AMERICAN CONSULATE GENERAL,
Berlin, Germany, August 19, 1933.

SUBJECT: Reporting on the attack on Dr. Daniel Mulvihill in Berlin on the evening of August 15.

THE HONORABLE
THE SECRETARY OF STATE,
WASHINGTON.

SIR:

I have the honor to transmit herewith an affidavit executed by Dr. Daniel Mulvihill, an American citizen temporarily residing in Berlin, reciting the circumstances surrounding an attack on him by an S.A. man in uniform on the Unter den Linden in Berlin, on the evening of August 15. Dr. Mulvihill is a physician who came to Berlin for the purpose of studying under the famous German surgeon, Dr. Sauerbruch. He is a chest surgeon and has been studying at Dr. Sauerbruch's clinics in the Charité Hospital. He is an American citizen of a fine type and is not a Jew. On the evening of August 15 he was on his way to a drug-store and on the Unter den Linden near the Friedrichstrasse stopped for a moment at the edge of the sidewalk to watch pass by a party of uniformed S.A. men headed by a band. Dr. Mulvihill states that the spectacle interested him and he merely stopped for a moment at the edge of the sidewalk together with other onlookers. He noticed that one
of the S.A. men separated himself from the marching group and walked towards the sidewalk, but paid no particular attention to this when suddenly the man stepped up to him and struck him on the left ear. After he got over his daze from the severe blow, he learned from the bystanders that the only reason why this S.A. man could have struck him was that he did not raise his hand in the Hitler salute as the uniformed S.A. men were marching by.

That such incidents as the one above reported and in Mr. Mulvihill's affidavit would take place, was foreseen by this Consulate General and reported to the Department in my confidential despatch No. 1484 of August 9, which I would respectfully bring to the Department's notice in this connection. As instances of this kind are likely to occur from time to time to Americans in Germany, I requested Consul Geist to call on Staatssekretär Grauert in the Prussian Ministry of the Interior, suggesting to him the advisability of an order being issued by the German Government which must be given thorough publicity, to the effect that foreigners are not expected to give the Hitler salute, and calling attention to the fact that they must not be molested if they fail to do so. There is transmitted herewith a memorandum covering the conversation which Mr. Geist had with Dr. Grauert, which I believe the Department will read with interest. The Department will note that while Dr. Grauert received our suggestion with much interest and appreciation and stated that an order would be issued, and while it is not unlikely that some such order
order will be helpful, I am not at all certain that it will have the effect of stopping all such incidents as the one under reference. The attitude of the people here now is such that they act first and ask questions afterwards.

Immediately after the attack on Dr. Mulvihill, Mr. Geist of the staff of the Consulate General called on Dr. Volk of the State Secret Political Police and left with him a copy of the affidavit executed by Dr. Mulvihill. He emphasized at that time the importance of the S.A. man being arrested without delay and appropriately punished. He brought out the unfavorable effect on public sentiment which had been created by the failure of proper action being taken against S.A. men concerned in attacks on American citizens. He also brought out that if the German authorities do not take more energetic action in protecting American citizens from unprovoked attacks and do not bring the persons who commit these attacks to trial and give them appropriate punishment, it cannot be expected that our Government will not, in the interests of its citizens who contemplate going to Germany, have to issue some statement that Americans coming to Germany may not be free from molestation.

There is also transmitted herewith a copy of the letter to the State Secret Political Police, with which I transmitted a copy of the affidavit covering the attack on Dr. Mulvihill and asking for immediate action.

On the evening of August 18, Dr. Volk of the State Secret Political Police informed me over the telephone that they had succeeded in arresting the S.A. man who had attacked Dr. Mulvihill, and turned him over to the judicial authorities.
This is the most rapid and satisfactory action which we have yet secured in any of these cases.

On the morning of August 19 I received the Department's telegram of August 18, 1 P.M. instructing me to telegraph the facts covering the attack on Dr. Mulvihill and to report on the action taken. I thereupon sent the following telegram:

"August 19, 10 a.m. Referring to the Department's telegram of August 18, 1 p.m. Dr. Mulvihill was subject unprovoked attack Unten den Linden August 18 while watching parade 3 a.m. men STOP One of marchers left ranks and attacked Mulvihill standing on sidewalk STOP Attack reported immediately secret police by us emphasizing importance immediate arrest and satisfactory punishment as repeated attacks on Americans causing great concern in the United States STOP After consultation with Embassy also discussed with Prussian Ministry Interior danger to Americans resulting from order regarding Hitler salute and emphasized necessity public declaration by authorities that foreigners not expected to give Hitler salute as this attack obviously due failure American give salute STOP Ministry recognized correctness our representations and necessity action regarding salute and attacks and gave assurances immediate satisfactory action regarding public declaration respecting salute STOP Secret police informed me last night assailant arrested and turned over judicial authorities STOP This most rapid and satisfactory action so far secured STOP Action in Orloff case also indicates recognition by German authorities necessity satisfactory action American cases STOP Isam pressing energetically action Buckerman attack whose attackers not yet arrested. STOP"

