

INCOMING TELEGRAM

DIVISION OF CENTRAL SERVICES TELEGRAPH SECTION

EDW-924
This telegram must be closely paraphrased before being communicated to anyone. (SECRET)

London
Dated July 4, 1945
Rec'd 3:50 p.m.

file

CF
Office of U.S. Chief Counsel for Prosecution of Axis Criminality

Secretary of State
Washington

Give to Judge (quoted) SIR
x349

US URGENT
6729, July 4, 5 p.m.



~~TOP SECRET~~ x20
FOR SECRETARY BYRNES FROM JUSTICE JACKSON. x325-A

Your cable 5383, July 3. Negotiations of agreement trial principal war criminals progressing slowly due difficulty Russian understanding our system of law and our difficulty comprehending theirs. British and French in substantial agreement with us. Russians, however, present complete counterproposal of dozen typed pages. On its face their proposal rejects substance of ours and substitutes many trials by Russian procedures largely in Russian controlled territory and after surrender of our prisoners to tribunals instead one main trial at Neuremberg as suggested by Clay. Some difficulties have disappeared on negotiation after Russians understand our proposal. Today we reached stage of referring all to subcommittee for drafting.

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Deep difference in legal philosophy and attitude, however, is difficult to reconcile and even after words are agreed

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x220

-2- #6729, July 4, 5 p.m., from London.

are agreed upon we find them understood to mean different things. We insist on trial by methods acceptable our people as fair but are trying to adopt enough of their proposals to result in a Four Power agreement. Too early to be sure we will get it but by no means hopeless to do so.

Unless we can get substance of our proposal shall want further instruction. Only alternative then will be to agree on general principles as to substantive law governing crimes and to let each set up own tribunals and try own prisoners by its own system of procedure. This would be easier for me and faster. But think desirable give example unity on crime problem if possible.

Am rather appalled at thought of Big Three trying to discuss subject so technical and involved and one where details so important. Mr. Dean of British Foreign Office explains British suggestions as not intending detailed discussion but rather as intended to allay Russian suspicion that prosecution is being evaded.

If Big Three undertake discussion seems important that I review matter in some detail President and you because important differences lurk in small phrases. Also problem complicated by Russian insistence that we incorporate agreement concerning turnover of prisoners wanted

in other

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-3- #6729, July 4, 5 p.m., from London.

x317
in other countries for trial. I have taken position all except international cases are beyond terms of my authority and except to advise my own Govt whether we have objections in any case, the question of surrender prisoners is not before us. This is likely to become very delicate problem as demands probable for surrender persons who are not war criminals but politically objectionable. You will need to decide what terms to impose and what showing will be required of criminality. As suggested cable to Grew re Czechoslovakian demand for turn-over of Frank a uniform policy needed as to all prisoners and demands from all countries. Glad help on this any way experience thought useful and to receive instructions if I have construed my authority too narrowly.

Have kept Rosenman informed. Have consulted Clay on details concerning trial and matter affecting control commission work. Can cable to you whole Russian proposal if desired but in view the necessity to know interpretation in order understand it have not thought useful.

DU

WINANT

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