

# World Leaders Sign the United Nations Charter, June 25, 1945



Courtesy of Harry S. Truman Presidential Library & Museum, "Signing the United Nations Charter," 25 June 1945

# Excerpts from the Geneva Convention: Relative to the Treatment of Prisoners of War, August 12, 1949 (pg.1)

THE GENEVA CONVENTIONS OF 12 AUGUST 1949

## COMMENTARY

published under the general editorship of

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### III

## GENEVA CONVENTION

RELATIVE TO THE TREATMENT  
OF PRISONERS OF WAR



GENEVA  
INTERNATIONAL COMMITTEE OF THE RED CROSS  
1960

# Excerpts from the Geneva Convention: Relative to the Treatment of Prisoners of War, August 12, 1949 (pg.2)

directly to the "treatment of prisoners of war"<sup>1</sup>. The International Committee of the Red Cross considered that it would be preferable to retain the 1929 title, which had become a tradition, and the Diplomatic Conference finally supported that view.

It should be noted that after 1949, the term "Geneva Convention" was extended to cover all four Conventions instead of merely the First Convention. The Conference considered that this would constitute an appropriate tribute to the city of Geneva, the headquarters of the International Committee of the Red Cross, and also to Switzerland as a whole<sup>2</sup>.

## PREAMBLE

*The undersigned, Plenipotentiaries of the Governments represented at the Diplomatic Conference held at Geneva from April 21 to August 12, 1949, for the purpose of revising the Convention concluded at Geneva on July 27, 1929, relative to the Treatment of Prisoners of War<sup>3</sup> have agreed as follows :*

The extreme brevity of the Preamble will be noted. Unlike the 1929 Geneva Conventions and the Hague Conventions of 1907, it contains no list of the Sovereigns or Heads of States of the signatory Powers or of the names of their Plenipotentiaries, and makes no mention of the presentation or verification of credentials ; nor does it include the usual statement of the motives which have led the Powers to conclude the Convention, as had still been the practice in 1929. The Preamble to the 1929 Convention referred to the duty of every Power to mitigate, as far as possible, the hardships of war and

<sup>1</sup> See *XVIIth International Conference of the Red Cross, Draft Revised or New Conventions for the Protection of War Victims*, Geneva, May 1948, No. 4a, p. 51.

<sup>2</sup> See *Final Record of the Diplomatic Conference of Geneva of 1949*, Berne 1950-51, four volumes, Vol. I, II-A, II-B, III ; Vol. II-B, p. 457.

<sup>3</sup> For brevity the third of the four Geneva Conventions, which is the subject of the present Commentary, will be called "the Convention" or "the Third Convention". The other Conventions, where there is occasion to refer to them, will be known by their serial numbers, i.e. :

"First Convention" will mean the "Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949" ;

"Second Convention" will mean the "Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea of August 12, 1949" ; and

"Fourth Convention" will mean the "Geneva Convention relative to the Protection of Civilian Persons in Time of War of August 12, 1949" .

# Excerpts from the Geneva Convention: Relative to the Treatment of Prisoners of War, August 12, 1949 (pg.3)

in question to persevere in applying humanitarian principles, whatever the attitude of the adverse Party may be. <sup>1</sup>

## ARTICLE 3. — CONFLICTS NOT OF AN INTERNATIONAL CHARACTER <sup>2</sup>

*In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions ;*

- (1) *Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.*

*To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons ;*

- (a) *violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture ;*
  - (b) *taking of hostages ;*
  - (c) *outrages upon personal dignity, in particular, humiliating and degrading treatment ;*
  - (d) *the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.*
- (2) *The wounded and sick shall be collected and cared for.*

*An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.*

<sup>1</sup> This paragraph of Article 2 was applied during the Suez conflict in the autumn of 1956, when the opposing Parties were Egypt, on the one hand, and France, Israel and the United Kingdom, on the other. Of these, only the United Kingdom was not bound by the Conventions, which it had not yet ratified. Nevertheless, in reply to a telegram from the International Committee of the Red Cross the British Prime Minister stated that, pending their formal ratification, the United Kingdom Government accepted the Conventions and fully intended to apply their provisions, should the occasion arise. The ICRC informed the other States Party to the conflict of this statement, and none of the belligerents contested the applicability of the Conventions.

<sup>2</sup> Article common to all four Conventions.

# Excerpts from the Geneva Convention: Relative to the Treatment of Prisoners of War, August 12, 1949 (pg.4)

laid upon the transferring Power, the receiving Power is obliged to accept this offer of assistance. If these measures nevertheless prove inadequate, if the poor treatment given to prisoners is not caused merely by temporary difficulties but by ill-will on the part of the receiving Power, or if for any other reason the situation cannot be remedied, the Power which originally transferred the prisoners must request that they be returned to it. In no case may the receiving Power refuse to comply with this request, to which it must respond as rapidly as possible.

The Power which originally transferred the prisoners of war may moreover arrange for them to be transferred to a third Power which is better qualified to receive them, provided the latter is also a party to the Convention <sup>1</sup>.

## ARTICLE 13. — HUMANE TREATMENT OF PRISONERS

*Prisoners of war must at all times be humanely treated. Any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody is prohibited and will be regarded as a serious breach of the present Convention. In particular, no prisoner of war may be subjected to physical mutilation or to medical or scientific experiments of any kind which are not justified by the medical, dental or hospital treatment of the prisoner concerned and carried out in his interest.*

*Likewise, prisoners of war must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity.*

*Measures of reprisal against prisoners of war are prohibited.*

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<sup>1</sup> Although the 1929 Convention contained no express provision to this effect, the International Committee of the Red Cross has always held the view that in case of transfer the Power which captured the prisoners retains a certain responsibility. Thus, in August 1945 it drew the attention of the United States Government to the difficult situation of German prisoners of war who had been handed over by the United States military authorities to the French authorities, because of the general shortage of foodstuffs in France. Following this intervention, the United States placed very large quantities of foodstuffs and clothing at the disposal of the International Committee of the Red Cross, and these supplies were forthwith distributed to prisoner-of-war camps in France. The text of this Article is largely based on this experience. (See *Report of the International Committee of the Red Cross on its activities during the Second World War*, Vol. III, pp. 110-111.)

# Excerpts from the Geneva Convention: Relative to the Treatment of Prisoners of War, August 12, 1949 (pg.5)

that prisoners of war suffer any loss or damage to their personal property, however slight, they must be able to claim any rights due to them, through the offices of the military authority in whose hands they are, unless this authority expressly authorizes them to defend their own interests themselves.

Responsibility for injuries or offences may also be involved in the case of occupational accidents. Article 27, paragraph 4, of the 1929 Convention required belligerents "to admit prisoners of war who are victims of accidents at work to the benefit of provisions applicable to workmen of the same category under the legislation of the Detaining Power". The International Committee of the Red Cross pointed out that the effectiveness of this provision was restricted if the consequences of the accident continued after the repatriation of the prisoner of war; it was therefore deleted and was replaced by Article 54, paragraph 2, and Article 68 of the 1949 Convention, which provide for compensation by the Power of Origin and require the Detaining Power to provide the prisoner of war concerned with a medical certificate enabling him, if need be, to submit a claim.

## ARTICLE 15. — MAINTENANCE OF PRISONERS

*The Power detaining prisoners of war shall be bound to provide free of charge for their maintenance and for the medical attention required by their state of health.*

The requirement of principle contained in this Article already existed in the 1929 Convention (Article 4)<sup>1</sup>. The phrase "free of charge", which strengthens the present text, was implicit in the 1929 text.

Maintenance must be understood to mean the supply of what is necessary for the life and continuing physical health of prisoners of war. These various requirements are confirmed by special articles regarding quarters (Article 25), food (Article 26), clothing (Article 28), medical attention (Article 30), and possibly, although the link is less direct, working pay (Articles 54 and 62) and advances of pay (Articles 60 and 61). The funds made available to prisoners of war in the form of working pay or advances of pay enable them to purchase certain items which also contribute to their maintenance. We have in mind

<sup>1</sup> Also in other legal texts of Conventions or of doctrine; *Lieber Laws*, Art. 76; *Brussels Declaration*, Art. 27; *Oxford Manual*, Art. 69; *The Hague Regulations*, Art. 7.

# Excerpts from the Geneva Convention: Relative to the Treatment of Prisoners of War, August 12, 1949 (pg.6)

## ARTICLE 26. — FOOD

*The basic daily food rations shall be sufficient in quantity, quality and variety to keep prisoners of war in good health and to prevent loss of weight or the development of nutritional deficiencies. Account shall also be taken of the habitual diet of the prisoners.*

*The Detaining Power shall supply prisoners of war who work with such additional rations as are necessary for the labour on which they are employed.*

*Sufficient drinking-water shall be supplied to prisoners of war. The use of tobacco shall be permitted.*

*Prisoners of war shall, as far as possible, be associated with the preparation of their meals ; they may be employed for that purpose in the kitchens. Furthermore, they shall be given the means of preparing, themselves, the additional food in their possession.*

*Adequate premises shall be provided for messing.*

*Collective disciplinary measures affecting food are prohibited.*

To provide prisoners with food is one of the principal duties of the Detaining Power under Article 15, which concerns the maintenance of prisoners in general. It is also one of the most difficult obligations to define, since one must reconcile the varying requirements of armed forces, on the one hand, and, on the other hand, the difficulties which the Detaining Power may have in regard to its own food supplies.

### PARAGRAPH 1. — DETERMINATION OF THE BASIC DAILY RATION

Article 7, paragraph 2, of the Hague Regulations stated the principle that prisoners should be treated "on the same footing as the troops of the Government who captured them"; and this had been made more explicit by Article 11 of the 1929 Convention, which read: "The food ration of prisoners of war shall be equivalent in quantity and quality to that of the depôt troops."

This text was not entirely satisfactory. In some armies depôt troops did not exist and the comparison could therefore not be made; moreover, it seemed rather strange to give the same food to troops who might be accustomed to a very different diet. This difficulty arose in particular in the Far East, where European troops found it very difficult to accustom themselves to the diet of the local forces.

