

Release of Viereck Sought by Counsel as Verdict Is Reversed

Adkins, Meanwhile, to Hear Challenge to Laws On 'Morale' Indictments

Counsel for George Sylvester Viereck planned today to seek the release of the Nazi propagandist whose conviction on charges of failing to furnish certain information when registering under the Foreign Agents Registration Act was overturned yesterday by the Supreme Court.

O. R. McGuire, representing Viereck, who has been in District Jail for the past year, said he would ask the Justice Department to join with him in seeking to speed the mandate of the Supreme Court, which ordinarily has 25 days in which to issue.

If the mandate is sent to District Court immediately, Col. McGuire said, he then will seek bond for Viereck, who also is a defendant along with 32 other individuals and one corporation accused of conspiring to undermine the morale of the armed forces. Viereck had been denied bond while his appeal was pending in District Court, where he received a two-to-six-year sentence.

Justice Department officials agreed that the Supreme Court ruling apparently will result in Viereck's release, and indicated they had not decided whether to press the sedition charge.

To Hear Challenge Today.

Concurrently, today, Justice Jesse C. Adkins was expected to hear arguments in District Court challenging the constitutionality of laws under which the "morale" indictments were brought.

Justice Adkins yesterday overruled a series of motions attacking the indictment by defense counsel, who alleged that grand jury witnesses had been coerced by a Government prosecutor and that numerous improprieties had been committed by various persons con-

nected with the investigation.

The Supreme Court reversal of the Viereck conviction was based on the grounds that the defendant was not required under the Registration Act to detail certain activities the Government contended should have been described according to registration regulations prescribed by the Secretary of State. Chief Justice Stone read the decision in which Justice Roberts, Reed, Frankfurter and Murphy joined. Justices Black and Douglas dissented and Justices Jackson and Rutledge did not participate in the case.

The language of Prosecutor Maloney to which the court took exception was in the closing statement to the jury which convicted Viereck, and which was characterized as "highly prejudicial" to the defendant.

"A prosecutor," Chief Justice Stone said, "may prosecute with earnestness and vigor—indeed he should do so. But while he is at liberty to strike hard blows, he is not at liberty to strike foul ones."

The language criticized by the court was this:

"In closing, let me remind you (the jury) that this is war; harsh, cruel, murderous war. There are those who right this moment are plotting your death and my death; plotting our death and the death of our families because we have committed no other crime than that we do not agree with their ideas of persecution and concentration camps.

"Duty to Perform."

"This is war. It is a fight to the death. The American people are relying upon you * * * for their protection against this sort of a crime just as much as they are relying upon the protection of the men who man the guns in Bataan Peninsula, and everywhere else. * * * We are at war. You have a duty to perform here.

"As a representative of your Government, I am calling upon every one of you to do your duty."