called me over and I looked at it. My first reaction was to say, "They must have used an actor," or "They must have used false sync. This is not possible." I mean, if you know Telford Taylor, if you have read his book, and if you know his extremely complex attitude towards his own past, towards his own involvement in Nuremberg and his anti-Vietnam stands, then you know that he could not possibly have said anything of the kind. He, incidentally, is as close as anyone to being my spokesman in the film. It sounds arrogant for me to say that, because Telford Taylor is very much more than my own spokesman; he is Telford Taylor, a great, great man. I thought: "Wait a minute, now, this is not possible." Then I said, "Well, let's look through the transcripts of his original interview," and it took us about an hour and a half to find the passage in the transcript of the original interview. I must tell you that the original interview was five or six or seven hours long, I remember. I finally found that in the earlier reels of the interview with Telford Taylor (those reels were where I was trying to break the ice with him) I had asked a series of questions about the paperback editions of his book, *Nuremberg and Vietnam: An American Tragedy*, because I had discovered quite by accident that the first edition, the first

paperback edition, had on its cover an American flag with a swastika superimposed upon it. And that in subsequent editions of the paperback that swastika had been eliminated. Only the American flag was left on the cover. And, since by the time I was doing the interview with Taylor, I had a pretty good idea about what Taylor's political ideas were—I said, "Telford, tell me, why is this? Why is there the swastika on the American flag in the first editions and then it disappears?" I already had a pretty good idea of what the answer would be. Then he said, "Well, I guess a lot of people objected" and so on. Then there are another two pages of transcript where I try to pin him down. He was still quibbling a little, being a lawyer, and finally, I got him into the position where he says, "Yes, well I guess I was the one who was instrumental in getting the editors to remove the swastika from the American flag." This was, of course, the one moment I was waiting for and said, "Why?" My question was "Why?" And the answer was, "Because it did seem to suggest that American forces in Vietnam had been guilty of the same crime and to the same degree as the Nazis that we condemned in Nuremberg *and I don't believe that is so.*" Quote, unquote.

Manchel: This was a very fine editing job that they had done.

Ophuls: Isn't it though? The proof of the pie is in the eating. If ever there was any doubt about the difference in political priorities and the difference in political opinion and the difference in political assessment between my original sponsors and me, this example that I just quoted at great length seems to me to be absolute proof that by the time we came to the Ritz Bar, my suspicions were justified, because this is indeed the version that they wanted to put on German television, a version that had the chief American prosecutor making that statement, which was the absolute opposite of what he had originally said. It's like cutting the word, "not" out of a statement. When I discovered that, I telephoned Telford Taylor, and I said, "Telford, I think that the time has come for you to join my injunction in a Hamburg courtroom, because your case is even clearer than mine." And he did. Now, incredibly enough, it took German television and my German co-producers another six months to remove that statement. And there even came a time when my new sponsors, the people who had got me back into control of my own film, called up Telford Taylor one night and said, "General or Professor, this guy Ophuls, he's crazy! In his own interest and the interest in getting his film out, please remove your injunction from that Hamburg courtroom. Because until you remove that injunction from the Hamburg courtroom, the German co-producers will not give way, and therefore, the film will never come out. And therefore, in the interest of the film, in the interest of our invest-

ment, please remove your injunction from that Hamburg courtroom." And Telford being the man that he is, and that I expect him to be, said, "I'm sorry, I can't give you any promises and I have to talk to Marcel about the conversation that we just had." He then picked up the phone, called me and told me about it. And I said, "Telford, please don't remove the injunction."

Manchel: With the lawsuits in process, you then had the film taken over by Paramount?

Ophuls: Yes. Paramount and Max Palevsky, who is the man I just talked about. He is and has been a friend of mine, and he quite spontaneously and quite voluntarily, when there were the articles in the American press, called me and said, "Marcel, can I help you? How much money will it take to buy these other people out so that you can finish your own film?" And life, being as ambiguous as it is, he is also the man who then called up Telford Taylor one year later to tell him that I was crazy and that he should remove his injunction.

Manchel: Nevertheless, the film was then released and was put on the list of many critics' best 10 films of the year in 1976.

