

# Goldsborough Will Not Try Viereck Case

Agrees to Let Another  
Judge Preside, Gives  
U. S. Additional Time

By Dillard Stokes  
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Faced with action by the United States Court of Appeals here, District Court Justice T. Alan Goldsborough yesterday no longer insisted that he be the judge to try the German agent, George Sylvester Viereck.

Goldsborough agreed to let another judge take the case and gave the Government the time it asked to get ready for trial.

Special prosecutors of the Department of Justice propaganda squad demanded, on Monday, that Goldsborough disqualify himself, filing sworn charges that the judge "has a personal bias or prejudice against the Government of the United States."

### Prosecutors Seek Writs

Goldsborough glanced over the charges, called them "insufficient" and false, and refused to give way. With Special Prosecutors William Power Maloney and Edward J. Hickey, jr., refusing to take part, Goldsborough went on to hear several defense motions, which he overruled.

Viereck was indicted October 7 on five charges of concealing his Nazi propaganda activities on Capitol Hill in his registration under the Foreign Agent Act. Goldsborough later dismissed two of the charges and the other three were set for trial before Justice F. Dickinson Letts. The trial was put off to make way for the trial of Representative Hamilton Fish's secretary,

### Justices Weigh Charges

The charges against Goldsborough were considered later in the day by six justices—the full bench of the Court of Appeals.

Meanwhile, Goldsborough sent word to the special prosecutors that he was willing to postpone the Viereck case to February 2. They sent back a reminder of their conviction that he was biased against the Government.

Goldsborough added an offer to set the case before one of the ten other justices of the District Court. The date and the different judge were all the prosecutors had sought.

So Goldsborough and the special prosecutors met in chambers and worked out details of an agreement which was confirmed in open court yesterday afternoon.

### Affidavit Withdrawn

In the court session Maloney asked leave to withdraw the affidavit of bias and prejudice.

Goldsborough gave his leave. Maloney then said the Government moved to postpone the Viereck case, explaining that there were compelling reasons for the delay.

Goldsborough asked whether the special grand jury on Axis agents was not still in session.

Maloney said it was. Goldsborough remarked that in view of this fact, and the possibility that witnesses to be heard by the grand jury might be important to the Viereck case, he thought the re-

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George Hill, 45, who was convicted of two perjuries last week. Counsel agreed on February 2 for the Viereck case.

Meanwhile, Viereck's lawyers, Daniel F. Cohalen, jr., and Emil Morosini, jr., of New York, made several efforts to have the Viereck case heard by Goldsborough.

Last Thursday, a few minutes after the seven-day Hill trial concluded, Goldsborough talked to Hickey and Maloney in his chambers and told them that he had assigned himself to try Viereck and ordered them to be ready in three days. Later he gave them five days, setting the case for today.

Maloney's sworn statement said that in this interview Goldsborough said, "I don't give a — about the Government's position. This case goes to trial not later than January 21, 1942, and I am going to try it. You might as well get it through your head once and for all that no other judge in this court can try this case except me."

This and similar statements were the basis of the affidavit of prejudice. The law provides that when such an affidavit is filed the judge concerned "shall proceed no further."

When Goldsborough insisted on proceeding further, the Government turned to the Court of Appeals to stop him. Before Chief Justice D. Lawrence Groner of the higher court, Hickey and Maloney and George A. McNulty, chief of the trial section, yesterday placed petitions for writs of prohibition and mandamus.

quest reasonable and would grant it, setting February 2 as a tentative date.

Goldsborough then said that he was scheduled to hear an antitrust case on February 4 and that he would have to send the Viereck case to another judge.

Clerk Samuel Silverman whispered at the bench, pointing out that the present jury panel concludes its services on February 2 and that a new one will not be available until February 4. So the justice asked whether February 4 would be agreeable.

The lawyers said it would. With these matters settled, the Government's applications to the Court of Appeals expired.

### Rep. Fish Moves

### To Aid Secretary

Representative Hamilton Fish yesterday made his first gesture in behalf of his secretary, George Hill, by asking for an appointment with Justice F. Dickinson Letts, before whom Hill was convicted of two perjuries in the District Court last week.

When Hill was indicted by the special grand jury on Axis agents, Fish declared he was "100 per cent" behind his secretary. But when Hill went to trial, Fish did not attend or take the witness stand.

Offering no defense, Hill was con-

victed and is in jail, liable to a prison sentence of two to 20 years.

Justice Letts told Fish that he would be glad to hear anything the Congressman wished to offer about Hill's sentence but pointed out that Hill's lawyers plan to move for a new trial and that it is not customary to discuss sentence while such motions are pending.