

Frances Biddle Papers
Box 1

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Jan 1944 - July 1945

128

May 26, 1944

The Secretary of War raised the question of whether it was appropriate for the War Department, at this time, to cancel the Japanese Exclusion Orders and let the Japs go home. War, Interior, and Justice, had all agreed that this could be done without danger to defense considerations but doubted the wisdom of doing it at this time before the election. The Secretary, before Cabinet, showed me photographs taken from captured Japs of Japanese beheading American prisoners. If anything like this leaked out the feeling, of course, would be very intense. At the Cabinet discussion, I suggested that perhaps we could postpone it for sometime, the President adding that we could hasten as much as possible, or piecemeal, relocation, although I doubt whether this can be much more quickly handled.

The President stated that approximately 1,500 refugees a week were going from Yugoslavia to Italy and wondered where they could be placed. It was thought best to move them in Italy to some such places as Capri, Tarmano and perhaps some of the islands. Harold Ickes suggested taking them to the Virgin Islands if necessary.

JANUARY 19, 1945

136

The President said he would be away for about four or five weeks, at the North Pole or the South Pole, and that, unlike President Wilson who wanted to fire Lansing for calling a meeting of the Cabinet when he was away, he would be very glad to have the Cabinet meet, at the call of the Chief Presiding Officer (Morgenthau in the absence of Stettinius) while he was away if any important business should come up.

The question was raised as to the execution of a lend-lease agreement with France and was approved by the President, who pointed out that Bonnet was asking for far too much and that we ought to be cautious about not fulfilling many of the demands on our production efforts, especially during the war. We should give them enough to keep them from freezing and starving, but not any material for any post-war rehabilitation at this time.

Ickes said that England was now insisting on an oil treaty in lieu of an Executive agreement, and I requested him to submit it to me first in order that I could be sure it was not in contravention of any existing statute.

Jesse Jones said that the gross national production for 1944 was 197 billion - 30% more than 1942; and total consumers' expenditure was 96 1/2 billion.

After Cabinet I spoke to the President about Charley Fahy's nomination for the Circuit Court of Appeals and Hugh Cox for Solicitor General. The President wishes to have these held up since he wishes apparently to appoint Sam Rosenman to some judgeship and has in mind the Solicitor General, also a job in England. I told the President, of course, I would do whatever he wanted, but that I hoped he would appoint Cox as I thought he would fit into our organization better. The matter is to await his return.

Yesterday and today, Joe Davies, Jack McCloy, Colonel Burnays, Herbert Wechsler and I finally agreed on a memorandum to the President to use at the Big Three Conference for the punishment of War Criminals, which in substance provides for punishment by military tribunals; the first to be charge and conviction of a conspiracy or plan to wage war in violation of the law of war by committing atrocities, etc; and, secondly, that the proof of such a conspiracy would be conclusive proof of the criminality of actions done by any

members of the Reich's organizations established for the purpose, such as Gestapo and S.S.; so that thereafter individual members could be convicted, where there was no evidence of their active participation in atrocities, by merely proving their identity with these organizations.

We recommended the abolition of the International Crimes Commission, pointing out that it had been a failure, and the establishment of an Executive group to prepare for the trial of the chief offenders to be composed of the leading allied nations. Doubtless the Russians will accept our proposal, but I think the British may reject it as not conforming to their idea of common law, due process, etc. It seems to be a practical solution of a very difficult problem.