

(ACT ONE, SCENE ONE)

1. What do Baker's first three motions attempt to accomplish? **A.** Baker's first three motions are intended to dismiss entirely or at least postpone the trial, on the grounds that the military tribunal no longer has jurisdiction, that the witnesses are afraid to come forward and admit their sympathy for the South, and that Wirz is accused of murdering and abetting in the murder of people whose names are not specified.

2. What is the accusation against Wirz? Of what must he be convicted in order to be hanged? **A.** Wirz is accused of criminal conspiracy to end the lives of American soldiers through violation of the customs and rules of war. The five specifications provide details and support of the charge, but Wirz must be convicted of the actual conspiracy charge in order to be sentenced to be hanged.

3. Why is there hostility between Chipman and Baker from the outset of the trial? **A.** The source of their mutual dislike is that they represent different sides: Chipman fought for the Union and represents morality; Baker intends only to represent Wirz as efficiently as possible without any moral overtones. Moreover, Baker resents the fact that Chipman seems to be turning the trial into an arena for political and ethical confrontation.

4. According to the tribunal, what is the meaning of the conspiracy charge? **A.** To obtain a conviction on the charge of conspiracy there must be evidence "of a common design to commit a criminal act." In other words, there must be proof that two or more individuals jointly *planned* to commit war crimes.

5. Who is General Winder? What is his significance to the trial? **A.** General Winder, now deceased, was Wirz's superior officer. He is important because Baker attempts to prove that all orders came from him and that Wirz did not have any choice but to obey.

6. Why is Dr. Bates "rattled" by Baker? **A.** Bates knows that Baker has used his testimony about General Winder to Wirz's advantage. He is flustered and upset at himself

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SCENE ONE

1 *The Court of Claims, Washington, D.C. A morning in August, 1865. The atmosphere is sweltering. The room is furnished simply. A number of conference-type tables arranged to form a courtroom area: defense and prosecution tables, right and left, opposite sides, the judges' table, center, to the rear so that they will sit facing the audience; the witness chair, right center, placed near the judges' table. Next to the defense table we note the bizarre element of a chaise longue,* down right. It is for the prisoner who is ill and who will recline through most of the trial. Two tall French windows* are in right wall. An American flag is mounted on the wall behind the judges' table. Mounted on a stand, above judges, is a table,* a huge schematic drawing of the Andersonville stockade — a rectangle with a simple sketching in of elements such as a stream, walls, entrance gate,*

deadline, "hospital," burial ground, etc.

The doors are opened by two UNION SOLDIERS. A LIEUTENANT in charge gestures silently and forcefully, motioning the others to their locations in the room. Immediately following, GOVERNMENT and DEFENSE COUNSEL enter in the stream of court PERSONNEL and NEWSPAPERMEN, all moving to assigned tables. Nobody sits down. The entrance of the JUDGES is expected momentarily. The others have all gone to their places swiftly — all having been here before. The uniformed PROSECUTORS (JUDGE ADVOCATE and ASSISTANT JUDGE ADVOCATE) are LT. COL. N. P. CHIPMAN and MAJOR D. HOSMER. Opposite them are OTIS H. BAKER and LOUIS SCHADE, representing the defendant. Counsel confer rapidly at their separate tables. (The subject, as we shall learn in a moment, is the absence of the defendant.) CAPTAIN WILLIAMS now



Group of Union officers

HELPFUL DEFINITIONS

chaise longue — a reclining chair with a lengthened seat to support the legs.

French windows — a pair of floor-length windows that open in the middle.

table — here, chart.

1 The war had ended on April 26, 1865, when General Joseph Johnston surrendered to General William Tecumseh Sherman. Lee had already surrendered at Appomatox on April 9, 1865.

enters and strides over to COL. CHIPMAN, to whom he speaks with an air of suppressed excitement. He breaks off almost as soon as he begins — as the JUDGES enter. All parties come to attention as the JUDGES, eight Union officers of rank in full uniform, take their places. They sit flanking GENERAL LEW WALLACE, President of the Court. There is a quality of cold overriding power and purpose in control as proceedings start. As WALLACE speaks, he reveals a chill and remote authority. He is a major general.

WALLACE: [Banging gavel down once] This military court convened by order of the War Department is now in session. The lieutenant in charge is advised to post additional guards in the corridor. A lane must be kept clear at all times to the courtroom doors.

