

May 9, 1945

Dear Mr. Hackworth:

In the course of our discussions with Sir William Malkin, he stated that he had received the attached cable from the Ambassador and indicated a wish to have as soon as possible an appropriate reply. In view of the fact that this obviously calls for a reply from the State Department, I am sending it to you.

I recommend that the question submitted be answered in accordance with the proposed reply which is also attached. This was composed after discussion with Mr. McCloy, although he has not seen the actual draft.

I shall tell Sir William before I leave that I left this matter in your hands to deal with when you are well enough to give it attention.

Very sincerely,

Samuel I. Rosenman



Green H. Hackworth, Esq.
Department of State
586 Fairmont Hotel

CYPHER (OTP)

From: Acting Secretary of State

at beavca edf arew (d)

isrevce taniga amiro diw To: Lord Halifax

erom to owf to sinqolra edf ,amifolv

Telegram No. 4549 dated 8.05 p.m. May 4, 1945.

ed bivodc lairf edf tndf beergs ai ji

of May 4th 1945. Recd: 4.04 p.m. May 4, 1945.

of to tannimant is predominant or for

British interest is predominant or for

other cause satisfactory to the other

.beavce ajnmevevo Your telegram No. 2292.

CHANCERY (FULL)

DISTRIBUTION of ~~nothing~~ In the course of our discussions

isw to lam edf mlfbdndf Judge Rosenman indicated that the United

Chancery's Action of ~~reference~~ States Government were in agreement with

T. File the views expressed in my telegram No.

Spares (2) 9342 of 1944 on the War Crimes Commission's

Red Box A proposals for establishment of an inter-

Red Box B Allied Treaty Court and of mixed Military

Red Box C tribunals; namely that:-

H.E. (a) the former is impracticable;

J. Balfour (b) the latter might serve a useful
R. Makins purpose in cases which cannot for any reason
H.B. Butler be conveniently handled by national courts.

H. H. Magowan
Sir G. Sanson
Sir G. Campbell

R. H. Hadow
A. D. Marris
R. Opie
B. Cockran
G.C. McKenzie
F. W. McCombe
T. Harman
A. McD Gordon
P.H. Gore-Booth
J. W. Russell
Major Berkeley
A.R.K. Mackenzie
Civil Secretariat (12)
J.S.M. (8)
R. Stevens
Director Security
Coordination, N.Y.
San Francisco Del. (6)

2. Rosenman did not, however, give us a formal assurance that the United States Government's views coincided with our own. He is addressing the Foreign Ministers at San Francisco. We are committed to give a final answer to the War Crimes Commission after consultation with the United States Government (see my despatch No. 28) and please therefore confirm that the United States Government's view is as indicated by Rosenman. We assume that the U.S. Government will also be replying to the Commission if they have not already done so.

(3). A mixed Military Court of the kind we have in view for our zone would be one convened by a British officer with a British president, to be conducted entirely in accordance with British procedure, but comprising as members one or more English speaking officers of the Allied force or forces interested, provided that the number of such officers does not exceed half the membership, excluding the president. Such a mixed court would be suitable for the trial of War Criminals in the following classes of case:-

(a) Where the victim of the crime is a national of one of the smaller allies (e.g. the Dutch) and the Allied Government interested send the case to us for trial because for legal reasons of their own they cannot try it;



CYPHER (OTF) From: Acting Secretary of State

(b) Where the accused is charged with crimes against several victims, the nationals of two or more States, one being British, where it is agreed that the trial should be by British Military Court, because the British interest is predominant or for other cause satisfactory to the other Allied Governments concerned.

CHANCERY (FULL)

The above has nothing to do with the procedure of handling the major War Criminals referred to in your telegram. The view expressed in my telegram No. 2342 of 1944 on the War Crimes Commission's proposals for establishment of an international Treaty Court and of mixed Military tribunals; namely that:-

(a) the former is impracticable;

(b) the latter might serve a useful purpose in cases which cannot for any reason be conveniently handled by national courts.

