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# U.S. Will Deny Passports To People Balking at Oath

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WASHINGTON, Nov. 3—Secretary of State William P. Rogers has ruled that United States passports will be denied those Americans who refuse to take an oath of allegiance

to the Constitution. A department spokesman said today that Mr. Rogers had made the decision in a memorandum to the Passport Office after he had been compelled by a Federal judge to decide whether to retain the oath or waive it.

On January 5, 1967, the State Department announced that a legal study group within the agency had decided that the oath of allegiance should no longer be made mandatory for those seeking passports.

"We do not believe we have legal authority to deny a passport to a citizen who declines to take an oath," the spokesman said. But, at the same time, it was decided not to eliminate the oath from the passport forms.

In practice, until Mr. Rogers's decision, taken some time last week, the Passport Office of the department issued passports whether or not a person took the oath. But in most cases, the applicant for a passport did not know that he had the option of not taking the oath.

On July 28 this year, Judge June Green of the District of Columbia Federal District Court ruled that the department had to decide one way or the other on the oath.

The department, after con-

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sultation with White House and Congressional officials, decided to retain it, department sources said.

Department officials said that the basis for the oath was Title 22, Section 212 of the United States Code, which says:

"No passport shall be granted or issued to or verified for any other persons than those owing allegiance, citizens or not, to the United States."

The oath, adhered to by millions of Americans through the years, says:

"I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies foreign and domestic, that I will bear true allegiance to the same, and I take this obligation freely, without any mental reservations or purpose of evasion, so help me God."

In recent years, court cases have been brought on behalf of people who for religious, political, or other considerations have opposed limitations on the issuance of passports.

But department officials said tonight that the Supreme Court had never ruled on the question of passport oaths. The decision to make it optional, they said, was based on the department's own study group in 1967.

The American Civil Liberties Union has been in the forefront of the fight against any restrictions on passport applicants. It brought the case last July in which Judge Green gave Mr. Rogers until Oct. 31 to make a clear-cut determination on the oath.

Ralph J. Temple, legal director of the Washington chapter of the A.C.L.U., said tonight that the group would "definitely fight" the decision by Mr. Rogers. He said that the organization would take the matter to Judge Green and ask her to make a summary judgment in favor of abolishing the oath.

Mr. Temple said that his organization's complaint was based in part on the fact that although the department said that the oath was voluntary, it did not disclose this fact to passport applicants. He said that the oath continued to be printed on the forms, and the "vast majority" of people had assumed it was mandatory.