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NO. 1460

AMERICAN CONSULATE GENERAL
Berlin, Germany, July 27, 1933.

SUBJECT: INTERVENTION OF THE CONSULATE GENERAL ON BEHALF
OF THE JEWISH TELEGRAPHIC AGENCY.

THE HONORABLE
THE SECRETARY OF STATE,
WASHINGTON.

I have the honor to refer to the Department's telegram of July 24, 1933, 7 P.M., in which the Department stated that the Jewish Telegraphic Agency of New York reported that its Berlin bureaus had been closed and its news service from Germany completely banned. The Department requested the Consulate General to look into the matter with a view to lending any assistance deemed appropriate, and to submit a telegraphic report.

The Consulate General had already been advised of the steps which the Secret Police in Berlin had taken and received a copy of the official ban issued by the Secret Police on July 18, 1933. Immediately Consul Geist went at my request to interview Staatsanwaltschaftsrat Volk of the Secret Police and asked for an explanation of the steps taken against the JTA., and was informed that the bulletins issued by that firm had been containing

statements

statements detrimental to German officials and which were calculated to place certain steps taken by the German Government in an unfavorable light. These statement referred particularly to the actions which the German authorities had been taking against Jewish persons. The Secret Police expressed their displeasure over the contents of these bulletins and said that they had been very patient and had closed their eyes to a good deal of unfavorable comment. Mr. Geist pointed out that the agency was an American owned organization, and that both the activity of the agency and the news service rendered by the correspondent were in a general way normal activities of a commercial character, which are guaranteed under the Treaty of Friendship, Commerce and Consular Rights. If the activities of either the agency itself or of the correspondent were offensive to the German authorities, it would seem that the responsibility for this offensive conduct could be placed upon individuals rather than on the organization itself. It was explained that the organization was a commercial one, and that the Consulate General knew that it desired to function purely as a commercial organization for the purpose of gathering and reporting news and that, if any propaganda against the German Government had crept into its service, this ought to be traceable to individuals, and not placed upon the organization itself. An informal protest was made to Dr. Volk and it was suggested that the case be reopened and the matter be again examined with a view to finding

a reasonable solution of the difficulties. Dr. Volk promised at once to investigate the matter, as the details of this case were not handled by him or the head of the department, but by Dr. Janich in the office of the Secret Police.

In the meantime the Consulate General brought these facts to the attention of Mr. Smollar, an American citizen, temporarily in charge of the affairs of the JTA in Berlin. Mr. Smollar insisted that the Jewish Telegraphic Agency in Berlin had engaged in no propaganda against the German Government and that, if offensive material had been found in their bulletins published by the Berlin office, he believed this was traceable to the interpretation made by the Secret Police regarding the published material. The Consulate General explained that it could not protect the agency if it engaged in propaganda against the German authorities, and that the agency should be conducted on a purely objective basis, and if this was not done, the agency would certainly be banned.

Not having a decision in the matter from the Secret Police, Consul Geist again called on Dr. Diels, the Chief of the Prussian Secret Police, and requested an immediate decision with regard to the ban placed upon the JTA. The question of the correspondent, Mr. Smollar, was brought up, and Mr. Geist demanded to know whether or not Smollar was persona non grata, and if not, why his activities were banned. Dr. Diels endeavored stoutly to

justify

justify the ban put upon this agency, but expressed a willingness to look at once into the matter of the ban placed on the activities of the correspondent.

It may be explained here that the ban involved two things: First the activities of the Jewish Telegraphic Agency in preparing a bulletin which is made up of news coming into Germany in various languages from the whole world. This bulletin is published in German in Berlin every day and contains dispatches from many foreign countries, as well as news from Germany. These bulletins are sold to German newspapers not only in Germany, but in other countries throughout the world, where German newspapers are published. The second activity concerns only the local correspondent of the JTA., which is Mr. Smollar, who gathers news of happenings in Germany and telegraphs these to the United States. Mr. Smollar has only been here a few months, and to his knowledge none of his telegrams have been held up by the German authorities, nor have any complaints been made regarding the news which he has sent abroad.

It was pointed out by Mr. Geist that, if the activities of the correspondent were forbidden, without objections being made to Mr. Smollar, it would appear that this was an arbitrary action against an American organization merely on the ground that it was Jewish, a position which the Consulate General considered untenable. The result of this conversation was that the ban against

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the correspondent was immediately lifted, as no concrete evidence could be produced against Mr. Smollar. In fact, the Secret Police stated that they had no objection to him.

Dr. Diels stated that the details of the case had been worked out by Dr. Janich, and that he had not had time to go into the matter in detail, but that the action had been taken on the basis of recommendations made by experts in this department. Mr. Geist suggested that it might be helpful to go into the matter with Dr. Janich, to which Dr. Diels agreed. Thereupon the conference took place between Mr. Geist and Dr. Janich, and the material to which objection was taken by the German authorities was exhibited to Mr. Geist. It was evident to Mr. Geist that in a number of cases the German authorities were put in a bad light, and that under the system of censorship of the public press existing in Germany, it was obvious that more care had to be taken by the editors of the bulletin, or difficulties would ensue. Mr. Geist suggested that the German authorities describe a modus operandi with respect to the issue of the bulletin, which would be satisfactory to them and which agreement, it was believed, would be acceptable to the JTA. Dr. Janich requested time to consider the matter and expressed the belief that a way out of the difficulties could be found. A further conference was arranged for July 26th in the office of the Secret Police between Dr. Janich, Mr. Geist and Mr. Smollar. At this conference it was agreed that Mr.

Wurmbrandt

Wurmbrandt, heretofore the responsible editor for the bulletin and a shareholder in the organization, was to leave Germany, and that Mr. Otto Schiek, formerly in Berlin and now in Bucharest, was to take over the responsible editorship, and that Mr. Schiek was to give a declaration that he would personally see to it that no propaganda against the German Government was to be incorporated in the bulletins issued by the agency. When these two conditions were fulfilled, the agency was to be permitted again to function.

After this conference, the following telegram was sent to the Department:

"July 26, 5 P.M. Referring to the Department's telegram of July 24, 7 P.M. Have obtained authorization German authorities re-establishment news service from Germany Jewish Telegraphic Agency STOP Result of conference this morning Berlin Bureau will be allowed resume operations on change of editorship STOP Expect have everything satisfactorily operating few days. Full report by mail.
MESSERSMITH".

The Consulate General believes that if the JTA. avoids incorporating in its bulletin news items calculated to offend the German authorities that it will be allowed to continue its work in this country. The Consulate General made it very clear to the Secret Police that it will not admit the right of the German authorities under the Treaty to place a ban either on the activities of a Jewish agency or of the correspondent. If indiscretions and offenses are committed, the persons responsible may become *personae non gratae*, and they may be expelled from the country, or suffer any other consequences which, under

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the laws, their acts may bring upon them, but that no ban could be placed upon the agency itself, or the work of the correspondent.

The Department will be advised as soon as Mr. Schiek has returned to Berlin, and the normal functioning of the agency is resumed.

Respectfully yours,

George S. Messersmith,
American Consul General.

350/800
GSM/RHG-ST.

P.S.

Through stenographic error JTA. was written for Jewish Telegraphic Agency; but owing to pressure of business the despatch has not been rewritten to correct this error.