# Excerpts from the Geneva Convention: Relative to the Treatment of Prisoners of War, August 12, 1949 (pg.7)

members of the camp community. Once they enter the camp, they must nevertheless comply with the regulations, in accordance with this clause. As a reciprocal measure, such persons should be afforded the various facilities referred to in Articles 33 and 34 to 36 by virtue of the duties which they perform.

## ARTICLE 38. — RECREATION, STUDY, SPORTS AND GAMES

*While respecting the individual preferences of every prisoner, the Detaining Power shall encourage the practice of intellectual, educational, and recreational pursuits, sports and games amongst prisoners, and shall take the measures necessary to ensure the exercise thereof by providing them with adequate premises and necessary equipment.*

*Prisoners shall have opportunities for taking physical exercise including sports and games and for being out of doors. Sufficient open spaces shall be provided for this purpose in all camps.*

## GENERAL

Captivity makes great demands not only on the bodily health of prisoners of war but also on their morale and it may even have the gravest psychological effects. It is therefore essential to ensure that prisoners of war have time for mental and physical relaxation. During the First World War, there was considerable development of “intellectual relief”, as a result of joint action by the Governments of neutral States, Red Cross Societies and other philanthropic or cultural associations. In the Second World War, when large numbers of prisoners were held captive for years, special efforts were made throughout the world to combat the detrimental effects of captivity<sup>1</sup>.

## PARAGRAPH 1. — GENERAL OBLIGATIONS OF THE DETAINING POWER

Intellectual, educational and recreational pursuits, sports and games must, in the first place, afford prisoners of war with a means of relaxation; every prisoner must be able to follow his individual preferences. This is clearly stipulated in the opening phrase of the

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<sup>1</sup> See *Report of the International Committee of the Red Cross on its activities during the Second World War*, Vol. I, pp. 276-281.



# South Korean Soldiers Prepare and Lay an Anti-Tank Mine, July 22, 1950



Courtesy of Library of Congress, "South Korean soldiers of the 1st Division, I Corps, prepare and lay an antitank mine somewhere in Korea during the Korean conflict," 22 July 1950

# American Soldier Prepares a Leaflet Bomb in Yokohama, Japan, November 1, 1950



Courtesy of Naval History and Heritage Command "Korean War Psychological Warfare," U.S. Army, 1 November 1950

# “Korean Pearl Harbor? Red China’s Attack Threatens U.N. Victory as Mao Moves on Three Fronts” Article, November 15, 1950 (pg.1)

## Pathfinder

November 15, 1950: p. 22

### Korean Pearl Harbor?

*Red China’s attack threatens U.N. victory  
as Mao moves on three fronts*



*New U.N. Joe. First Chinese Communists taken prisoner*

**Will Mao Tse-tung’s** intervention in the Korean conflict become the Pearl Harbor of World War III? At Lake Success and Washington, in all the capitals of the non-Communist world, that was the great, frightening question as this election week began.

Two weeks ago the United Nations forces had the 20-week war in Korea all but won. The enemy suffered 335,000 casualties, including 135,000 taken prisoner. Torn and bleeding, he was pinned down in the hills of North Korea, a badly-mauled rat in the U.N. trap. All that remained to be done was the mopping-up.

But last week Mao, Red China’s boss and Joseph Stalin’s partner-in-arms, mixed into the fight at the eleventh hour plus, presumably at the instigation of the Kremlin, and with its blessing. The first surprise attack came at night. It was mounted by reckless fighters, who swarmed into battle on horseback and afoot after bugles had morbidly sounded “taps.” The Reds pounced on two combat regiments of the American First Cavalry Division and the South Korean First Division. Hundreds of civilians, caught by the flaming machine-gun and mortar fire, were mowed down. In U.N. casualties, it was one of the costliest engagements of the war.

**Deadly Answer.** Pfc. George Dick of Lake Village, Ind., was one of the Americans who lived to tell about the attack. The bugles sounded, he said, when he was “talking to a couple of other guys” who couldn’t sleep, wondering whether Chinese Communists were helping the North Koreans.

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# “Korean Pearl Harbor? Red China’s Attack Threatens U.N. Victory as Mao Moves on Three Fronts” Article, November 15, 1950 (pg.2)

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## *Red China’s Attack*

“We kidded about some frustrated GI bugler playing his tin horn. We were having a good laugh when two guys no more than five feet from us began spraying us with lead.”

Pfc. Henry Tapper of High Point, N.C., also was in the thick of it and came out alive. Said he: “Someone woke me up and asked if I could hear a bunch of horses on the gallop. I couldn’t hear anything. The bugles started playing taps, but far away. Someone blew a whistle and our area was shot to hell in a matter of minutes. I’m not too sure how it all happened right now, but I know we lost more of our outfit there than got out.”

In the days of probing attacks that followed the Reds put aside bugles and horses and struck with modern lethal weapons from the Soviet arsenal. On the ground they used Russian T-34 tanks, self-propelled artillery, recoilless guns and “*katyushas*,” Soviet World War II multiple rocket launchers. And flashing in from Manchurian bases across the Yalu River boundary of Korea came Russian jets and Yak fighters to strafe troops and battle American planes.

General MacArthur took note of the serious turn of events in a Monday communique. The briefing that followed was one of the most somber in the experience of newsmen who have covered MacArthur from Corregidor to Pyongyang.

**Undeclared War.** The Communists, said MacArthur, “committed one of the most offensive acts of international lawlessness of historic record by moving, without any notice of Lelligerency, elements of alien Communist forces across the Yalu River into Korea and massing a great concentration of possible reinforcing divisions with adequate supply behind the privileged sanctuary of the adjacent Manchurian border.”

While he did not identify Mao’s regime in his statement, the target was unmistakable. In a formal report to the United Nations Security Council, MacArthur listed 12 separate instances of Communist intervention, on land and air, since Oct. 16.

At the request of the U.S., the Council called a special meeting to consider the issue Wednesday. Last June, with Russia sidelined by a walkout, it moved with admirable speed to resist the North Korean invasion of South Korea. Unless the U.N. again acts quickly and with equally firm resolution, the Allied blood spilled in Korea will have been in vain.

Soviet Foreign Minister Andrei Vish-

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# “Korean Pearl Harbor? Red China’s Attack Threatens U.N. Victory as Mao Moves on Three Fronts” Article, November 15, 1950 (pg.3)

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## *Red China's Attack*

insky is at Lake Success, and it's a safe bet that he would veto any Security Council action against Communist China for its intervention in Korea. But last week, the General Assembly set up new machinery to get around the veto when world peace is at stake. It approved the Acheson plan (PATHFINDER, Nov. 1) to give the veto-proof Assembly a chance to act when a veto hog-ties the Security Council.

**The Lamps of Manchuria.** Last week speculation on Mao's aims in Korea centered on the giant hydroelectric power project on the Yalu River in the general area of present fighting. Built during Japanese occupation of Manchuria and Korea, it is regarded as the TVA of Asia. The 525-foot Suiho dam at Supung is one of the world's largest—compares favorably with some of the large U.S. dams. The Yalu project provides power for North Korea and Southern Manchuria. U.N. spokesmen first interpreted Mao's thrust across the border as an effort to protect the source of power for Manchurian cities.

But MacArthur's serious charges and the U.N.'s quick decision to consider them indicate that Mao is after more than electricity. His forces are invading Tibet (see page 25). He is aiding Ho Chi Minh's Communists in their fight against the French in Indochina. And he has 600,000 troops within easy striking distance of U.N. forces in Korea. These well-armed, seasoned Red fighters are commanded by Gen. Liu Piao, who forged many links in the Communist chain of victories against Chiang Kai-shek's Nationalists.

**War Fever.** In Peking, capital of Red China, the sabers were being rattled louder and louder. Press and radio stepped up attacks on the United States. Screamed Mao's New China press agency: "Just as with the Japanese imperialists in the past, the main objective of U.S. aggression in Korea is not Korea itself, but China." And Red China is swiftly moving to war footing. Factories are urged to step up production "to meet the threat of mounting American aggression." Dairen, Port Arthur, Mukden and other Manchurian cities have been put under martial law. Air-raid shelters are being built in Mukden. The Peking-Mukden rail line has been closed to passenger traffic and the military has been given top priority in use of the line.

Red China's man of mystery may hurl his juggernaut full force into Korea. Or in the face of U.N. pressure he may

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# “Korean Pearl Harbor? Red China’s Attack Threatens U.N. Victory as Mao Moves on Three Fronts” Article, November 15, 1950 (pg.4)

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## *Red China’s Attack*

elect to keep the bulk of his vast army on his side of the Yalu in a maneuver to pin down U.N. forces. In any event, American lads who have been fighting their hearts out from Pusan to the edge of Manchuria face a cold Christmas in Korea rather than a warm reunion at home.

