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No. 378
The Honorable
George S. Messersmith,
American Ambassador,
Buenos Aires.
Sir:

Reference is made to despatch no. 1166 of November 6, 1946 concerning the exoneration of Ludwig Freude by the Argentine Government and to the attached summary of the evidence concerning Freude's activities on behalf of the Axis.

The testimony of the German General Wolf and the German Military Intelligence agent Schlueter establishes that Freude was designated as one of the custodians of German Embassy espionage funds in anticipation of Wolf's departure; that Freude's instructions were to pay such funds to persons in the possession of a secret password; and that in the interim between Argentina's severance of diplomatic relations with Germany and Argentina's declaration of war against Germany, Freude in a very secretive manner and on at least three separate occasions made payments to Schlueter who used a substantial part of the funds for espionage purposes.

General Wolf's testimony was obtained in interrogations conducted by the British as well as officials of this Government. The officers of this Government who interviewed Wolf in Germany were convinced that he was making every effort to give a full and accurate account of his activities in Argentina. Schlueter, when he first arrived in Germany, made obvious efforts to conceal the facts. With the cooperation of the British, it was arranged that General Wolf would confront Schlueter and order him to tell the whole truth. When this was done Schlueter explained that he had attempted to protect Freude at Freude's request, and then proceeded to give what the officers present at the

interrogations
interrogations consider to be a truthful account of his activities in the Argentine. Schlüeter's testimony corroborated and was consistent with Wolf's independent testimony.

Indeed, both Wolf's and Schlüeter's testimonies are corroborated and strengthened by, and are consistent with, the other facts set out in the attached memorandum. Freude was the confidant, adviser and collaborator of the highest officials in the German Embassy, including those who were in charge of Military Intelligence. He was familiar with the details of the top secret Hellmuth mission and thus knew an important part of the activities of the Nazi Secret Service agents, Harnisch and Becker. He was on occasions selected by the German Embassy to attempt to obtain Argentine Government decisions favorable to the Axis and detrimental to the cause of the United Nations. He was an active member in various German organizations and an official and leader in several of them. He played a prominent, if not the dominant, part in the collection in Argentina of funds which were turned over to German organizations and which were in part used by those organizations for purposes which can hardly be called "charitable". He was a principal figure in German economic penetration in Argentina. In sum, not only is the evidence of Freude's activities on behalf of the enemy cogent and, in the Department's opinion conclusive, but it is not too much to say that no German national more than he epitomized German influence and activities in Argentina throughout the period of hostilities just ended.

Careful consideration has been given to your comments:

1. The suggestion that the evidence against Freude was not in proper form to be admissible in a court of law appears to overlook the fact that it was open to the Argentine Government to put the testimony of the witnesses and the written evidence in whatever form Argentine law requires. This Government would have been pleased to cooperate in this task and to make available all the pertinent evidence in its possession. No request for assistance in putting the evidence in another form or for the evidence against Freude which is summarized in the Blue Book was, to the Department's knowledge, ever made by the Argentine Government. Not only is this so, but it does not appear that the Argentine Government availed itself of all the evidence which it already had. No reference is made in the Court's decision or in the Presidential Decree, for example, to the fact that a German passport was issued to Freude in 1937 on Freude's application, a fact which a Foreign Office official thought in May 1946 would require the Court to enter a judgment against Freude (Embassy despatch no. 11, May 24, 1946).

Oscar Hellmuth, now believed to be in Argentina, was apparently...
apparently not brought before the Court to prove the essential facts of the Hellmuth affair even though the Court said there was "absolutely no proof" of this important phase of the case.