LIEUTENANT: Yes, sir. [He goes out]

WALLACE: Have all witnesses listed to appear in these proceedings reported to the clerk of the Court?

CLERK: All have reported to the clerk, sir, and are on hand.

WALLACE: I take it all concerned with these proceedings have signed the necessary oath of allegiance to the government of the United States.

CHANDLER: Yes, sir.

[LIEUTENANT re-enters, takes up post at closed doors]

WALLACE: [As he refers to counsel by name; they acknowledge by a nod] Lt. Col. N. P. Chipman, for the War Department. Mr. Otis Baker for the defense. The defendant, Henry Wirz, is to be tried by this military commission consisting of — [Glancing down the line of the Judges] General Mott ... General Thomas ... General Geary ... General Fessenden ... General Ballier ... Colonel Allcock ... Colonel Stibbs ... and myself, General

Wallace. Has the defense any objection to any of its members?

BAKER: No objection.

WALLACE: I do not see the defendant.

CHIPMAN: If the Court please, Captain Williams is here and will explain his absence. [CAPTAIN WILLIAMS comes forward]

WILLIAMS: Sir, regarding the defendant. He will be brought here shortly.

WALLACE: Is he ill?

WILLIAMS: [Blurring it] Sir, he is temporarily indisposed, following his attempt on his life this morning which was foiled by the alertness of the guards —

WALLACE: Mr. Wirz attempted to take his life?

WILLIAMS: Unsuccessfully, sir.

WALLACE: Captain, you will explain to the Court how such an attempt could have possibly occurred.

WILLIAMS: Sir, Mr. Wirz tried to slash his wrist after breaking a bottle.

WALLACE: A bottle?

WILLIAMS: A brandy bottle which he receives daily as a stimulant by order of Dr. Ford —

WALLACE: The incident should not have occurred — You are charged with custody of the prisoner. You will take the necessary steps so it will not occur again. You say the prisoner is in condition to appear shortly?

WILLIAMS: Within a few minutes, and I will personally —

WALLACE: [Cutting him off] That is all.

WILLIAMS: Yes, sir. [Exits, to re-enter later with CAPTAIN WIRZ]

WALLACE: I will ask defense counsel to plead to the indictment in the absence of the defendant.

BAKER: We would prefer, if the Court will permit, that Captain Wirz hear the charges against him directly —

WALLACE: This trial has been postponed



Why might Wallace feel he should post additional guards?

A. A Southerner was being tried for crimes against Union soldiers, soon after the conclusion of the war. Wallace may have feared rioting by Union Sympathizers.



Why hasn't Wirz appeared?

A. He is still recovering from a suicide attempt; he slashed his wrist with a piece of glass from a broken bottle of brandy that was prescribed by his doctor for daily use as a stimulant.



Why hasn't Wirz appeared?



Why might Wallace feel he should post additional guards?

QUESTION

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for permitting that to happen.

7. Who is Ambrose Spencer, and why is his testimony important? A. Ambrose Spencer is a plantation owner who lives near Andersonville Prison. His testimony is intended to prove that Wirz could have allowed food to be brought to the prisoners, but that he wanted to starve the men.

8. Why does the President of the Court, Wallace, threaten to have Wirz removed? A. He threatens to try Wirz in absentia if Wirz will not adhere to proper courtroom procedures and if he continues to disturb the trial with emotional outbursts.

9. Why is Baker dismissed from the case? A. Baker insinuates that the United States government is conspiring to convict Wirz unjustly; this slanderous comment is grounds for dismissal.

2 Chipman is a Union Lieutenant Colonel who acts as prosecutor. Baker is lawyer for the defense.

3 Foreshadowing: Wirz's attempted suicide will have bearing on later events in the play.



What is our first impression of Wallace?

A. He is cold, businesslike, and formidable. He is perfectly suited to conduct this sort of emotional, tension-ridden trial.



Why is Chipman angry?

A. Chipman is a Union soldier; it is difficult for him to conceal his personal disgust and fury at those who were responsible for the treatment of his colleagues in prison camps. This anger most strongly influences his behavior and tone during the first part of the trial.



What is the basis of Baker's objection? What does he propose?

A. Baker objects because the trial is being conducted by a military tribunal, and the war has already ended. He proposes that the trial be dismissed on the grounds that the tribunal no longer has jurisdiction during a time of peace.



What is Chipman's response to Baker's motion?