*November 15, 1950*

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# Iowa Soldiers at the “Rock of the Marne” Holding the Sign “Happy New Year to the Folks at Home,” 1951



Courtesy of State Historical Society of Iowa, 1951

# 187th Airborne Paratroopers on a Flight to Munsan-ni, Korea, March 1951



Courtesy of National Archives, "COMBAT CARGO, KOREA - Paratroopers of the 187th Airborne Regimental Combat Team..." March 1951



# American Marines Capture Chinese Communists Along the Central Korean Front, March 2, 1951



Courtesy of National Archives, "Men of the 1st Marine Division capture Chinese Communists during fighting on the central Korean front. Hoengsong," 2 March 1951

# Soldiers Seek Shelter from Mortar Shells in Korea, April 11, 1951



Courtesy of Library of Congress, Signal Corps, U.S. Army, 11 April 1951

# Marine Infantrymen Take Cover Behind a Tank Near Hongcheon, Korea, May 22, 1951



Courtesy of National Archives, "Marine infantrymen take cover behind a tank while it fires on Communist troops ahead. Hongchon Area," 22 May 1951

# Aerial View of USS Iowa Near Koje, Korea, October 17, 1952



Courtesy of State Historical Society of Iowa, "Aerial view of U.S.S. Iowa taken after battery gunfire aimed at Communist defenses. Offshore Koje, Korea," 17 October 1952

# American and North Korean Generals Sign the Korean Armistice, July 23, 1953



Courtesy of National Archives, "General W. K. Harrison, Jr., signs armistice ending 3-year Korean conflict. General Harrison, left table, and North Korean General Nam Il, right table, sign documents.," 23 July 1953

# Excerpt 1: Interview with Korean War Veteran William Donald Sinclair, April 2, 2004



Courtesy of Library of Congress, Sinclair, William D., "Oral history interview with William Donald Sinclair," Veterans History Project, 2 April 2004

# Interview of Korean War Medics Tony and Tom Bazouska, 2015



# American Infantrymen Grieve for a Dead Fellow Soldier near Haktong-ni, Korea, August 28, 1950



Courtesy of Morning Calm Weekly Newspaper, "Chang, Sfc. Al. U.S. Army, near Haktong-ni, Korea," Morning Calm Weekly Newspaper, 28 August 1950



# Korean Woman Searches Through Rubble in Seoul, Korea, November 1, 1950



Courtesy of Morning Calm Weekly Newspaper, Huff, C.W., "An aged Korean woman pauses in her search for salvageable materials among the ruins of Seoul, Korea," Morning Calm Weekly Newspaper, 1 November 1950

# Memorial Service at Cemetery in Hamheung, Korea, December 13, 1950



Courtesy of Morning Calm Weekly Newspaper, "Marines of the First Marine Division pay their respects to fallen buddies during memorial services at the division's cemetery at Hamhung, Korea..." Morning Calm Weekly Newspaper, 13 December 1950

# Iowa Marines with a Hospital Attendant at Naval Station Great Lakes Hospital, March 1951



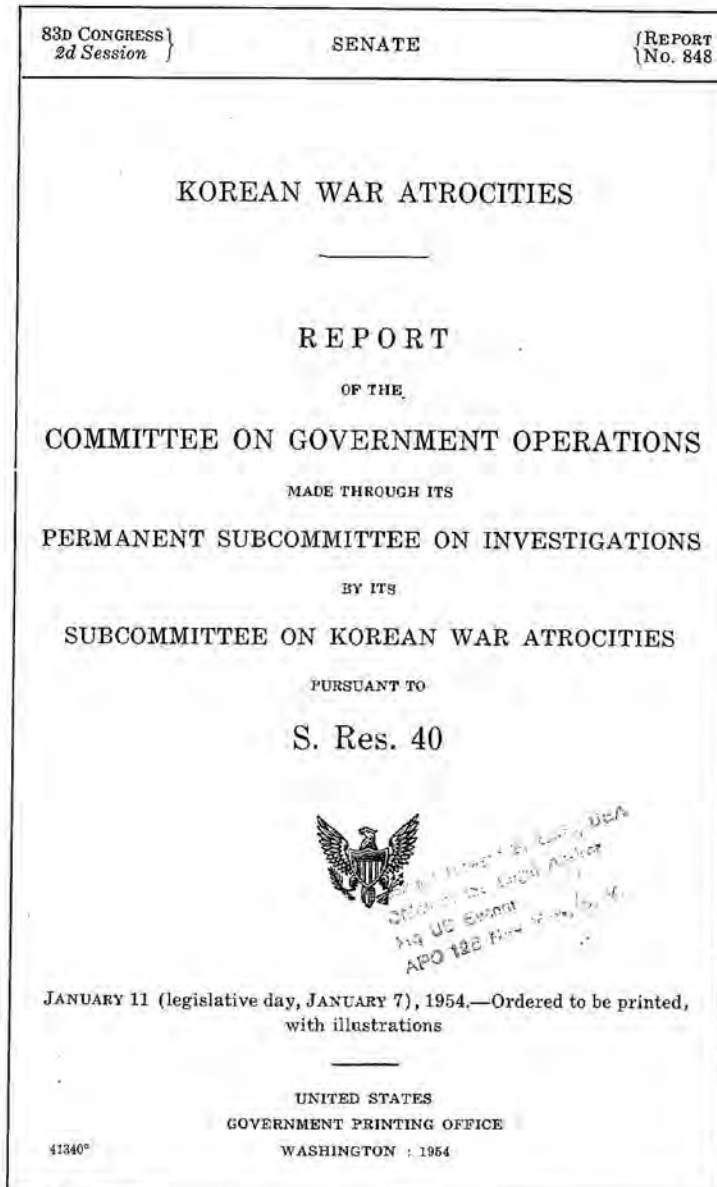
Courtesy of State Historical Society of Iowa, March 1951

# Red Cross Worker at MASH Hospital in Korea, October 1952



Courtesy of State Historical Society of Iowa, October 1952

# Korean War Atrocities Report by U.S. Senate, January 1954 (Pg.1)



“Korean War Atrocities Report of the Committee on Government Operations made through its Permanent Subcommittee on Investigations by its Subcommittee on Korean War Atrocities,” U.S. Congress, January 1954. [Courtesy of Library of Congress](#)

# Korean War Atrocities Report by U.S. Senate, January 1954 (Pg.2)

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# Korean War Atrocities Report by U.S. Senate, January 1954 (Contains Transcribed Excerpts)

83D CONGRESS } SENATE } REPORT  
2d Session } } No. 848

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## KOREAN WAR ATROCITIES

JANUARY 11 (legislative day, JANUARY 7), 1954.—Ordered to be printed, with illustrations

Mr. POTTER, from the Committee on Government Operations, submitted the following

### REPORT

MADE THROUGH ITS PERMANENT SUBCOMMITTEE ON INVESTIGATIONS BY ITS SUBCOMMITTEE ON KOREAN WAR ATROCITIES

#### INTRODUCTION

On June 25, 1950, the North Korean Peoples' Army, without warning, attacked the Free Republic of South Korea.

During the ensuing 3 years of warfare, the Communist enemy committed a series of war crimes against American and United Nations personnel which constituted one of the most heinous and barbaric epochs of recorded history. When the American people became aware war atrocities had been committed against American troops, thousands of letters were sent to Members of Congress by parents, wives, and relatives of servicemen, requesting an immediate investigation.

Accordingly, on October 6, 1953, Senator Joseph R. McCarthy, chairman of the Senate Permanent Subcommittee on Investigations, appointed a special subcommittee, chaired by Senator Charles E. Potter, to inquire into the nature and extent of Communist war crimes committed in Korea.

The purpose of the investigation was to bring to the attention of the world in general and to the American people in particular, the type of vicious and barbaric enemy we have been fighting in Korea, to expose their horrible acts committed against our troops, and to foster appropriate legislation.

The War Crimes Division in Korea has already opened more than 1,800 cases of crimes committed by the enemy involving many thousands of victims, including American, South Korean, British, Turkish, and Belgian troops, as well as many civilians.<sup>1</sup> The sub-

EXPLANATION OF FOOTNOTES.—All page references in footnotes refer to published record of hearings on Korean War Atrocities conducted by this subcommittee on December 2, 3, and 4, 1953.

<sup>1</sup> Pt. 1, pp. 6, 10, 11.

# Korean War Atrocities Report by U.S. Senate, January 1954 (Contains Transcribed Excerpts)

committee limited its inquiry to atrocities committed against American personnel. When it became apparent numerous cases involving American servicemen were under current investigation, exclusive of hundreds of cases completely documented by evidence, the subcommittee decided to further limit its investigation to illustrative types of war atrocities.

A total of 29 witnesses appeared before the subcommittee in public hearings on December 2, 3, and 4, 1953.<sup>2</sup> Of this number, 23 were American servicemen who were either survivors or eyewitnesses of Communist war crimes. The remaining witnesses were former Army field commanders in Korea and officials of the War Crimes Division. Corroborative evidence consisting of affidavits, statements, photographs, and other official records from the files of the United States Army, Judge Advocate General's Division, and from the official records of the War Crimes Division in Korea, was also received.

## I. HISTORY AND OPERATION OF WAR CRIMES DIVISION IN KOREA

First reports of war crimes committed by the North Korean armies in Korea against captured United Nations military personnel began to filter into General Headquarters, United Nations Command, early in July of 1950. When the facts were disclosed, Gen. Douglas MacArthur, Commander in Chief, United Nations Command, set up the machinery for the investigation of war crimes committed by Communist aggressors.<sup>3</sup>

Initial responsibility was assigned to the Army Staff Judge Advocate of the Far East Command. On July 27, 1950, field commanders were advised as to the procedures to be followed. In early October 1950, the immediate responsibility for war-crimes investigations was transferred to the Commanding General, Eighth Army; on September 1, 1952, responsibility was transferred to the Commanding General, Korean Communication Zone, where it presently rests.<sup>4</sup>

The purpose in establishing the War Crimes Division was to avoid the difficulties experienced after World War II, when little effort was made to investigate the commission of a war crime until some time after the war had ended.

In order to define and clarify the limits of the investigations in Korea, war crimes were defined as those acts committed by enemy nations, or those persons acting for them, which constitute violations of the laws and customs of war, and general application and acceptance, including contravention of treaties and conventions dealing with the conduct of war, as well as outrageous acts against persons or property committed in connection with military operations.<sup>5</sup>

The War Crimes Division in Korea is organized into several branches, the more important sections from an operational standpoint being the Case Analysis Branch, the Investigations Branch, and the Historical Branch, the latter containing statistical and order-of-battle sections. The Investigations Branch utilizes field teams conducting on-the-spot investigations. Thousands of enemy prisoners of war, as well as friendly personnel, have been interviewed,

<sup>2</sup> See appendix of this report.

<sup>3</sup> Pt. 1, p. 9.

<sup>4</sup> Ibid.

<sup>5</sup> Ibid.