Ophuls: Twelve of them.

Manchel: Twelve of them. And much to your surprise and many others' when the Academy Award Nominations were announced, *The Memory of Justice* was not even among one of the five documentary films nominated.

Ophuls: We even got a headline in *Variety*. I was off in Switzerland trying to get the first chapter of my book written, and I was so foolishly confident about there being no problem about the nomination that I wasn't even in touch either with Max or with Paramount or with anybody else about it, because I thought that there might be some problems about the Oscar, but there certainly couldn't be any problems about the nomination. So I was off in a remote corner in Switzerland doing some skiing and doing some writing.

Manchel: Various circles have speculated about the possible reasons for your film's not being nominated and its subsequent poor distribution and trouble at the box office. You are, of course, aware of those speculations.

Ophuls: You bet I am, Frank. But you are now in the realm of speculation, and we must be careful about what is and is not true.

Manchel: Nevertheless, can you comment, agreed that we're in the area of speculation, about what it is that bothers certain people and groups about your attitude toward the Nuremberg Trials?

Ophuls: It is not only ironic, it is traumatic. It's the sort of thing that can land you in the booby-hatch and that has landed me in the booby-hatch. To devote four years of your life to fighting the sort of thing that I am trying to convey to you, and then find that some supercilious bastards on the pedestal of their own granite self-righteousness will attack the film for equating My Lai with Auschwitz—when I had just gone through four years of hell endangering my own future and that of my family, fighting against that idea. And, therefore, I say that these people are supercilious, self-righteous, insensitive bastards.

Now when you talk about the Academy Award nominations, I'm not talking about the Oscar. I haven't seen *Harlan County U.S.A.* and I certainly haven't any quarrel, not having seen *Off the Edge*, not having seen *Hollywood on Trial*, not having seen *People of the Wind*, and not having seen *Volcano*. I have no quarrel at all with the idea that the majority of the Academy Award members may prefer these films that I have just named to my own film. I mean that's part of show business and that's part of the things that I have to contend with, and I am perfectly willing to play the game. But there does seem to be a discrepancy between a documentary being the only non-fiction film to be on the ten best lists of a majority of the most important American critics, of having received honorable mentions by the New York Film Critics, by the National Board of Film Critics, and not even being one of five films nominated for the Academy Awards. There does seem to be some sort of discrepancy there. And if we bother to talk about it, it has to do with the importance of the film, not only with the importance of the subject matter, but also, quite concretely with the importance that the judgment of one's, quote, "peers," unquote, has for one's own professional future. What happened? I don't know what happened. One thing is certainly detrimental to *The Memory of Justice*: the Academy, which is supposed to be the judgment of one's peers, does not have compulsory attendance to the screenings. I'm perfectly willing to have people vote by their feet at the box office. Again, this is part of the reality of show business. But I'm certainly not willing to accept the judgment of my peers, except on the basis of compulsory attendance. And certainly not when I make a 4½ hour film and am then forced to compete with 1½ hour films. I'm not willing to admit to the validity of the judgment of out-of-work actors on that basis.

Manchel: Let me bring you back to the issue, though, of the criticism leveled against the film.

Ophuls: There is a suspicion that you have, Frank, and that I may or may not share, that certain Jewish. . . . Let me start from another angle. *The Sorrow and the Pity* had what I have become accustomed to call "the Jewish Seal of Good House-keeping." And therefore, part of the commercial American success of *The Sorrow and the Pity*, even though it was also a 4½ hour movie of "talking heads," was to a very great extent predicated on attendance in New York and other places where live a very large percentage of the Jewish community. However, I think artists have an obligation to react against what they feel are the misunderstandings on which their previous successes have been predicated. It's one of these mysterious obligations that I think we have. And therefore, I quite consciously and openly confronted certain issues in *The Memory of Justice* which I feel have to do with good conscience on false grounds. Therefore, I courted and eventually obtained the opposition of a certain segment of Jewish opinion in this country, which I would characterize as a neo-conservative segment of Jewish opinion, which one should further try to define as being middle-aged. We don't want to go too far into this point of view because it would take too much time. I understand their motives. I sympathize with some of their motives.

Manchel: We both do.

