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THE ASSISTANT SECRETARY OF WAR
WASHINGTON

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17 APR 1945
1945
1945

28 April 1945

MEMORANDUM FOR JUDGE SAMUEL I. ROSENMAN:

I send you herewith a copy of a letter received today from Assistant Attorney General Herbert Wechsler, together with a copy of enclosure.

R. A. Cutter

R. AMMI CUTTER
Colonel, General Staff Corps
Assistant Executive

Enc.
By ltr 20 Apr 45 Mr. Wechsler to Col. Cutter.

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DEPARTMENT OF JUSTICE
WASHINGTON

DECLASSIFIED
E.O. 11652, Sec. 203 and 500
DATE 10/10/00 BY 2000/00/00

April 20, 1945

Colonel R. A. Cutter
Assistant Executive Officer
War Department
Room 4 E 886, Pentagon Building
Washington, D. C.

Dear Colonel Cutter:

As you requested at the White House today, I send you herewith the text of the comment that the Attorney General would have dispatched to London had not intervening events indicated that the matter could be delayed until a later time.

Sincerely,

/s/ HERBERT WECHSLER

Herbert Wechsler
Assistant Attorney General

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APR 21 1945

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DEPARTMENT OF JUSTICE
WASHINGTON

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E.O. 11652, Sec. 502 and 503

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REVISED
FORM 107-1, Jan 27, 1942 and 107-2, 1942
107-1, 1942
107-2, 1942

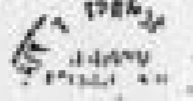
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NO 1152, Loc 283 and 529

-27- APR 26 1953

1. State and Justice urge adherence to trial before military tribunal in preference to Simon proposal. They believe that the joint recommendation of State, War and Justice of 22 January sufficiently achieves the advantages of a broad charge without substituting political for judicial processes. They, therefore, urge the importance of the conditions stated by Judge Rosenman but believe that in addition the prosecution should prove its case before the tribunal rather than rely upon the indictment however well documented. The advantages of the judicial method would be sacrificed by dispensing with proof or placing the burden of disproof upon the defendants. No objection, however, to separate trial of top officials or to review of sentence as in court martial.

2. Simon proposal in substance is for an investigation leading to political action. Therefore if it should prevail there is no advantage in limiting commission to military personnel or in dispensing with evidence in support of arraignment or in placing upon defendants burden of disproof. Such a non-judicial agency to advise the heads of state should so far as practicable follow normal methods in determining whether the charge is sustained by the facts. Even though disposition is political, a full record should be made for all time.

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DECLASSIFIED
FOI 1000, Sec. 202 and 203

DATE 11/11/03

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RECLASSIFIED
TO: E.O. 11652, Sec. 205 and 209

DATE: 11/11/03

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