A. Chipman explains that there is still fighting going on and that the war still continues after the surrenders. The president's war powers are still in force, and, therefore, the military tribunal does have jurisdiction.



What is our first impression of Wallace?



Why is Chipman angry?



What is the basis of Baker's objection? What does he propose?



What is Chipman's response to Baker's motion?

several times and the Court intends to proceed this morning without further delay. [More command than question] Will counsel plead to the charge?

BAKER: Counsel will plead.

WALLACE: If the Judge Advocate is ready.

CHIPMAN: Ready, sir.

WALLACE: The indictment will be read.

[CHIPMAN'S movement reflects something of the man at once — an angry aggressive quality. He is 31, a battle veteran. Essentially he is a man of willful personal independence who endures the yoke of discipline with difficulty. He communicates an intense anger under control as he reads the indictment]

CHIPMAN: [Seated] Charge — Criminal conspiracy to destroy the lives of soldiers of the United States in violation of the laws and customs of war.

4



A CLOSER LOOK

Conspiracy is the act of plotting, contriving, or scheming together. A **criminal conspiracy** involves plotting and conspiring with others to commit crimes, in this case, war crimes.

5

Specification — That Henry Wirz who was in charge of the Confederate Prison at Andersonville, Georgia, did keep in barbarously close confinement federal soldiers, up to the number of forty thousand, without adequate shelter against the burning heat of summer or the cold of winter and —

Specification — That said Henry Wirz in carrying out this conspiracy did not provide the prisoners of war with sufficient food, clothing or medical

care, causing them to *languish* and die to the number of more than fourteen thousand.

Specification — That he established a line known as the "Deadline" and that he instructed the prison guards stationed on the walls of the prison *stockade* to fire upon and kill any prisoner who might pass beyond that deadline.

Specification — That he used bloodhounds to hunt down, seize and mangle escaping prisoners of war, through these various causes bringing about the deaths of about fifty federal soldiers, their names unknown.

Specification — That through direct order and/or by his own hand he brought about the murder of thirteen prisoners, their names unknown.

WALLACE: Mr. Baker, pleading for the prisoner — how do you plead to the charge?

BAKER: [Seated. Making his objection speedily, aware that they are all going to be rejected] We *interpose* a motion — that this military court discharge itself as being without proper jurisdiction now that the war is over.



A CLOSER LOOK

During a trial, a lawyer will frequently and commonly interrupt with a **motion** — a formal proposal made in a deliberative assembly, such as a trial — that constitutes an objection to something said or an urgent request to the judge.

6

CHIPMAN: This court has jurisdiction under the war powers of the President, which are still in force. It is well known that die-hard* rebel officers still refuse to lay down their arms. Officially and in fact the war continues. Move to deny.

die-hard — strongly or fanatically determined or devoted.

HELPFUL DEFINITIONS

- 4 The charge of conspiracy means that Wirz is accused of scheming and plotting with others to commit crimes; he is a representative, then, of a group, but his individual alleged crimes will be specified as well. The issue of the conspiracy charge is a major point in Wirz's defense, for he maintains that he did not actually conspire to bring about the insidious course of events, but simply facilitated these occurrences by following orders.
- 5 Note that there is only one charge against Wirz — "criminal conspiracy." The specifications are details that support that charge of conspiracy, which is what Wirz must be convicted of in order to be executed.
- 6 Although Generals Lee and Johnston had surrendered, hostilities continued for some time.

WALLACE: The motion is denied.

BAKER: Motion to postpone...on the ground that potential witnesses who in more normal times might speak for the defendant refuse to do so now, for fear their motives will be misunderstood as signifying support of the late Confederacy.

CHIPMAN: *[With open sarcasm]* If Mr. Baker's witnesses can in good conscience take the oath of loyalty to the government of the United States, they have nothing to fear.

BAKER: The Court is aware of the temper of the times. It is only four short months since Mr. Lincoln was assassinated.

WALLACE: *[A clap of thunder]* We will leave that name out of this trial! **7**

BAKER: *[Rises]* Nevertheless, Mr. Lincoln's presence is in this room — his murder is felt in this room — and it swells the charge of murder against the defendant to gigantic size —

CHIPMAN: For which the Southern cause is responsible. And counsel will not turn Mr. Lincoln's tragic death to his advantage here.

