

Court-Martial Of Ex-GIs For Crimes During Armed Service Given Court K. O.

WASHINGTON — The Supreme Court Monday struck down a law permitting the armed services to court-martial ex-GIs for crimes committed while in the service.

The decision means that former

Air Force Sgt. Robert W. Toth of Pittsburgh cannot be tried by the Air Force for the killing of a South Korean civilian, Bong Soon Kil.

Justice Black delivered the majority decision.

The vote was 5-3. Justices Reed, Burton and Minton dissented. In the majority with Black were Chief Justice Warren and Justices Frankfurter, Douglas, Clark and Harlan.

"Determining the scope of the constitutional power of Congress to authorize trial by court-martial presents another instance calling for limitation to the least possible power adequate in the end proposed."

"We hold that Congress cannot subject civilians like Toth to trial by court-martial. They, like other civilians, are entitled to have the benefit of safeguards afforded those tried in the regular courts authorized by Article III of the Constitution."

Other Cases Involved

The decision in Toth's case undoubtedly will have a direct bearing on the fate of three turncoat GIs held by the Army at Ft. Baker in California. The three were captured by the Communists in North Korea and while held prisoner were said to have betrayed this country by informing and aiding the enemy in exchange for favored treatment. They later rejected the Reds. Secretary of Defense Wilson designated the three as deserters when they first elected to stay with the Chinese Reds. In January, 1954,

Wilson ordered them dishonorably discharged. When the men returned to San Francisco as civilians they were seized by the Army, which claimed jurisdiction over them under the same code of military justice as that involved in the Toth case.

The three—Otto G. Bell of Hillsboro, Miss.; William A. Cowart of Dalton, Ga., and Lewis W. Griggs, Jacksonville, Tex.—were arrested at San Francisco last July 29.

The section of the law involved in Monday's ruling provided that the military forces may put back in uniform and court-martial discharged servicemen accused of committing serious crimes while in service.

Appeals Court Overturned

Toth, now 24, was arrested by military police at a Pittsburgh steel mill on May 13, 1953. Without being given a hearing, he was flown back to Korea for court-martial.

Before the court-martial, however, habeas corpus proceeding was begun in U. S. District Court here and Toth was ordered released. The District Court's release order was overturned by the U. S. Court of Appeals here and Toth then appealed to the highest tribunal.

Toth remained at liberty in this country under \$1,000 bond pending final Supreme Court action in his case. Toth was the first civilian ar-

rested under the new code and his appeal was the first to reach the Supreme Court to contest constitutionality of the law.

Army Morale Not Upset

Black commented: "It is impossible to think that the discipline of the Army is going to be disrupted, its morale impaired, or its orderly processes disturbed, by giving ex-servicemen the benefit of a civilian court trial when they actually are civilians."

Reed, speaking for himself, Burton and Minton, said in the dissenting opinion that he could see no reason why Toth should not be tried as proposed by the Air Force.

Reed added:

"The possibility of individual abuse of power is ever present, even under our Constitution, but the probability of obliteration of any such tendency through judicial, executive or legislative action is the citizen's protection under the Constitution."

"A fear that punishment by courts-martial of servicemen after discharge may bear a threat to the rights and security of citizens is extravagant..."

SAN FRANCISCO — Attorneys for three turncoat GIs said Monday they would immediately seek to have the trio released from Army custody as a result of a Supreme Court decision.

The three are being held for court-martial on charges of collaborating with the Communists

after being taken prisoner in North Korea.

"We're going to see Judge (Louis E.) Goodman just as fast as a taxi can take us there," said attorney George T. Davis on hearing of the decision which struck down a law permitting court-martial of former soldiers for crimes committed while in service.

The three turncoats, Otto G. Bell, Hillsboro, Miss.; William A. Cowart, Dalton, Ga., and Lewis

W. Griggs, Jacksonville, Tex., were given dishonorable discharges from service while in Red China where they elected for a time to go rather than return home. Later they changed their minds and came back.

The dishonorable discharges are held the key to the situation in the light of Monday's high court decision. Their attorneys have argued that they must be tried in civil courts.

Govt. Housing Tenants Free Of Loyalty Oaths

WASHINGTON — The Supreme Court Monday let stand a decision that tenants of a federal housing project may not be required to sign loyalty oaths.

The decision was given by the Wisconsin Supreme Court. It was appealed to the high tribunal by the Housing Authority of the City of Milwaukee but the Supreme Court refused to review it, thus leaving it stand unchanged.

The oath requirement was sponsored by Rep. Gwinn (R-NY) and was enacted by Congress in 1952. The Wisconsin Supreme Court declared it invalid as a deprivation of the rights of free speech and assembly guaranteed by the U. S. Constitution.

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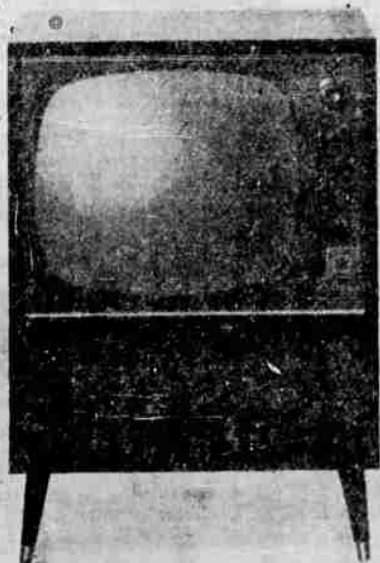


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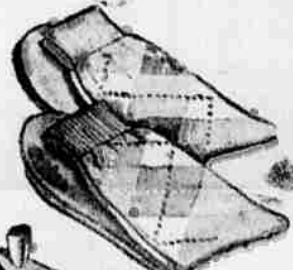
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