At my request Consul Geist called again on the morning of August 19 at the Prussian Ministry of the Interior, to determine what action had been taken with respect to the issue of an order regarding the Hitler salute as we considered this of primary importance. I thought this of all the greater importance as after consulting with the Ambassador that morning I found he had received a telegram from the Department expressing
expressing concern over the repeated attacks on American citizens. Mr. Geist was not able to see Staatssekretär Dr. Grauert who was absent from the city, but he saw a high ranking officer of the Ministry who informed him that Gruppenfuehrer Ernst, who is in command of the 80 thousand S.A. men in the district of Berlin-Brandenburg, would call on the Ambassador on Tuesday, August 22, in order to express his regret that this attack on Dr. Mulvihill had been committed by an S.A. man. He was also informed that an order had already been issued by the Ministry to the S.A. and to the S.S. throughout Germany, that foreigners in Germany are not expected to give, or to return the Hitler salute. Mr. Geist was further informed that the Ministry was already in touch with the Party leadership in order that a public declaration might be made to the civilian population, to the effect that foreigners in Germany are not expected to give or to return this salute. Mr. Geist expressed our appreciation of the energetic action which was being taken by the Prussian Ministry of the Interior.

The action of the Ministry in seeing that Gruppenfuehrer Ernst of the S.A. will call upon the Ambassador and express his regrets over this incident, is in my opinion more significant than if this apology were made under the present circumstances by the Foreign Office. The S. A. have been so definitely beyond and above the law that an apology coming from the commanding officer of eighty thousand S.A. men in the Berlin-Brandenburg district is of more significance than any form in which it could come. The rapid action of the Prussian authorities and of the Reich in taking steps with regard to orders
orders respecting foreigners and the Hitler salute, is also
a satisfying recognition on their part of the importance
of foreign opinion.

While the action which has been secured in the case of
Dr. Mulvihill has been very rapid and on the whole more satis-
factory than that in the case of any previous attack, I do not
believe that it can be taken as an indication that Americans
in Germany are free from molestation. There is no question,
I believe, as to the desire of the authorities, but experience
has shown that the will of the authorities takes some time to
work through the population.

It must further be borne in mind that an order of the
Government to the effect that foreigners are not expected
to give or return the Hitler salute, will be an unpleasant
one to many people in the ranks of the National-Socialist
Party. In the "Berliner Tageblatt" of August 19 or 20, there
appeared an item of which the following is a translation:

"An earnest warning to uninterested ones.

In Pforzheim the local leader of the National-
Socialist Party has issued a proclamation to
the population, in which it is stated that it
has happened frequently during parades, that a
certain part of the population when a parade
has gone by has not given the appropriate salute
to the National-Socialist storm banners, but
that some have remained on the pavements with
their hands in their pockets or apparently
uninterested. He orders, therefore that the
flags of the Third Reich are to be greeted with
the German salute (Hitler salute). Failure to
do this will in the future be settled at the
moment and at the place where the failure occurs."

The above proclamation made by the local leader at
Pforzheim indicates very clearly that the S.A. men who may be
marching
marching through the streets, when they see that an onlooker is not properly saluting the Rakenkreuz flag, he will be dealt with by them then and there, which can only mean repetition of incidents such as this in the case of Dr. Mulvihill.

I am of the opinion that if further attacks on Americans take place, our Government may be under the necessity of issuing a general warning to Americans at home that they may not be safe in Germany. While the desire of the German Government may now be to protect foreigners in Germany from molestation, the constant recurrence of these incidents may show that the German Government is not able to give foreigners that protection which they should have, and in the interests of our own citizens it may be necessary to issue such an order. It is obvious that the issuance of such a declaration by our Government would be in many respects a serious matter; but I believe that continuance of the attacks will make it necessary. The Embassy and the Consulate General have done everything in their power to bring to the attention of the authorities the absolute necessity of these attacks stopping and have made clear to the highest authorities of the Government the effect which these attacks have on public opinion and that some action by our Government may be necessary. A continuance of the attacks will therefore show that either the German Government is not adequately interested in the protection of foreigners, or is not yet able to give them that protection which can reasonably be expected. There remains, therefore, only one action for our Government to take if the attacks continue.
The Consulate General will closely follow the action taken by the judicial authorities against the S.A. man who has been arrested for the attack on Dr. Mulvihill. Heretofore the only action taken against S.A. men in cases of this kind has been to put them out of the S.A. I have on various occasions pointed out to the German authorities that although such expulsion from the S.A. may mean something to them, it means nothing in the United States. Unless this S.A. man is brought rapidly to trial and given real punishment, it will be an indication of a serious lack of good faith by the German authorities and I shall not fail to keep the Department adequately informed. In this connection I may bring to the Department's attention my confidential despatch No. 1515 of August 18, in which I inform it that the proceedings against Joost, a civilian, for having attacked an American named Fuhs, were a farce, and that the man was let off with a fine of 50 marks.

Respectfully yours,

George S. Messersmith,
American Consul General.

Enclosures:
Copy of affidavit;
" memorandum;
" letter.

310/800

GSM:F

[Handwritten note: A true copy of the signed original.]

[Handwritten note: 20/29]