2. Ludwig Freude's repatriation was first formally requested by this Government on September 6, 1945 in a note which was presented to the Argentine Foreign Office along with eight other notes on separate subjects, all except three of which related to the elimination of Axis influence in Argentina. The Embassy's telegram no. 2239, September 21, 1945, refers to a total of seventeen Embassy memoranda on Axis activities which the Foreign Office then had under consideration. While all of these notes and memoranda were collectively considered as a test of the Argentine Government's intentions to carry out the Mexico City Agreements, and given the then existing circumstances, were quite properly designed to induce then Colonel Perón to take a positive stand on the compliance question, it is correct to say that the Freude case was regarded as particularly significant for the reason given in the last paragraph of the Embassy's despatch no. 863, September 22, 1945:

"The Embassy considers its efforts to have Freude interned a crucial test case, in that it will show whether the Nazi machine in Argentina can really be broken, or whether our efforts will merely result in the removal of a few surplus gadgets."

It does not follow from this, however, that Freude was selected without regard to the merits of his case or because of this close personal relationship with Perón. Even then the broad outline of the Freude case was known. Then, as now, the question did not so much concern the motives which first prompted the suggestion that Freude be deported as the difficulty of explaining the exoneration of Freude by the Argentine Government in view of the accomplished deportation by the other American republics of hundreds of lesser offenders without political influence. It may be added parenthetically that the statement in the despatch under reference that Freude was one of the few wealthy contributors to the campaign of Colonel Perón is the first confirmation received by the Department of this fact and casts additional light on the veracity of Freude who, according to a United Press dispatch which appeared in the April 8, 1946 issue of The New York Times, insisted that he had "never contributed a single centavo to the Perón campaign."

3. The suggestion that no significance was attached to Mr. Freude until Argentina entered into a presidential campaign is incorrect. All of Freude's known firms were included in the Proclaimed List by
May 1943 and Freude himself escaped a very early inclusion only because of the practice of the Proclaimed List Committee to omit individuals in Argentina not known to be engaged in business under their personal names. He was included in the List in April 1945 when it was decided to change this policy to the extent of listing the names of the principal directors of Axis spearhead firms in Argentina. Ambassador Braden arrived in Buenos Aires in late May 1945. The Freude case was discussed verbally by him with Foreign Minister Ameghino and, as has already been stated, it was formally raised with his successor Cooke on September 6, 1945. At that time Perón had not announced his candidacy for the presidency and had not been nominated by any political party. The date for the election had, moreover, not been set and there was considerable doubt as to whether any elections at all would take place.

4. Freude's resignation from various German organizations in December 1945 is not so significant as the fact that he maintained his membership in these and other organizations until seven months after Germany's defeat.

5. At the time of the publication of the Blue Book in February 1946, the Department was not apprised of the fact that on December 18, 1945 (not September 18, 1945) a Federal Court at Mendoza had granted Argentine citizenship to Freude. It would therefore have been more correct to say that Freude "was made an Argentine national" rather than Freude "is being made an Argentine national." This technical error is not a significant one, however, since the Argentine Government had ample time before December 18, 1945 to take steps to prevent Freude's acquisition of Argentine citizenship, particularly in view of the charges which this Government made respecting Freude in September 1945.

6. As the Embassy is aware, the term "stay behind group" was used by General Wolf to describe the organization he left behind to carry on Military Intelligence after his departure. The statement in the Blue Book to the effect that Freude had been appointed the leader of this group rests principally upon the fact that Freude was the most important person trusted with funds by departing German Embassy officials; that he had personal control over at least the funds in his possession (as witness his reluctance to give Schluter additional funds immediately after Argentina's declaration of war); and that Schluter, in charge of Military Intelligence operations, apparently played a role junior to Freude's (as witness Schluter's difficulty in obtaining interviews with Freude, the latter's decision on how the monies were to be paid, Schluter's observance of Freude's wishes respecting the nature of his testimony to Allied officials, etc.). These facts, considered in connection with Freude's position and influence and the extent to which he directed German activities.

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activities in Argentina, all support the conclusion that Freude was the leader of Wolf's "stay behind" group, which was, of course, separate from other German intelligence organizations then operating in Argentina.