BAKER: It is my general concern, sir, that the indictment leaves out Captain Wirz's military superiors, making him the single target of the national mood of vengeance against the South — **8**

WALLACE: *[Gavel]* That will be all, Mr. Baker. Motion denied. If you have no further motions —



A CLOSER LOOK

The President of the Court pounds his **gavel** on the desk to indicate that all must be silent and that he will rule on a motion.

BAKER: I do. As to the specifications alleging the crime of murder and *abetting* murder against certain persons, move

to strike them since no persons are named.

CHIPMAN: *[Rises]* Counsel cannot with his motions dispose of the horror of 14,000 unknown dead dumped into unmarked graves at Andersonville. Better records were kept of bales of cotton. Move to deny.

BAKER: Will the Judge Advocate tell us where accurate prison records were kept during the War? *[CHIPMAN reacts with annoyance]* The Judge Advocate owes me common courtesy here. A person accused of crimes punishable by death is entitled to a proper defense.

CHIPMAN: We know what is defended here. Counsel's political motives are well understood.

WALLACE: *[Raps gavel]* The exchange will stop.

BAKER: I only remind the Judge Advocate that he is in a court of law; and no longer on the battlefield. He behaves as if the horror of war was not universal. The North had its Andersonvilles.

WALLACE: The government of the United States is not on trial here, Mr. Baker.

BAKER: That remains to be seen.

WALLACE: *[Rising]* Mr. Baker — !

BAKER: Meaning no offense to the court — The remark stated in full would have been..."That remains to be seen through the testimony that will be offered here." I was referring to what the record will show, sir... **9**

WALLACE: The court is not misled —

[The court door is opened from the outside by CAPTAIN WILLIAMS who indicates to the LIEUTENANT in charge that the Prisoner is ready to appear]

In the future you will exercise care in your remarks to this court, Mr. Baker. Motion denied.

LIEUTENANT: Prisoner to the court!

On what grounds does Baker want to postpone the trial? What is Chipman's reaction, and how does Baker respond?

What is the implication of the argument between Chipman and Baker?

How does Lincoln's assassination affect Wirz's trial?

What is the tone of Baker's remark? What does he mean?

What is meant by "the court is not misled"?

On what grounds does Baker want to postpone the trial? What is Chipman's reaction, and how does Baker respond?

A. Baker wants to postpone the trial because he claims that potential witnesses will be afraid to speak the truth and their testimony will be interpreted as professing allegiance to the Confederacy, now that the South has lost and the Union is in control. Chipman says, sarcastically, that if witnesses swear allegiance to the Union, they have nothing to fear, but Baker reminds him that times are still terribly tense, especially in the wake of President Lincoln's assassination by a Confederate sympathizer.

How does Lincoln's assassination affect Wirz's trial?

A. If Lincoln had not been murdered by a Confederate sympathizer, perhaps the anger against Wirz might have dissipated. The assassination increased the desire for Northern vengeance as Lincoln's death exacerbated the anger felt because of the death of thousands of Union soldiers.

What is the implication of the argument between Chipman and Baker?

A. Chipman implies that Baker is turning the trial into a political battlefield — a forum for a verbal war between the North and the South. Baker reminds him that the alleged crimes were not particular to the Confederacy; the North mistreated its prisoners as well.

What is the tone of Baker's remark? What does he mean?

A. Baker's tone is ironic; he implies that, in fact, the government *is* on trial, for the government represents the Union which, according to Baker, makes Wirz the scapegoat for crimes of which it is itself guilty.

What is meant by "the court is not misled"?

A. Wallace knows that Baker is trying to cast aspersions on the validity of the government's claim against Wirz through his insinuation that the Union government is using Wirz as an instrument of vengeance against the South.

7 As a Union officer, Wallace is personally affected by Lincoln's assassination, yet as President of the Court, he must remain impartial. He is characterized as having "chill and remote authority." He does not want Lincoln's name to be mentioned so that emotional issues will not cloud the supposed impartiality of the court. His response is compared to the violence of a thunderstorm.

8 Baker implies that Wirz is the scapegoat who takes the brunt of all the Northern vengeance over treatment of Union prisoners.

9 Indirect Characterization: Baker's retort reveals the clever, shrewd, confident manner that he will affect throughout the proceedings. He rarely becomes as passionate or ruffled as Chipman, and seems to have less emotion invested in the case than either Chipman or Wallace. In a play about doing one's duty, Baker is simply doing his job as best he can.