tages of any kind". In the original text, superior orders did not constitute an excuse for committing one of the acts listed in the code if a "moral choice" was open to the accused; in the latest draft, the expression "moral choice" is avoided, and superior orders do not excuse the crime if it is possible for the accused not to comply with those orders.

At the General Assembly in 1954 there was little disposition among members to comment on the substance of the draft code of international crimes. On the basis of the few statements on general principles, there would appear to be some reluctance to have the scope of the code go far, if at all, beyond the formulation of the Nuremberg principles.

In the code, aggression is to be an offence, but many of the notions suggested for inclusion in the concept of aggression are listed as separate offences. Because of the close relationship between the code and the question of the definition of aggression[1], a large majority of members agreed that the question ought to be postponed until the special committee which had been set up to draft a definition of aggression had reported to the General Assembly. A resolution to this effect, sponsored by Canada, Brazil, Denmark and India, was adopted by the General Assembly, by a vote of 53 in favour, 0 against, with 3 abstentions.

International Criminal Jurisdiction

In 1952, the Legal Committee of the General Assembly had before it a report of a special committee[2] which had been requested to prepare a draft convention relating to the establishment of an international criminal court[3]. The debate in the Legal Committee was confined for the most part to the general question of whether it was possible and desirable to establish such a court. It was decided to set up a second special committee to explore the implications and consequences of establishing an international criminal court and the various methods by which this might be done; to study the relationship between such a court and the United Nations and its organs; and to re-examine the statute drafted by the first special committee.

The report of the new committee[4] made some revisions to the existing draft statute, but it was unable to recommend whether or not a court should be set up in the immediate future. Indeed, the report states, "There was no evidence that States wished to establish a court, or that, even if it were established, States would be willing to give it the measure of consent and co-operation which was vital to its functioning." It was agreed that the time had come for the General Assembly "to decide what, if any, further steps should be taken toward the establishment of an international criminal court". This was the issue before the Legal Committee of the General Assembly in 1954 and no attempt was made to discuss the draft statute. A few member states were prepared to have an international criminal court set up at once, even though the method of conferring jurisdiction, and a full statement of the law which the court would apply might not be settled for some time to come. The majority of members however were of the view that establishment of an international criminal court during a time of international tension was neither desirable nor practicable. Canada, the United States and the United Kingdom were among the countries holding the latter view. A few members of the Legal Committee, including the Soviet bloc, flatly opposed the setting up of a court on the grounds that this would be inconsistent with the principle of sovereignty of

[1]See "Definition of Aggression" above, pp. 105-106.
[2]General Assembly document A/2136.
[3]See *Canada and the United Nations 1951-52*, p. 135.
[4]General Assembly document A/2645.