Before referring to the various findings of the Federal Court at San Juan, some general observations can be made concerning that judgment. In the first part of its decision the Court makes plain that, if the accusations against Freude were well founded in fact, the case:

"...would assume unusual seriousness, not only for the international inferences that are manifested, but for what he represents in the internal order, that is, the attempted infiltration of the abominable Nazi virus, and would show that the oath he gave...to renounce his nationality of origin, to accept our Constitution and not to profess ideas contrary to our Constitutional regime, was not sincere...which would make the cancellation of his Certificate of Citizenship the proper thing to do."

The question apparently was simply one of the sufficiency of the evidence against Freude. Presumably the Court's function was to pass on the evidence before it and not to assume the role of prosecutor in gathering and presenting the evidence in proper form. If this is correct, and if the Court was without sufficient evidence to overcome Freude's self-serving declarations, the Court's decision should occasion no great surprise.

What does surprise is this apparent attitude of the executive branch of the Government and of the prosecuting attorney. Schlueter's testimony—the most important single piece of evidence—apparently was not even before the Court. Apparently Wolf's important testimony was not in proper form to be considered by the Court under its rules of evidence. In fact the Court said that the demand for cancellation

"...is based solely on the complaints expressed by the Embassies of the United States and England under date of September 3 and 21 of last year in memoranda presented to the Minister of Foreign Relations and Worship of our country."

Not only did the prosecutor apparently refrain from introducing any derogatory evidence or making any charges other than those made evident by the memoranda referred to, but, as the Court observes, the Police Report of the Ministry of Justice and Public Instruction, as well...
well as the Findings of the Junta de Vigilancia, was in Freude's favor. The Political-Legal Adviser to the Argentine Foreign Office, moreover, furnished the Court with the conclusions of his office:

"1) That Mr. Ludovico Freude is a reputable person, without any police or political record;

"2) That he had not engaged in propaganda favorable to the Axis, nor has he contributed funds for the dissemination of ideas contrary to our democratic institutions;

"3) That the provisions of Decree no. 11599/46 are not applicable to him;

"4) That by permitting him to reside in the country the commitment incurred under Resolution VII of the Act of Chapultepec is not violated."

It is small wonder that the Court, passing upon charges made only by Foreign Governments, faced with these findings on the part of the Argentine executive, and apparently without having before it in proper form, if at all, the evidence on which the case against Freude really rests, should conclude that "... all the evidence is favorable to him /Freude/ and positively refutes the charges made ..."; or that the Court should be impressed with the fact that

"The reports of the Federal Police which in cases like the present one become invaluable, since no one better than that agency can furnish evidence on this kind of activity, particularly where it emanates from a specialized branch 'German Espionage Service', are frankly favorable to him."

Brief reference may be made to the particular findings of the Court, namely:

1. The Court found that the 45,000 pesos which von Pochhammer left with Freude at the time he was repatriated were von Pochhammer's personal funds and not official funds of the German Embassy. The Power of Attorney which von Pochhammer gave to Freude at approximately the same time was found not to be related to official Embassy business. It cannot be established beyond doubt that the Court was incorrect in making these findings, although von Pochhammer's position as the German Embassy official in charge of German cultural activities, Freude's previous collaboration with at least a part of the so-called cultural program, and the fact that Freude received official German funds from Wolf and from his predecessor Niebuhr, all strongly suggest

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suggest that the funds may have been left for official use rather than private safekeeping. While von Pochhammer, himself, was not questioned regarding the nature of the funds which he left with Freude (an attempt is being made to clear up this point), his statement that he had official funds in his possession prior to his repatriation and left them behind in Argentina supports this suspicion. The principal point, however, is that the case against Freude does not rest on the receipt of funds and a power of attorney from von Pochhammer as the Court seemed to think that it did. This evidence is presently significant because it throws light on the real issues rather than as independent proof of Freude's guilt.

2. Similarly, no great importance is attached to the fact that Freude's son-in-law was an espionage agent in the Harnisch-Becker group beyond the fact that it tends to corroborate other evidence to the effect that Freude had knowledge of the activities of that group. The Department agrees that this is not in itself independent proof of Freude's guilt.

