

T-H  
3-5

## U. S. Seeks New Trial of Viereck; Hearing Today

By BERT WISSMAN

The Department of Justice will seek retrial of George Sylvester Viereck for violation of the Foreign Agent's Registration Act at mandate hearings before Justice F. Dickinson Letts in Federal District Court today, Attorney General Francis Biddle announced last night.

Regardless of the decision, Viereck will probably leave the courtroom on bond, and not in custody.

In the event that Justice Letts upholds the Government's plea for a new trial, bond will be set upon request of defense counsel. If the motion for retrial is denied, Viereck will leave the courtroom under a \$2,500 bond which already has been set on a morale conspiracy indictment, on which the former German propagandist has not been tried. Justice Jesse C. Adkins set bond on this charge.

The mandate on which the Gov-

ernment's plea will be heard today was issued at the request of defense counsel O. R. McGuire immediately following the Supreme Court's reversal of Viereck's conviction last Monday.

In an effort to obtain a retrial on the charge, the Department of Justice has assigned one of its most able trial lawyers, Assistant Attorney General Wendell Berge, to plead the Government's case today, it was understood.

Although the Supreme Court reversal of the conviction was based on the technical ground that Viereck was not compelled to report to the State Department any of his activities except as "agent of a foreign principal," the Court took opportunity to flay William Power Maloney, the Government prosecutor in charge of the case.

In its 5-to-2 reversal the Supreme Court accused Maloney of "highly prejudicial" and "offensive remarks" to the jury during the course of Viereck's trial.

The Supreme Court held, in an opinion written by Chief Justice Harlan F. Stone, and concurred in by Justices Owen Roberts, Stanley F. Reed, Felix Frankfurter and Frank Murphy, that Viereck had fulfilled the requirements of the law and regulations under which he was tried.

The propagandist and writer has been in the District Jail for a year under sentence of eight months to two years imprisonment on each count of three counts; to run consecutively. In addition a fine of \$500 on each count and costs of the trial had been assessed. The Government must now bear these trial costs.