# Korean War Atrocities Report by U.S. Senate, January 1954

(Contains Transcribed Excerpts)

during which interrogations every effort was made to discover contributing and corroborating evidence to establish the facts surrounding the reported war crimes. Investigators collect evidence consisting of affidavits, photographs, statements of participants and perpetrators, and locate bodies of victims, effecting their identification wherever and whenever possible. The Case Analysis Branch, composed of attorneys, reviews, and analyzes the cases, keeping them under continual scrutiny to detect what gaps, if any, exist in the evidentiary chain.<sup>6</sup>

The documented case against the subject involved is then referred to the Command Staff Judge Advocate, Headquarters, Armed Forces, Far East, for possible prosecution.

With the signing of the Korean armistice the War Crimes Division in Korea did not terminate its operations, but it is continuing to develop additional evidence as a result of interrogations of repatriated prisoners under operations Big Switch.

## II. TYPES OF WAR ATROCITIES COMMITTED AGAINST AMERICAN PRISONERS

The evidence before the subcommittee conclusively proves that American prisoners of war who were not deliberately murdered at the time of capture or shortly after capture, were beaten, wounded, starved, and tortured; molested, displayed, and humiliated before the civilian populace and/or forced to march long distances without benefit of adequate food, water, shelter, clothing, or medical care to Communist prison camps, and there to experience further acts of human indignities.

Communist massacres and the wholesale extermination of their victims is a calculated part of Communist psychological warfare. The atrocities perpetrated in Korea against the United Nations troops by Chinese and North Korean Communists are not unique in Communist history, nor can they be explained away on the grounds that inhumanity is often associated with so-called civilized warfare.

The House Select Committee to Conduct an Investigation of the Facts, Evidence, and Circumstances of the Katyn Forest Massacre in its final report (Union Calendar No. 792, H. R. No. 2505,) stated in conclusions, page 11:

This committee began its investigation last year, and as the committee's work progressed, information, documents, and evidence was submitted from all parts of the world. It was at this same time that reports reached the committee of similar atrocities and violations of international law being perpetrated in Korea. This committee noted the striking similarity between crimes committed against the Poles at Katyn and those being inflicted on American and other United Nations troops in Korea. Communist tactics being used in Korea are identical to those followed at Katyn. Thus this committee believes that Congress should undertake an immediate investigation of the Korean war atrocities in order that the evidence can be collected and the truth revealed to the American people and the free peoples of the world.

The Communist forces in Korea flagrantly violated virtually every provision of the Geneva Convention of 1929, as well as article 6 of the

<sup>6</sup> Lt. Col. Jack Todd, pt. 2, pp. 78, 79. Col. James M. Hanley, pt. 3, pp. 150, 151.

# Korean War Atrocities Report by U.S. Senate, January 1954 (Contains Transcribed Excerpts)

6

## KOREAN WAR ATROCITIES

General ALLEN. They were right in the tunnel. Then I heard a cry from another source, of an American, so we came down the hill, and there we came across the most gruesome sight I have ever witnessed. That was in sort of a sunken road, a pile of American dead. I should estimate that in that pile there were 60 men. In the pile were men who were not dead, who were wounded \* \* \*. We, incidentally, found a very shallow grave, it must have contained at least 60 bodies, the other side of the road, down maybe 50 yards from that place.

### (C) TAEJON MASSACRE

On September 27, 1950, approximately 60 American prisoners who had been confined in Taejon prison were taken into the prison yard in groups of 14, with their hands wired together. These men were forced to sit hunched in hastily dug ditches and then were shot by North Korean troops at point blank range, with American M-1 rifles, using armor-piercing ammunition. Of the 2 seriously wounded survivors, only 1 lived to recount the gruesome details. Unnumbered civilians estimated at between 5,000 and 7,000, as well as soldiers of the Republic of Korea, were also slaughtered at Taejon between September 23 and September 27, 1950.<sup>11</sup>

Sgt. Carey H. Weinel, formerly with the 23d Infantry Regiment, 2d Division, Korea, and the sole survivor of the infamous Taejon massacre, testified:

Sergeant WEINEL. \* \* \* Toward the last they was in a hurry to leave Taejon, to evacuate Taejon, so they took approximately the last three groups pretty close together. I witnessed the group right in front of me shot \* \* \*. After they was shot we was taken to the ditch and sat down in the ditch and shot.

Senator POTTER. What happened to you when you were shot?

Sergeant WEINEL. \* \* \* I leaned over against the next man, pretending I was done for \* \* \*. In firing, they hit my hand \* \* \*.

\* \* \* \* \*

Senator POTTER. How were you sitting in the ditch?

Sergeant WEINEL. \* \* \* They was aiming at my head. I have a scar on my neck, I on my collarbone, and another I hit my hand \* \* \*. They hit me 3 times.

Senator POTTER. And you played dead?

Sergeant WEINEL. Yes, sir. After they thought everybody was dead, they started burying us \* \* \* I came close to getting panicky about that time, but somehow or other I figured as long as I had some breath there was hope \* \* \*.

\* \* \* \* \*

Senator POTTER. In other words, you were buried alive?

Sergeant WEINEL. That is right, sir.

\* \* \* \* \*

Sergeant WEINEL. I might add in that whole group that I was with, there was not a man that begged for mercy and there was not a man that cracked under the deal.

\* \* \* \* \*

Mr. O'DONNELL. \* \* \* Sergeant, how long were you buried alive?

Sergeant WEINEL. That is hard to say, sir. As I say, I was shot around 5 o'clock in the morning, and I stayed in the ditch until that evening, until what time it was dark. I would say approximately 8 hours, 8 or 7 hours.

### (D) THE BAMBOO SPEAR CASE

In late December 1950, five American airmen in a truck convoy were ambushed by North Korean forces. Their bodies, discovered shortly after by a South Korean patrol, showed that the flesh had been punctured in as many as 20 different areas with heated, sharpened bamboo sticks. The torture was so fiendish that no one perforation was sufficient to cause death by itself.<sup>12</sup>

<sup>11</sup> Pt. 1, pp. 15-25.

<sup>12</sup> Col. John W. Gorn, pt. 3, pp. 162-164. Lt. Col. James T. Rogers, pt. 3, pp. 164-166.

# Korean War Atrocities Report by U.S. Senate, January 1954 (Contains Transcribed Excerpts)

## V. TREATMENT IN COMMUNIST PRISON CAMPS

Evidence before this subcommittee indicated that the inhuman treatment given American prisoners in Communist prisoners-of-war camps was a sequel to the brutalities and indignities suffered by the prisoners on death marches. The prisoners at these camps were survivors of marches and were necessarily in poor physical condition.

The deliberate plan of savage and barbaric handling of these men was a continuation of the policy which existed on all the marches, and violated virtually every provision of the Geneva Convention of 1929. They were denied adequate nourishment, water, clothing, and shelter. Not only were they denied medical care but they were subjected to experimental monkey-gland operations. Housing conditions were horrible, resulting in widespread disease.<sup>28</sup>

The prisoners were not permitted to practice their religion and on numerous occasions were beaten, humiliated, and punished. Political questioning and forced Communist indoctrination was constant, and the men were subjected to physical abuse and other punishment when they refused to be receptive to the Communist propaganda. The American newspapers available for reading purposes were the Daily Worker published in New York and the People's Daily World published in San Francisco, copies of which were in the prisoner-of-war camps within 2 months after the date of publication. The Communists utilized prisoners on numerous occasions for propaganda purposes and took posed pictures purporting to show the comfortable life being led by the prisoners, an obvious distortion of truth and fact.<sup>29</sup>

Officers were segregated from the enlisted men and could therefore not exercise any internal control, and were subjected to the same harsh treatment. Prisoners-of-war camps were not properly marked, resulting in bombing by United Nations aircraft. Letters of prisoners were not mailed by their captors, and Red Cross aid was in no way permitted. American prisoners died by the thousands at the rate of 15 to 20 per day. One witness testified that during a 7- to 8-month period 1,500 prisoners died of beri-beri, dysentery, pellagra, and other diseases as a result of malnutrition at camp No. 5 at Pyoktong.<sup>30</sup> Another witness testified that during a 3-month period at camp No. 1 at Changsong 500 Americans died.<sup>31</sup> The Chinese and North Korean Communists maintained no record of American dead.<sup>32</sup> The exact number of known American dead has not as yet been determined, as interrogations of "Little Switch" and "Big Switch" returnees are still being conducted, but it is known that the figure will be in the thousands.

Treatment improved somewhat when the peace talks at Panmunjom commenced, as the Chinese Communists adopted their so-called

<sup>28</sup> Pt. 2, 87-97, 118-128, 143-146; pt. 3, pp. 185-202, 208-212, 215, 216.

<sup>29</sup> Pt. 2, pp. 87-97, 118-128, 143-146; pt. 3, pp. 185-202, 208-212, 215-216.

<sup>30</sup> Lt. Col. Robert Abbott, pt. 3, p. 189.

<sup>31</sup> Colonel ABBOTT. \* \* \* "At camp No. 5 it is estimated that in a period of 7 or 8 months approximately 1,500 prisoners died in that camp."

<sup>32</sup> Sergeant Treffery, pt. 2, p. 90.

"Mr. O'DONNELL. Of the total number that were there (camp 1), approximately how many American PW's died?"

"Sergeant TREFFERY. 500.

"Mr. O'DONNELL. That would be between what periods of time?"

"Sergeant TREFFERY. May 1951, sir, until August 1951."