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- Red Box C
- Red Box B
- Red Box A
- Spares (2)
- T. File
- 1. Balfour
- R. Makins
- H.B. Butler
- E. H. Maslow
- Sir G. Sarsen
- Sir G. Campbell
- R. H. Hadow
- A. D. Maris
- R. O'pie
- B. Cockran
- G.C. McKenzie
- F. W. McCombe
- T. Harman
- A. Mod Gordon
- F.H. Gore-Booth
- J. W. Russell
- Major Berkeley
- A.R.K. Mackenzie
- Civil Secretary (IS)
- J.S.M. (8)
- R. Stevens
- Director Security
- Coordination, N.Y.
- San Francisco Del. (6)



Proposed Reply for Sir William Malkin

(1) present United States policy does not favor the United Nations War Crimes Commission proposal for a treaty court for the trial of war criminals, but the United States is not prepared to announce rejection of this proposal finally until a satisfactory substitute is arranged. The United States does favor one or more international military tribunals, to be established by executive agreement, to conduct the trials of the major European Axis war criminals including the principal organizations which have participated in the commission of crimes and in the execution of criminal plans. Such an international military tribunal would not in any way prejudice the creation of other military tribunals by any one or more of the United Nations for the trial of European Axis criminals who are not tried before one of the international military tribunals mentioned above. Similarly trials of persons charged with war crimes before national courts or tribunals of the several United Nations would not be prejudiced. As the representatives of the United Kingdom are aware, these proposals have been earnestly advanced by representatives of the United States on various recent occasions for the consideration of the four governments involved in the occupation of Germany. The representatives of the United States regard agreement upon these proposals as a matter of urgent importance and trust that agreement may be reached with dispatch.

(2) In regard to the proposal outlined in the third paragraph of a cable from the Acting Secretary of State for Foreign Affairs to Lord Halifax, numbered 2292, dated May 4, 1945 shown to Judge Rosenman (viz. the creation of special mixed Allied military tribunals to try particular war criminals at the request of a United Nation), the United States policy has not been fixed and no final comment can be made at this time. It may be said, however, that nothing in the United States proposals heretofore made, and outlined in paragraph (1) above, would in any way prejudice or affect the creation of such special tribunals, if in particular instances they are considered appropriate.



THE UNITED NATIONS CONFERENCE
ON INTERNATIONAL ORGANIZATION

TELEGRAM

May 7, 1945

~~SECRET~~

DECLASSIFIED
E.O. 11652, Sec. 3(E) and 5(D) or (E)
Dept. of State letter, Aug. 10, 1972
By ALT/HC, NARS Date 8-17-73

Assistant Secretary Grew

I HAVE DISCUSSED YOUR TELEGRAM
OF MAY FOURTH WITH SIR WILLIAM MALKIN
WHO INFORMS ME THAT HE HAS SENT WORD
TO LONDON TO TRY TO GET LORD WRIGHT TO
DEFER ANY PROPOSED RESIGNATION. THANKS
FOR KEEPING ME INFORMED.

Samuel I. Rosenman



UNCIO V STATE NR 24/4TH MAY 7:24 PM EWT

~~SECRET~~

1/2

TO: JUDGE SAMUEL ROSENMAN.

FROM: GREW

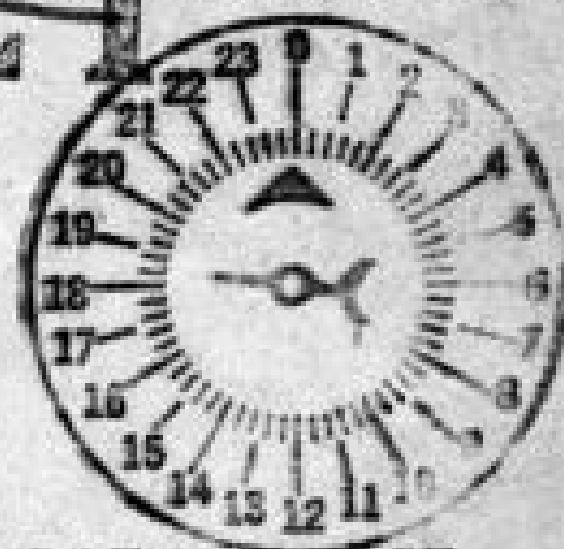
24 MAY 4TH

DECLASSIFIED

E.O. 11652, Sec. 3(E) and 5(D) or (E)

