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Nazis Get List Of Cases U. S. Calls Unjust Specific Protests Filed in Berlin on Treatment of Jewish Americans Reich Will Settle Complaints Singly

Note Pledges Adherence to Treaties After U. S. Cites Equality Accord

From the Herald Tribune Bureau
WASHINGTON, Jan. 13.—Cordell Hull, Secretary of State, revealed today that the United States, acting on assurances from the Nazi government of Germany that it stood ready to respect its treaty obligations, has submitted for "examination and settlement" specific cases of alleged discrimination against American Jews residing in Germany.

In a note dated Dec. 30, 1938, the German government rejected the contention, set forth in a note of the American government dated Dec. 14, that it was bound by international law to refrain from discriminatory treatment of foreign citizens residing within its boundaries, but it acknowledged the binding force of treaty obligations and invited the United States to cite instances of violations of treaty rights by German measures.

The German government refused to commit itself in advance, but promised to examine and settle each case on the basis of prevailing treaty provisions.

Washington Cites Treaties

The United States has insisted all along that German decrees discriminatory against Jews residing in Germany were a violation not only of general principles of international law, but also of treaties between the two countries pledging equality of treatment of the other's nationals. The United States pointed out in the note of Dec. 14 that Germans in this country were accorded equal

rights with citizens, regardless of race or creed.

In its most recent note the German government contended that it had conceded more favorable treatment to foreign citizens of "certain categories" than had been accorded its own citizens in the same categories. Moreover, the German government protested that the United States had not informed it of a single case in which treaty rights had been violated by German measures.

The State Department instructed Prentiss B. Gilbert, Charge d'Affaires at Berlin, to submit specific cases of alleged discrimination against American citizens and to inform the German government that henceforth similar cases would be brought to attention of the German government.

The text of the German reply to the American government's note of Dec. 14, 1938, follows:

"In reply to your note of Dec. 14, 1938, No. 2, relative to the treatment of American citizens in Germany, I have the honor to state as follows:

"According to your note, the government of the United States only feels it may expect a general assurance from the German government to the effect that American citizens will not be subjected to differential treatment due to their race or creed. It believes that it can base this expectation on the assertion that it is one of its fundamental principles to make no distinction between American citizens on the basis of race or creed and that in its relations with other countries has always contested the right of the latter to apply on their part such discrimination to American citizens.

Citizenship Not the Basis

"Naturally the government of the United States of America, like any sovereign government, has a right to set up political principles of one kind or another regarding measures to be adopted within its own country in the questions here involved. It is an entirely different question, however, whether such principles are also legally binding on other governments regarding measures falling within their sovereignty. Obviously that would only be the case if such principles either corresponded with universally accepted rules of international law or if they had been made the subject of special agreements between separate states.

"There is, however, no general principle in international law ac-

ording to which a state would be bound to refrain from discriminatory treatment of foreign citizens residing in its country based on race or creed or other characteristics. The American government is probably aware that the German government is not the first, nor is it the only, government that has considered such differential treatment necessary in specific cases. In no case has it done so, however, on the basis of the foreign citizenship of the persons affected; it has applied special measures of the kind in question to certain categories of foreign citizens only when its own citizens of the same categories were likewise subjected to these measures. Beyond that, out of special consideration and where it proved to be technically feasible, the German government even legally conceded more favorable treatment in this connection to foreign citizens than to its own citizens.

"Therefore, the only question remaining to be answered is whether and to what extent any special treaty agreements between Germany and the United States of America may stand in the way of the application to American citizens of the German measures challenged by the American government. In this respect the Foreign Office has repeatedly declared to the American Embassy, orally and in writing, that the German government would, of course, respect rights to which American citizens were entitled by virtue of treaties between the two countries. To date the American Embassy has not informed the Foreign Office of a single case in which, in its opinion, such treaty rights had been violated by German measures. If such cases should be brought to its attention by the American Embassy, the German government for its part is prepared to examine and settle them on

the basis of prevailing treaty provisions."

In reply, Mr. Gilbert handed to the German government last Friday the following note:

"I have the honor to acknowledge the receipt of the note signed by Mr. Weiszacker of Dec. 30, 1938, concerning the treatment in Germany of American citizens, and under instructions of my government to reply as follows:

"My government, maintaining the position set forth in the note of Dec. 14, 1938 reiterates its fundamental position that it declines to recognize the right of other nations to apply on their part to American citizens measures which would have the effect of arbitrarily dividing them into special classes and subjecting them to differential treatment on the basis of such classification, irrespective of measures applied by other nations to their own citizens on the basis of differential classification of their own citizens.

"The treatment accorded in Germany to American citizens, however, is governed not only by the principles of international law but by the prevailing treaties between Germany and the United States, and in this respect my government has been gratified to note in your excellency's declaration that the rights to which American citizens are entitled by virtue of treaties between the two countries would be respected, and that the German government for its part is prepared to examine and settle on the basis of prevailing treaty provisions cases which, in the opinion of my government, are violations of such treaty rights and of which the German Foreign Office is informed by this embassy.

"My government has accordingly instructed me to present to your excellency as they arise such cases of American citizens which heretofore it has been the practice to take up with the competent local authorities and with regard to which formal assurances in general form have repeatedly been sought from your excellency's government that the measures in question would not be applied to American citizens.

"I am therefore presenting for examination and settlement certain specific cases of the nature referred to which have already been brought to my attention, and I shall pursue this practice should similar cases be brought to my attention in the future."

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