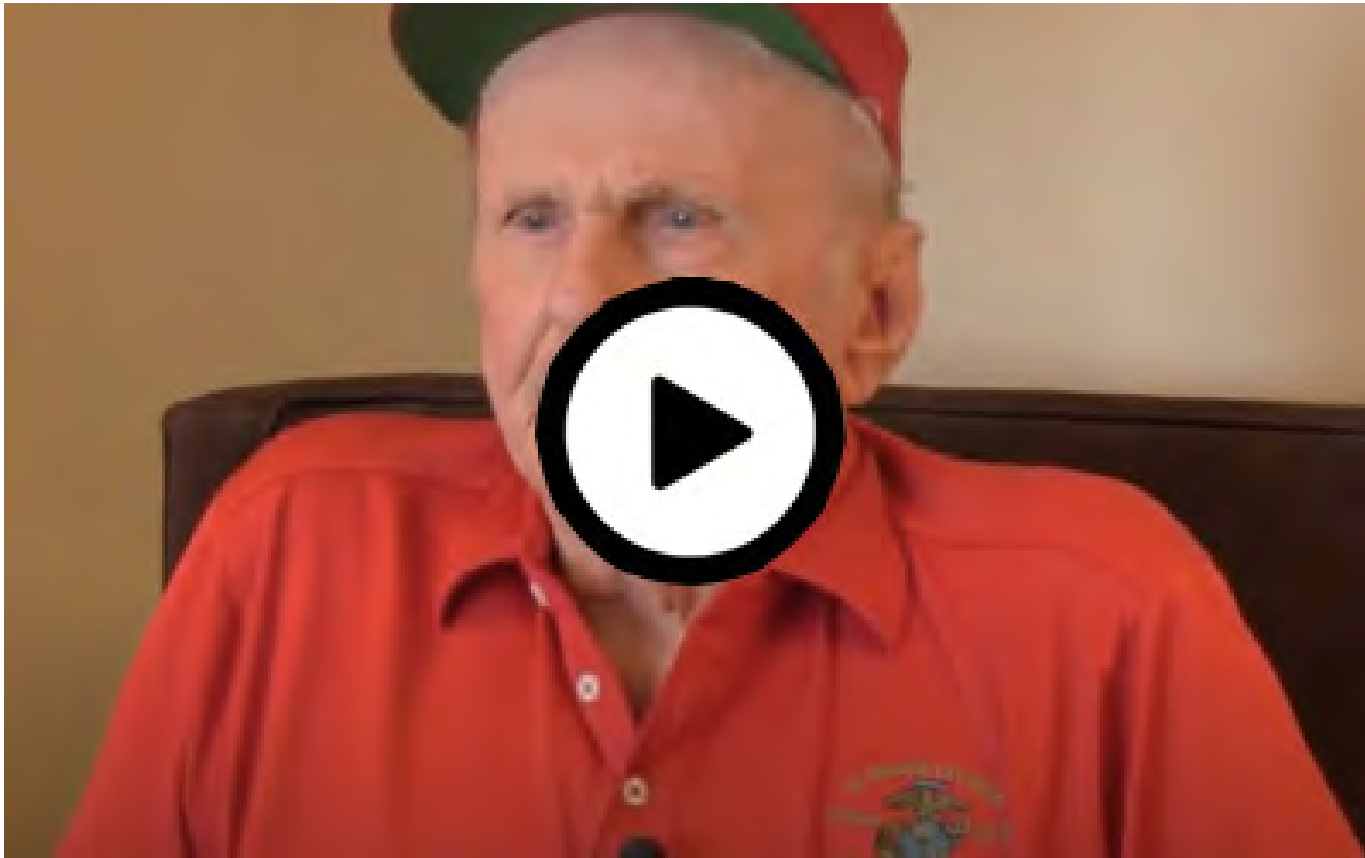
<sup>32</sup> Pt. 3, p. 188.

## Excerpt 2: Interview with Korean War Veteran William Donald Sinclair, April 2, 2004



Courtesy of Library of Congress, Sinclair, William D., "Oral history interview with William Donald Sinclair," Veterans History Project, 2 April 2004

# Korean War Marine Veteran Arthur E. Gentry Recalls Evacuation of Hamheung, 2015



Courtesy of Korean War Legacy Foundation, Inc., Interview of Arthur E. Gentry, Korean War Legacy Foundation, Inc., 2015

# Excerpts from Bell v. United States, 1960 (pg.1)

aboard the *Leopard* and impressed into service in the British Navy. There he served for five years and nine days before he finally was repatriated. Years later his widow sued for his pay and rations as a member of the United States Navy during the period he had been held by the British. The Court of Claims ruled that, even though we had not been at war in 1807, the *Chesapeake* had nevertheless been "taken by an enemy," and that Straughan's widow was entitled to the United States Navy pay and allowances that had accrued while he was serving with the British. *Straughan v. United States*, 1 Ct. Cl. 324.<sup>15</sup>

In October, 1863, a lieutenant in the Union Army named Henry Jones was taken prisoner by Confederate guerrillas near Elk Run, Virginia. Jones was confined in Libby Prison until March 1, 1865, when he was exchanged and returned to the Union lines. Upon his return he found that he had been administratively dismissed from the service in November, 1863, because he had been in disobedience of orders at the time of his capture. When the Army for that reason refused his demand for pay and allowances, he filed suit in the Court of Claims. The court entered judgment in his favor, stating that "[t]he contrary would be to hold that an executive department could annul and defy an act of Congress at its pleasure." *Jones v. United States*, 4 Ct. Cl. 197, 203.

It is against this background that we turn to the Government's contention that the Missing Persons Act authorized the Army to refuse to pay the petitioners their statutory pay and allowances in this case. The provisions of the Act which the Government deems pertinent

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<sup>15</sup> The case was decided under a statute specifically applicable to naval personnel, originally enacted in 1800, 2 Stat. 45, now 37 U. S. C. § 244. See n. 32, *infra*.

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are set out in the margin.<sup>16</sup> Originally enacted in 1942 as temporary legislation,<sup>17</sup> the Act was amended and re-enacted several times,<sup>18</sup> and finally was made permanent in 1957.<sup>19</sup> So far as relevant here, this legislation provides that any person in active service in the Army "who is officially determined to be absent in a status of . . . captured by a hostile force" is entitled to pay and allowances; that "[t]here shall be no entitlement to pay

<sup>16</sup> § 1001. Definitions.

"For the purpose of this Act [sections 1001-1012 and 1013-1016 of this Appendix]—

"(b) the term 'active service' means active service in the Army, Navy, Marine Corps, and Coast Guard of the United States, including active Federal service performed by personnel of the retired and reserve components of these forces, the Coast and Geodetic Survey, the Public Health Service, and active Federal service performed by the civilian officers and employees defined in paragraph (a)(3) above; . . . " 50 U. S. C. App. § 1001.

"§ 1002. Missing interned or captive persons. (a) Continuance of pay and allowances.

"Any person who is in the active service . . . and who is officially determined to be absent in a status of missing, missing in action, interned in a foreign country, captured by a hostile force, beleaguered by a hostile force, or besieged by a hostile force shall, for the period he is officially carried or determined to be in any such status, be entitled to receive or to have credited to his account the same . . . pay [and allowances] . . . to which he was entitled at the beginning of such period of absence or may become entitled thereafter . . . and entitlement to pay and allowances shall terminate upon the date of receipt by the department concerned of evidence that the person is dead or upon the date of death prescribed or determined under provisions of section 5 of this Act [section 1005 of this Appendix]. Such entitlement to pay and allowances shall not terminate upon the expiration of a term of service during absence and, in case of death during absence, shall not terminate earlier than the dates herein prescribed. There shall be no entitlement to pay and allowances for any period during which such person may be officially determined absent from his post of duty without authority and he shall be

[Notes 17-19 are on p. 407]

# Excerpts from Bell v. United States, 1960 (pg.3)

and allowances for any period during which such person may be officially determined absent from his post of duty without authority"; that the Secretary of the Army or his designated subordinate shall have authority to make all determinations necessary in the administration of the Act, and for purposes of the Act determinations so made as to any status dealt with by the Act shall be conclusive.

We are asked first to hold that "[s]ince the Missing Persons Act is later in time, is comprehensive in scope, and includes within its provisions the whole subject mat-

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indebted to the Government for any payments from amounts credited to his account for such period. . . ." 50 U. S. C. App. § 1002.

"§ 1009. Determinations by department heads or designees; conclusiveness relative to status of personnel, payments, or death.

"(a) The head of the department concerned, or such subordinate as he may designate, shall have authority to make all determinations necessary in the administration of this Act [sections 1001-1012 and 1013-1016 of this Appendix], and for the purposes of this Act [said sections] determinations so made shall be conclusive as to death or finding of death, as to any other status dealt with by this Act [said sections], and as to any essential date including that upon which evidence or information is received in such department or by the head thereof. . . . Determinations are authorized to be made by the head of the department concerned, or by such subordinate as he may designate, of entitlement of any person, under provisions of this Act [sections 1001-1012 and 1013-1016 of this Appendix], to pay and allowances, including credits and charges in his account, and all such determinations shall be conclusive: . . . When circumstances warrant reconsideration of any determination authorized to be made by this Act [said sections] the head of the department concerned, or such subordinate as he may designate, may change or modify a previous determination. . . ." 50 U. S. C. App. § 1009.

<sup>17</sup> Act of March 7, 1942, 56 Stat. 143.

<sup>18</sup> Act of December 24, 1942, 56 Stat. 1092; Act of July 1, 1944, 58 Stat. 679; § 4 (e) of Selective Service Act of 1948, 62 Stat. 608; Act of July 3, 1952, 66 Stat. 330, 331; Act of April 4, 1953, 67 Stat. 20-21; Act of January 30, 1954, 68 Stat. 7; Act of June 30, 1955, 69 Stat. 238; Act of July 20, 1956, 70 Stat. 595; Act of August 7, 1957, 71 Stat. 341.

<sup>19</sup> Act of August 29, 1957, 71 Stat. 491.



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ter of R.S. 1288 [the statute upon which the petitioners rely], any inconsistency or repugnancy between the two statutes should be resolved in favor of the Missing Persons Act." This step having been taken, we are asked to decide that the petitioners, because of their behavior after their capture, were no longer in the "active service in the Army . . . of the United States," and that they were therefore not covered by the Act. It is also suggested, alternatively, that the Secretary of the Army might have determined that each of the petitioners after capture was "absent from his post of duty without authority," and, therefore, not entitled to pay and allowances under the Act. We can find no support for these contentions in the language of the statute, in its legislative history, or in the Secretary's administrative determination.