Dept. of State letter, Aug. 10, 1972

By MLT/HLL, NARS Date 6-17-73



COLONEL HODGSON TELEGRAPHS URGENTLY MAY 3 THAT ON THAT DATE ASSIST-
ANT AUSTRALIAN REPRESENTATIVE TOLD HIM THAT IT WAS FEELING OF LORD
WRIGHT, AUSTRALIAN MEMBER AND CHAIRMAN OF WAR CRIMES COMMISSION, THAT
COMMISSION WAS NOT BEING FULLY SUPPORTED BY THE BRITISH AND UNITED
STATES GOVERNMENTS AND THAT HE WAS THEREFORE CONSIDERING RESIGNING BOTH
AS CHAIRMAN AND AS A COMMISSION MEMBER.

WRIGHT'S STATEMENT MAY, OF COURSE, HAVE BEEN MADE BEFORE LEARNING
OF THE PRESIDENT'S STATEMENT OF MAY 2. IT IS UNDERSTOOD THAT A
MEMORANDUM FROM THE LEGAL ADVISER'S OFFICE TO ME DATED



~~SECRET~~

~~SECRET~~

DECLASSIFIED

E.O. 11652, Sec. 3(E) and 5(D) or (E)

Dept. of State letter, Aug. 10, 1972

By MT/46 NARS Date 10-17-73

2/2

APRIL 28 REGARD-

ING POSSIBLE DESIGNATION OF HODGSON AS COMMISSIONER WAS FORWARDED TO MR. STETTINIUS.

HODGSON ADDED IN HIS TELEGRAM THAT THE DELEGATION FROM CONGRESS NOW INVESTIGATING WAR CRIMES IN EUROPE WILL CONSULT WITH A COMMITTEE OF THE WAR CRIMES COMMISSION BEFORE RETURNING TO THIS COUNTRY.

CONGRESSMAN CELLERS' PROPOSED JOINT RESOLUTION FOR APPOINTMENT OF SPECIAL COMMITTEE, PRESUMABLY CONGRESSIONAL, TO WORK WITH WAR CRIMES COMMISSION WAS TABLED BY HOUSE FOREIGN AFFAIRS COMMITTEE.

GREW ACTING

SENT NR 24/4TH MAY

7:48 PM EWT. STATE MJM



RECD NR 24/4TH MAY

4:48 PM PWT. UNCLAS. KIC

~~SECRET~~

THE UNITED NATIONS CONFERENCE
ON INTERNATIONAL ORGANIZATION

May 9, 1945

(1) A cable is in from Hodgson stating that May 7th he and General Weir had a talk with Lord Wright in which he threatened to resign because of:

- a. lack of financial support.
- b. lack of filing of cases.
- c. lack of general support of the commission.

(2) Lord Finlay had a telegram from Mr. Eden which caused me to inquire about the state of mind of Lord Wright. Colonel Hodgson did not inform Lord Finlay of the earlier conversation with Lord Wright, but did indicate that a resignation might take place. Hodgson urges that Eden send to Lord Wright a very strong telegram suggesting that he postpone any action lest they upset present negotiations.

(3) The United Nations War Crimes Commission asked for conferences with SHAEF and SHAEF asked for postponement because of the pressure of business, and this is likely to cause a rumpus at the next meeting because some of the smaller European nations claim that our testimony is not being preserved in a manner which can be used in their courts.

