

Sabotage Trial

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There's a War on --Judge's Ruling

A Navy judge ruled yesterday that the Vietnam conflict amounts to declared war in the view of military justice.

And, despite objections by the defense, the judge ordered the trial moved to a Navy base in the Philippines.

Judge (Captain) James Keyes held that seaman Patrick D. Chenoweth, 21, of Puyallup, Washington, may be court-martialed on charges of "sabotage in time of war."

The judge made the ruling at a Treasure Island hearing after considering a motion by the sailor's attorney to have the sabotage charges dismissed on grounds the Southeast Asian conflict is not a war.

Although there has been no formal declaration of war by Congress, Judge Keyes said, the conflict can be considered "a de facto war and therefore the statute stands."

CHARGE

Chenoweth is accused of tossing a heavy paint scraper and several large steel bolts into the gears of the aircraft carrier Ranger while the ship was moored at the Alameda Naval Air Station.

The ship was laid up for three months for \$800,000 worth of repairs, according to the Navy.

Chenoweth could receive

up to 30 years in prison if found guilty of the charges.

Judge Keyes also ordered the court-martial moved to in the Philippines at the conclusion of the current preliminary hearing.

MOVE

Navy prosecutors had asked for change of trial site for reasons of "efficiency, expeditious justice and pretrial publicity in the Bay Area."

Defense attorney Eric A. Seitz objected to the change in location, saying that the Navy was trying to conceal the trial from public attention in the United States.

SAFETY

Seitz added that he would not go to the Philippines unless he had assurances of safety from both the American and Filipino governments.

The attorney said a law office he opened for the National Lawyers Guild near Subic Bay was closed and its staff arrested when martial law was declared recently in the Philippines.

The Navy said it would look into guaranteeing Seitz's safety.

Chenoweth is charged under a section of military code which has never been used before in the Vietnamese or undeclared Korean conflict.

Seitz had claimed that it applied only to officially de-

clared wars. But the Navy prosecutor, Lieutenant Howard Golub, maintained "there is no necessity that war be formally declared."

Judge Keyes also turned down a dismissal motion which claimed the Navy had intimidated witnesses against Chenoweth.