Ophuls: We both do. I feel some solidarity in this realm.

Manchel: Again, we both do.

Ophuls: I think that Auschwitz was unique. I think that the Holocaust of World War II, in its proportions, in its premeditation, in its ideology, in the fantastic support that this ideology obtained with the majority of the German people is unique. I agree with that and I agree with the solidarity with Israel, when Israel is in trouble. So I can understand how people, who in their youth had certain radical-liberal ideas, which made them sympathize with radical-liberal causes, discovered in the process of aging, what the clichés were, what the pitfalls were, what the traps were. They re-examined the causes which they had formally subscribed to and were brought, because of Israel, because of the Holocaust, to revise their positions. But having said that I understand that, I must also add that I think that using the millions of victims of the Holocaust to give you a perpetual raincheck on good conscience to take whatever political attitudes you care to choose concerning Nixon, for instance, or concerning the Vietnam War, then I cannot think of anything more indecent or more obscene for a Jew to indulge in.

Manchel: Now let's be clear on this so that there can be no misunderstanding. There is an attempt to put *The Memory of Justice* in the same category as Louis Malle's *Lacombe, Lucien*, or

Lina Wertmuller's *Seven Beauties*.

Ophuls: Yes. Yes, because these people have chosen certain positions for their own reasons, which, I repeat, I understand: American power is what does, in fact, guarantee the survival of Israel. And therefore, I can understand that some people would come to adopt certain positions on Vietnam which I personally happen to believe that Jews, because of their experience, should not adopt when it comes to trying to assess who is the oppressor and who is the victim. But I can understand how this can come about. But to then use the monument of evil that Auschwitz and the Holocaust represent to vindicate their own options about Vietnam and about Israel, I repeat, in my opinion, is indecent and obscene, and *The Memory of Justice*, in comparison to that kind of attitude is, whatever else it may be, a decent film. I don't know if it is a good film. I don't know that it's a successful film. But I know that in comparison with that attitude, it is, on the purely humane level, a decent film.

Manchel: And you agree with Bruno Bettelheim and his criticism of *Seven Beauties*?²

Ophuls: Most emphatically.

Manchel: And you object strongly to the comparison between the *Lacombe, Lucien* and *The Memory of Justice*?

Ophuls: Most emphatically.

Manchel: Now, two other points which are important to bring up. First is the question that Harold Rosenberg raises in the *New York Review of Books*,³ when he refers to a book by Bradley F. Smith, entitled *Reaching Judgment at Nuremberg*. (Basic Books, 1976). Rosenberg claims that you make a factual error. You read the Smith book after it came out. What was your analysis of the Smith book, following your review of the book?

Ophuls: Do you think we should go into that? To explain what Bradley Smith says. . . ?

Manchel: The point that Harold Rosenberg makes in his "Shadow of the Furies" is that Smith's book argues that Roosevelt and Churchill agreed on the summary execution of Nazi leaders, along with Stalin. You and the film make the statement, or the statement is made in the film, that only Stalin was responsible. Although Rosenberg admits that you didn't have access to the book at the time of your film, is it nevertheless true that your film presents inaccuracies?

Ophuls: Yes. I mean this is the only example of fair play that he displays in his whole article. He does say that I obviously did not have access to the book, because the book was published after the film was made. I thank him for his fairness.

Manchel: But since then you have read the book. Is Rosenberg right?

