SECRET
THE ASSISTANT SECRETARY OF WAR
WASHINGTON

SECRET

29 April 1940

Message for Judge Samuel I. Rosenman:

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

R. E. L.

R. A. C. GIBB
Colonel, General Staff Corps
Assistant Secretary

Ref:
Of fur 20 Apr 40 Mr. Wechsler to Col. Gutier.
SECRET
THE ASSISTANT SECRETARY OF WAR
WASHINGTON

22 April 1942

Maj. Gen. R. E. Johnson
Assistant Adjutant General

Enclosure for Judge Daniel L. Wurman:

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

R. E. Johnson
Assistant Adjutant General

Enc. Or 1st 80 Apr 45 to Col. Cutter.
April 27, 1946

Colonel A. A. Cutler
Assistant Executive Officer
War Department
Room G-5 000, Pentagon Building
Washington, D. C.

Dear Colonel Cutler:

As you requested at the White House today, I send you herewith the text of the consent 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,

/\ HENRY W. REINSCH

Assistant Attorney General
April 30, 1943

Colonel R. A. Dexter
Assistant Reconnaissance Officer
War Department
Room 2 E 100, Postage Building
Washington, D.C.

Dear Colonel Dexter,

As you requested at the White House today, I send you herewith the text of the consent 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,

[Signature]

Robertateral
Assistant Attorney General
SECRET
THE ASSISTANT SECRETARY OF WAR
WASHINGTON

28 April 1945

NOMERANS FOR JUDGE SAMUEL I. ROBINSON:

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

[Signature]

R. AUG. CUTLER
Colonel, General Staff Corps
Assistant Secretary

Res.:
Op 112 30 Apr 45 Mr. Wechsler to Col. Cutler.
April 30, 1940

Colonel R. A. Cutler
Assistant Executive Officer
War Department
Room 6 E 800, Pentagon Building
Washington, D.C.

Dear Colonel Cutler:

As you requested at the White House today, I send you herewith the text of the consent 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/ RICHARD WHEELER

Herbert Wechsler
Assistant Attorney General
1. State and Justice urge adherence to trial before military tribunal in preference to House 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 Hugman 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 disproving upon the defendants. No objection, however, to separate trial of top officers or to review of sentence as in court martial.

2. House proposal in substance is for an investigation leading to political action. Therefore if it should prevail there is no advantage in limiting contempt to military personnel or in dispensing with evidence in support of assignment or in placing upon defendants burden of disproving. Such a non-judicial agency to advise the heads of state should as 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.
1. State and Justice urge adherence to trial before military tribunal in preference to Nixon proposal. They believe that the joint recommendation of State, War and Justice of 20 January sufficiently achieve the advantages of a broad charge without substituting political for judicial processes. They, therefore, urge the importance of the conditions stated by Judge Nernoff 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 disproving upon the defendants. In objection, however, to separate trial of top officials or to review of sentence as in court martial.

2. Nixon proposal in substance is for an investigation leading to political action. Therefore if it should prevail there is no advantage in letting 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.
1. State and Justice urge adherence to trial before military tribunal in preference to Starr proposal. They believe that the joint recommendation of State, War and Justice of 20 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 Nance in that in addition the prosecution should prove its case before the tribunal rather than rely upon the indictment however well documented. The advantages of a judicial method would be sacrificed by dispensing with proof or placing the burden of disproving upon the defendants. No objection, however, to separate trial of top officials or to review of sentence as in court martial.

2. Starr proposal in substance is for an investigation leading to political action. Therefore if it should prevail there is no advantage in letting commission to military personnel or in dispensing with evidence in support of aggravation or in placing upon defendants burden of disproving. 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.