

Page
Revised

THE BERLIN SITUATION

The discussions in Moscow have reached the crucial phase. The fundamental issue from which all the difficulties encountered stem is the Soviet insistence that the four-power control over Germany has lapsed and with it all rights of the occupying powers in Berlin. The specific points which have deadlocked the discussions, such as the four-power administration over the Berlin currency, stem from this basic issue concerning the rights of the Western Powers in Berlin. This point is so fundamental that it would probably require a further visit to Stalin before the discussions end.

Ambassador Smith and the French and British representatives are probably seeing Molotov today and if, as we anticipate, Molotov repeats the Soviet assertion that we no longer have any rights in Berlin, they will request an interview with Stalin.

While the discussions have not yet broken down, if the Soviets maintain their position that we have no rights in Berlin and are there only on Soviet sufferance and on the basis of such favors as the Soviet Government may choose to accord us, there will be a complete deadlock in the discussions.

We feel the Soviet position is unacceptable;

- (1) on the grounds that no one nation, party to a multilateral agreement, can unilaterally by mere assertion of alleged violations by the other parties declare null and void such multilateral agreements;
- (2) to pass over in silence this issue would be, in effect, to trade our rights in Berlin for the lifting of the blockade, which would render our position in Berlin much more difficult in the future and would unquestionably be exploited all over the world by Soviet propaganda as a great diplomatic victory (In this connection, you might care to mention that we have several reports from Europe that the Russians are informing their followers that a major Soviet diplomatic victory on Berlin is in prospect. This has



come to us, among other sources, from the Prime Minister of Italy himself.)

It is the intention of all three Western Governments, who are completely together on this, to stand firm in defense of their right to be in Berlin and to accept no agreement in Moscow which would imply any abandonment of those rights.

We feel that the real Soviet purpose in the Berlin matter is to disrupt the recovery of the Western Zones in Germany and thereby European recovery.

DANUBE CONFERENCE

It might be useful to emphasize that the Danube conference at which we are being consistently outvoted was not proposed by the United States. It stems from an agreement made in December 1946 during the Council of Foreign Ministers in New York at which, in exchange for an inclusion in the satellite treaties of the principle of free navigation on the Danube, the Western Powers agreed to a conference within six months from the entry into force of these peace treaties to be composed of members of the Council of Foreign Ministers and the states bordering on the Danube.

The draft Convention proposed by the Soviets, which will undoubtedly be adopted by the conference, would be unacceptable to the United States, and our Delegation and the British and French will vote against it.

THE EMPLOYEES OF THE SOVIET CONSULATE IN NEW YORK

We are somewhat concerned lest the Un-American Activities Committee go too far in the direction of impairing the principle of immunity of consular officials and thereby establish precedents which can be turned against us in the Soviet Union and the iron curtain countries at great risk to our consular officials in those countries.

As a matter of actual law, consular officials and

employees not enjoying diplomatic status have no personal immunity as regards the serving of subpoenas etc. We have taken the position, however, that forcible entry into consular premises for the purpose of serving any such subpoenas or court orders is not countenanced by international law and practice unless there is strong evidence that a crime is being or is about to be committed in such premises.

One of these Soviet employees, Samarin, is clearly, and has so publicly stated, refusing to return to the Soviet Union on his own volition and has been subject to no duress on the part of any American authority or American group.

The case of the woman, Mrs. Kosenkina, is somewhat more complex since it is not clear what her real intentions are. However, she has publicly stated following her return to the Consulate that she was "abducted" by a White Russian organization and that she desires to return to the Soviet Union. Whatever the truth or falsity of this statement, it is difficult and dangerous in her case to attempt to proceed on the assumption that she is being forcibly detained in the Soviet Consulate and we feel that any legal action in her case would not be well founded and would establish a very dangerous precedent affecting the immunity of official premises.

