

NYTimes

OHIO DROPS REST OF KENT CHARGES

Cites Lack of Evidence as a Coed Wins Acquittal

RAVENNA, Ohio, Dec. 7 (AP) — John Hayward, chief prosecutor of the Kent State disorder cases, said today that the state would drop the 20 remaining cases for lack of evidence.

His statement came shortly after the state's case against Mary Helen Nicholas, a Kent State coed, ended in acquittal. She was the fifth accused person to go to trial as a result of disorders on the Kent State campus May 1-4, 1970.

Mr. Hayward said that about 10 days ago the special prosecutors for Ohio received a full transcript of the grand jury proceedings.

Upon review of that transcript and considering the outcome of the trials so far, he said, "It is the conclusion of the office of the Attorney General of Ohio that the following cases be dismissed for lack of evidence."

James Primm Jr., who prosecuted Miss Nicholas, said after Mr. Hayward's announcement that he had known that she was being tried on the testimony she had given to the grand jury.

Judge Edwin W. Jones of Common Pleas Court ruled earlier in the day that testimony she gave the special grand jury in October, 1970, could be offered in evidence at her trial.

Miss Nicholas, 21 years old, was charged with interfering with a fireman on May 2 when an R.O.T.C. building was burned on the campus.

Charge Dismissed

Judge Jones dismissed the charge against Miss Nicholas, saying that it appeared "there is a great possibility that some of the defendant's rights under the 14th Amendment were not necessarily observed."

His statement came after an arson investigator's testimony concerning an oral statement that Miss Nicholas had given him. Her attorneys moved to have the testimony stricken, saying that she had not realized that her statement could be used against her. They also said that she had refused to make a written statement to the investigator.

Her oral statement to the investigator, Francis Brininger, was to the effect that she had pulled on a fire hose, but testimony from other witnesses showed that the hose had been cut in two and was therefore useless.

Judge Jones sustained the motion to throw out Mr. Brininger's testimony, saying that it appeared the defendant had been under the impression that she was aiding the investigation rather than incriminating herself.