

## 'Race Hatred' Statute Valid, Jersey Court Holds in Bund Case

Kunze and Eight Others  
Will Be Sentenced

On January 31

By the Associated Press.

NEWTON, N. J., Jan. 7.—Sussex County Judge John C. Losey upheld today the constitutionality of New Jersey's "race hatred" statutes and set January 31 for the sentencing of Wilhelm Kunze, national German-American Bund leader, and eight bund associates on indictments charging them with "promoting hatred against people of the Jewish religion."

None of the men was in court as Judge Losey delivered a half-hour-long opinion, but their attorney, John Winans, filed an exception immediately and said he would appeal.

Maximum penalties under the law are three years in prison and a \$5,000 fine.

Besides Kunze, the men are August Klapprott of Andover, the bund's Eastern leader; Matthias Kohler of Irvington, State bund treasurer; Leonard D. Clark of New York, writer for the bund magazine Free America; the Rev. John C. Fitting of Union City, State bund secretary; Richard Schiele and Paul Schaarschmidt of Paterson, Carl Schipphorst of Glen Rock and George Neuppert of Cliside Park, trustees of Camp Nordland.

Judge Losey's ruling was on demurrers filed by Mr. Winans from the individual indictments. The defendants admitted the facts in the bills, but contended they were insufficient to warrant prosecution and that the laws under which they were returned were unconstitutional.

It was the first court test of the statutes, passed in 1935.

The men were indicted last fall on charges that speeches promoting racial hatred had been delivered during a bund rally at Camp Nordland, Andover Township. Klapprott, Kohler and Clark were charged with making the speeches, the others with permitting them.

Wilbur V. Keegan of West New York, bund attorney, also was indicted for permitting the speeches, but chose to test the indictment by standing trial. No trial date has been set.

"The right of free speech is not an absolute license to publish, print or speak anything one pleases," Judge Losey said, citing Federal mail restrictions as a constitutional control.

"I am of the opinion that the indictments sufficiently charge the defendants with violation of the statutes," his opinion said.

Only the racial aspect of the statutes, which prohibit inciting race or religious hatred, was involved, Judge Losey went on.