

Post 12/15/65

Oath Retroactivity Limited by Ruling

A Federal judge ruled yesterday that a Maryland Court of Appeals decision striking down every pending criminal indictment in the State can not be made retroactive to cases that have been completed.

Chief Judge Roszel C. Thomsen of the U.S. District Court said the State court was correct in restricting its Oct. 11 belief-in-God jury oath ruling to cases that have not been finally determined.

Thomsen's decision affects most of the 5600 inmates in Maryland's prisons, who could have won new trials if the State ruling had been made retroactive.

Thomsen also is expected to decide soon on two other cases in which two men condemned to die are challenging their convictions on the basis of the State jury oath decision.

The cases taken into Federal court resulted from the Maryland court's ruling that it was unconstitutional for the

State to require jurors to affirm a belief in God.

Thomsen said the Maryland ruling "does not conflict with any Federal constitutional principle" and was supported by "a number of Federal decisions in analogous situations."

Thomsen's ruling came in the case of James F. Smith, 35, of Baltimore, who was sentenced to 10 years in 1964 for obtaining money under false pretenses. The State Court of Appeals upheld his conviction last March.

Smith's attorney, Morris L. Kaplan, of Baltimore, said he would appeal Thomsen's decision to the U.S. 4th Circuit Court of Appeals.

Rough Kisser Charged

STOCKHOLM, Dec. 14—An 18-year-old Swede who kissed a 15-year-old schoolgirl so passionately that he knocked two of her teeth out was charged today with molestation and causing bodily harm.