

# U.S. WON'T APPEAL LOYALTY OATH BAN

But Nixon Aides Will Draft  
New Passport Measure

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The Justice Department announced today that the Government would not appeal a court decision prohibiting the State Department from requiring applicants for passports to take loyalty oaths.

Solicitor General Robert H. Bork said that the case would not be carried to the Supreme Court because Justice attorneys had found "persuasive" the ruling handed down last October by the United States Court of Appeals for the District of Columbia.

The appeals court concluded that Congress had never given the Secretary of State sufficient authority to deny a passport to anyone who refused to swear allegiance to the United States.

The Nixon Administration is not giving up on its attempt to require such oaths, however. Mr. Bork reported that the Justice and State Departments would work together to draft new legislation that would give such authority to Secretary of State Kissinger.

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## Part of 1974 Program

The Solicitor General said that the passport oath bill would be part of President Nixon's legislative program for the 1974 session of Congress.

The challenge to the State Department was brought in 1970 by the American Civil Liberties Union, which maintained that the loyalty oath requirement infringed on a citizen's constitutional right to absolve freedom of belief.

In response, the Internal Security Division of the Justice Department argued that it was permissible and appropriate for the State Department to require such an oath.

The challenged oath read: "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 faith and allegiance to the same; and that I take this obligation freely, without mental reservation or purpose or evasion, so help me God."

A Federal District Court here ruled in 1972 in favor of the five passport applicants who had brought the action, holding that there was no statutory basis for the oath and that it violated the constitutional right to travel implicit in the due process guarantees of the Fifth Amendment.

The Court of Appeals for the District of Columbia unanimously affirmed this decision without opinion.