

AMERICAN CONSULATE GENERAL

Berlin, Germany, September 13, 1933.

MEMORANDUM OF CONVERSATION WITH STAATSEKRETAER
DR. FREISLER OF THE PRUSSIAN MINISTRY OF
JUSTICE.

I called by appointment at 12 o'clock noon on Staatssekretär Dr. Freisler of the Prussian Ministry of Justice for the following purposes:

First I thanked him for the prompt and effective action he had taken in securing the pardon of Torsten T. Johnson at Stettin. Dr. von Hake was also with him, whom I also thanked as he was the Referent who had handled the matter. Dr. Freisler stated that he was very glad to have done this as it was merely what should have been done.

I then brought to his attention the report which Mr. Geist had made of the trial of Mr. Yost on August 15 in the new Criminal Court, for having attacked an American, named Fuhs. I brought out to Dr. Freisler that Mr. Geist's objective report on the court proceedings had shown that they had been in fact a travesty of justice, and emphasized particularly that the judge himself had brought out that the defendant, Yost, was a German, a National-Socialist and an Aryan, while Fuhs was a foreigner and a Jew. I also brought out that the judge by his questions had kept the court in a state of merriment during most of the proceedings. I drew a parallel between the RM. 50.- fine for Yost for having twice assaulted an American for no reason whatever, and the six months' sentence given to Johnson in Stettin for a remark which he probably never made. Dr. Freisler was very interested and instructed Dr. von Hake, his Referent, to immediately call for the necessary files so that he might personally review the cases. He said he appreciated the situation from my point of view and would go into the case thoroughly. Whether he would get the sentence changed was doubtful, for the proceedings had been the proceedings of a court and could probably not be changed. I told him that the object of my visit was more to prevent the repetition of such an incident rather than the incident itself. Dr. Freisler said he appreciated this and would take the necessary action.

I then called his attention to the fact that the S.A. man who had attacked Dr. Mulvihill on Unter den Linden, had been arrested and was supposed to come up for trial. I said that we had had no word as to when it would take place or where, and that we would wish to be present at the trial. I said that if the trial was delayed, if the proceedings were as partial as in the case of Yost, or if the punishment meted out was so

inadequate

inadequate, in view of what had already happened I should have to recommend to the Embassy that it take formal action with the German Government as we would obviously not let rest without comment and action the failure of the German Government through its judicial machinery to give proper punishment to the persons who attacked and molested American citizens. I said that the procedure of the courts was obviously discriminatory at present, for a different kind of justice was meted out to persons who attacked S.A. men, and to S.A. men who attacked Germans or foreigners.

Dr. Freisler said he understood this matter thoroughly and thanked me for my visit, and instructed Dr. von Hake to immediately prepare the draft of a general order to all the prosecuting attorneys in Prussia, to the effect that immediately any person was accused of having attacked a foreigner or in any way molested one, the prosecuting attorney was immediately to bring the case to the attention of the head of the Ministry of Justice. Dr. Freisler said that this order would be issued very shortly.

He showed by his attitude that he did not wish things of this kind to happen, and as far as it lies in his power I believe the necessary steps will be taken.

George S. Messersmith,
American Consul General.