

Goldsborough Incident

The shocking performance of Justice Goldsborough in the Viereck case was smoothed over yesterday. In place of an attitude which William Power Maloney, special assistant to the Attorney General, described as "arbitrary, tyrannical and unreasonable," the judge was subdued and cooperative. That, of course, is to his credit. He had taken an utterly untenable position from which a complete retreat offered the only hope of escaping serious consequences. But the charge brought by Mr. Maloney against Judge Goldsborough was so grave that it will not be erased from the public mind either by his withdrawal from the Viereck case or by the charge being withdrawn from the record after he agreed to back down.

At the direction of the Attorney General, Mr. Maloney filed an affidavit of personal bias and prejudice against Judge Goldsborough. Not infrequently it happens that some judge is prejudiced against some defendant and therefore eliminates himself from a case before the court. But in this instance Judge Goldsborough was accused of prejudice against the United States Government in its prosecution of a known Nazi agent—the representative of a country with which we are at war. That is the gravest sort of a charge. But even after it was made on Monday, Judge Goldsborough failed either to refute it or to step aside. His later withdrawal came just in time, apparently, to avert intervention by the Court of Appeals.

Mr. Maloney quotes Judge Goldsborough as saying: "I don't give a ——— about the Government's position. This case goes to trial not later than Wednesday, January 21, 1942, and I am going to try it. You might as well get through your head once and for all that no other judge in this court can try this case except me, and the trial will start on Wednesday, whether the Government is ready or not." There had been previous indications that counsel for the Nazi agent preferred to have Judge Goldsborough preside at the trial, and he had been anything but coy about taking the case over from Justice Letts.

Regardless of the general desire to give a judge the benefit of the doubt, this sort of conduct cannot be ignored. It tends to bring the court itself into disrepute. What is equally serious, it tends to undermine the confidence of the public in the quality of justice which Judge Goldsborough is prepared to mete out.

Remedies for such gross indiscretion on the bench are difficult to find once the judge has taken his seat. But this disgraceful incident could easily have been avoided back in 1939 when Judge Goldsborough's appointment was made. He was transferred to the bench from Congress as a political reward. When the President so misuses his power over the judiciary no one should be surprised that the courts are sometimes humiliated by their own members. The President should be the last to expect a high quality of justice from politicians sent to the bench solely to gratify their ambition or because it is deemed necessary to "take care" of them.