

# Army Says Fish Free to Appear Before Jurors

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(Representative Flanagan's views on the Fish affair are reported in an article on Page 14).

By Dillard Stokes

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Although the Army made it plain last night that it will give Representative Hamilton Fish "no sanctuary from subpoena," he is going to be given a chance to testify voluntarily before the special grand jury on German agents.

Fish left last Thursday night for a fortnight of active service. War Department officials last night said if the grand jurors wanted Fish back they could have him.

When informed of this, Assistant Attorney General Wendell Berge, chief of the criminal division, said:

"The Department of Justice is disposed—and always was disposed—to respect the desire of the House that its members be free to attend actual sessions of the House without being interrupted to give testimony or appear elsewhere during the hours of the session.

"With reference to Representative Fish, during the time he was under the direction of the House not to obey the subpoena of the special grand jury, we were informed that he had left Washington to serve 10 days or two weeks with the First Army.

"The press has quoted him as saying that if the House authorized him to testify he would get in touch with the special grand jury upon his return.

"We see no urgent necessity to call Representative Fish away from his temporary Army duties. Upon his return we shall accord him another opportunity to appear voluntarily before the special grand jury. If he does not come, then, of course, we shall subpoena him."

Meanwhile lawyers for George Hill, 45, one of Fish's secretaries, yesterday urged Justice James M. Morris of the District Court, to dismiss the perjury indictment against Hill and to permit them to read all the testimony Hill gave before the special grand jury.

Special Prosecutors William Power Maloney and Edward J. Hickey, jr., opposed both applications.

In another action Justice Morris refused to change the trial of George Sylvester Viereck, indicted German agent, from January 12, before Justice F. Dickinson Letts. Viereck's lawyer, Daniel F. Cohalen, jr., New York, sought to have Viereck tried before Justice T. Alan Goldsborough.