

## ACLU Challenges New Passport Affidavit

The American Civil Liberties Union challenged recently a State Department curtailment of the "right to travel" as wholly outside its statutory authority to issue passports. The State Department presently refuses to grant a passport to Frances Mary Kissling, a student at the New School for Social Research in New York City, unless she signs an affidavit declaring that she does not intend to visit Cuba.

### Suit Filed

Noting both the absence of any law permitting the State Department to impose such a condition for issuing passports, and the absence of provisions for a Department hearing of the issues involved, ACLU attorneys filed a complaint in the Federal District Court here asking that the Court direct the government to grant the passport.

### Due Process Denied

The complaint stated "There is no statutory authority under which (the State Department) was empowered to proscribe a citizen's right to travel to and in Cuba and that as a result, the refusal to issue a passport to (Miss Kissling) except on the execution of the affidavit... was arbitrary and unreasonable, and without any authority in law, a denial of due process of law and of her right of freedom to travel." The federal court was asked to order the immediate issuance of Miss Kissling's passport.

### Father Complained

The controversy began when Miss Kissling applied for a passport in New York City this June. Since she was a week short of her twenty-first birthday, the application technically required parental permission, which was refused by her father, who notified the State Department that his daughter intended to travel to Cuba this summer. The State Department subsequently refused to issue the passport, advising Miss Kissling's lawyers that the passport would be issued when she reached her twenty-first birthday, provided that she execute an affidavit to the effect that she would not visit Cuba "or other restricted areas in violation of this Government's travel restrictions." This Miss Kissling refused to do on the grounds that the State Department had no authority to impose such a condition.

### No Charges; No Hearing

The ACLU-supported complaint in the Federal District Court declared: "The refusal to issue a passport to (Miss Kissling) was not based upon any charges against (her) and was not the result of any hearing at which evidence was presented against (her), nor was such refusal based on any formal decision rendered against her."

The civil liberties organization further noted that as a native-born American citizen Miss Kissling has a right under the First, Fifth and Fourteenth Amendments to travel outside the United States, and that this right could not be made conditional upon the execution of the State Department's affidavit.