Ophuls: Let me try to explain. After having read the Rosenberg article, I couldn't read the Smith book because I was in Switzerland at that time. But as soon as I returned to Princeton, I got the book and read it. Now, here's the interesting thing as far as I can see. The statement in the film was made by Lord Hartley Shawcross, who was very much closer to sources of power at the time of the second World War than any professional historian can be, including Bradley F. Smith, both on the basis of his position and the basis of his age. Lord Shawcross was Attorney General of the government at the end of the war and at the time of Potsdam. But the fact is that having read Mr. Smith's book, I find that there is no contradiction between the information that Smith had access to, and the statement that is made by Lord Shawcross in the film. Let me try to explain that as briefly as I can. In war-time, people, including the leaders of states, have a tendency to use the fury and the justified anger vis-a-vis the enemy in a certain way at the beginning of the war and then, as the peace draws closer and closer, that tendency will gradually be amended by various other considerations. This is one of the facts of life, of politics. And what Smith is talking about in his book which Rosenberg, fair play or no fair play, fails to mention, is in connection with the early stages of the war, the Quebec Conference between Roosevelt and Churchill. There is no contradiction, in fact, between my film and the new book whatever—these were all, of course, secret conferences. Bradley Smith, who is a very competent historian, had access to the diaries of a man called Biddle, who was a judge at Nuremberg and a very highly placed man in Roosevelt's brain trust during the war. And of course, all these were secret conferences, but the Quebec Conference between Churchill and Roosevelt, happened rather early in the war. I think 1942, if my memory serves me. And the Yalta Conference, which is what Shawcross talks about in the film, came two years later. So it is quite possible, and psychologically not at all unlikely, that by that time Churchill and Roosevelt had come to have other priorities, because the necessity of creating a just, democratic, peaceful society in the postwar world was at that time high in the order of priorities of sincere and dedicated democrats, which I believe both Churchill and Roosevelt were in their own way. And by that time a totalitarian ideologue and, as we now know, butcher and criminal like Stalin would not have

had the same positions in Yalta, that by that time I assumed Roosevelt and Churchill could have adopted. So there is really no real contradiction, and Rosenberg's ingenuous attempt to rally Churchill and Roosevelt to what he thinks should have taken place after the war, namely summary executions, is extremely disingenuous, because it has to do with Biddle's diaries about Churchill's and Roosevelt's rage and commitment and dedication in the beginning of the war, before they actually confronted the necessities and the priorities of what are we going to do with the Nazi leaders after the war.

Manchel: Your defense of the film against the critics might lead some people to believe that you don't admit to any errors or misjudgments in the film. In point of fact, didn't Professor Raoul Hilberg, author of *The Destruction of the European Jews*, point out to you that you made a serious omission in your questioning of Albert Speer?

Ophuls: Yes. This was—my visit here with you—this was a very unhappy moment for me. After my lecture and during a question and answer period, a middle-aged man who was obviously not a student, whom I therefore, assumed to be a Professor, but who did not identify himself, pointed out in the course of his comments and his question, the existence of a correspondence between Speer and a man called Pole, who was in charge of the construction of the concentration camps and the extermination camps. In the course of that correspondence, Speer apparently pleaded for harder measures and more ruthless measures to get the concentration camp-inmates to aid in the construction of their own camps.

Manchel: More primitive conditions.

Ophuls: Yes. Well, more ruthless conditions to get them to do the work. And the fact is that I was not aware of that correspondence, and that in my attempt as a movie-making amateur to do my homework and my research prior to making the film, I did not come across the correspondence, for whatever reason. And it then later turned out that the man who had made that comment during the question and answer period is Professor Raoul Hilberg, who has written a very famous book on the Holocaust called *The Destruction of the European Jews*, which I indeed had read, or at least I had thought I had read, during my research. As a matter of fact, if I hadn't read it I would have been extremely remiss, because it is an extremely important book, but I guess I didn't read it thoroughly enough. It's like students preparing for an exam. You read some books, page by page, and chapter for chapter, and some books you read one chapter or two chapters and

then you put them aside and read another book, and somehow you get into a process where after having read 30 or 40 books you don't remember which ones you have read, page by page, and which ones you have glanced at, and you just take them all back to the library. And the fact is that I missed that particular thing, and this is a major sin of omission, because this is as far as I can ascertain a real down to earth objective fact. Had I been aware of that, it would have been certainly my job, as a journalist and as a filmmaker, to confront Speer in the course of the very long interview I did with him, with that particular piece of evidence and get his reaction to it. Had I done my homework properly and exhaustively, I certainly would have done that. There would have been no reason why I shouldn't have done that, and I certainly would have done that and, therefore, I feel very guilty and very responsible about this, because while there are a great number of journalists who have had and are still having access to Speer, still I am one of maybe fifty or a hundred. And in not very many years Speer will be dead and I will be dead and Professor Hilberg will be dead and then nobody will have asked Speer that question.