3. The Court correctly observes that Freude was apparently not a member of the Nazi Party. Overlooked is the fact that, according to a German Embassy report to the German Foreign Office, Freude was the Chairman of the Working Committee of the Volksgemeinschaft (folk-community) in Argentina. The significance of Freude's chairmanship of this Working Committee is shown by the following description of the membership of the Volksgemeinschaft appearing on pages 71-72 of the Department's 1943 publication on National Socialism:

"The German folk-community /Volksgemeinschaft/ included not only all those who are members of the NSDAP, it includes all who by origin, language, and culture belong to the German folk-community and in accordance with the rigid law of nature acknowledge their allegiance to the German folk-community. The German folk-community includes therefore not only the members of the folk within the German borders but those everywhere in the world, without regard to residence or temporary place of abode, without regard to class and profession, and also without regard to what former political direction or party the individual may have formerly adhered to, and without regard to how the individual formerly considered National Socialism and Adolf Hitler, formerly at a time when he was not yet enlightened about the essence of National Socialism and the NSDAP, about Adolf Hitler and his intentions. The one and only presupposition is that the folk-member today pledges allegiance to the German folk-community and lets all his thinking, feeling, and acting be

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directed toward that which the flag of the German folk-community, the flag of the National Socialist German Reich, the Adolf Hitler flag commands him."

It is perhaps significant that while Freude has often denied that he was actually on the membership rolls of the Nazi Party, he has apparently never said that he opposed the rise of National Socialism in Germany or its efforts to achieve world domination. The Court attributes the following statements to Freude:

"I could not be a National Socialist nor was I ever one, and thus I was well known in my circle—I declare it on my honor and no evidence contradicts me—which did not prevent my keeping a personal contact with my fellow countrymen, i.e., Germans—not Argentines, whether or not they had that tendency, or had none..."

"Thus I came to be, I have no reason to deny it, one of the most representative persons in the German community, directing or simply belonging to various so-called German associations. ... Upon the birth of National Socialism in Germany and its rise to power, its ideas and principles were the subject of controversy, sympathy or antipathy among German Nationals resident in the country, but there were those who, like him /me/, considered it to be a question of internal politics in Germany and did not involve themselves in it merely by temperament, for not everybody is interested in problems of that kind, and it was precisely that condition and that situation, aloof from political controversies or decisions, that many times brought him /me/ into directive offices as a moderating and neutral influence between Nazi Party members and other Germans."

These self-serving declarations of Freude imply that his non-membership in the Nazi Party did not prevent his working with Party members and in fact increased his usefulness and importance as a moderator in controversies such as existed between the German Foreign Office and the Party. There is no suggestion that both factions did not work wholeheartedly for the German cause. The case against Freude, however, does not rest on whether or not he was technically a member of the Nazi Party or even on the fact that he was a leader in the folk-community, but rather on his positive acts on behalf of the Axis cause.

In addition to what apparently was the Government's attitude with respect to Freude's trial, account must be taken.
taken of the Presidential Decree of September 6, 1946 which contains merely a series of unsupported conclusions the significant ones of which are directly contradictory of the facts set out in the attached memorandum. The chief significance of this Decree is that it was issued in advance of the Court decision of November 2, 1946 and influenced that decision.

In sum, the exoneration of Freude cannot, in the light of the facts, be regarded as a step in the direction of compliance by Argentina with its international agreements. On the contrary, it can only be interpreted as a lengthy stride in the opposite direction. If, however, as you suggest, the Argentine Government has acted in this matter in entire good faith and no particular importance is to be attached to former Foreign Minister Cooke's statements that Freude cannot be touched, there would appear to be no reason why a further approach should not be made to the Argentine Government on the basis of the evidence set forth in the attached memorandum.

Very truly yours,

For the Secretary of State:

/s/ Spruille Braden

Enclosure:

A memorandum concerning Ludwig Freude.

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