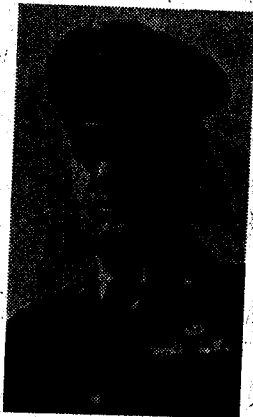


A. F. Captain Goes on



CAPT. THOMAS S. CULVER
... constitutional test

By Dan Yergin
Special to The Washington Post
LAKENHEATH, England, July 8—The U.S. Air Force opened its court-martial proceedings at its base here today against Capt. Thomas S. Culver, 32-year-old legal officer, in the first major case involving antiwar activities among U.S. servicemen stationed in Britain.

It is also the first test of an Air Force regulation which forbids political demonstrations by airmen outside the United States.

The Air Force contends that Culver violated section 3-E3 of its regulation 35-15 by participating himself, and soliciting others to participate, in a demonstration.

The charges stem from Cul-

ver's role in presenting a petition against the Vietnam war at the American embassy in London on May 31. One thousand servicemen had signed it.

On that day, 200 off-duty airmen, in civilian clothes, walked in groups of six from Hyde Park Corner to the embassy, where they delivered sections of the petition. Culver, the only officer present, was subsequently identified from photographs taken by the Air Force's office of special investigation. He was detained for a week before being informed of the charges.

In today's session, Culver's civilian attorney, Prof. Edward F. Sherman of the University of Indiana Law School, moved

Trial for War Protest

for the dismissal of both charges on grounds of "constitutional vagueness and overbreadth." He argued that the charges violated First Amendment rights, and that the event was not a demonstration in any meaningful sense.

"This court-martial raises very grave constitutional issues," he continued. "Half a million men in Europe are being told that they cannot participate in any demonstration." He maintained that servicemen in the United States can participate in a similar action without consequences.

Presiding Judge Col. Carl R. Abrams rejected the motion. He also rejected a motion by Capt. Mike F. Wesson, another defense attorney, who argued

for the dismissal on procedural grounds based on Culver's detention and the failure to inform him of the charges.

Replying to Sherman in his preliminary statement, prosecutor Capt. Franklin A. Luna argued, "First Amendment rights have to be balanced against the interests of society, of law and order, of governmental necessity, and military necessity."

He said that "the very most basic reason for American servicemen being in Europe, the preservation of world peace by military readiness," provided ample grounds both for regulation 35-15 and for

the charges against Culver. "this activity," he said, referring to the May 31 action "is inconsistent with harmonious relations with the host country."

"Our defense posture would be jeopardized by participation of U.S. servicemen in political acts or expressions of opinion on explosive questions."

Testimony later in the day revealed that a directive had been issued to U.S. servicemen from 3rd Air Force Headquarters in Britain before May 31 to reconsider participation in the petitioning as it might be construed as an illegal act.