Manchel: One final question after four years of hardship and agony, and now this severe critical attack from a certain element in society—where do you go with *The Memory of Justice*? Is it over? Do you walk away from it, or “Fight on.”

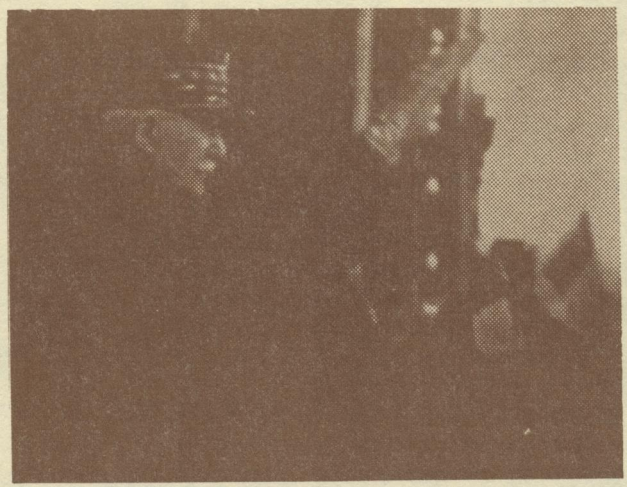
Ophuls: My mood shifts from one moment to the other, because it's an albatross hanging around my neck. I have obligations to my own family and to myself and to my own life and also to what I have learned from my father to be the priorities of show business, to go on being creative and productive as long as I possibly can, and *The Memory of Justice* in this time of my life is preventing me from doing that. Therefore, very much wish to get away from it. I don't think I can. don't think I can.

NOTES

¹ Jay Cocks, “A Battle Over Justice,” *Time* (May 12, 1975), 77.

² Bruno Bettelheim, “Reflections: Surviving,” *The New Yorker* (August 2, 1976), 31-36, 38-39, 42-52.

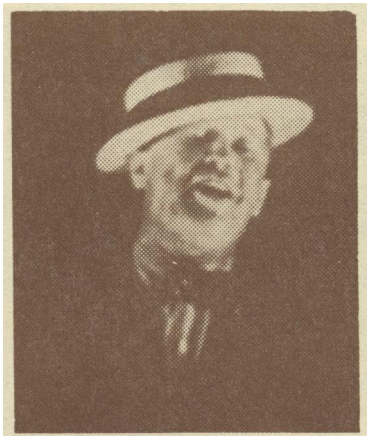
³ Harold Rosenberg, “The Shadow of the Furies,” *The New York Review of Books* (January 20, 1977), 47-49. See also Ophuls and other responses in “*The Memory of Justice*: An Exchange,” *The New York Review of Books* (March 17, 1977), 43-46.



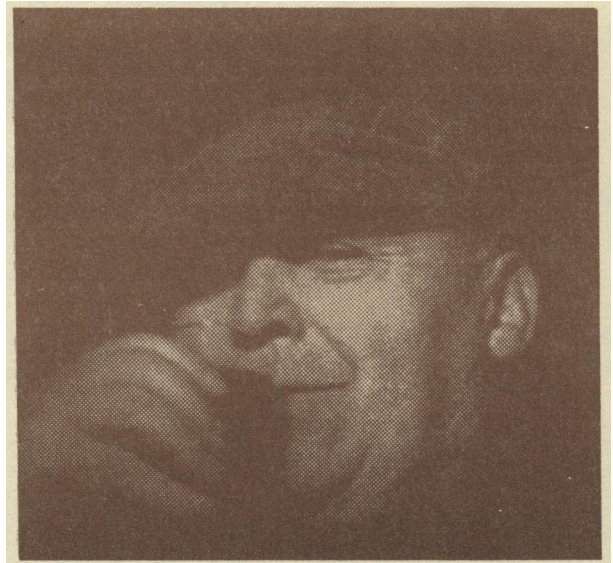
Marshal Petain offered the gift of his person in Marcel Ophuls' *The Sorrow and The Pity*.



A jubilant Hitler makes his first visit to Paris.



Maurice Chevalier entertaining the troops.



Louis Grave, former resistance fighter, as seen in Marcel Ophuls' *The Sorrow and The Pity*.