The Missing Persons Act was a response to unprecedented personnel problems experienced by the Armed Forces in the early months after our entry into the Second World War. Originally proposed by the Navy Department, the legislation was amended on the floor of the House to cover the other services. As the Committee Reports make clear, the primary purpose of the legislation was to alleviate financial hardship suffered by the dependents of servicemen reported as missing.<sup>20</sup>

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<sup>20</sup> "In general, the purposes of this bill are to provide authorization for the continued payment or credit in the accounts, of the pay and allowances of missing persons for 1 year following the date of commencement of absence from their posts of duty or until such persons have been officially declared dead [In December, 1942, the statute was amended so as to permit a department head to continue personnel in a missing status for an indefinite period. 56 Stat. 1092.]; the continued payment for the same period of the allotments for the support of dependents and for the payment of insurance premiums, and for regular monthly payments to the dependents of missing persons, in the same manner in which allotments are paid, in those instances in which the missing persons had neglected to

# Excerpts from Bell v. United States, 1960 (pg.5)

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The Government's alternative argument seems, as a matter of statutory construction, equally invalid. The legislative history discloses that the provision denying pay to a person officially determined to have been "absent from his post of duty without authority" was enacted to cover the case of a person found to have been "missing" in the first place only by reason of such unauthorized absence.<sup>25</sup> Moreover, desertion and absence without leave are technically defined offenses. 10 U. S. C. § 885, 10 U. S. C. § 886; see Manual for Courts-Martial, United States, p. 315 (1951). It is open to serious question whether the conduct of the petitioners after their capture could conceivably have been determined to be tantamount either to desertion or absence without leave. See Avins, *Law of AWOL*, p. 167 (1957); Snedeker, *Military Justice under the Uniform Code*, p. 562 (1953).

These are questions which we need not, however, pursue. We need not decide in this case that the Secretary of the Army was wholly without power under the statute to determine administratively that the petitioners after their capture were no longer in active service, or that they were absent from their posts of duty. Nor need we finally decide whether either such determination by the Secretary would have been valid as a matter of law. The simple fact is that no such administrative determination has ever been made. The only reason the Army ever advanced for refusing to pay the petitioners was its determination that they had "advocated, or were members of an organization which advocated, . . . the overthrow of the United States Government by force or violence."<sup>26</sup> That determination has now been totally abandoned. The Army has never even purported to determine that the

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<sup>25</sup> See H. R. Rep. No. 1680, 77th Cong., 2d Sess., p. 5; Hearings before House Committee on Naval Affairs on H. R. 4405, 78th Cong., 2d Sess., p. 2316.

<sup>26</sup> See note 5, *supra*.

# Excerpts from Bell v. United States, 1960 (pg.6)

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petitioners were not in active service or that they were absent from their posts of duty.<sup>27</sup> The Army cannot rely upon something that never happened, upon an administrative determination that was never made, even if it be assumed that such a determination would have been permissible under the statute and supported by the facts.<sup>28</sup>

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<sup>27</sup> Nor has the Army ever purported to determine that the petitioners were not in "captivity" or "in the actual service of the United States" within the meaning of 37 U. S. C. § 242.

<sup>28</sup> The record of a 1954 hearing before the House Armed Services Committee on a bill to extend the life of the Missing Persons Act indicates that some thought was being given at that time to the possibility of an administrative determination that the petitioners were absent from their posts of duty:

"Mr. Bates. General, what is the pay status of prisoners who have refused repatriation?

"General Powell. Those prisoners, sir, are carried in pay status. In negotiating the armistice we agreed that until this matter was settled they would be carried as prisoners of war.

"Mr. Kilday. When does that stop?

"Mr. Bates. Does that stop next week?

"General Powell. The method of stopping the pay and allowances, allotments and status of military personnel of those 21 prisoners is a matter to be decided by the Secretary of Defense for all services involved. He has announced no decision.

"Mr. Bates. Aren't they absent without leave?

"General Powell. No, sir.

"Mr. Bates. What is it?

"General Powell. In the armistice agreement, the United States agreed to carry them as prisoners of war until the matter was settled.

"Mr. Bates. I thought there was also an understanding that they would be considered a. w. o. l. as of a certain date?

"General Powell. That is a matter still to be decided by the Secretary of Defense.

"Mr. Bates. Or deserters, you know.

"General Powell. The Secretary of Defense is deciding for all services.

"The Chairman. Call the roll. It is not necessary to call the roll. There is no objection, is there?

"(Chorus of 'No.')

[*Note 28 continued on p. 414*]

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See *Service v. Dulles*, 354 U. S. 363; *Vitarelli v. Seaton*, 359 U. S. 535. For these reasons we hold that the petitioners were entitled under the applicable statutes to the pay and allowances that accrued during their detention as prisoners of war.

Throughout these proceedings no distinction has been made between the petitioners' pay rights while they were prisoners and their rights after the Korean Armistice when they voluntarily declined repatriation and went to Communist China. Since both the Army and the Court of Claims denied the petitioners' claims entirely, no sepa-

“Mr. Kilday. I would like it understood that they are going to be cut off as soon as you can.

“General Powell. Sir, the Secretary of Defense must make a decision, including psychological [*sic*] factors, individual rights, the law involved, and national policy.

“Mr. Vinson. That is right.

“General Powell. He has not as yet announced such a decision to us.

“Mr. Cunningham. Should the pay and allotments, benefits to the members of the family, ever be cut off?

“The Chairman. Sure.

“Mr. Van Zandt. Oh, yes.

“Mr. Cunningham. Why so? They are not to blame for this.

“Mr. Bishop. No, they are not.

“Mr. Vinson. Well, if a man is absent without leave—

“Mr. Cunningham. A man has children or wife and he is over there in Korea and decided to stay with the Communists. Why should the children be punished?

“The Chairman. Wait, one at a time. The reporter can't get it.

“Mr. Cunningham. I think it is a good question. The pay for the individual: he should never have that, and his citizenship. But here is a woman from Minnesota, goes over there and pleads with her son and went as far as Tokyo. Now that mother needs an allotment as that boy's dependent. Why should she be punished because the boy stayed over there? I think there are a lot of things to be considered; not just emotion.

“Mr. Kilday. That is inherent. When a man is court-martialed—

“The Chairman. Without objection, the bill is favorably reported.”  
Hearings before House Committee on Armed Services on H. R. 7209, 83d Cong., 2d Sess., pp. 3071-3072.

# Excerpts from Bell v. United States, 1960 (pg.8)

rate consideration was given to the petitioners' status after their release as prisoners of war until the date of their administrative discharges. Nor did the petitioners in this Court address themselves to the question of the petitioners' rights to pay during that interval. Yet, it is evident that the petitioners' status during that period might be governed by considerations different from those which have been discussed. Other statutory provisions and regulations would come into play. Accordingly we express no view as to the petitioners' pay rights for the period between the Korean Armistice and their administrative discharges, leaving that question to be fully canvassed in the Court of Claims, to which in any event this case must be remanded for computation of the judgments.

The disclosure of grave misconduct by numbers of servicemen captured in Korea was a sad aftermath of the hostilities there. The consternation and self-searching which followed upon that disclosure are still fresh in the memories of many thoughtful Americans.<sup>29</sup> The problem is not a new one.<sup>30</sup> Whether the solution to it lies alone

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<sup>29</sup> See Report by the Secretary of Defense's Advisory Committee on Prisoners of War (1955).

<sup>30</sup> In 1333 John Culwin was charged with having sworn allegiance to his Scottish captors. 1 Hale, *Historia Placitorum Coronæ* 167-168 (1736). The earliest reported American case of prisoner of war misconduct appears to be *Respublica v. McCarty*, 2 Dall. 86 (Supreme Court of Pennsylvania, 1781). During the Civil War thousands of captives on each side defected to the enemy. See H. R. Rep. No. 45, 40th Cong., 3d Sess., pp. 229, 742-777 (1869); Report by the Secretary of Defense's Advisory Committee on Prisoners of War, p. 51 (1955). Two treason trials grew out of prisoner of war misconduct during World War II. *United States v. Provo*, 124 F. Supp. 185, rev'd, 215 F. 2d 531, second indictment dismissed, 17 F. R. D. 183, aff'd, 350 U. S. 857; *United States ex rel. Hirshberg v. Malanaphy*, 73 F. Supp. 990, rev'd, 168 F. 2d 503, rev'd *sub nom. United States ex rel. Hirshberg v. Cooke*, 336 U. S. 210. More than forty British prisoners of war were brought to trial for misconduct. See note, 56 Col. L. Rev. 709-721 (1956).

# Excerpts from Bell v. United States, 1960 (pg.9)

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in subsequent prosecution and punishment is not for us to inquire.<sup>31</sup> Congress may someday provide that members of the Army who fail to live up to a specified code of conduct as prisoners of war shall forfeit their pay and allowances.<sup>32</sup> Today we hold only that the Army did not lawfully impose that sanction in this case.

The judgment is reversed, and the case is remanded for further proceedings consistent with this opinion.

*Reversed and remanded.*

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<sup>31</sup> Upon their return to the United States in July 1955, the petitioners were confined by the United States Army in San Francisco, California, to await trial by general court-martial for violation of Article 104 of the Uniform Code of Military Justice. In November of that year they were released from confinement by virtue of writs of habeas corpus issued by a Federal District Court, on the authority of *Toth v. Quarles*, 350 U. S. 11. There have been several court-martial prosecutions growing out of alleged misconduct by Army prisoners of war in Korea. See *United States v. Dickenson*, 17 C. M. R. 438, aff'd, 6 U. S. C. M. A. 438, 20 C. M. R. 154; *United States v. Floyd*, 18 C. M. R. 362; *United States v. Batchelor*, 19 C. M. R. 452, aff'd, 7 U. S. C. M. A. 354, 22 C. M. R. 144; *United States v. Olson*, 20 C. M. R. 461, aff'd, 7 U. S. C. M. A. 460, 22 C. M. R. 250; *United States v. Gallagher*, 21 C. M. R. 435; *United States v. Bayes*, 22 C. M. R. 487; *United States v. Alley*, 8 U. S. C. M. A. 559, 25 C. M. R. 63; *United States v. Fleming*, 19 C. M. R. 438. See the discussion of these cases in Prugh, Justice for All RECAP-K'S, Army Combat Forces Journal, November 1955, p. 15; Note, 56 Col. L. Rev. 709.

