

September 5, 1945

9.9.1 / 24

SOME BASIC IDEAS WITH REGARD TO THE APPEARANCE  
OF A JEWISH WITNESS AT THE  
INTERNATIONAL MILITARY TRIBUNAL

I. It is obvious that an exact knowledge of what Justice Jackson told Dr. Chaim Weizman is indispensable for the solution of the problems connected with this appearance. On the other hand, the formulation of the Jewish charge or charges (which is so far unknown) will also contribute to the solution of the problem. Finally, the very concept of a witness who is at the same time also a representative of a people not represented on the court, will constitute the third factor in determining the contents of the expected deposition.

II. We have to make it clear for ourselves to whom this deposition will be addressed. Should it be confined to produce a piece of evidence capable of convincing the judges, the question may justifiably arise whether we are in possession of such specific evidence unknown to the court or the prosecution. In any case, in order to influence the judges-- and that is certainly one of the purposes of this appearance--we have to know who they are. Here again, we are completely in the dark. It will be up to us to ascertain the personalities and backgrounds of the four judges when planning this appearance.

However, it would certainly be a grave mistake to confine the

function of this appearance only to the four judges. In fact, this would be impossible. The trial will be a public one; press and radio from the entire world will be represented there; the unique opportunity of pronouncing an earth-shaking l'accuse presents itself and should certainly be taken advantage of. Nothing short of this kind of statement would justify this appearance. It must indeed be an historic occasion as, for instance, Weizman's appearance before the Peel Commission, which should appeal to both the emotions and reason of mankind.

III. This is certainly not going to be any kind of confirmation by witness of facts contained in the indictment. On the other hand, a skillful selection of the most striking features of the Jewish case, even if already referred to in the indictment, may prove very effective.

IV. It should furthermore be borne in mind that two Jewish charges are supposed to be taken up in the indictment, one of them of an international character, which would refer to the events subsequent to the beginning of the war, and the second dealing only with the domestic policy in the expanded German Reich. It will be a very grave problem how to have these two technically separate but logically combined charges presented with the greatest effectiveness.

With regard to the international charge, its connection with the war

will probably be most strongly underlined by the judges.

V. There are very dangerous pitfalls. We have to expect a severe cross-examination both on the part of the defendants themselves and their counsel.

The following problems may be raised, and unless skillfully handled,

may reduce the whole appearance to a boomerang:

- a) The inference that not the Nazis are guilty, but the objective conditions of the Galut;
- b) Not the Nazis are guilty but the United Nations, who stood by and did nothing to help;
- c) Mass murder can certainly not escape classification as a crime, but we are in not only for this purpose. What we have in mind is the initial quasi-legal "decent" methods of anti-Jewish actions. It is a matter of balancing the testimony in presenting the various stages of the process of annihilation.
- d) Concentration on the dead may overshadow the necessity of stressing the consequences of Nazi policies for the survivors, and this, again, in two respects:
  - (1) The physical and psychological aspects of the survivors of former Nazi Europe; and
  - (2) The permanent consequences of the 12 years of propaganda for Jewish communities untouched by direct action.

jr:ca