<sup>32</sup> A statute relating to the right to pay of members of the United States Navy who are taken prisoner does appear to require a standard of conduct after capture:

"The pay and emoluments of the officers and men of any vessel of the United States taken by an enemy who shall appear, by the sentence of a court-martial or otherwise, to have done their utmost to preserve and defend their vessel, and, after the taking thereof, to have behaved themselves agreeably to the discipline of the Navy, shall go on and be paid to them until their exchange, discharge, or death." 37 U. S. C. § 244.

No reported case has been found holding that this standard of conduct was not met. Cf. *Straughan v. United States*, 1 Ct. Cl. 324, discussed in text, *supra*, p. 404.

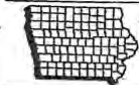
# "Korean War Memorial Erected" Newspaper Article, May 17, 1989

**M** RANDY EVANS, Metro/Iowa editor, 515-284-2065

Register  
**METRO/IOWA**  
Des Moines

Wednesday, May 17, 1989

**BATELINE IOWA**



**\$540,000 awarded to boy hurt in furnace explosion**

The Bate Line News Service  
**COIN, IA.** — A former Colo boy has been awarded \$540,000 from the makers of a furnace valve his parents said led to an explosion and fire four years ago that left him with second- and third-degree burns.

A federal-court jury in Council Bluffs found last week that the valve made by ITT General Controls of Glendale, Calif., was "defective and reasonably dangerous," said Don Beattie, an Atchison lawyer who represented Carl Myers, now 7, and his parents, Glen and Sandra Myers.

**Semi hits bridge abutment; two Oubaque man killed**

**DUBUQUE, IA. (AP)** — Two Dubuque men died Thursday when their semitrailer truck struck a bridge abutment and burst into flames near Kansas City, Mo.

The victims were identified as Randy Averette, 32, and his father, Roland, 56, both of Dubuque. Missouri state troopers said Randy Averette was driving south on Interstate Highway 25 north of Kansas City when he apparently fell asleep and the truck struck the abutment.

Elsewhere:

- Sylvester William Althoff, 67, of Guttenberg died Monday evening when the tractor he was riding rolled off a county road southwest of Mills, plowing him, the Clayton County Sheriff's Department said.

**Fired chief's parents seek to change city government**

The Bate Line News Service  
**BURLINGTON, IA.** — The parents of former police chief Ted Zebbe have filed a petition with the City Council asking for a special election to overturn the council-manager form of government in favor of a commission form.

City Attorney Dana Christensen said the petition, which was put together over the last two years, contained more than 1,400 signatures. Christensen said the city switched from a commission to the present structure in 1981.

Zebbe was fired as chief by City Manager W.G. Lawler.

Elsewhere:

- A June 13 election has been set in Fort Dodge on a proposal to scrap the mayor-council government and return to a full-time city commission.

**Cushing farmer sentenced; tried to bribe IRS worker**

The Bate Line News Service  
**SIoux CITY, IA.** — A Cushing farmer has been ordered to spend 40 nights in jail and pay a \$1,500 fine after he was sentenced to prison for attempting to bribe an Internal Revenue Service employee who was auditing his return.

Vernon H. Daw, 63, pleaded guilty to the charge March 14. Willis Buel, an assistant U.S. attorney in Sioux City, said U.S. District Judge Donald O'Brien placed Daw on two years probation and ordered him to stay in the Woodbury County Jail from 7 p.m. to 7 a.m. for 40 days.

**Trial delayed by assault on lawyer to resume**

The Bate Line News Service  
**WATERLOO, IA.** — The murder trial of Clinton Jean Jones, delayed since an assault on her lawyer April 30, will resume today in Black Hawk County District Court.

Defense lawyer John Ackerman of Cedar Falls was beaten in an altercation at the office building and suffered fractured facial bones and cuts. A 46-year-old Iowa man, David William Sullivan, was arrested and charged with violent injury in connection with the attack.

Investigators said the assault was part of the Jones trial. Jones is charged in the death of her boyfriend, Leroy Johnson.

**Construction said to take water from golf course**

**IOWA CITY, IA. (AP)** — Alida Kroese says construction of a sewage treatment plant is drawing water away from her golf course, but city officials say it's just the weather.

"We're trying to stay alive out here," said Kroese, part-owner of Pleasant Valley Golf Course and Nursery Inc. She also runs Pleasant Valley Golf Course.

The said builders draw water away as they pump water from wells at the plant site. She has appealed to the Iowa Department of Natural Resources, which issued the pumping permit.

**Hiland asks \$125,000 from county**

Incentives called vital to keeping plant in D.M.

By VICTORIA BENNING

Hiland Potato Chip Co. has asked Polk County for \$125,000 as part of a \$700,000 package of public aid that would enable the company to expand its Des Moines plant rather than move its operations to St. Louis.

Hiland — a 65-year-old Des Moines landmark — was bought last year by Curtice Burns Foods Inc. of New York. The company has agreed to add 28 jobs in the Des Moines plant at 1350 Delaware Ave. If it can get a state industry grant and aid from local government and utilities, the plant, which has 89 employees, would add \$2.5 million in new machinery and several new products.

Company officials said expanding the Des Moines plant would cost \$4 million, while the proposed expansion in St. Louis would cost about \$3.5 million. If the company moves, Des Moines would lose 68 jobs.

The company is asking the county for a \$125,000 low-interest loan through the county's economic development program. The county also would "loan" the company another \$35,000, although that money would be repaid only if the company does not live up to its promises.

The city of Des Moines already has approved a similar \$125,000 aid package to the company.

Company President Peter C. Hunter told the supervisors Tuesday that without the loan package, the company will move its operation to St. Louis, where it has a building it could use.

Hunter said he has sought to keep the operation in Des Moines because of the company's history here. St. Louis officials have not offered economic development incentives, Hunter said.

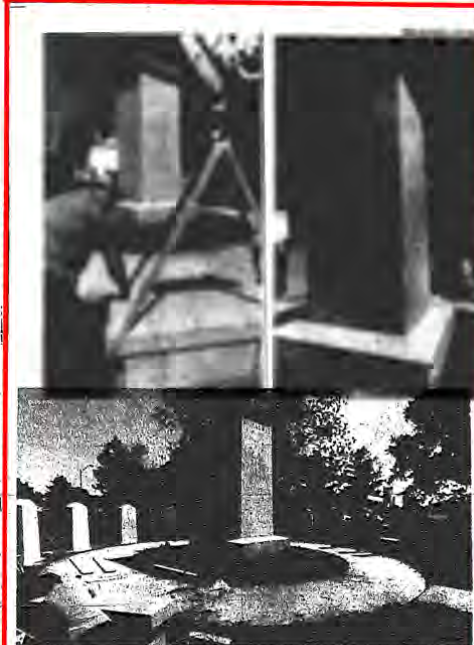
**Other Contributions**

In addition to the city and county contributions, \$46,000 would come from the state and \$5,000 from Midwest Gas. Also, Des Moines Area Community College would offer \$188,000 in training for workers and Iowa Power would provide \$11,000 for power service to the building.

County supervisors appeared to support the proposal, which would require 20 jobs paying an average of \$8.53 an hour. The company pays about \$120 in property taxes to the county. The proposed incentives would add \$16,000 in taxes.

"Hiland has been a longtime corporate citizen of Polk County and a provider of good jobs," said Supervisor Richard J. Branch. "The incentives to 'bribe'."

"Has St. Louis offered you any bribes?" he asked Hunter. "I do not look at it as a bribe; I look at it as an opportunity for the public to have a part in the county's future growth."



At the upper left photo, Sherry DeVaid, a stone setter from New Hampshire, guides the last block of granite into place for the Korean War memorial on the Iowa Stategrounds grounds Tuesday. At upper right, the mason's crew's pillar, weighing 56,000 pounds, was lowered by Rock of Ages Corp. in Vermont and installed by the Star Granite Co. of Concord, N.H. Robert White, shown walking in the background, of Des Moines-Wisconsin Monument designed the memorial. The general president of the Korean War Memorial is shown in the bottom photo. Each granite tablet is inscribed with historical information about the war that ended in 1953.

**Korean War memorial erected**

By CHARLES BULLARD

The Korean War Veterans Memorial, which honors the 53,311 Iowans who served in the bloody conflict, was installed on the grounds of the Iowa Capitol Tuesday.

The gray site is north of the Vietnam Veterans Memorial, which was dedicated in 1984, and east of the Soldiers and Sailors Monument, which memorializes Iowans who served in the Civil War.

The story of the Korean War is told in words, pictures and maps carved into the Vermont granite plaques from the Block of Ages quarry. The names of the 183 Iowans who died in the Korean War are not part of the memorial, because planners did not want to copy the national and Iowa Vietnam monuments.

The memorial was designed by Robert White, a Korean War veteran and president of Des Moines-Wisconsin Monument.

**Foes of wider freeway give alternatives**

Citizens group: Car pool, use shoulder as extra lane

By RALPH JAPSEN

Residents opposed to plans to widen MacVicar Freeway argued alternatives Monday, including carpooling and squeezing another lane into the present width of the freeway.

Citizens for Des Moines, an amendment that claims 200 members, presented a 27-page report to the Des Moines Area Transportation Planning Committee criticizing plans to widen the main east-west road through town and offering options.

The Iowa Department of Transportation has proposed widening the highway between 53rd Street and the Keosauqua Way interchange to four lanes in each direction, with two more lanes between 34th Street and Cottage Grove Avenue.

Donald Polson, a Drake University professor, said after the meeting that the citizens group wanted officials to take "softer measures" than the expansion.

"Control the Demand"

Such measures might include ride sharing, increasing use of mass transportation or setting aside freeway lanes for multipurpose vehicles, he said. "We want to control the demand for the road rather than affecting the size of the road," he said.

In the report, written by Polson and Des Moines physician Ed Leeb, both of whom live near the freeway, the citizens association said that Jack E. Leish & Associates of Chicago, which conducted the study proposing expansion of the road, did not consider options to handle increased traffic that might be more cost-effective.

The group said better control of traffic and roadway improvements such as using the shoulder as a traffic lane could increase the capacity of the road without widening it.

Extreme Noise

"If I-335 is increased to 10 lanes, the students and teachers at Hubbell, Callahan and Roosevelt schools in Des Moines will experience firsthand the process of education under extreme noise conditions, and the residents of the corridor will experience a substantial deterioration in the quality of clean, breathable air," the group's report said.

Opponents said Leish & Associates didn't consider that Des Moines might be a better location.

"They say the way in Des Moines that you'll get people to use mass transit or car pool, but the literature says otherwise," Leeb said.

Des Moines Area Transportation Planning Committee member Huey Wagner said alternatives to the expansion have been discussed. He said there is plenty of time for debate before the project is approved.

**Cultivator turns up gold; father's ring lost 50 years**

By VERONICA FOWLER

More than one, Wodes farmer Lowell Schmidt has pulled a peppy piece of wire on a stubborn clod from his cultivator.

But when he cleaned the 20-foot-long farm implement recently, he hit gold — literally.

Schmidt, 72, was cleaning off the cultivator after his son, Ryn, had taken it for a single turn around a six-acre cornfield. Schmidt stumbled and fell in his hand and discovered his father's gold wedding band, lost for more than half a century.

"Two weeks ago, says Schmidt's wife, Leona, he "was standing there in the building and saw a big clump of dirt on one of the cultivator tines. He picked it off and crumbled it and there in his hand was his father's gold wedding band."

She says that after a good scrubbing, the ring is as good as new. "It's more the worse for the wear," she says. It still bears the date of his father's wedding, 1912, and its original initials, EHS, for Ernest Henry Schmidt.

"It's amazing really, a miracle," Leona Schmidt says. "I don't think about the chances of it ever being found again."

Lowell Schmidt doesn't remember heading of a lost ring, but checked with his son and discovered that the ring had been lost more than 50 years ago. Lowell Schmidt's mother bought the ring for her father to replace the lost one.

"His mother died in 1931, so it had to be before that," Leona Schmidt says.

Ernest Schmidt died in 1965, so Lowell has begun wearing the newly found 14-karat ring. It's especially handy since he breaks his own wedding ring every year when it becomes entangled in a piece of farm equipment.

"But this one he doesn't wear for every day," Leona says. "It's too afraid to do that."

The Schmidt family lives working the land on their farm six miles northwest of Wodes since Ernest bought it in 1917.

**Volunteers asked to clean roads in Iowa**

By WILLIAM PETROSKI

Iowa's roadways would be signed up for the program, volunteering to plant trees and flowers along a segment of U.S. Highway 34 in southwest Iowa. Pappy Lewis, a Woodward resident who has taken care of roadside cleanup in his community for years, is a charter volunteer.

During 1988, the Department of Transportation spent \$69,000 on litter removal. A total of 4,500 cubic yards of trash was picked up, which equaled 28,500 hours of labor by DOT workers. Officials believe volunteers will increase the amount of trash picked up and will save the state money in the long run.

Before venturing out onto the highways, participants will be required to attend a DOT safety meeting. The state will provide orange safety vests for volunteers, as well as orange plastic garbage bags. DOT trucks will carry away the trash.

DOT Commissioner Roger Roper Fair of Des Moines said he was concerned about potential lawsuits against the state by volunteers who might be injured while working along roadways. He suggested that department lawyers be consulted.

"Yes, there is a degree of liability," responded Robert Humphrey, chief of the state's highway division. "But there is also a degree of benefit. And we feel the benefits will be outweighing it."

The litter will be collected two to six times annually, and each group of individuals will be asked to make a commitment of about two years. Humphrey said. An effort to keep the program non-partisan, politicians and political parties will not be allowed to participate, he said.

**Clinton wages war on gypsy moths**

By CHARLES BULLARD

If everything goes according to plan, there should be some gypsy moth caterpillars with fatal stomach aches in Clinton today.

Ten acres of Clinton were sprayed with a biological agent Tuesday in an attempt to eradicate the only known Iowa infestation of the dreaded gypsy moth.

Local, state and federal workers sprayed every tree and shrub in the heavily wooded residential area with Bacillus thuringiensis, a bacterium better known as Bt.

The naturally occurring organism has been successfully for more than two decades to control the gypsy moth, state entomologist Carl Carlson said.

**Clinton wages war on gypsy moths**

Hungry gypsy moth caterpillars eat foliage that has been sprayed with Bt and ingest the bacteria, he said. Bt dissolves in the caterpillar's stomach, releasing a crystalline material.

"The crystalline material in the bacterium is what causes the death of the insect," Carlson said. "It actually paralyzes the intestinal tract and it starves to death because of starvation."

Although Bt is fatal to gypsy moth caterpillars, it is not fatal to humans or other mammals.

Clinton turns to Page 2M

# Korean War Veterans Memorial in Washington, D.C., between 1995 and 2006



Courtesy of Library of Congress, Highsmith, Carol M., "Korean War Veterans Memorial, Washington, D.C.," between 1995 and 2006



# Korean War Memorial Fact Sheet, 2016 (pg.1)

## Korean War Memorial

### Quick Facts

- The N. and S. Korean border was at the 38th parallel
- Statues are over 7 feet tall
- The 19 statues are reflected on the wall to make 38 images.
- Statues are made of stainless steel in a ghostly hue
- You walk uphill representing the mountains
- Ground cover represents the rough terrain
- Granite slabs represent the rice paddies and order in the chaos
- The Mural Wall wavy appearance evokes mountainous ranges
- Soldiers were equipped like WWII soldiers
- Etched on the wall with no identification are 2400 photos of men, women, and a dog who served in Korea
- Was a U.N. action against the invasion of S. Korea by N. Korea



- The mural wall measures 164 feet long and eight inches thick, and from an aerial view, the memorial appears as an isosceles triangle, with the soldiers spearheading the tip which intersects a circle over the Pool of Remembrance.

### History

Korea had been occupied by Japan from 1910 to the end of WWII. After the defeat of Japan in 1945, the Soviet Union took control of the area north of the 38th parallel and the United States took control of the area south. Because of the Cold War between the Soviet Union and the United States, Korea had separate governments in the north and south. Both parts claimed to be the legitimate government of all of Korea, and neither accepted the border as permanent.

The conflict turned into open warfare when North Korean forces, supported by the Soviet Union and China, invaded the south on June 25, 1950. On June 27, 1950, the UN Security Council dispatched UN forces to repel the North Korean invasion of the South. While 17 countries contributed troops, the United States supplied 88% of the UN's military personnel.

After 38 months of warfare, an armistice was signed on July 27, 1953, ending the fighting. This agreement created the Korean Demilitarized Zone (DMZ) to separate North and South Korea and allowed for the exchange of prisoners. However, because no peace treaty was ever signed, the two Koreas are technically still at war.

In 1986, the U.S. Congress authorized the construction of a memorial to honor Korean War veterans. In 1995, President Bill Clinton and South Korean President Kim Young Sam dedicated the memorial.

### Statues



The 19 statues represent a patrol who are walking uphill. The soldiers all wear ponchos over their equipment, signifying the bitter, cold winds. The juniper ground cover represents the rough terrain while the granite slabs represent water and rice paddies. Each branch of

# Korean War Memorial Fact Sheet, 2016 (pg.2)

the armed services is represented as follows: 15 U.S. Army, 2 Marines, 1 Navy Hospital Corpsman, and 1 Air Force Forward Air Observer. The concept was to show 38 soldiers in full combat gear, representing the 38th parallel and 38 months of war, but because of lack of space, only 19 statues were made. However, with their reflections on the mural wall, the total is 38 soldiers. The reflections also have a mountainous feel. The granite slabs represent order in chaos and the uphill grade symbolizes the mountainous terrain. Looking at the soldiers from the flagpole, you can see three of the soldiers emerging from the woods. It creates the feeling that there could be many more soldiers, maybe even hundreds or thousands more, in the woods.

The sculptor, Frank C. Gaylord II, of Vermont wanted to show the ethnic diversity of the troops, so he referred to books for pictures. All statues are based on real men who actually fought in WWII or Korea. The statues range from 7'3" to 7'6" and weigh 1000 pounds each. Weapons include semi-automatic Carbines and Garand rifles, a 30 caliber machine gun and a Browning Automatic Rifle (BAR).

The United Nation's Curb, running along the northern side of the statues, contains a listing of the 22 nations who participated in the Korean War.

## Mural Wall

The Mural Wall is made of Black California Academy Granite. The muralist was Louis Nelson Associates.

On the wall are over 2400 photos of men, women, and a dog who served during the war. There is no identification of anyone but all the photos were taken from the National Archives.

These support forces include the Army, Air Force, Navy, and Marine Corps. Many of those people would have seen combat but not intensive or close up.



13 feet separates support personnel on the wall from the troops (statues) but you see them together on the wall as reflections, representing a oneness of the military. You also see the visitors reflected, representing the citizenry of the country who depend upon the

military. The mural wall unifies different services and citizens of the USA.

From the tip of the triangle, the following personnel are represented: Army, Air Force, Navy, and Marines. The incline of the granite represents mountains. The Rose of Sharon Hibiscus found behind the Mural Wall is the National Flower of South Korea.

## Pool of Remembrance

The pool goes around the wall and point of the triangle because Korea is a peninsula. By the pool are benches and Linden trees to create a peaceful area of reflection. The message, "Freedom is not Free" is inscribed on the wall. Across from it we see the casualties of the US and UN forces.

The dedication stone, located at the point of the triangle and the American Flag, reads: "Our nation honors her sons and daughters who answered the call to defend a country they never knew and a people they never met" 1950-1953.

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# Korean War Memorial at the Iowa State Capitol, 2017



Courtesy of Rebecca Helland, 2017

# Korean War Memorial at the Iowa State Capitol, 2017



Courtesy of Rebecca Helland, 2017